



**AGENDA
CIVIL SERVICE COMMISSION MEETING
CITY OF LEANDER, TEXAS**

Development Services - San Gabriel Conference Room
201 N. Brushy Street - Leander, Texas
Monday, October 28, 2024
Regular Meeting at 6:00 PM



Place 1 - Kate McDonald, Vice Chair
Place 2 – Nathan Rasmussen, Chair
Place 3 – Donna Sherrill

Director - Christy Davis
Legal - Paige Saenz
Staff Liaison – Dara Crabtree

REGULAR MEETING

1. Open Meeting.
2. Roll Call.

CONSENT AGENDA: ACTION

3. Approval of the minutes for meeting held on October 22, 2024.

REGULAR AGENDA

4. Discuss and consider action on adoption of rules necessary for the proper conduct of commission business.
5. Adjournment.

CERTIFICATION

This meeting will be conducted pursuant to the Texas Government Code Section 551.001 et seq. At any time during the meeting the Civil Service Commission reserves the right to adjourn into Executive Session on any of the above posted agenda for which state law authorizes Executive Session to be held, including but not limited to Sections 551.071 [litigation and certain Consultation with attorney] and 551.074 [certain personnel deliberations], 551.076. The City of Leander is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please call the City Secretary at (512) 528-2743 for information. Hearing impaired or speech disabled persons equipped with telecommunication devices for the deaf may call (512) 528-2800. I certify that the above agenda for this meeting of the Civil Service Commission of the City of Leander, Texas, was posted on the bulletin board at City Hall in Leander, Texas, on the 25 day of October 2024 by 5:00 p.m. pursuant to Chapter 551 of the Texas Government Code.

Dara Crabtree

Dara Crabtree, City Secretary



EXECUTIVE SUMMARY
10/28/2024

AGENDA SUBJECT:

Approval of the minutes for meeting held on October 22, 2024.

BACKGROUND:

Attached are the minutes for the meeting held on October 22, 2024.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

PRESENTER:

Dara Crabtree, City Secretary

Fiscal Impact

Attachments:

1. Draft Minutes with attachment 10.22.2024



**MINUTES
CIVIL SERVICE COMMISSION MEETING
CITY OF LEANDER, TEXAS**

Development Services - San Gabriel Conference Room
201 N. Brushy Street - Leander, Texas
Tuesday, October 22, 2024
Regular Meeting at 6:00 PM



Place 1 - Kate McDonald, Vice Chair
Place 2 – Nathan Rasmussen, Chair
Place 3 – Donna Sherrill

Director - Christy Davis
Legal - Paige Saenz
Staff Liaison – Dara Crabtree

REGULAR MEETING

1. Open Meeting.

Opened meeting at 6:17 p.m.

2. Roll Call.

Roll call reflected all present.

CONSENT AGENDA: ACTION

Motion: Approve minutes as amended.

By: Board Member Rasmussen

Seconded: Board Member Sherrill

Vote: 3 - 0

3. Approval of the minutes for meeting held on October 8, 2024.

REGULAR AGENDA

4. Discuss and consider action on adoption of rules necessary for the proper conduct of commission business.

Discussion included review of complete rules and to bring back final copy with edits discussed for consideration at the October 28, 2024 meeting (see attached).

5. Adjournment

Adjourned at 8:24 p.m.

APPROVED

CHAIR

ATTEST:

DIRECTOR

LEANDER FIRE DEPARTMENT
CIVIL SERVICE COMMISSION
LOCAL RULES



ADOPTED BY THE CIVIL SERVICE COMMISSION

Origination Date:

October **, 2024

**LEANDER FIRE DEPARTMENT
CIVIL SERVICE COMMISSION LOCAL RULES**

**INTRODUCTION
AND REPEAL OF PRIOR RULES**

The purpose of Chapter 143 of the Texas Local Government Code is to secure an efficient Fire Department composed of capable personnel, free from political influence.

The Leander Fire Department Civil Service Commission Local Rules (hereinafter referred to as "**these Rules**" or "**Rules**") are promulgated in compliance with Chapter 143 of the Texas Local Government Code, which is incorporated herein for all purposes. It is intended that these Rules shall complement said statute and not conflict with the statute in any manner. No set of rules can be so precise as to provide for every employment situation; therefore, it is intended that the Civil Service Commission (hereinafter referred to as "**the Commission**") administer these Rules in the best interest of the Leander Fire Department and the City of Leander.

The following Rules, as may be amended from time to time, are the Leander Fire Department Civil Service Commission Local Rules. These Rules are promulgated in accordance with the provisions of Civil Service Law (Texas Local Government Code, Section 143.008).

If any part, segment, section, word, phrase, subchapter, or other portion of these Rules shall be declared to be unenforceable, vague, unconstitutional, or contrary to public policy, then the remainder of these Rules shall be continued in full force and effect as if the offending portions of these Rules were never included herein.

**LEANDER FIRE DEPARTMENT
CIVIL SERVICE COMMISSION LOCAL RULES**

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SECTION 1. PURPOSE

See Texas Local Government Code§ 143.001.

There is hereby established the City of Leander Fire Fighters' Civil Service with the adoption of these Rules, in compliance with Chapter 143, as amended, of the Texas Local Government Code. The captions used in these local Rules are not intended to convey any legal meaning or benefit but are included solely to aid in the organization of the Rules.

The civil service system of the City has been established pursuant to Chapter 143 for the purpose of developing and enforcing ~~rules~~Rules regarding the initial selection of employees as well as for their advancement, benefits, discipline and discharge, and conditions of employment.

The scope and construction of the Rules hereinafter set forth shall be interpreted and applied within the spirit and intent of Chapter 143. The intent of these Rules is to cover situations not mentioned in Chapter 143 or which are ambiguous in Chapter 143. All situations that are not expressly covered by Chapter 143 or these Rules shall be resolved in accordance with the City Charter and ordinances, City of Leander Personnel Policies or the residual discretionary authority vested in the Fire Chief. These Rules shall apply to all of the classified, non-probationary employees covered under Chapter 143 and specifically certified by the Texas Commission on Fire Protection ~~or Law Enforcement Officer Standards and Education~~. If a provision of Chapter 143 applies to probationary employees, the corresponding local rule, if any, applies as well.

Commented [PS1]: Removed reference to TCLEOSE because it is not needed for LFD.

The Commission, acting in compliance with Chapter 143, has the authority to adopt, publish and enforce rules relating to:

- A. The proper conduct of Commission business meetings;
- B. The proper conduct of examinations for entry level and promotional eligibility;
- C. The proper conduct of appeals of testing and examination scoring;
- D. The prescribed cause or causes for the removal or suspension of a civil service employee;
- E. The procedures for the hearing of disciplinary appeals concerning suspensions without pay, indefinite suspensions, promotional passovers; recommended demotions; or written promotional examinations; and
- F. Such other matters reasonably related to the selection, promotion and discipline of civil service employees, not otherwise vested in the discretion or managerial authority of the City Council, City Manager, Director of Civil Service, or Fire Chief.

SECTION 2. MUNICIPALITIES COVERED BY CHAPTER

See Texas Local Government Code§ 143.002.

SECTION 3. DEFINITIONS (Revisiting this section at the end of the process – Language suggested here)

See Texas Local Government Code§ 143.003.

The words and phrases used in these Rules shall have the meaning assigned to such words as may be used by reasonable people in the conduct of their own affairs, except as provided hereinafter.

Any word or phrase that is defined in Chapter 143 shall be defined in the same manner for the purpose of interpreting these Rules.

Whenever a dispute arises about the meaning of a word, group of words, or a phrase, the construction given to such word, group of words, or a phrase shall be determined by reference to the latest available edition of Webster's Dictionary, unless the Courts of the State of Texas shall have determined the meaning of the disputed word, group of words, or phrase, in which event such construction of the word, group of words, or phrase shall control.

- A. **APPOINTMENT** – The designation of a person by the City Manager to become an employee in a classified civil service position.
- B. **BUSINESS DAY** – Any day City Hall is customarily open for normal business. "Business day" does not refer to the employee's workday or holidays observed by the City.
- C. **CHAPTER 143** – The portion of the Texas Local Government Code containing the civil service provisions.
- D. **CHIEF EXECUTIVE** – The City Manager of the City of Leander.
- E. **CITY** – The City of Leander.
- F. **CITY CHARTER** – The City of Leander City Charter.
- G. **CITY MANAGER** – The City Manager of the City of Leander, and includes ~~his/her~~their designee.
- ~~H. **CITY OF LEANDER FIRE DEPARTMENT STANDARD OPERATING PROCEDURES**~~
- ~~I. **CITY OF LEANDER PERSONNEL POLICIES**~~ **CITY OF LEANDER PERSONNEL POLICIES** or **CITY'S PERSONNEL POLICIES** – The personnel policies approved by the City Council and the employee handbook approved by the City Manager.
- ~~J. **CLASSIFICATION**~~ **CLASSIFICATION** – A position or group of positions that involve similar duties and responsibilities and require similar qualifications.
- ~~K. **COMMISSION**~~ **COMMISSION** – The Leander Fire Fighters' Civil Service Commission.

L.K. **CONVICTION OR CONVICTED** -- A person is convicted if he/she has pled guilty, no contest (nolo contendere), or been found guilty in a trial, regardless of whether:

1. The sentence is subsequently probated and the person is discharged from probation;
2. The defendant has received an unadjudicated or deferred adjudication probation, or similar deferred disposition, for a criminal offense;
3. The case has been made the subject of an expunction order; or
4. The person is pardoned, unless the pardon is expressly granted for subsequent proof of innocence.

M.L. **DAY** – Calendar day, unless otherwise specified.

N.M. **DEMOTION** -- The transfer of an employee from a position in one classification to a position in another classification for which the maximum rate of pay is lower.

O.N. **DEPARTMENT** – The Leander Fire Department.

~~P. DEPARTMENT HIRING POLICY~~

Q.O. **DIRECTOR** – The Director of Civil Service as designated by the City of Leander Fire Fighters' Civil Service Commission to act in the capacity of Secretary to the Commission and Director of Civil Service, and includes ~~his~~her~~their~~ designee.

R.P. **ELIGIBILITY LIST** – A list of applicants for a classified civil service position who have taken the examination and passed and are ranked on the eligibility list in order of the score received, including tiebreakers. Applicant shall successfully pass additional steps in the selection process conducted by the Department prior to any offer of employment being extended.

S.Q. **MILITARY SERVICE CREDIT** – The points added to the passing score of an entrance examination taken by a qualified veteran.

T.R. **RAW SCORE** – The numerical grade based upon the questions correctly answered on an examination.

U.S. **RULES** – These Leander Fire Department Civil Service Commission Local Rules.

V.T. **SENIORITY** -- For the purpose of breaking a tie on a promotional examination, years of services as a full-time fire fighter within the Department, whether interrupted or uninterrupted. Seniority points shall be awarded only for whole years of service. Under the provisions of USERRA, military service shall not be considered a break in service under these Rules.

W.U. **VETERAN** – A person who has served a minimum of 180 days of active duty in the armed forces of the United States of America and who has received a DD-214 that reflects an honorable discharge. A person who receives a discharge other than honorable is not a veteran for the purpose of this section.

SECTION 4. ELECTION TO ADOPT OR REPEAL CHAPTER

See Texas Local Government Code§ 143.004.

SECTION 5. STATUS OF EMPLOYEES IF CHAPTER ADOPTED

See Texas Local Government Code§ 143.005.

SECTION 6. IMPLEMENTATION AND COMMISSION CONDUCT

See Texas Local Government Code§ 143.006.

A. CIVIL SERVICE COMMISSION

1. **APPOINTMENTS** – The City Manager shall appoint and the City Council shall confirm the appointment of the three (3) members of the Civil Service Commission who meet the required statutory qualifications. Each January, the members shall elect one (1) member to serve as chair and one (1) to serve as vice-chair.
2. **CHAIR AND VICE-CHAIR REPLACEMENT** – When vacancies of members of the Commission occurs, the replacement of chair and vice-chair will be handled as follows:
 - a. In the event of a vacancy in the chair position, the vice-chair will assume the role of chair and an interim election will be held to elect a new vice-chair.
 - b. In the event of vacancy in the vice-chair position, an interim election will be held to fill that office.
3. **TERM OF OFFICE** - Each member of the Commission holds office for a staggered three (3) year term and thereafter until a successor is appointed and confirmed. Interim vacancies on the Commission shall be filled by appointment of the City Manager and confirmed by the City Council for the unexpired term of the member whose position has been vacated. Commissioners are permitted to serve a maximum of three (3) consecutive three-year terms. The term of a Commissioner does not include appointments to serve an un-expired term of a previous Commission member.
4. **RULE OF CONDUCT** – In the discharge of their duties, members of the Civil Service Commission act as a body and not as individuals. An individual Commission member has no authority to speak for the Commission unless he or she is specifically authorized to do so by formal action of the Commission.

B. CONDUCT OF MEETINGS

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1. **LOCATION OF MEETINGS** - The Commission shall conduct its meeting in such place as designated in the "Notice of Meeting." The Commission shall conduct all meetings in compliance with the provisions of Section 551.001 *et. seq.* of the Texas Government Code (Open Meetings Act).
 2. **CALLING A MEETING** - Meetings shall be called by the Director at the request of the Chair, or at the written request of any two (2) Commissioners. Notice of meeting of the Commission shall be given by the Director to the members of the Commission at least seventy-two (72) hours preceding the day of the meeting, except in case of emergency or urgent public necessity, in which case one (1) hour notice shall be given in accordance with the provisions the Open Meetings Act.
 3. **PROCEDURE.** In all matters of procedure not controlled by the provisions of the Texas Local Government Code, Chapter 143 or these Rules, Robert's Rules of Order shall generally guide the order of business and conduct of meetings. The Commission may, by majority vote, make rules of procedure for the administration of Chapter 143, Texas Local Government Code. The failure of the Chairperson and/or the Commission to follow Robert's Rules of Order shall not create any right or violate any right of any Commission member, third party, member, person or citizen, or create or give rise to any due process claim for or on behalf of any such Commission member, third party, member, person or citizen.
 4. **QUORUM** – Two (2) members of the Commission constitute a quorum sufficient to conduct business meetings and hearing.
 5. **CONDUCT OF BUSINESS MEETINGS** - The Commission may set reasonable rulesRules and procedures and efficient conduct of business. The Chairperson shall conduct meetings in an orderly and timely fashion. The normal order of business at non-disciplinary or non-appeal hearings shall be generally:
 - a. Call to order
 - b. Approval of minutes
 - c. Action items
 - d. Miscellaneous matters from the Director
 - e. New business – Commission members may suggest items for future agendas
 - f. Adjourn

The order of business may be altered at any time by agreement of Commission members present at the meeting.

6. **CLOSED SESSION** – Meetings of the Commission may be closed from time to time in conformance with the provisions of applicable state law.
7. **MINUTES** - The Director shall prepare the minutes of each meeting. The

minutes of a meeting are to be presented for approval at a subsequent meeting of the Commission. The minutes, other than matters discussed in executive session, upon approval by the Commission, shall be kept open for public inspection as governed by applicable State law. A Commission member may record in the minutes an approval of, or objection to any act of the Commission together with the Commissioner's reasons. Copies of the minutes and records may be obtained from the Director for the standard fee charged by the City for similar official record duplication. The minutes of the Commission shall be signed by the Chair, or in the Chair's absence, the Vice-chair.

8. **COMMUNICATIONS** - All communications or requests to the Commission are to be made in writing through the office of the Director.

9. **PUBLIC COMMENTS; DECORUM**

~~1. For members of the public, in addition to the rules stated above:~~

~~b.1. Members of the public may address the Commission regarding items on the posted agenda for which the Commission will make a decision or take action before or during consideration of the item.~~

~~2. The City of Leander and the Commission fully embraces the values of diversity, equity, inclusion, and accessibility where people of all identities and experiences are understood, appreciated, and fully included in the community and where equitable treatment and outcomes prevail. As such, in~~ order to preserve the order and decorum of meetings of the Commission and to provide for attendance at and participation in the meeting without fear of intimidation, threats, or hostility, any person ~~who makes personal, profane, hostile, slanderous, or threatening remarks, who uses vulgar or obscene language, who engages in any other actions that disturb or are calculated to disturb the meeting, or who becomes disruptive during the meeting may be removed from the meeting location. All speakers shall address the Commission and not the audience or Civil Service staff and shall not call out individually named members of Civil Service staff or the public.~~ Comments must be topically related to the agenda item for which the speaker has registered to speak.

3. ~~2.~~ Persons who intend to speak shall register with Civil Service staff outside the meeting location on the day of the meeting, beginning fifteen (15) minutes prior to the meeting start time, by signing in on the speaker sign-in sheet and including:
- The speaker's first and last name;
 - The agenda item on which the speaker plans to speak;
 - An indication whether the speaker will be speaking through a translator; and
 - Any other information requested by Civil Service staff.

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1. Persons who have signed up to speak at the beginning of Commission meetings under the item "public comments" shall, upon being recognized by the Chair, have three minutes to address the Commission. No person shall speak more than one time per meeting under the agenda item for public comments, nor have more than three minutes unless approved by majority vote of the Commission. Additional comments or information may be provided in writing to the Commission.
 3. 5. Persons who have signed up to speak about a particular agenda item shall, when recognized by the Chair, have three minutes to address the Commission regarding the subject of an agenda item then being considered by the Commission.6. Members of the public who wish to address the Commission through a translator will have twice the amount of speaking time provided by these ~~rules~~Rules to accommodate the translation services.

SECTION 7. REMOVAL OF COMMISSION MEMBER

See Texas Local Government Code § 143.007.

- A. **RESIGNATION AND REMOVAL.** A member of the Commission may tender their resignation in writing at any time to the City Manager. A Commission member may be removed from office by the City Council for misconduct in office or otherwise in accordance with Chapter 143 of the Texas Local Government Code or other applicable law.
- B. **ABSENCES.** If a Commission member is absent three (3) meetings during a twelve (12) month period without good and reasonable cause, the absent member may be automatically deemed to have submitted a resignation, and if accepted by the City Manager, the position shall be deemed vacant without further action.
- C. **REPLACEMENT OF MEMBERS.** Upon the occurrence of any of these events enumerated under Section 143.007, a request shall be made by the Director to the City Manager for a replacement of such member.

SECTION 8. ADOPTION AND PUBLICATION OF RULES

See Texas Local Government Code § 143.008.

- A. The Rules of the Civil Service Commission currently in effect are only those contained herein. These Rules completely repeal and replace such earlier rules and regulations as have been adopted by the Civil Service Commission. These Rules have been approved by the Commission and shall remain in effect until officially amended, revised or repealed by the Commission.
- B. Immediately upon becoming effective, all Rules contained herein shall thereafter be deemed to constitute full and effective prior notice to all civil service employees of prescribed or prohibited conduct as stated in any such Rule.

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- C. Amendment to these Rules may be made at any meeting of the Commission and such amendments shall become effective on the date of their approval by the Commission and subsequent compliance with the posting and notice requirements of Chapter 143 and of these Rules. All Rules and amendments thereto shall be printed and made reasonably available for access by all civil service employees.
- D. These Rules are made and shall be construed in accordance with Chapter 143.
- E. Where there is a conflict between these Rules and other rules pertaining to fire fighters of the City, then these Rules shall take precedence. If any section, subsection, paragraph, sentence, clause, phrase or word contained in these Rules shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portion of these Rules.
- F. These Rules are enacted by the Commission pursuant to the statutorily delegated authority of Chapter 143. These Rules were not acted upon in any official manner by the City Council. Therefore, these Rules do not constitute any form of "policy" nor any other official act of the City Council.
- G. The Fire Chief shall adopt and promulgate written rules, regulations and personnel policies pertaining to the operation of the Department. No such Department rule shall be in conflict with the provisions of these Rules. Copies of all Department rules, or amendments thereto, shall be distributed to each member of the Commission, the Director, and the City Attorney. ~~Copies of all Department rules~~ shall be made readily available to all members of the Department ~~and the Commission electronically or by hard copy either through the intranet or upon request.~~

SECTION 9. COMMISSION INVESTIGATIONS

See Texas Local Government Code § 143.009.

SECTION 10. COMMISSION APPEAL PROCEDURE

See Texas Local Government Code § 143.010.

A. JURISDICTION.

1. The Commission has no jurisdiction to hear issues related to the following:
 - a. Employee dissatisfaction resulting from a transfer or reassignment of duties;
 - b. Employee dissatisfaction resulting from a discretionary policy decision or policy matters;

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- c. Grievances against other employees or supervisors;
 - d. Voluntary resignations or retirements;
 - e. Voluntary acceptance of disciplines in which a written document evidences intent to finally resolve the issue which includes a statement that the employee has waived all rights to appeal the disciplinary action;
 - f. Verbal counseling, written reprimands, off duty employment requests, and approval/denials.
2. The Commission has jurisdiction to hear the following types of issues:
- a. Appeal of promotional examination questions;
 - b. Appeal of promotional bypasses;
 - c. Demotion determinations; and
 - d. Appeal of temporary or indefinite suspensions.

B. ORIGINAL NOTICE OF APPEAL

- 1. The employee's notice of appeal must be filed in writing, in the Director's office within ~~two hundred forty (240) hours~~ ten (10) days after receiving the notice of disciplinary action from the Fire Chief. An employee may withdraw ~~his/her~~ their request for an appeal at any time thereafter, terminating the appeals process.
- 2. The employee's notice of appeal and request for hearing shall set forth the employee's basis for appeal in compliance with Chapter 143.

Commented [PS2]: Revised to be consistent with caselaw that is binding on Leander.

C. FAILURE TO TIMELY FILE AN APPEAL

There will be no right to an appeal hearing in a situation where an employee either (a) fails to file a notice of appeal of a disciplinary action with the Director or Director's designee within the ~~240-hour~~ ten (10) day period allowed in Chapter 143 or (b) fails to properly state the basis of appeal. This shall result in an appeal in the matter not being established. If the appeal is untimely or does not properly set forth the basis for appeal, the Director shall notify the employee that the appeal will not be considered.

D. SUBPOENA

- 1. Before requesting a subpoena duces tecum for the production of documents, a party shall first make a request for the documents directly to the other party and allow a reasonable time for a response. If the request is refused or otherwise not

produced, then a request may be filed with the Director requesting the Commission to issue a subpoena duces tecum. This request shall be filed with the Director at least ten (10) days prior to the hearing date, and the party requesting the documents shall also serve the opposing party with a copy of the request for issuance of a subpoena duces tecum at least ten (10) days prior to the hearing date.

2. If the opposing party wishes to object to the request for the issuance of a subpoena duces tecum, the opposing party shall file its written objections with the Director at least six (6) days prior to the hearing. If the Commission receives written objections to the issuance of a subpoena duces tecum from the opposing party, the Commission shall meet no later than the third (3rd) day before the hearing to determine whether to issue, quash or modify the requested subpoena. The Director shall then notify the parties verbally and in writing of the Commission's decision. Because of the short time frame permitted in this process, all written materials may be served by email or facsimile by the parties to each other and to the Director.
3. A request for subpoena to compel the attendance of a witness shall be coordinated through the Director. A request for a subpoena shall be submitted at least ten (10) days prior to the scheduled hearing date in order to be processed in a timely manner. The Director shall issue a subpoena on behalf of the Commission.

E. **RULES OF EVIDENCE.**

1. In appeals to the Commission, the "rules of evidence" shall not be observed.
- ~~2. The Commission shall base its decisions on "substantial evidence." Substantial evidence is evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance. Under the substantial evidence rule, as applied in administrative proceedings, evidence is competent and may be considered, regardless of its source and nature, if it is the kind of evidence that "a reasonable mind might accept as adequate to support a conclusion."~~
2. The Commission shall base its decisions by a preponderance of the evidence standard.

SECTION 11. DECISIONS AND RECORDS

See Texas Local Government Code§ 143.011.

- A. All records of the Civil Service Commission shall be deemed public information, unless otherwise excepted by law, and shall be governed by Texas Government Code Chapter 552 (the Texas Public Information Act), Tex. Local Gov't Code Section 143.089, and any other applicable laws and regulations.

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- B. The Commission or the Director shall have the power to correct or amend any eligibility list, paper or record in which a clerical or procedural error has been made.

SECTION 12. DIRECTOR

See Texas Local Government Code § 143.012.

- A. The Director shall administer these Rules and perform work incidental to the Civil Service System as required by the Commission. All communications or requests to the Commission shall be made in writing to the Director, who shall determine if the Commission has jurisdiction over the matter. The Director shall also act as Secretary to the Commission. The Commission may designate one (1) or more person(s) as deputy secretaries of the Commission.
- B. If for any reason the appointed Director separates from employment with the City, a new Director will be appointed by the Commission.
- C. The Director may delegate any and/or all responsibilities to other City staff as necessary. The Director's duties include, but are not limited to:
1. Supervising all examinations or appointing Test Monitors to prepare, schedule, score, and ensure the security of test materials, and preparation of eligibility lists;
 2. Coordinating the recruitment and examination of applicants, including certifying names from the eligibility list to the Fire Chief;
 3. Assisting in the classification of Department positions;
 4. Setting the agenda for the Commission meetings;
 5. Acting as liaison and providing staff support to the Commission;
 6. Determining whether the Commission has jurisdiction over any matter and, if so, bring it before the Commission in a reasonable and timely fashion;
 7. Calling, posting agendas, scheduling, rescheduling, attending, and cancelling meetings of the Commission;
 8. Post promotional examination notice;
 9. Acting as records custodian as provided by Tex. Local Gov't Code Section 143.011;
 10. Maintaining the personnel files of all employees in the civil service as required by Tex. Local Gov't Code Section 143.089(a);

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11. Acting on behalf of the Commission for actions and issues not specifically addressed in Chapter 143 or these Rules;
 12. When a specific Rule does not address a particular question or issue, interpreting the Rules based on circumstances, facts, and issues, and taking appropriate action;
 13. Presenting to the Commission changes in these Rules;
 14. Performing such other functions as may be deemed reasonably necessary in regard to the efficient and effective administration of the civil service system of the City;
 15. Preparing and keeping minutes of all Commission meetings, and obtaining appropriate signatures on approved minutes and on all decisions entered by the Commission;
 16. Maintaining the Record of Certification and Appointment as required by Tex. Local Gov't Code Section 143.037;
 17. Maintaining a seniority roster for the Department by date of hire and seniority rank by date of promotion;
 18. Coordinating Commission investigations;
 19. Approving active duty and reserve military leave for purposes of Chapter 143; and
 20. Appointment of medical and psychological examiners pursuant to Tex. Local Gov't Code Section 143.022.

SECTION 13. APPOINTMENT AND REMOVAL OF FIRE CHIEF

See Texas Local Government Code § 143.013.

SECTION 14. APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED IMMEDIATELY BELOW FIRE CHIEF

See Texas Local Government Code § 143.014.

SECTION 15. APPEAL OF COMMISSION DECISION TO DISTRICT COURT

See Texas Local Government Code § 143.015.

SECTION 16. PENALTY FOR VIOLATION OF CHAPTER

See Texas Local Government Code § 143.016

SECTIONS 17-20 NOT APPLICABLE

See Texas Local Government Code§ 143.017 through 143.020

SECTION 21. CLASSIFICATION: EXAMINATION REQUIREMENT

See Texas Local Government Code§ 143.021.

- A. The Commission shall provide for the classification of all firefighters. City Council shall establish by ordinance the number of positions in each classification in the department.
- B. The Fire Chief shall develop job descriptions for each position in each classification in the department. Specifications for the various classifications shall conform as follows:
 - 1. The job specifications are descriptive only and are not restrictive. They shall indicate the kinds of positions that should be allocated to each classification as determined by their duties, responsibilities and qualification requirements.
 - 2. Titles shall be suggestive of the kind of work performed by the incumbent of the position and indicative of the rank.
 - 3. The description of duties shall be construed as a general description of the kind of work performed and shall not limit what the duties of any position shall be.
- C. Examples of work shall be construed as typical tasks only, illustrative of the duties as outlined in the general statements. Examples are not intended to be exhaustive or exclusive, and the fact that actual tasks performed by the incumbent of a position do not appear on the job specification shall not be taken to mean that the position is necessarily excluded from the classification, provided that the tasks constituting the main work are duly covered by the general statements of duties.

SECTION 22. PHYSICAL REQUIREMENTS AND EXAMINATIONS

See Texas Local Government Code§ 143.022.

- A. **GENERAL REQUIREMENTS** - Each applicant for entry-level position shall be required to submit to such physical and mental tests as determined by the Fire Chief to be reasonably necessary and proper to determine the physical and mental ability of the applicant to perform the essential functions required for the position sought. An applicant who is not capable of performing the essential job functions with or without reasonable accommodation, or that would otherwise endanger citizens or other employees while performing such duties, shall not be appointed.
- B. **ENTRY LEVEL APPEALS** - If an applicant is not appointed due to failure to successfully pass the medical or psychological examination, the applicant may appeal to the Commission. If the

applicant elects to appeal, the applicant shall submit written notice of appeal to the Director within ten (10) days of initial receipt of notification of rejection.

- C. **PROMOTIONAL REQUIREMENTS** - Any candidate for promotion shall successfully complete an appropriate medical examination. An official Department examination taken within six (6) months of promotion test date may be used for this requirement.

SECTION 23. ELIGIBILITY FOR BEGINNING POSITION

See Texas Local Government Code§ 143.023.

- A. **EMPLOYMENT STANDARDS** -To the extent that employment standards for an entry-level fire fighter as provided in the ~~Civil Service Classification Plan~~approved classifications exceed the requirements of Chapter 143 and other applicable State laws, any of such entry-level employment requirements not prescribed by State laws may be waived by the Fire Chief with the concurrence of the Director and consent of the City Manager, when such waiver would be in the best interests of the Department and provided further that such waiver of requirements shall not substantially lower the high standards sought by the City. Any changes under this Section shall be based on each hiring process.
- B. **MINIMUM ELIGIBILITY REQUIREMENTS FOR FIRE FIGHTERS** - An applicant for fire fighter shall meet the following criteria in order to be considered for an entry-level position:
1. Achieve a minimum passing score of seventy (70) percent on the written examination;
 2. Successfully complete the physical ability test;
 3. Pass a background investigation;
 4. Pass oral interviews;
 5. Pass the Fire Chief's interview;
 6. Successfully complete a post-job offer psychological examination and medical examination that includes passing a visual acuity test, and physician certification that the applicant is not dependent on and does not use illegal drugs;
 7. Be at least eighteen (18) years of age and not more than thirty-five (35) years of age at the time of hire;
 8. Be a graduate of an accredited high school or have an equivalency certificate;
 9. Have a valid Texas driver's license at the date of hire (
 10. Be able to obtain a Class A driver's license;
 11. Be a citizen of the United States by birth or naturalization;
 12. Be able to read, write, and speak the English language;
 13. Be of good moral character;
 14. Be eligible to work within the United States;
 15. Obtain or possess certifications ~~consistent with Department Hiring Policy~~required by the job description.

SECTION 24. ENTRANCE EXAM NOTICE

See Texas Local Government Code§ 143.024.

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- A. An applicant shall complete a City of Leander application for employment and other forms as prescribed by the Director in order to take an entrance examination. Failure to pre-register in the manner and within the time limit prescribed in the "Notice of Entrance Examination," and/or failure to file the application or other supporting documents with the Director by the specified deadline, shall render an applicant ineligible to take the examination. An applicant shall make the application in their own handwriting or in typed form and shall certify the correctness of the facts.
- B. The Director may, because of the small number of candidates, or because of any other good and sufficient reasons, such as death in the immediate family, public emergency, unavailability of test site, etc., postpone an examination to a later date.

SECTION 25. ENTRANCE EXAMINATION

See Texas Local Government Code § 143.025.

A. EXAMINATIONS

1. The actual conduct of every examination shall be under the direction of the Director who shall be responsible to the Commission. The Director shall have the authority to designate a test administrator, who shall be responsible for administering the examination. The Director may also select one or more persons as test monitor to assist in the administering, proctoring and grading of an entrance examination. An examination shall be conducted on an "as needed" basis.
2. No person shall:
 - a. Deceive or obstruct any person in respect of their right of examination under the provision of these ~~rules~~Rules and the Local Government Code;
 - b. Falsely mark, grade or report the examination or standing of any person examined hereunder; or
 - c. Aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion.
3. No applicant may deceive the Commission for the purpose of improving their chance for appointment or promotion.
4. An applicant for an entry-level position shall achieve a passing score on the written examination as established by the Commission, in order to be placed on the Eligibility List.

B. ENTRANCE EXAMINATION ADMINISTRATION PROCEDURES

1. Tobacco and e-cigarette products shall be prohibited at all times in the testing area.
2. Check In - An applicant shall be checked in and provide proof of identity with a valid Driver's

License or other government issued photo ID. No applicant shall be admitted once test instructions start.

3. **Military Service Credit** - An applicant who desires to have military service credit of five (5) points added to a passing test score of seventy percent (70%) or better shall provide an original DD-214 showing a minimum of one hundred eighty (180) total days of active military service at the time of written exam. Any discharge other than honorable discharge is not creditable for the purpose of this section.
4. **Failure to Appear** - The application of an applicant who fails to appear for the entrance examination shall be voided and shall be disposed of by the Director.
5. **Cancellation or postponement of entrance examination** - The Commission or Director may cancel or postpone a scheduled entrance examination for sufficient cause.
6. **Dishonesty**- An examinee taking an entrance examination who uses or attempts to use any dishonest means to answer a question on such an examination shall have their examination confiscated and voided by the test administrator. The examinee will be removed from the testing site. The test administrator shall report the action to the Director.
7. **Upon request, accommodations shall be provided to an applicant in accordance with the Americans with Disabilities Act.** An applicant who needs special arrangements shall submit a request in writing to the Director at a time to be determined by the Director.

C. CHILD OF FIRE FIGHTER WHO DIED IN THE LINE OF DUTY

1. Each applicant who is a natural born or adopted child of a fire fighter who died in the line of duty, upon receiving a passing grade on the entrance examination, will be automatically ranked at the top of that eligibility list, subject to meeting all entry-level hiring requirements.
2. The deceased fire fighter parent must have been employed by a municipality covered by Chapter 143, Texas Local Government Code.
3. The applicant must provide the name of the deceased fire fighter parent on they/them application. The Director will be responsible for verifying the information relating to the line of duty death prior to placing that applicant at the top of the eligibility list.

D. TIE-BREAKERS - Whenever two (2) or more applicants for an entry-level position attain the same grade, the tie shall be broken in the order listed below prior to the posting of the Eligibility List:

1. **Highest Test Score** - If a tie exists, the persons shall be ranked in the order according to which person had the highest examination raw score prior to the addition of Veteran's points.
2. **Higher Certification** - If a tie still exists, the persons shall be ranked in the order according to which person has the higher certification level as a fire fighter through Texas Commission on Fire Protection.
3. **Years of Experience** - If a tie still exists, the persons shall be ranked in the order according to which person has the most number of years of active paid full-time

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- experience as a fire fighter.
 4. Bachelor's Degree - If a tie still exists, the persons shall be ranked in the order according to which person possesses a Bachelor's degree.
 5. Associate's Degree - If a tie still exists, the persons shall be ranked in the order according to which person possesses an Associate's degree.
 6. Earliest Application Time - If a tie still exists, the persons shall be ranked in the order according to which person has the earliest stamped time of application.
 7. By Lot - If a tie still exists, the persons shall be ranked in the order by lot as determined by the Director.

E. ELIGIBILITY LIST

1. An Eligibility List shall be in effect for one (1) year, unless exhausted before one year.
2. Each person on an Eligibility List shall notify the Director of any change in address. A notice sent to a person's last known address shall be considered sufficient notification.

3. Follow eligibility testing as defined in Section 24.

SECTION 26. PROCEDURES FOR FILLING BEGINNING POSITIONS

See Texas Local Government Code § 143.026.

In making appointments from an eligibility list, the Chief Executive, at ~~their~~ his/her discretion, may give preference to applicants who already possess the required national and/or state certifications. In addition, the Chief Executive may give preference to applicants who are certified paramedics. This may result in non-certified applicants being bypassed to reach certified applicants on the eligibility list. Existing certifications shall constitute a valid reason and a good and sufficient reason for bypass under Section 143.026(a) of Chapter 143.

SECTION 27. PROBATION PERIOD

See Texas Local Government Code § 143.027.

- A. Probationary employees shall have no rights under Chapter 143 or under these Rules.
- B. A person appointed to an entry level position in the Department who is not previously certified by the Texas Commission on Fire Protection and is required to attend a basic academy for such certification shall serve an eighteen (18) month probationary period as provided by Chapter 143. Otherwise, persons appointed to an entry level position in the Department shall serve a one (1) year probationary period, also as provided by Chapter 143. A person does not achieve Civil Service status until satisfactorily completing probation.

SECTION 28. ELIGIBILITY FOR PROMOTION

See Texas Local Government Code § 143.028.

SECTION 29. PROMOTIONAL EXAMINATION NOTICE

See Texas Local Government Code § 143.029.

SECTION 30. ELIGIBILITY FOR DEPARTMENT PROMOTIONAL EXAMINATION

See Texas Local Government Code § 143.030.

The length of service for determining the eligibility for taking a promotional examination shall include the probationary period in the Department.

SECTION 31. NOT APPLICABLE

See Texas Local Government Code § 143.031.

SECTION 32. PROMOTIONAL EXAMINATION PROCEDURE

See Texas Local Government Code § 143.032.

A. EXAMINATIONS

1. An examination shall be of such nature that it will test the relative capacity and fitness of the person examined to discharge the duties of the particular position to which they seek appointment.
2. The actual conduct of every examination shall be under the direction of the Director who shall be responsible to the Commission. The Director shall have the authority to designate a test administrator, who shall be responsible for administering the examination. The Director may also select one or more persons as test monitor to assist in the administering, proctoring and grading of an entrance examination. An examination shall be conducted on an "as needed" basis.
3. The Commission or Director may, because of the small number of eligible promotional candidates for any position, or because of any other good and sufficient reasons, such as death in the immediate family, public emergency, unavailability of test site, etc., postpone an examination to a later date.
4. To provide for a competitive promotional examination so as to better serve the public, at least one (1) more than the number of openings or three (3) qualified candidates, whichever is greater, in the next lower position with two (2) years' service shall sit for an examination. If there are not three (3) candidates in the next lower position, the Commission shall follow the procedures relating to eligibility for promotional examinations

outlined in Section 143.030(d) of Chapter 143 until at least three (3) qualified candidates sit for the examination. When more than one (1) vacancy exists at the time an examination is to be given, the Director shall determine whether the number of examinees who have filed ~~Notices~~ notices of ~~Intent~~ intent to ~~Test~~ test is competitive. If necessary, the Director ~~shall make a recommendation to, on behalf of~~ the Commission ~~to, shall~~ open the examination to additional employees, as outlined in Section 143.030(d) of Chapter 143.

B. PROHIBITED CONDUCT - No person shall:

1. Deceive or obstruct any person in respect of their right of examination under the provision of these rules and Chapter 143;
2. Falsely mark, grade or report the examination or standing of any person examined hereunder;
3. Aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion; or

C. NOTICE OF INTENT TO TEST-An employee shall complete a ~~Notice~~ notice of ~~Intent~~ intent to ~~Test~~ test, as prescribed by the Director, in order to take a promotional examination. Failure to make application in the manner prescribed in the "~~Notice of Promotional Examination~~ notice of promotional examination" and failure to file the application with the Director within the time limits prescribed in the "~~Notice of Promotional Examination~~ notice of promotional examination" shall render the employee ineligible to take the examination.

D. PROMOTIONAL EXAMINATION ADMINISTRATION PROCEDURES

1. Tobacco and e-cigarettes shall be prohibited at all times in the testing area.
2. Check In - An examinee shall be checked in and provide proof of identity with a valid Driver's License or other government issued ID with photograph. No examinee shall be admitted once test instructions start.
3. Cancellation or postponement of promotional examination - The Commission or Director may cancel or postpone a scheduled promotional examination for sufficient cause.
4. Dishonesty - An examinee taking a promotional examination who uses or attempts to use any dishonest means to answer a question on such an examination shall have their examination confiscated and voided by the test administrator. The examinee will be removed from the testing site. The test administrator shall report the action to the Director.
5. Upon request, accommodations shall be provided to an applicant in accordance with the Americans with Disabilities Act. An examinee who needs special arrangements shall submit a request in writing to the Director at a time to be determined by the Director.

E. PROMOTIONAL EXAMINATION PROCEDURES FOR PERSONNEL ON ACTIVE

MILITARY DUTY

1. Promotional candidates, who are eligible to take a promotional examination, and who are serving on active military duty, outside the State of Texas or more than two hundred (200) miles from Leander City Hall, are eligible to take a separate promotional examination. An examination, that is or is not identical to the examination administered to other eligible candidates, may be administered outside the presence of other candidates.
2. Employees who are called to active military duty shall be required to notify in writing the Director prior to being deployed stating whether or not they intend to take any promotional examination administered during their active duty.
3. If the employee signifies intent to take promotional exams, they shall provide the Director with a valid e-mail address, fax number, or contact method during active duty, and shall notify the Director of any changes in their contact information in order to be notified of scheduled exams.
4. The Director is authorized to coordinate all testing under this subsection and may exercise discretion necessary to ensure the confidentiality of the examination and to assure proper administrative procedures are followed.
5. Before the ninety (90th) day before the date a promotional examination is held, a notice listing the sources from which the examination questions will be taken will be sent to each military promotional candidate. The notice will be sent to the person's last known address, including their last known e-mail address.
6. It shall be the military promotional candidate's responsibility to secure the necessary source material.
7. The employee shall make arrangements with a military exam coordinator, their JAG (military attorney), or if unavailable, the commanding officer, to proctor the promotional exam and shall provide the name of that individual and contact information along with a valid fax number, if available, to the Director thirty days before the examination is held. Once designated, the same person shall be used throughout the examination process as noted herein.
8. Before the thirty (30th) day before the date a promotional examination is held, a notice of the examination will be sent to each military promotional candidate at their last known address, including their last known e-mail address. The employee shall fax or e-mail confirmation to take the test within ten (10) days of receipt of the ~~Notice~~ notice of Examexam. If military operations prevent an employee from meeting this deadline to confirm intent to take the test, the employee shall submit written confirmation as soon as possible, along with a statement from their commanding officer verifying military operations prevented a response during the ten (10) day period. If a military promotional candidate plans to take the exam offsite, then that information must be included in the confirmation within time period prescribed.

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9. It shall be the military promotional candidate's responsibility to work with the Director to schedule the administration of the examination.
 10. Test packets containing the written examination, answer sheet, an affidavit, and test instructions shall be provided to the military exam coordinator at least twenty-four (24) hours prior to the scheduled exam date. If possible, the written examination for the active duty personnel should be administered on, or as close to, the same day and time as the scheduled exam at the City.
 11. All exam materials (exam, answer sheet, and answer key) shall be returned to the Director immediately following the scoring of the exam.
 12. At no time will the administration of a promotional examination being given to a promotional candidate serving on active military duty unnecessarily interfere with ongoing military efforts.
 13. If the candidate serving on military duty takes and passes a promotional examination, the candidate's name shall be included on the promotional eligibility list created nearest in time to the time at which the candidate on active military duty took the examination.
 14. Candidates serving on military duty, who take the promotional examination outside of Leander, shall be eligible to file an appeal of the examination as provided in 143.034 of Chapter 143. The Director shall coordinate all matters related to the review of the examination and the filing of the appeal, and may extend the time limit for appeal upon a showing of exigent circumstances.
 15. All employees covered by Chapter 143 who are called to active military duty must notify the Director of their mailing address and/or their e-mail addresses. The Director shall use their best efforts to inform the employees serving active military duty of upcoming promotional examinations.
 16. All candidates for a promotional examination should execute an affidavit averring to the fact that they have not shared or discussed the test materials with a candidate serving on military duty.

SECTION 33. PROMOTIONAL EXAMINATION GRADES

See Texas Local Government Code§ 143.033.

- A. **GRADING OF EXAMINATION** - The requirement for "grading at the examination location" is met if the grading location is in the same building, if examinees who have finished are permitted to accompany the person who takes examination answer sheets to the grading location, and if examinees are allowed to observe as the sheets are graded. The test monitor and the examinee will ensure the scantron sheet has been properly graded prior

to signing out and leaving the test site.

- B. **SENIORITY POINTS** - Each applicant is entitled to receive one (1) point for each full year of service in the Department, as defined by these ~~rules~~**Rules**, with a maximum of ten (10) points. Seniority points will only be added to applicants who score a passing grade of seventy percent (70%) or higher on the written examination. Each full year of service equals one (1) point. Seniority points shall be awarded only for whole years of service. Seniority points will be calculated as of the date of the promotional exam.
- C. **TIE-BREAKERS** - Whenever two (2) or more candidates for promotion attain the same grade, including seniority points, the tie shall be broken in the order listed below:
1. **Highest Test Score** - If a tie exists, the candidates shall be ranked in the order according to which candidate had the highest examination raw score prior to the addition of seniority points and after the Commission's determination of appeals, if any.
 2. **Advanced Education** - If a tie still exists, the candidate shall be ranked according to which person possesses the highest advanced education, as follows:
 - a. **Master's Degree**- If a tie still exists, the persons shall be ranked according to which person possess a Master's degree.
 - b. **Bachelor's Degree** - If no person possesses a Master's degree, and if a tie still exists, the persons shall be ranked according to which person possess a Bachelor's degree.
 - c. **Associate's Degree** - If no person possesses a Bachelor's degree, and if a tie still exists, the persons shall be ranked according to which person possess an Associate's degree.
 3. **Seniority in Rank** - If a tie still exists, the candidates shall be ranked in the order according to the earlier hire date in their most recent continuous service in the position immediately below the position for which the examination was given.
 4. **Certification** - If a tie still exists, the candidates shall be ranked in order to which candidate has the highest **structural fire fighter** certification level, if any, as follows:
 - ~~a. — Fire Certifications Considered for Fire Suppression Classification~~
 - ~~(1)a. Intermediate Master~~ Firefighter
 - ~~(2)b. Advanced~~ Firefighter
 - ~~(3)c. MasterIntermediate~~ Firefighter
 5. **Earliest Date/Time of Application** - If a tie still exists, the candidate shall be ranked

according to which person submitted their application first.

6. By Lot – If a tie still exists, the candidates shall be ranked according by lot as determined by the Director.

D. **VERIFYING EXAMINATION SCORES** - After the grading of all tests and prior to the posting of the Eligibility List, the Director shall examine each scantron sheet to ensure it has been scored properly. Additionally, the calculation of each examinee's grade will be verified again by using the master key. If the Director discovers a clerical error prior to the posting of the Eligibility List, the Director shall correct the clerical error and notify the affected examinee of the error.

E. **POSTING OF RESULTS**- The results of such examination for promotion shall be posted on a bulletin board located outside of City Hall, in the office of the Director, and in the entrance lobby of the Fire Administration office within twenty-four (24) hours after the examination.

SECTION 34. REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION

See Texas Local Government Code § 143.034

- A. Beginning on the first (1st) business day following the posting of the raw test scores, a promotional candidate may review the examination booklet; their answer sheet, the answer key, and the source material for the examination in the presence of a monitor(s) designated by the Director.

A copy of the appealed question(s) along with the respective answer(s) from the answer key and the title and page number from the reference materials will be given to the appealing candidate at the time of the Commission meeting. The packet of appealed question(s) will need to remain in the Civil Service meeting room at all times.

- B. The period of review of test materials begins the first (1st) business day after promotional examination raw scores are posted and is limited to five (5) business days during which an appeal may be filed. No electronic devices, personal papers, books, notebooks or briefcases may be brought in during review.

1. Appeals must be made in writing and include a reasoned statement explaining the examinee's belief as to which (if any) answer or answers should be accepted as correct. Support for an appeal may include factors such as:

- a. Another answer choice being an equally valid answer to the question and coming from the same source.
- b. A typographical, copying, or other error significantly altering the meaning of the question or answer in such a way as to render the approved answer invalid.

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2. Factors that do not support an appeal include, but are not limited to, typographical errors or omissions that are disclosed to the examinees and are verbally corrected during the examination.
 3. No examinee will be shown another examinee's answer sheet.
- C. Prior to the Commission meeting, at which test appeals will be considered, each Commissioner shall receive a copy of each written appeal submitted, the appealed question(s) and answer(s), the correct answer(s), and the appropriate source reference sheet(s). If possible, the responses of the test writer would also be appropriate. The appeal information shall not reveal the name of the appellant prior to the regularly scheduled Commission meeting. The Director will provide copies of the test writer's responses to appealed questions (if possible) to interested persons at the Commission meeting at which the appeal is heard. Comments, discussion, and questions shall be limited to the question(s) being appealed.
- D. During the Commission's appeal hearing, the following ~~rules~~Rules will apply:
1. The appealed questions will be considered in numerical order.
 2. If there are multiple appellants on a question, the Chair will call them forward for comments in alphabetical order. The Chair will first ask each appellant if they still wish to appeal. The appellant will then be allowed to make a brief presentation of the reasons for ~~his or her~~their appeal.
 3. After all appellants on a question have been given the opportunity to address a question, the Chair will allow other persons who took the examination an opportunity to speak regarding the questions.
 4. The Chair will set and enforce a three (3) minute limit on the time for an appellant to speak on each question. The Commission may vote to alter the time limit set by the Chair. Persons other than the appellant who wish to speak will also be limited to three (3) minutes.
 5. Only one (1) appellant will be allowed to speak at a time and only one (1) speaking turn will be allowed per person. Groups of two (2) or more individuals with the same position may choose, but are not required to choose, a representative for the group. This ~~rule~~Rule does not limit the ability of the Commissioners to ask questions of the appellant or others participating in the discussion. The appellant will have a maximum of one (1) minute to rebut arguments against their appeal.
 6. After comments by the appellants who took the examination, the Director and the Fire Chief for which the examination was conducted may submit comments to the Commission.
 7. The Commission may ask questions of an appellant or anyone else who addresses the Commission.
- E. After receiving comments on a question (including any comments from the public), the Commission will discuss and make a determination of the question. A promotional examination question appealed to the Commission shall be sustained, overruled, or eliminated by a ruling

issued by the Commission. Each ruling shall be made by a majority vote of the Commission, as follows:

1. Sustain the answer key (test scores shall remain as reported)
A ruling which rejects the appeal presented to the Commission shall require the Director to accept the answer as given on the answer key, while grading the promotional examinations of all eligible candidates.
 2. Overrule the answer key (the Commission shall designate another answer(s) to be accepted)
A ruling which sustains the appeal of a promotional examination question shall require the Director to accept a different answer or accept two (2) or more answers, as directed in the Ruling, while grading the promotional examination of all eligible candidates.
 3. Eliminate the test question (the test question shall not be included)
A ruling which rejects the test question related to the appeal of a promotional examination question shall require the Director to disregard the question and its answer while grading the promotional examination of all eligible candidates.
- F. After all questions have been considered, the Director will re-score all answer sheets and establish an amended Eligibility List. Seniority points, for those having score of seventy percent (70%) or better, will be added after the re-scoring. The amended Eligibility List shall have the same effective date as the original list. The Director will post the amended Eligibility List within twenty-four (24) hours of the Commission meeting.
- G. Occupying the top position on a promotional Eligibility List does not create an absolute right to be promoted. It creates only an expectancy of being promoted, subject to the creation of a vacancy in the classified position during the one (1) year (365 days) existence of the Eligibility List and subject to these Rules.
- H. Candidates serving on military duty, who take the promotional examination outside of Leander, shall be eligible to file an appeal of the examination as provided in Section 143.034 of Chapter 143 and these Rules. The Director shall coordinate all matters related to the review of the examination and the filing of the appeal and may extend the time limit for appeal upon a showing of exigent circumstances.

SECTION 35. NOT APPLICABLE

See Texas Local Government Code§ 143.035.

SECTION 36. PROCEDURE FOR MAKING PROMOTIONAL APPOINTMENTS

See Texas Local Government Code§ 143.036.

- A. **ROLE OF THE DIRECTOR** - When the term "Commission" is used in Section 143.036 of Chapter 143 and this Section, the Director may perform the duties specified.

B. CRITERIA FOR PROMOTION

1. Persons accepting a promotion in the Department shall be medically and physically capable to perform the essential functions of the job and meets the job description requirements.
2. The Director and/or the Fire Chief may establish other reasonable, valid criteria for promotion to the particular position.

C. PROMOTIONAL PROCEDURES FOR DEPLOYED MILITARY PERSONNEL –

1. In this Section 143.036, "deployed person" means a civil service employee of the Department who is a member of the U.S. military and who has been deployed under orders in the service of the United States of America; "federal regulations" means USERRA; and "state regulations" means Chapter 143, Section 143.072 and Section 143.075.
2. When a person in the Department is ordered to active military duty and deployed, all federal and state regulations shall apply.
3. When a deployed person is the person with the highest grade on a promotional eligibility list, and a promotional vacancy is to be filled, the Fire Chief may:
 - a. Promote the deployed person per Section 143.036 (Procedure for Making Promotional Appointments);
 - b. Not promote the deployed person for a valid reason per Section 143.036(f) of Chapter 143;
 - c. Designate a person from the next lower classification to temporarily fill the position that is vacant due to the absence of the deployed person per Section 143.038 of Chapter 143 (Temporary Duties in Higher Classification); or
 - d. Promote the deployed person and the next person having the highest grade on the Eligibility List to fill the vacant position until the return of the deployed person.
5. If the Fire Chief promotes the deployed person and the next person on the list having the highest grade on the Eligibility List, the last person promoted to that rank may be demoted to their previous rank upon the return and reemployment of the deployed person no matter if the last person promoted was promoted from the same promotional list as the deployed person or from a later promotional list.
6. The Fire Chief shall cause each person promoted but subject to being demoted upon the return of a deployed person to be notified of such risk in writing. However, the failure of the Fire Chief to notify a person subject to being demoted in writing does not protect the person from being demoted to their previous rank upon the return of the deployed person.

D. BYPASSING A CANDIDATE – The following non-exclusive list along with failing to meet the eligibility requirements shall constitute a valid reason for the Fire Chief to bypass the highest-

ranking candidate on a promotional list:

1. Failure to meet minimum eligibility requirements for the position, or, with respect to certification requirements, the inability to obtain the required certifications ~~within six (6)~~ months of the date of promotion;
2. A recent history of corrective/disciplinary action;
3. Pending disciplinary action;
4. Pending criminal charges; or
5. Such other reason that the Fire Chief determines is in the best interest of the Department, the City, or the citizens and articulates in writing.

SECTION 37. RECORD OF CERTIFICATION AND APPOINTMENT

See Texas Local Government Code § 143.037.

SECTION 38. TEMPORARY DUTIES IN HIGHER CLASSIFICATION

See Texas Local Government Code § 143.038.

The Fire Chief may prescribe methods of selecting and making temporary appointments to higher classifications. The Fire Chief shall determine eligibility for higher classification pay and requirements to earn higher classification pay above the base salary.

SECTIONS 39-40. NOT APPLICABLE

See Texas Local Government Code § 143.039 – 143.040.

SECTION 41. SALARY

See Texas Local Government Code § 143.041.
See City of Leander Personnel Policies

SECTION 42. ASSIGNMENT PAY

See Texas Local Government Code § 143.042.

SECTION 43. NOT APPLICABLE

See Texas Local Government Code § 143.043.

SECTION 44. CERTIFICATION AND EDUCATIONAL INCENTIVE PAY

See Texas Local Government Code§ 143.044.

[See City of Leander Fire Department Standard Operating Procedures](#)

SECTION 45. ACCUMULATION AND PAYMENT OF SICK LEAVE

See Texas Local Government Code§ 143.045.

[See City of Leander Personnel Policies, as applicable.](#)

An employee who is temporarily suspended or indefinitely suspended shall exhaust all appeal rights before the City is obligated to pay any accumulated civil service sick leave as prescribed under Chapter 143. The City shall not authorize a withdrawal from the Texas Municipal Retirement System (TMRS) unless the employee is terminated in payroll.

SECTION 46. VACATIONS

See Texas Local Government Code§ 143.046.

[See City of Leander Personnel Policies, as applicable.](#)

An employee who is temporarily suspended or indefinitely suspended shall exhaust all appeal rights before the City is obligated to pay any accumulated vacation pay as prescribed under Chapter 143.

SECTION 47. SHIFT DIFFERENTIAL PAY

See Texas Local Government Code§ 143.047.

SECTION 51. CAUSE FOR REMOVAL OR SUSPENSION

See Texas Local Government Code§ 143.051.

PURPOSE - These Rules shall apply to and govern all disciplinary actions and appeals of Department employees subject to Chapter 143. The following are declared to be grounds for dismissal or suspension of any employee from the classified service in the City of Leander:

1. Indictment, deferred adjudication, pre-trial diversion, or other deferred disposition, or conviction of a felony, State Class A or B misdemeanor, federal misdemeanor, or other crime involving moral turpitude;
2. Violation of the provisions of the Charter of the City of Leander;
3. Acts of incompetence or the inability or failure to perform essential job duties;
4. Neglect of duty;
5. Discourtesy to the public or to fellow employees;

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6. Acts showing a lack of good moral character;
 7. Drinking intoxicants while on duty or intoxication while off duty;
 8. Conduct prejudicial to good order;
 9. Insubordination;
 10. Refusal or neglect to pay other just debts;
 11. Absence without leave;
 12. Shirking of duties;
 13. Cowardice;
 14. Violation of any of the rules and regulations of the Department; of special orders, as applicable; of these Rules; or of any of the City Personnel Policies; or of any other City ordinance or policy applicable to Department employees.

SECTION 52. DISCIPLINARY SUSPENSIONS

See Section 143.052, Chapter 143

A. "CAUSE" FOR SUSPENSION

1. An employee may be suspended for violation of:
 - a. An applicable provision of Chapter 143, Texas Local Government Code;
 - b. An applicable rule or regulation duly adopted by the Commission, including these Rules;
 - c. Department rules and regulations ;
 - d. The City's Personnel Policies; or
 - e. Any other City ordinance or policy applicable to the Department employees.
2. For a suspension, a determination of what constitutes "cause" is generally made by comparison to what a reasonable person, who is mindful of the habits and customs of their Department, who is also mindful of the responsibilities and needs of their Department and who is also mindful of the standards of justice and fair dealing prevalent in the City, should have done (or should have not done) under similar circumstances.
3. Prior to imposing any particular level of disciplinary action, the Fire Chief may use lesser forms of disciplinary or corrective action. However, nothing herein shall prohibit the Fire Chief from proceeding directly to the appropriate level of discipline without using

progressive discipline if, in the opinion of the Fire Chief, the employee's misconduct warrants more severe discipline.

B. **WORKING OFF SUSPENDED TIME** - The provisions of this Section shall apply solely to a suspension, which is agreed to by the employee and no appeal to the Commission or to a Hearing Examiner may be instituted on a suspension where the employee has agreed to the suspended time.

1. A fire fighter in the Department who is suspended 60 hours or less may, upon the employee's request and at the respective Fire Chief's discretion, forfeit vacation designated by the Fire Chief for a period equal to the time of the suspension. The employee shall be required to work on the forfeited vacation days.
2. The employee shall have their vacation leave accumulated balance deducted in an amount equal to the suspension to qualify for this provision. In order to request Working Off Suspended Time, the suspended employee shall make a written request to the respective Fire Chief within 240 hours ten (10) days after receiving the Notice of Suspension. Failure to make a written request to the Fire Chief within the allotted time shall result in an employee not being eligible for the provisions of this Section.

SECTION 53. APPEAL OF DISCIPLINARY SUSPENSION

See Section 143.053, Chapter 143

A. **SCOPE OF MATTERS SUBJECT TO APPEAL**

1. **MATTERS SUBJECT TO APPEAL**-The following matters are subject to appeal:
 - a. Indefinite suspension;
 - b. Temporary suspension;
 - c. Demotion (except for demotions under Section 143.014 of Chapter 143); and/or
 - d. Promotional passover.

If an action is subject to appeal, the employee may file an appeal. In the event of an appeal, the employee shall give written notice to the Director as provided under Section 143.010 of Chapter 143. If the appeal is timely and valid, the Director shall arrange to have an appeal hearing placed on the Commission's agenda or obtain a panel of Independent Third-Party Hearing Examiners, as provided under Section 143.057 of Chapter 143.

2. Employee dissatisfaction resulting from a transfer or reassignment of duties shall not constitute grounds for disciplinary appeal procedures.
3. Employee dissatisfaction resulting from a discretionary policy decision or policy matters, shall not constitute grounds for disciplinary appeal procedures.
4. An employee who has voluntarily resigned or retired from their position thereby

forfeits all rights to the disciplinary appeal processes.

5. An employee may voluntarily enter a written agreement that expressly evidences their intent finally to resolve the issue(s) of any type of disciplinary action imposed. The agreement shall also include a statement that the employee waives all rights to further proceedings in the disciplinary appeal processes.

B. OPTIONS FOR DISCIPLINARY HEARINGS

1. At any time after filing the original notice of appeal but before either party has incurred third party hearing examiner expenses; an employee may withdraw the original request for the independent third-party hearing examiner and submit the appeal to a hearing before the Commission. The election must be made in writing and filed with the Director's office. However, this election may not be used to manipulate the thirty (30) day hearing deadline imposed on Commission decisions by Chapter 143.
2. At any time after filing of the notice of appeal, the parties may mutually agree to withdraw the appeal from an independent third-party hearing examiner and submit the appeal to a hearing before the Commission. The mutual agreement must be made in writing and filed with the Director's office.

C. DIRECTOR TO COORDINATE ALL MATTERS

1. The location and accommodations for all hearings and appeals shall be arranged by the Director.
2. All subsequent matters raised by either party regarding attendance, scheduling, requests for subpoenas, request for continuance, etc., shall be coordinated through the Director. All such information shall be provided to the Director who shall then provide copies of same to the opposing party or representative and also coordinate the appropriate response or action to be taken. In a hearing coordinated by an outside agency, that agency shall also provide coordination services between the parties and the hearing examiner in conjunction with the Director's office.

D. EXPENSE AND COSTS

1. If appealed to a Hearing Examiner, the Hearing Examiner's fees and expenses are shared equally by the employee and the Department. The cost of a witness is paid by the party who calls the witness.
2. The appropriate amount, as well as payment of all costs and expenses, may be determined and collected by the Director. An employee may receive an estimate of anticipated costs upon written request to the Director. All costs charged by the court reporter shall be split equally between the parties. Any costs of the Commission or a third-party hearing examiner to reset and/or continue a hearing under these Rules, regardless of whom requested the reset and/or

continuance, shall be split equally between the parties.

3. When applicable, the state law governing the doctrine of "mitigation of damages" shall be applied in computing reimbursements or an offset from an award of back pay. The Commission or Hearing Examiner shall permit introduction of evidence on mitigation of back pay by either the employee or the Fire Chief.

E. FAILURE TO ATTEND SCHEDULED HEARING

The failure of a party to attend a scheduled appeal hearing, or to file a timely request for a continuation of the hearing to a later date, shall not in itself prevent the hearing from proceeding as scheduled nor prevent the Commission from proceeding to take such action as may be appropriate. Requests for continuation of the hearing to a later date must be filed with the Director at least three (3) business days prior to the date and time of the scheduled hearing. Requests for continuance must be date(s) specific and must address the thirty (30) day hearing deadline imposed on Commission decisions as required by Chapter 143. The thirty (30) day Commission decision deadline will be enforced unless the appealing party and Commission can agree on new dates.

F. EMPLOYEE AND DEPARTMENT REPRESENTATIVES

1. The hearing process shall recognize the right of employees as well as the Department to be represented by one or more persons throughout the proceedings of a disciplinary appeal. However, only one (1) representative shall be allowed to speak or otherwise present evidence on behalf of either party throughout the questioning of a particular witness.
2. Employee and Department representatives shall use their best efforts to conclude all proceedings smoothly, expeditiously, and as fairly as possible to all concerned.
3. The function of the representatives shall be to articulate the best interests of the employee or the Department represented and to make their presentations pertinent to the issue(s) being considered. Dissatisfaction with a representative shall not constitute grounds for modification of the final ruling.
4. All representatives or employees who represent themselves shall become familiar with and follow these Rules at all times during the disciplinary appeal process.
5. Any problems or concerns regarding the manner in which the opposing party or their representative is handling a particular disciplinary appeal should be brought to the attention of Director. The difficulty will be expeditiously addressed.

G. EXCHANGE OF DOCUMENTATION AND IDENTITY OF WITNESS

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1. The Texas Rules of Civil Procedure, the Texas Rules of Criminal Procedure, and all other rules of court regarding what is commonly known as "discovery" shall not apply to any civil service proceedings. Mediation and arbitration rules and processes do not apply to any civil service hearings.
 2. Parties who request photocopies of documents from the opposing party should be accommodated if such requests are reasonable. Items from departmental policies, rules and regulations manual may be photocopied upon request, and payment of applicable copying charges. Items such as Accident Review Board recommendations, time and attendance records, duty status forms and other such documents may also be provided so long as they are relevant to the employee and the disciplinary action under appeal.
 3. Employees and their representatives may obtain copies of matters contained in the employee's own personnel and Department files after the employee has signed the appropriate release form(s).
 4. Before requesting a subpoena duces tecum for the production of documents, a party shall first make a request for the documents directly to the other party and allow a reasonable time for a response. If the request is refused or otherwise not produced, then a request may be filed with the Director requesting the Commission to issue a subpoena duces tecum. This request shall be filed with the Director at least ten (10) days prior to the scheduled hearing date, and the party requesting the documents shall also serve the opposing party with a copy of the request for issuance of a subpoena duces tecum at least ten (10) days prior to the scheduled hearing date.
 5. All requests for subpoenas to compel the attendance of witnesses shall be coordinated through the Director's office. Requests for subpoenas shall be completed at least ten (10) days prior to the scheduled hearing date in order to be processed in a timely manner. The Director may issue subpoenas on behalf of the Commission.

H. **FORMAT OF APPEAL HEARINGS** - The format for an appeals hearing before the Commission will be as follows:

1. Both parties may be allowed to make brief opening statements.
2. The City's (Department's) case:
 - a. Direct testimony of witness
 - b. Cross-examination of witness
 - c. Redirect
 - d. Additional questions, if any, by Commission
3. Employee's response:
 - a. Direct testimony of witness

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- b. Cross-examination of witness
 - c. Redirect
 - d. Additional questions, if any, by Commission
- 4. Rebuttal by City / Department, if any:
 - a. Direct testimony of witness
 - b. Cross-examination of witness
 - c. Redirect
 - d. Additional questions, if any, by Commission
 - 5. Short argument, summary by City
 - 6. Short argument, summary by employee
 - 7. Rebuttal by City
 - 8. Deliberation by the Commission in executive session.
 - 9. Decision-rendered by public vote.

I. HEARING PROCEDURES

- 1. All disciplinary appeal proceedings shall be public hearings. The Commission or Hearing Examiner may place limitations on photographers, media personnel, and audience when necessary to avoid distraction or violation of the sequestration rule.
- 2. At the scheduled time and place, the hearing shall be called to order.
- 3. All parties shall come to the hearing prepared and ready to proceed so as to minimize any disruption of the hearing process. All parties shall bring at least six (6) copies of all documents or exhibits to be considered by the Commission at the hearing.
- 4. A record of the proceedings, capable of clear and accurate reproduction or transcription, shall be made and maintained by the Director.
- 5. After being called to order but prior to the beginning of testimony or evidence, consideration shall be made as to any pre-hearing motions, requests or jurisdictional matters as submitted by either party. The participants shall also seek to obtain as many stipulations as possible as to non-contested or non-material matters. The Commission may "carry" such pre-hearing motions until the hearing is completed and all factual evidence has been presented before making its final ruling thereto.
- 6. Unless waived by the participants, the hearing shall then proceed with the reading into the record the statement of charges and specifications as well as factual

summary of the operative events as filed with the Commission by the Fire Chief and which forms the basis of the disciplinary action imposed on the employee.

7. The hearing shall then proceed to develop the evidence and testimony as to those contested matters.
8. The Department shall go first in the presentation of evidence and testimony. Thereafter, the employee shall have the opportunity to respond with their own evidence, witnesses or testimony. Thereafter, the Department may come forward with rebuttal evidence or testimony as may be necessary. Presentations by both parties shall be as brief and as closely related to the issue(s) as much as is possible. Throughout the proceedings, Commission members may also ask questions as needed in order to aid their consideration of the testimony or evidence.
9. Witnesses may be sworn and their testimony taken under oath or affirmation. Witnesses are subject to reasonable and relevant cross-examination by the opposing party.
10. Upon request by either party, the hearing process may utilize what is commonly known as "the Rule" concerning oral testimony, meaning that all persons who shall be expected to testify at the hearing, other than the parties and their representatives, shall not be allowed to observe or listen to any of the proceedings except when they are actually testifying as a witness. "The Rule" may be used to ensure one witness' testimony is not influenced by another's testimony. While under "the Rule," potential witnesses shall not discuss any aspect of the appeal or hearing except with the attorneys or the representative involved. Invoking "the Rule" is not mandatory and may be waived in whole or in part by agreement.
11. The Chair shall exercise reasonable control over the questioning of witnesses and the presentation of evidence so as to:
 - a. Effectively ascertain the truth;
 - b. Keep such presentations relevant to the issues to be determined;
 - c. Avoid the needless consumption of time and expense; and
 - d. Protect the witnesses and employees from harassment or undue embarrassment.
12. The Commission may establish equal time limits for presentation of each side of the case.
13. The parties and their respective representatives shall cooperate in keeping all presentations as brief and to the point as possible. Long drawn-out sessions shall be discouraged. The Commission may establish time limits for presentation of each side of the case.

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14. All hearings must remain business-like and focus upon resolution of factual matters. Hearings shall not be a time for accusations, threats, speeches or arguments. The Commission shall have the discretion to adjourn any meeting, which deteriorates into a "shouting match" or where fruitful dialogue ceases.
 15. The Commission shall have the discretion to control the length of time of any particular session as well as the amount of time provided for recesses, breaks, lunch hours, etc.
 16. Before adjourning, the Commission may adjourn to executive session for deliberation. Thereafter, the Commission shall reconvene in open session and shall, upon motion and second, make its decision. Thereafter, a written order containing it shall be prepared and signed by the Commissioners prior to adjourning the hearing.

J. RULES OF EVIDENCE

1. Technical rules of evidence shall not apply nor control the conduct of any hearing. The Texas Rules of Court and the Texas Rules of Evidence shall not apply nor govern any aspect of any civil service proceeding.
2. The scope of evidence to be considered at a disciplinary hearing shall be generally limited to matters relevant to the statement of charges as set forth in the Department's written statement, the employee's notice of appeal as well as the employee's previous employment record with the Department.
3. Either party may offer such relevant evidence as they may desire to aid in the determination of material disputed issues.
4. It shall be the province of the Commission to ultimately determine:
 - a. The admissibility of any particular evidence of testimony;
 - b. The relevance or non-relevance of any particular evidence or testimony;
 - c. The credibility, or lack thereof, of any particular evidence or testimony; and
 - d. The materiality or "weight" to be given to any particular evidence or testimony.
5. Subject to limited exceptions for compelling reasons shown by a party, the Commission may refuse to hear or consider any testimony or item of evidence if:
 - a. A party has deliberately withheld previously known and duly requested evidence from the other party until the hearing, and that evidence should have been previously produced as per these rules;

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- or
- b. The hearing has been closed.
- 6. The Commission may receive and consider the evidence of witnesses by affidavit and assign same such weight as it deems proper after consideration of objections, if any, made to its admission.
 - 7. On-site inspections shall be discouraged and may be conducted only if the evidence to be considered cannot be otherwise presented via stipulations, photographs, videotapes, maps, diagrams, etc.
 - 8. All evidence and testimony shall be presented and received into the record while in open session.

K. ISSUES TO BE DETERMINED IN DISCIPLINARY APPEALS

- 1. Generally, the determinative issues to be considered and determined by the disciplinary action appeal process shall be:
 - a. Did cause exist to support the imposing of some form of disciplinary action as to the employee?
 - b. Was the degree of disciplinary action imposed by the Department reasonable under the circumstances? And
 - c. Has the hearing process developed matters that justify or compel modification of the Fire Chief's disciplinary action?

- 2. The Fire Chief shall establish the violation(s) by a preponderance of the evidence standard.

- 3. It shall be recognized that prior to imposing any form of discipline, the Fire Chief may use lesser forms of disciplinary or corrective action, or progressive discipline.

However, the failure to utilize progressive discipline shall not in itself be grounds to overturn or otherwise modify a Fire Chief's decision to proceed directly to the appropriate level of discipline if the employee's misconduct warrants such disciplinary action, including indefinite suspension. Progressive discipline need not always apply and the seriousness of a single offense may negate a previously unblemished record.

- 4. The hearing shall provide the employee a reasonable opportunity to produce objective evidence and/or testimony to develop:
 - a. That the employee did not commit the misconduct as alleged, i.e., "the allegations are not true"; or

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- b. That even if the employee committed the acts as alleged, that such activity does not constitute actionable misconduct; or
 - c. That even if the employee committed actionable misconduct, that the degree of discipline imposed is too harsh or severe, i.e. the disciplinary action imposed was "unreasonable, arbitrary or capricious"; or
 - d. A combination of any of these matters would justify or compel modification of the Fire Chief's action.
- 5. An employee's mere disagreement or difference in opinion in regard to the Fire Chief's actions or reasoning shall not constitute grounds to overturn or modify the disciplinary action.
 - 6. If the Commission determines one (1) valid charge of misconduct is supported by evidence sufficient to establish its truth, the Commission shall sustain that charge even if the evidence at the hearing does not support other charges in the letter of disciplinary action.

L. FINDINGS AND ORDERS OF THE COMMISSION

- 1. As a result of the evidence and testimony presented at the hearing, the Commission shall vote and issue a decision on the matter via a written statement finding the truth of the specific charge(s) against the employee, or a written statement finding that the specific charge(s) against the employee are not true.
- 2. In the event that all of the charge(s) of misconduct against the employee are found to be "not true," then the final order and ruling shall be promptly to restore the employee to the employee's proper position or status without penalty.
- 3. In the event that specific charges of misconduct against the employee are found to be "true," then the final order and ruling shall clearly state whether the employee is:
 - a. Permanently dismissed from the Department; or
 - b. Temporarily suspended from the Department and shall then set forth the definite time period and conditions of suspension which shall be imposed or
 - c. Demoted (Section 143.054 of Chapter 143).
- 4. The final written ruling on all disciplinary appeals shall also include such other matters so as to finally and clearly resolve the issues under consideration, particularly to resolve questions concerning:

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- a. The employee's resulting employment status;
 - b. Back pay and other employment benefits; and
 - c. Mitigation of damages.
5. If modifying the disciplinary action of the Department, the final order shall clearly explain in writing the factors and rationale for doing so. If affirming the disciplinary action of the Department, it shall be presumed to be for the same reasons and facts as presented by the Department unless otherwise indicated.
 6. The Commission may consider matters involving questions of applying Chapter 143 to facts or events that may arise during the disciplinary appeal process and that are outside the scope of the Department's statement of charges or the employee's notice of appeal, to the extent permitted by law.
 7. The final ruling and order of the Commission may be made by the majority vote of two (2) of the three (3) Commissioners present. If only two (2) Commissioners are present, the final ruling and order must be made in agreement by both Commissioners present.
 8. A copy of the Department's disciplinary action, a copy of the employee's request for appeal, the record of the proceedings, a copy of the exhibits submitted together with a copy of the final decision shall be filed in the Commission record. The Commission may cite these records as reference material in subsequent determinations

SECTION 54. DEMOTIONS

See Section 143.054, Chapter 143

- A. The Commission's consideration of whether there is probable cause to support the Fire Chief's recommendation for demotion does not require an evidentiary hearing. If the Commission determines that probable cause exists for a recommended demotion, the Commission's letter to the employee shall include the Hearing Examiner option under Chapter 143.
- B. After the Commission has determined that probable cause exists for a requested demotion and has provided the employee with a written Notice as per Chapter 143, the action for appeal of the demotion may be conducted according to the same hearing procedures as set forth herein for all other disciplinary actions or as expressly provided otherwise in Chapter 143.

SECTION 55. NOT APPLICABLE

See Section 143.055, Chapter 143

SECTION 56. PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR

COMPLAINT

See Section 143.056, Chapter 143

Conviction or deferred adjudication of a felony shall result in the employee being terminated from their position. No hearing before the Commission or a Hearing Examiner shall be provided.

SECTION 57. HEARING EXAMINERS

See Section 143.057, Chapter 143

A. APPEALS TO INDEPENDENT THIRD PARTY HEARING

1. Disciplinary actions concerning an indefinite suspension, suspension, a promotional passover, or a recommended demotion are appealable to Hearing Examiners. When an employee requests the appeal to a Hearings Examiner, the employee filing the appeal shall strike the first name from the list of possible hearing examiners.
2. At the time that the Director submits the parties' agreed date(s) for the hearing, the Director shall also forward to or see that the Hearing Examiner has the following materials:
 - a. A copy of these Civil Service Commission Rules:
 - b. A copy of Chapter 143; and
 - c. A copy of the applicable City policy, ordinance, or , Department rules and/or regulations alleged to have been violated. The Director shall thereafter coordinate with the parties and the agency sponsoring the Hearing Examiner as to all matters regarding scheduling, place of hearing, accommodations, etc.
3. The rule-making power and authority of the Civil Service Commission is in no way conferred upon and/or delegated to any Hearing Examiner, either by implication or otherwise.
4. In every disciplinary appeal conducted under Chapter 143, the Hearing Examiner shall have the "same duties and powers" as would the Commission, including the right to issue subpoenas to compel the attendance of a witness.
5. A disciplinary proceeding conducted by a Hearing Examiner instead of the Commission shall not be conducted or resolved via arbitration or arbitration processes. An employee's election of appeal to a Hearing Examiner shall not constitute a right or an agreement to submit the appeal to arbitration or arbitration processes.
6. The Hearing Examiner is to conduct a hearing fairly, objectively and impartially under the provisions of Chapter 143 and these Rules. The Hearing Examiner is to render a fair and just decision based solely on the evidence presented in the hearing. The scope of

evidence to be considered at the hearing shall be generally limited to matters closely relevant to the charges of misconduct as set forth in the Fire Department's written statement and the employee's notice of appeal as filed with the Commission as well as the appealing party's previous work record with the Fire Department.

7. All hearings conducted by Hearing Examiners shall also be recorded so as to be capable of clear and accurate reproduction or transcription. The Director will coordinate with the Hearing Examiner for use of City equipment for this purpose.
8. After the close of evidence and testimony a Hearing Examiner may deliberate and thereafter enter the ruling either in the same manner as the Commission or as per Chapter 143.
9. If a situation arises pertaining to the administration process of selecting a Hearing Examiner, or meeting notices, or request for rescheduling, refusal, conflict or interest, etc., and the situation is not provided for Chapter 143 or in these Rules, then the parties and the Director shall attempt to mutually resolve the situation by agreement. If the matter is not one capable of being reasonably resolved by agreement then the Director may refer the matter to the administrative processes of the entity sponsoring the Hearing Examiner to resolve the situation within their own processes.
10. If a Hearing Examiner has been initially selected but is thereafter objected to or is asked to be excused by a party, both parties may mutually agree to excuse the Hearing Examiner and thereafter request a new list of qualified and neutral Hearing Examiners and start the selection process over again. If no such agreement can be reached, then both parties shall prepare a written statement including their requests and reasoning therefore which shall be submitted to the Director. The Director shall then transmit it to the agency sponsoring the Hearing Examiner, which shall then resolve the dispute according to its own administrative processes. The response shall either excuse the Hearing Examiner or thereafter provide a new list or it shall provide a written statement of reasons why the Hearing Examiner was not excused.

B. ESSENTIAL ELEMENTS

1. The time limit for appeal to a Hearing Examiner will be the same as for appeal to the Commission.
2. In appeals to a Hearing Examiner, the "rules of evidence" will not be observed.
3. Hearing examiners shall base their decisions on a preponderance of the evidence.
4. All hearings conducted by a Hearing Examiner will be conducted within the City limits of Leander.
5. Hearing Examiners are limited to the scope of Fire Chief options when hearing disciplinary

appeals. Hearing Examiners may: (a) uphold, reduce, or overturn a temporary suspension; (b) uphold an indefinite suspension; (c) reinstate an indefinitely suspended employee and provide for a reduced suspension; or (d) overturn the indefinite suspension entirely. If the appeal concerns a temporary or indefinite suspension, the Hearing Examiner has no authority to order an involuntary demotion of an employee.

6. Hearing Examiners will observe the procedures as described in 143.010, 143.052, 143.053, and 143.057 of Chapter 143.

SECTION 71. LEAVES OF ABSENCE: RESTRICTION PROHIBITED

See Section 143.071, Chapter 143

SECTION 72. MILITARY LEAVE OF ABSENCE

See Section 143.072, Chapter 143

This section is not intended to create any rights beyond those created by the Uniformed Services Employment and Reemployment Rights Act (USERRA) 38 USC 4301, the Texas Government Code, and 143.072 of Chapter 143. The following definitions apply:

"**Military Reinstatement List**" means a list of persons, broken down by civil service classification, and arranged in the order provided by these rules, who have been demoted to the next lowest position in grade or compensation due to the reinstatement of an employee from a military leave of absence.

"**Military Service**" means US Marine Corps, US Navy, US Army, US Air Force, and US Coast Guard.

"**Reservist**" means a member of the US Marine Corps Reserve, US Navy Reserve, US Army Reserve, US Air Force Reserve, US Coast Guard Reserve, Army National Guard and Air National Guard (collectively, the "**Reserves**").

A. MILITARY LEAVE OF ABSENCE FOR NEWLY ENLISTING FIRE FIGHTERS

1. A classified member of the Department may newly enlist or enter into the United States military service. The member shall follow the procedure set forth in 143.072 of Chapter 143 in order to obtain an unpaid military leave of absence (the "**Military Leave of Absence**"). The Director of Civil Service, on behalf of the Commission, shall grant the Military Leave of Absence upon receipt of a copy of the member's military orders and upon receipt of a form approved by the Director and signed by the eligible member; or, if the eligible member is unavailable, then signed by the member's Fire Chief. The Director shall report the same to the Civil Service Commission at the next scheduled meeting. Such Military Leave of Absence may not exceed the period of compulsory military service or the basic minimum enlistment period.
2. As a benefit provided solely by the City of Leander, a newly enlisting member may be

eligible for annual paid leave and military supplemental pay under the City of Leander Personnel Policies or ordinances, as applicable.

3. After the granting of a Military Leave of Absence and the start thereof, the Director shall treat the position as vacated and shall initiate the normal procedure for filling a vacancy.
4. Members will be subject to the reinstatement rules provided herein and may also be placed on a Military Reinstatement List as follows:
 - a. If the reinstatement of a member who received a Military Leave of Absence causes a surplus in the rank to which the member was reinstated, then the member who has the least seniority in the position shall be returned to the position immediately below the position to which the returning member was reinstated.
 - b. If a member is returned to a lower position in grade or compensation under this Rule without charges being filed against the member for violation of civil service rules, the member shall be placed on a Military Reinstatement List in order of seniority.
 - c. Appointment from the Military Reinstatement List shall be made in order of seniority on the list. If more than one member is placed on the list on the same date, the tie shall be broken in the order listed below prior to posting the Military Reinstatement List:
 - i. Seniority in Rank – The members shall be ranked in the order according to the earlier hire date in their most recent continuous service.
 - ii. Placement on promotional list – The members shall be ranked in order according to their placement on the promotional list.
 - d. A member who is not on the reinstatement list may not be appointed to a position to which the list applies until the list is exhausted. A Military Reinstatement List has no expiration date.
 - e. If there is no lower position in grade/rank, then the person most recently hired may be laid off. If laid off, that person must be placed on a Military Reinstatement List, giving him or her a preferential right to the next subsequent vacancy.
 - f. Upon reinstatement, the deployed fire fighter will receive full seniority credit.

B. LEAVE OF ABSENCE FOR RESERVISTS

1. The Director must grant a Reservist leave of absence for members to engage in initial training or annual duty in the military reserves or National Guard ("Reservist Leave

of Absence"). The Director must report the Reservist Leave of Absence to the Civil Service Commission at the next scheduled meeting.

2. A member on a Reservist Leave of Absence for greater than three continuous months may be eligible for ~~Military Leave Time Account~~military leave time account donations as detailed in the City's Personnel Policies and Section 75 herein in addition to the annual paid leave and supplemental military pay in the City's Personnel Policies.
3. After the granting of a Reservist Leave of Absence and the start thereof, the position the Reservist held will be treated as a temporary assignment and not a vacancy. In accordance with Section 143.038 of Chapter 143, the duties that are temporarily performed in a higher classification by an employee who has not been promoted as prescribed by Chapter 143 shall not be construed as a promotion and members performing those duties shall not have any preferential right to the next vacancy.
4. Section 143.028(c) of Chapter 143 applies only to Reservist Leaves of Absence.

C. REINSTATEMENT REQUIREMENTS FOR NEWLY ENLISTING FIRE FIGHTERS AND RESERVISTS

1. A member returning from military service must report back to work or apply for reemployment within the time constraints prescribed by USERRA, the City's Personnel Policies and Chapter 143 as applicable.
2. It is a member's responsibility to keep their certifications required by the job description for the position and assignment held prior to deployment and state law current during deployment.
3. Depending on the duration of leave, the member must undergo appropriate training upon return to work and will be evaluated by a supervisor before placement back into operations.
4. The member is responsible for ensuring the City has current contact information for the employee throughout deployment, unless the nature of their assignment prohibits such information from being provided to the department.
5. Members should consult the Human Resources Department for assistance in determining the impact of their active military service on their pension plans and health insurance benefits.
6. A member who has not completed the Civil Service probationary period when they enter the uniformed service will upon their return, resume the Civil Service probationary period at the point the Civil Service probationary period was interrupted by military service.

SECTION 73. LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE

See Section 143.073, Chapter 143

The purpose of this section is to provide guidelines for Civil Service salary continuation under illness or injury leaves of absence for classified employees. Notwithstanding the leave provisions and accommodations authorized by these Rules, Chapter 177A of the Texas Local Government Code, and the City's Personnel Policies, the Fire Chief may at any time invoke the fitness for duty process authorized by Section 143.081 of Chapter 143 if the employee is unable to perform their essential job functions ("**Fitness for Duty Evaluation**").

A. DEFINITIONS

"Full Pay" during a Line of Duty Illness or Injury Leave is defined as the classified employee's regular rate of pay for their normally scheduled work time, less the amount of any deductions authorized by the Texas Workers' Compensation Act and related regulations.

"Illness or Injury Leave" is leave that is provided to eligible classified employees who are unable to work due to a compensable illness or injury. Light Duty Assignment is not considered Illness or Injury Leave.

"Line of Duty Illness or Injury Leave" is Illness or Injury Leave granted to a classified employee who has suffered a compensable illness or injury as a direct or proximate result of the person's line of duty, which is in the course and scope of their employment as determined by the Director, and is unable to work. This may include an illness or injury suffered during an employee's regular duty hours, authorized overtime, or authorized special events.

"Reassignment" may be available if the classified employee can only work with restrictions on a permanent basis, and the employee may be accommodated through permanent reassignment to a non-classified position for which the employee is qualified.

"Temporary Leave" is unpaid leave provided at the discretion of the Fire Chief, in consultation with the Human Resources Department, after the classified employee has exhausted their Illness or Injury Leave and any extensions granted, and/or the employee has exhausted all leave benefits as described herein.

"Light Duty Assignment" may be available when the classified employee suffers a temporary illness or injury but can return to work with restrictions or limitations.

"Unpaid" leave does not consider the employee as being on active service with the City, and the employee neither receives pay nor the employer's contribution amounts for health care insurance or other benefits. Paid leave does not accrue during unpaid leave.

"Work Days" will be converted to shift equivalents for persons regularly assigned to other than

the regular City eight (8)-hour work day.

B. ILLNESS OR INJURY LEAVE REQUIREMENTS

To the extent the City's Personnel Policies do not conflict with these Rules, any requirements contained therein are incorporated into this Section.

1. Procedure. The classified employee eligible for Line of Duty Illness and Injury Leave must report the injury within 24 hours after the injury occurs. The employee must complete a worker's compensation injury packet using the procedures outlined in the City Personnel Policies. The form must state that the employee is unable to return to full duty or limited duty with restrictions in order to obtain such leave; otherwise, the employee must qualify for Light Duty Assignment.
2. Worker's Compensation. Denial of worker's compensation benefits will cause the employee's illness or injury to be considered "Off-duty" unless otherwise compensable under the Chapter 143. Use of leave benefits may be authorized without regard to Maximum Medical Improvement.
3. Salary Continuation (Phase I). A classified employee on Line of Duty Illness or Injury Leave shall receive Full Pay and shall retain the same level of health care insurance benefits as the employee received while on active duty for a period commensurate with the nature of the illness or injury, not to exceed 2080 hours for the 40-hour work week or 2912-hours for the 24-hour shift employee ("**one-year period**") as of the end of the employee's last shift. This time does not have to be continuous, but such leave must be in accordance with the rules and regulations of the Department and Chapter 143. The benefits period starts from the date of injury and may be used intermittently.
4. Extended Salary Continuation (Phase II). If the one-year period was required for the illness or injury sustained by the employee, the Leander City Council may, upon expiration of the one-year period, extend the Line of Duty Illness or Injury Leave, commensurate with the illness or injury, at Full or reduced pay. At least 30 days prior to the end of the one-year period, the employee, or authorized representative, must submit a request to the Fire Chief asking for such an extension, and it is in the Fire Chief's discretion, in consultation with the Human Resources Department, whether to forward the request for approval or denial to the City Council.
5. TMRS Disability. For classified employees on Line of Duty Illness or Injury Leave who have eligible benefits through the Texas Municipal Retirement System (TMRS) and who either do not receive Extended Salary Continuation or suffer a reduction of salary below 60 percent of their monthly salary, the employee may be eligible to obtain disability retirement benefits under TMRS. However, if the employee is deemed "recovered" by TMRS regulations, then he or she is eligible for reappointment in accordance with the reappointment rules in Rule 74.

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6. Use of Leave Benefits (Phase III). Accumulated sick leave, holiday time, vacation time, any applicable catastrophic leave donations, and/or frozen leave banks (in an FMLA qualifying event) may be used prior to being placed in Temporary Leave status in the following situations:
 - a. Employees, on Line of Duty Illness or Injury Leave, who exhaust the one-year period and the Extended Salary Continuation outlined in Subsection (4);
 - b. Employees, on Line of Duty Illness or Injury Leave, who exhaust the one-year period and who do not receive Extended Salary Continuation outlined in Subsection (4);
 - c. Employees, on Line of Duty Illness or Injury Leave, who do not have eligible benefits through TMRS outlined in Subsection (5); and
 - d. Employees who are on Off-duty Illness or Injury Leave.
 7. Temporary Leave (Phase IV). Classified employees, whether in the Line of Duty or Off-Duty may be eligible for Temporary Leave. Temporary Leave, if granted, shall only be allowed in thirty (30) day increments and shall not exceed a six (6) month period, unless the employee has not expired their FMLA leave in which case Temporary Leave must accommodate the FMLA leave available to the employee. If an employee recovers during the time that ~~their~~ is they are on Temporary Leave, then the employee may apply for reinstatement at the same rank and seniority as ~~their~~ they held prior to taking leave using the reappointment procedures in Rule 74. Temporary Leave is considered a break in service for insurance purposes.
 8. ~~Trainees.—Fire Trainees~~ Non-Certified Probationary Employees. Non-certified probationary employees will not be eligible to receive Salary Continuation benefits for Line of Duty Illness or Injury Leave. Accommodations, if any, will be in accordance with the City Personnel Policies and federal law.
 9. FMLA. Any days in which Illness or Injury Leave, whether in the Line of Duty or Off-duty, is utilized will be applied toward the classified employee's leave benefit under the Family Medical Leave Act. Upon exhaustion of FMLA benefits, classified employees shall be subject to reassessment in accordance with Department policy.
 10. Documentation Required. The classified employee shall attend all doctor appointments as scheduled by their physician. The employee shall be responsible to schedule a monthly medical appointment and must update their supervisor after each appointment. Employees must provide signed documentation from a treating licensed physician in accordance with City policy in order to continue to obtain benefits under these ~~rules~~ Rules and may be ordered to appear before the Commission in the event of a failure to comply with this requirement.

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11. Availability on Leave. An employee who wishes to travel or otherwise be unavailable while on Illness or Injury Leave, whether in the Line of Duty or off duty, must get approval from the Fire Chief in consultation with Human Resources.
 12. Verification. The Fire Chief or Director may order home checks to be made on any employee off work under this Section and may order an employee to provide a doctor's letter verifying any claimed illness or non-work injury.
 13. Contact Information. An Employee is responsible for ensuring that the City has their current contact information, including personal address, phone number and personal electronic mail, while they are on Illness or Injury Leave.

C. PROHIBITIONS

While on Illness and Injury Leave, whether in the Line of Duty or Off-duty, employees shall not engage in the following conduct:

1. Drive a city-owned vehicle;
2. Participate in activities that could possibly hinder recovery (i.e., strenuous athletic activity);
3. Work any secondary employment;
4. Wear any part of the Department Uniform, including T-Shirts;
5. Carry a City issued weapon; or
6. Display their Department Identification or Special Events Identification card in a manner that may identify them as a member of the Department

D. LIGHT DUTY ASSIGNMENT OR PERMANENT RE-ASSIGNMENT

To the extent the City's Personnel Policies donot conflict with these Rules, any requirements contained therein are incorporated into this Section. The Department will make every effort to offer a reasonable accommodation to enable an employee to perform the essential functions of their position when the employee cannot otherwise perform their full duties unless (1) a need cannot be properly substantiated, (2) the accommodation would not be effective, or (3) it would impose an undue hardship on the City.

1. Documentation Required. A classified employee returning to duty after Illness or Injury Leave must provide a written release from the treating licensed physician indicating the employee's fitness to return to duty, stipulating any type of restrictions and the date of the employee's release from medical care. If restrictions are specified, the employee must report to the Human Resources Department before reporting to work.

2.Light Duty Required. If the employee is subject to restrictions that render the employee temporarily unable to perform the essential functions of the job, an attempt will be made to find a Light Duty Assignment that the employee can

perform. If Light Duty is available, an employee must take the offered assignment; failure to accept the assignment may result in the employee forfeiting their workers' compensation indemnity benefits. In assigning Light Duty to classified employees, the Fire Chief may assign employees to duties outside the Department. Light Duty Assignments must be compliant with the City of Leander Personnel Policies, Chapter 177A of the Texas Local Government Code and Federal law. A Light Duty Assignment may continue for at least one (1) year per illness or injury.

3. Extended Light Duty. The Fire Chief has the option, but is not required, either to approve Extended Light Duty or call for a Fitness for Duty Evaluation. Employees with a Line of Duty Illness or Injury will have preference over employees with an Off-duty Illness or Injury for Extended Light Duty.
4. Re-assessment. An employee on Light Duty Assignment is subject to continuous re-assessment to ensure current medical need and estimated length of need. Employees on Light Duty Assignments will be required to undergo medical re-evaluations or designated doctor visits as directed.
5. TraineeNon-Certified Probationary Employee Accommodations. If the employee is a ~~trainee~~non-certifiedprobationary employee at the time of Line of Duty Injury or Illness and can perform duties with restrictions, then the employee may be given a Light Duty Assignment in the fire training class for the academic component only, holding the physical component of training until a full release is received by a treating licensed physician, so long as it is approved by the Fire Chief and does not disrupt operations.
6. Re-assignment. Upon expiration of the Light Duty Assignment and Extended Light Duty, the employee may be eligible for permanent re- assignment to a non-classified, vacant position for which they are qualified with or without reasonable accommodation. The employee may be re-assigned to a lower graded position if there are no other accommodations that would enable the employee to be permanently re-assigned. If there is no other vacant position for which the employee is qualified or capable and Illness and Injury Leave has been exhausted, then the employee may be subject to a fitness for duty evaluation.

SECTION 74. REAPPOINTMENT AFTER RECOVERY FROM DISABILITY

See Section 143.074, Chapter 143

SECTION 75. MILITARY LEAVE TIME ACCOUNTS

See Section 143.075, Chapter 143

(Sections 76-80 reserved for expansion.)

SECTION 81. DETERMINATION OF PHYSICAL OR MENTAL

See Section 143.081, Chapter 143

- A. If the Fire Chief questions whether an employee is mentally or physically fit for duty, the Fire Chief may order that the employee, at the employee's cost, attend an appointment with the employee's personal physician, psychiatrist, or psychologist, as applicable, in order to obtain a fitness for duty evaluation report under Tex. Local Gov't Code Section 143.081 (the "**report**"), and the Fire Chief must give a copy of such order to the employee. An employee ordered to submit to a fitness for duty evaluation must execute a written consent to the release of the report directly from the healthcare provider to the Director, Fire Chief, and Commission, in the form required by the City. The Fire Chief may allow the employee to continue working in the employee's regular or light duty assignment, or may place the employee on applicable Administrative Leave or unpaid Temporary Leave pending the outcome of the response, depending on the circumstances of the case and in the Fire Chief's discretion
- B. Once the employee's healthcare provider returns the report, the Director or their designee, shall file a copy of the confidential report with the Fire Chief within three (3) business days of receipt. No later than ten (10) calendar days before the Commission meeting on fitness for duty, the Director or their designee must send a copy of the report and a notice of the hearing date and time to the affected employee. A copy of all healthcare correspondence, other than the report to be provided in executive session, and of the Fire Chief's response will be sent to the Commission in advance of the meeting. The report must state whether the employee is sufficiently physically or mentally fit to continue the employee's duties and the procedure shall be as follows:
1. If the employee's personal healthcare provider finds the employee *fit for duty*, and the Fire Chief agrees with the finding, the Commission shall consider this agreement in reviewing whether the report is true. If the Fire Chief or the Commission disagrees with the report, then the Commission shall appoint another physician, psychiatrist or psychologist, as appropriate, to evaluate the employee and to provide an additional evaluation report to the Commission, at the City's cost.
 2. If the employee's personal healthcare provider finds the employee *not fit for duty* and the Fire Chief agrees with the finding, the Commission shall consider this agreement in reviewing whether the report is true. If the employee or the Commission disagree with the report, then the Commission shall appoint another physician, psychiatrist or psychologist, as appropriate, to evaluate the employee and to provide an additional evaluation report to the Commission, at the City's cost.
 3. If the reports from the employee's personal healthcare provider and the Commission's appointed healthcare provider conflict, the Commission shall appoint a board of three (3) physicians, psychiatrists or psychologists, as applicable, pursuant to 143.081(d) of Chapter 143. The employee must see all three (3) healthcare providers within the time

prescribed by the Commission, at the City's cost. The Commission may set a deadline for the return of additional evaluation reports and may grant an extension of its deadline for good cause shown by the employee. The board's decision is a simple majority finding, and it is final and not appealable to the Commission.

4. If the Commission orders additional evaluation reports in subsection (1), (2), or (3) above, the employee must execute a separate written consent to the release of the evaluation report directly from the personal or appointed healthcare provider to the Director, Fire Chief, and Commission, in the form required by the City.
- C. Failure of the employee to attend an appointment with any healthcare provider or to cause any healthcare provider to fail to return the fitness for duty evaluation report within fifteen (15) business days of the order shall be considered grounds for formal disciplinary action, unless within five (5) business days of the order, the employee requests a reasonable extension for good cause from the Fire Chief or Commission, as the case may be. However, if an extension is granted, in no event shall an employee cause any healthcare provider to fail to return the fitness for duty report later than twenty-one (21) business days after the initial order or Commission appointment. Such failure may be grounds for formal disciplinary action.

SECTION 82. EFFICIENCY REPORTS

See Section 143.082, Chapter 143

- A. The performance of all employees who are not in entry-level probationary status will be evaluated on an annual basis through individual efficiency reports ("**Efficiency Reports**"). These reports are intended to ensure that all employees are aware of the expected level of performance for effectiveness and efficiency in their duties. These reports allow for timely feedback to encourage education, training and employee development to ensure a consistently fair evaluation process.
- B. Entry-level employees who are in probationary status under Section 27 will undergo an Efficiency Report evaluation monthly as well as an environmental assessment to evaluate the employee's personal experience as it relates to their current work environment. The results of a monthly Efficiency Report during probationary status does not necessarily guarantee the employee any rights to a position, and the Fire Chief maintains **full** rights of discharge during the probationary period.
- C. The Director must provide each employee a copy of their individual Efficiency Report. Within ten (10) calendar days after the date an employee receives the copy of their Efficiency Report, the employee may make a statement in writing concerning the report. The statement shall be placed in the employee's personnel file with the Efficiency Report.
- D. The Fire Chief may establish procedures for Efficiency Reports. Efficiency Report evaluations are not appealable to the Commission. Continued poor efficiency evaluations may result in disciplinary actions under these Rules.

SECTION 83. EMERGENCY APPOINTMENT OF TEMPORARY FIREFIGHTERS

See Section 143.083, Chapter 143

SECTION 84. CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIREFIGHTERS

See Section 143.084, Chapter 143

SECTION 85. FORCE REDUCTION AND REINSTATEMENT LIST

See Section 143.085, Chapter 143

SECTION 86. POLITICAL ACTIVITIES

See Section 143.086, Chapter 143

SECTION 87. STRIKE PROHIBITION

See Section 143.087, Chapter 143

SECTION 88. UNLAWFUL RESIGNATION OR RETIREMENT

See Section 143.088, Chapter 143

SECTION 89. PERMANENT PERSONNEL FILE

See Section 143.089, Chapter 143

SECTION 90. RELEASE OF PHOTOGRAPHS OF POLICE OFFICER

See Section 143.090, Chapter 143



EXECUTIVE SUMMARY
10/28/2024

AGENDA SUBJECT:

Discuss and consider action on adoption of rules necessary for the proper conduct of commission business.

BACKGROUND:

The commission shall adopt rules necessary for the proper conduct of commission business. The commission shall adopt rules that prescribe cause for removal or suspension of a firefighter or police officer and governing promotions. The commission shall publish each rule it adopts and each classification and seniority list for the fire department. The rules and lists shall be made available on demand.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

PRESENTER:

Paige Saenz, City Attorney

Fiscal Impact

Attachments:

1. 10_25_24_CivilServiceRules_MeetingClean_Packet

LEANDER FIRE DEPARTMENT CIVIL SERVICE COMMISSION LOCAL RULES



ADOPTED BY THE CIVIL SERVICE COMMISSION

Origination Date:

October **, 2024

**LEANDER FIRE DEPARTMENT
CIVIL SERVICE COMMISSION LOCAL RULES**

**INTRODUCTION
AND REPEAL OF PRIOR RULES**

The purpose of Chapter 143 of the Texas Local Government Code is to secure an efficient Fire Department composed of capable personnel, free from political influence.

The Leander Fire Department Civil Service Commission Local Rules (hereinafter referred to as "**these Rules**" or "**Rules**") are promulgated in compliance with Chapter 143 of the Texas Local Government Code, which is incorporated herein for all purposes. It is intended that these Rules shall complement said statute and not conflict with the statute in any manner. No set of rules can be so precise as to provide for every employment situation; therefore, it is intended that the Civil Service Commission (hereinafter referred to as "**the Commission**") administer these Rules in the best interest of the Leander Fire Department and the City of Leander.

The following Rules, as may be amended from time to time, are the Leander Fire Department Civil Service Commission Local Rules. These Rules are promulgated in accordance with the provisions of Civil Service Law (Texas Local Government Code, Section 143.008).

If any part, segment, section, word, phrase, subchapter, or other portion of these Rules shall be declared to be unenforceable, vague, unconstitutional, or contrary to public policy, then the remainder of these Rules shall be continued in full force and effect as if the offending portions of these Rules were never included herein.

**LEANDER FIRE DEPARTMENT
CIVIL SERVICE COMMISSION LOCAL RULES**

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SECTION 1. PURPOSE

See Texas Local Government Code § 143.001.

There is hereby established the City of Leander Fire Fighters' Civil Service with the adoption of these Rules, in compliance with Chapter 143, as amended, of the Texas Local Government Code. The captions used in these local Rules are not intended to convey any legal meaning or benefit but are included solely to aid in the organization of the Rules.

The civil service system of the City has been established pursuant to Chapter 143 for the purpose of developing and enforcing Rules regarding the initial selection of employees as well as for their advancement, benefits, discipline and discharge, and conditions of employment.

The scope and construction of the Rules hereinafter set forth shall be interpreted and applied within the spirit and intent of Chapter 143. The intent of these Rules is to cover situations not mentioned in Chapter 143 or which are ambiguous in Chapter 143. All situations that are not expressly covered by Chapter 143 or these Rules shall be resolved in accordance with the City Charter and ordinances, City of Leander Personnel Policies or the residual discretionary authority vested in the Fire Chief. These Rules shall apply to all of the classified, non-probationary employees covered under Chapter 143 and specifically certified by the Texas Commission on Fire Protection. If a provision of Chapter 143 applies to probationary employees, the corresponding local rule, if any, applies as well.

The Commission, acting in compliance with Chapter 143, has the authority to adopt, publish and enforce rules relating to:

- A. The proper conduct of Commission business meetings;
- B. The proper conduct of examinations for entry level and promotional eligibility;
- C. The proper conduct of appeals of testing and examination scoring;
- D. The prescribed cause or causes for the removal or suspension of a civil service employee;
- E. The procedures for the hearing of disciplinary appeals concerning suspensions without pay, indefinite suspensions, promotional passovers; recommended demotions; or written promotional examinations; and
- F. Such other matters reasonably related to the selection, promotion and discipline of civil service employees, not otherwise vested in the discretion or managerial authority of the City Council, City Manager, Director of Civil Service, or Fire Chief.

SECTION 2. MUNICIPALITIES COVERED BY CHAPTER

See Texas Local Government Code § 143.002.

SECTION 3. DEFINITIONS (Revisiting this section at the end of the process – Language suggested here)

See Texas Local Government Code § 143.003.

The words and phrases used in these Rules shall have the meaning assigned to such words as may be used by reasonable people in the conduct of their own affairs, except as provided hereinafter.

Any word or phrase that is defined in Chapter 143 shall be defined in the same manner for the purpose of interpreting these Rules.

Whenever a dispute arises about the meaning of a word, group of words, or a phrase, the construction given to such word, group of words, or a phrase shall be determined by reference to the latest available edition of Webster's Dictionary, unless the Courts of the State of Texas shall have determined the meaning of the disputed word, group of words, or phrase, in which event such construction of the word, group of words, or phrase shall control.

- A. **APPOINTMENT** – The designation of a person by the City Manager to become an employee in a classified civil service position.
- B. **BUSINESS DAY** – Any day City Hall is customarily open for normal business. “Business day” does not refer to the employee’s workday or holidays observed by the City.
- C. **CHAPTER 143** – The portion of the Texas Local Government Code containing the civil service provisions.
- D. **CHIEF EXECUTIVE** – The City Manager of the City of Leander.
- E. **CITY** – The City of Leander.
- F. **CITY CHARTER** – The City of Leander City Charter.
- G. **CITY MANAGER** – The City Manager of the City of Leander, and includes their designee.
- H. **CITY OF LEANDER PERSONNEL POLICIES or CITY’S PERSONNEL POLICIES** – The personnel policies approved by the City Council and the employee handbook approved by the City Manager.
- I. **CLASSIFICATION** – A position or group of positions that involve similar duties and responsibilities and require similar qualifications.
- J. **COMMISSION** – The Leander Fire Fighters’ Civil Service Commission.

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- K. **CONVICTION OR CONVICTED** -- A person is convicted if he/she has pled guilty, no contest (nolo contendere), or been found guilty in a trial, regardless of whether:
1. The sentence is subsequently probated and the person is discharged from probation;
 2. The defendant has received an unadjudicated or deferred adjudication probation, or similar deferred disposition, for a criminal offense;
 3. The case has been made the subject of an expunction order; or
 4. The person is pardoned, unless the pardon is expressly granted for subsequent proof of innocence.
- L. **DAY** – Calendar day, unless otherwise specified.
- M. **DEMOTION** -- The transfer of an employee from a position in one classification to a position in another classification for which the maximum rate of pay is lower.
- N. **DEPARTMENT** – The Leander Fire Department.
- O. **DIRECTOR** – The Director of Civil Service as designated by the City of Leander Fire Fighters’ Civil Service Commission to act in the capacity of Secretary to the Commission and Director of Civil Service, and includes their designee.
- P. **ELIGIBILITY LIST** – A list of applicants for a classified civil service position who have taken the examination and passed and are ranked on the eligibility list in order of the score received, including tiebreakers. Applicant shall successfully pass additional steps in the selection process conducted by the Department prior to any offer of employment being extended.
- Q. **MILITARY SERVICE CREDIT** – The points added to the passing score of an entrance examination taken by a qualified veteran.
- R. **RAW SCORE** – The numerical grade based upon the questions correctly answered on an examination.
- S. **RULES** – These Leander Fire Department Civil Service Commission Local Rules.
- T. **SENIORITY** -- For the purpose of breaking a tie on a promotional examination, years of services as a full-time fire fighter within the Department, whether interrupted or uninterrupted. Seniority points shall be awarded only for whole years of service. Under the provisions of USERRA, military service shall not be considered a break in service under these Rules.
- U. **VETERAN** – A person who has served a minimum of 180 days of active duty in the armed forces of the United States of America and who has received a DD-214 that reflects an honorable discharge. A person who receives a discharge other than honorable is not a veteran for the purpose of this section.

SECTION 4. ELECTION TO ADOPT OR REPEAL CHAPTER

See Texas Local Government Code § 143.004.

SECTION 5. STATUS OF EMPLOYEES IF CHAPTER ADOPTED

See Texas Local Government Code § 143.005.

SECTION 6. IMPLEMENTATION AND COMMISSION CONDUCT

See Texas Local Government Code § 143.006.

A. CIVIL SERVICE COMMISSION

1. **APPOINTMENTS** – The City Manager shall appoint and the City Council shall confirm the appointment of the three (3) members of the Civil Service Commission who meet the required statutory qualifications. Each January, the members shall elect one (1) member to serve as chair and one (1) to serve as vice-chair.
2. **CHAIR AND VICE-CHAIR REPLACEMENT** – When vacancies of members of the Commission occurs, the replacement of chair and vice-chair will be handled as follows:
 - a. In the event of a vacancy in the chair position, the vice-chair will assume the role of chair and an interim election will be held to elect a new vice-chair.
 - b. In the event of vacancy in the vice-chair position, an interim election will be held to fill that office.
3. **TERM OF OFFICE** - Each member of the Commission holds office for a staggered three (3) year term and thereafter until a successor is appointed and confirmed. Interim vacancies on the Commission shall be filled by appointment of the City Manager and confirmed by the City Council for the unexpired term of the member whose position has been vacated. Commissioners are permitted to serve a maximum of three (3) consecutive three-year terms. The term of a Commissioner does not include appointments to serve an un-expired term of a previous Commission member.
4. **RULE OF CONDUCT** – In the discharge of their duties, members of the Civil Service Commission act as a body and not as individuals. An individual Commission member has no authority to speak for the Commission unless he or she is specifically authorized to do so by formal action of the Commission.

B. CONDUCT OF MEETINGS

1. **LOCATION OF MEETINGS** - The Commission shall conduct its meeting in such place as designated in the "Notice of Meeting." The Commission shall conduct all meetings in compliance with the provisions of Section 551.001 *et. seq.* of the Texas Government Code (Open Meetings Act).

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2. **CALLING A MEETING** - Meetings shall be called by the Director at the request of the Chair, or at the written request of any two (2) Commissioners. Notice of meeting of the Commission shall be given by the Director to the members of the Commission at least seventy-two (72) hours preceding the day of the meeting, except in case of emergency or urgent public necessity, in which case one (1) hour notice shall be given in accordance with the provisions the Open Meetings Act.
 3. **PROCEDURE.** In all matters of procedure not controlled by the provisions of the Texas Local Government Code, Chapter 143 or these Rules, Robert's Rules of Order shall generally guide the order of business and conduct of meetings. The Commission may, by majority vote, make rules of procedure for the administration of Chapter 143, Texas Local Government Code. The failure of the Chairperson and/or the Commission to follow Robert's Rules of Order shall not create any right or violate any right of any Commission member, third party, member, person or citizen, or create or give rise to any due process claim for or on behalf of any such Commission member, third party, member, person or citizen.
 4. **QUORUM** – Two (2) members of the Commission constitute a quorum sufficient to conduct business meetings and hearing.
 5. **CONDUCT OF BUSINESS MEETINGS** - The Commission may set reasonable Rules and procedures and efficient conduct of business. The Chairperson shall conduct meetings in an orderly and timely fashion. The normal order of business at non-disciplinary or non-appeal hearings shall be generally:
 - a. Call to order
 - b. Approval of minutes
 - c. Action items
 - d. Miscellaneous matters from the Director
 - e. New business – Commission members may suggest items for future agendas
 - f. Adjourn

The order of business may be altered at any time by agreement of Commission members present at the meeting.

6. **CLOSED SESSION** – Meetings of the Commission may be closed from time to time in conformance with the provisions of applicable state law.
7. **MINUTES** - The Director shall prepare the minutes of each meeting. The minutes of a meeting are to be presented for approval at a subsequent meeting of the Commission. The minutes, other than matters discussed in executive session, upon approval by the Commission, shall be kept open for public inspection as governed by applicable State law. A Commission member may record in the minutes an approval of, or objection to any act of the Commission together with

the Commissioner's reasons. Copies of the minutes and records may be obtained from the Director for the standard fee charged by the City for similar official record duplication. The minutes of the Commission shall be signed by the Chair, or in the Chair's absence, the Vice-chair.

8. **COMMUNICATIONS** - All communications or requests to the Commission are to be made in writing through the office of the Director.

9. **PUBLIC COMMENTS; DECORUM**

1. Members of the public may address the Commission regarding items on the posted agenda for which the Commission will make a decision or take action before consideration of the item.
2. In order to preserve the order and decorum of meetings of the Commission and to provide for attendance at and participation in the meeting without fear of intimidation, threats, or hostility, any person who becomes disruptive during the meeting may be removed from the meeting location. Comments must be topically related to the agenda item for which the speaker has registered to speak.
3. Persons who intend to speak shall register with Civil Service staff outside the meeting location on the day of the meeting, beginning fifteen (15) minutes prior to the meeting start time, by signing in on the speaker sign-in sheet and including:
 - a. The speaker's first and last name;
 - b. The agenda item on which the speaker plans to speak;
 - c. An indication whether the speaker will be speaking through a translator; and
 - d. Any other information requested by Civil Service staff.
1. Persons who have signed up to speak at the beginning of Commission meetings under the item "public comments" shall, upon being recognized by the Chair, have three minutes to address the Commission. No person shall speak more than one time per meeting under the agenda item for public comments, nor have more than three minutes unless approved by majority vote of the Commission. Additional comments or information may be provided in writing to the Commission.
5. Persons who have signed up to speak about a particular agenda item shall, when recognized by the Chair, have three minutes to address the Commission regarding the subject of an agenda item then being considered by the Commission.
6. Members of the public who wish to address the Commission through a translator will have twice the amount of speaking time provided by these Rules to accommodate the translation services.

SECTION 7. REMOVAL OF COMMISSION MEMBER

See Texas Local Government Code§ 143.007.

- A. **RESIGNATION AND REMOVAL.** A member of the Commission may tender their resignation in writing at any time to the City Manager. A Commission member may be removed from office by the City Council for misconduct in office or otherwise in accordance with Chapter 143 of the Texas Local Government Code or other applicable law.
- B. **ABSENCES.** If a Commission member is absent three (3) meetings during a twelve (12) month period without good and reasonable cause, the absent member may be automatically deemed to have submitted a resignation, and if accepted by the City Manager, the position shall be deemed vacant without further action.
- C. **REPLACEMENT OF MEMBERS.** Upon the occurrence of any of these events enumerated under Section 143.007, a request shall be made by the Director to the City Manager for a replacement of such member.

SECTION 8. ADOPTION AND PUBLICATION OF RULES

See Texas Local Government Code§ 143.008.

- A. The Rules of the Civil Service Commission currently in effect are only those contained herein. These Rules completely repeal and replace such earlier rules and regulations as have been adopted by the Civil Service Commission. These Rules have been approved by the Commission and shall remain in effect until officially amended, revised or repealed by the Commission.
- B. Immediately upon becoming effective, all Rules contained herein shall thereafter be deemed to constitute full and effective prior notice to all civil service employees of prescribed or prohibited conduct as stated in any such Rule.
- C. Amendment to these Rules may be made at any meeting of the Commission and such amendments shall become effective on the date of their approval by the Commission and subsequent compliance with the posting and notice requirements of Chapter 143 and of these Rules. All Rules and amendments thereto shall be printed and made reasonably available for access by all civil service employees.
- D. These Rules are made and shall be construed in accordance with Chapter 143.
- E. Where there is a conflict between these Rules and other rules pertaining to fire fighters of the City, then these Rules shall take precedence. If any section, subsection, paragraph, sentence, clause, phrase or word contained in these Rules shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portion of these Rules.
- F. These Rules are enacted by the Commission pursuant to the statutorily delegated authority of Chapter 143. These Rules were not acted upon in any official manner by the City Council.

Therefore, these Rules do not constitute any form of "policy" nor any other official act of the City Council.

- G. The Fire Chief shall adopt and promulgate written rules, regulations and personnel policies pertaining to the operation of the Department. No such Department rule shall be in conflict with the provisions of these Rules. Copies of all Department rules, or amendments thereto, shall be made readily available to all members of the Department and the Commission electronically or by hard copy.

SECTION 9. COMMISSION INVESTIGATIONS

See Texas Local Government Code § 143.009.

SECTION 10. COMMISSION APPEAL PROCEDURE

See Texas Local Government Code § 143.010.

A. JURISDICTION.

1. The Commission has no jurisdiction to hear issues related to the following:
 - a. Employee dissatisfaction resulting from a transfer or reassignment of duties;
 - b. Employee dissatisfaction resulting from a discretionary policy decision or policy matters;
 - c. Grievances against other employees or supervisors;
 - d. Voluntary resignations or retirements;
 - e. Voluntary acceptance of disciplines in which a written document evidences intent to finally resolve the issue which includes a statement that the employee has waived all rights to appeal the disciplinary action;
 - f. Verbal counseling, written reprimands, off duty employment requests, and approval/denials.
2. The Commission has jurisdiction to hear the following types of issues:
 - a. Appeal of promotional examination questions;
 - b. Appeal of promotional bypasses;
 - c. Demotion determinations; and

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- d. Appeal of temporary or indefinite suspensions.

B. ORIGINAL NOTICE OF APPEAL

1. The employee's notice of appeal must be filed in writing, in the Director's office within ten (10) days after receiving the notice of disciplinary action from the Fire Chief. An employee may withdraw their request for an appeal at any time thereafter, terminating the appeals process.
2. The employee's notice of appeal and request for hearing shall set forth the employee's basis for appeal in compliance with Chapter 143.

C. FAILURE TO TIMELY FILE AN APPEAL

There will be no right to an appeal hearing in a situation where an employee either (a) fails to file a notice of appeal of a disciplinary action with the Director or Director's designee within the ten (10) day period allowed in Chapter 143 or (b) fails to properly state the basis of appeal. This shall result in an appeal in the matter not being established. If the appeal is untimely or does not properly set forth the basis for appeal, the Director shall notify the employee that the appeal will not be considered.

D. SUBPOENA

1. Before requesting a subpoena duces tecum for the production of documents, a party shall first make a request for the documents directly to the other party and allow a reasonable time for a response. If the request is refused or otherwise not produced, then a request may be filed with the Director requesting the Commission to issue a subpoena duces tecum. This request shall be filed with the Director at least ten (10) days prior to the hearing date, and the party requesting the documents shall also serve the opposing party with a copy of the request for issuance of a subpoena duces tecum at least ten (10) days prior to the hearing date.
2. If the opposing party wishes to object to the request for the issuance of a subpoena duces tecum, the opposing party shall file its written objections with the Director at least six (6) days prior to the hearing. If the Commission receives written objections to the issuance of a subpoena duces tecum from the opposing party, the Commission shall meet no later than the third (3rd) day before the hearing to determine whether to issue, quash or modify the requested subpoena. The Director shall then notify the parties verbally and in writing of the Commission's decision. Because of the short time frame permitted in this process, all written materials may be served by email or facsimile by the parties to each other and to the Director.
3. A request for subpoena to compel the attendance of a witness shall be coordinated through the Director. A request for a subpoena shall be submitted at least ten (10) days prior to the scheduled hearing date in order to be processed in a timely manner. The Director shall issue a subpoena on behalf of the Commission.

E. RULES OF EVIDENCE.

1. In appeals to the Commission, the "rules of evidence" shall not be observed.
2. The Commission shall base its decisions by a preponderance of the evidence standard.

SECTION 11. DECISIONS AND RECORDS

See Texas Local Government Code § 143.011.

- A. All records of the Civil Service Commission shall be deemed public information, unless otherwise excepted by law, and shall be governed by Texas Government Code Chapter 552 (the Texas Public Information Act), Tex. Local Gov't Code Section 143.089, and any other applicable laws and regulations.
- B. The Commission or the Director shall have the power to correct or amend any eligibility list, paper or record in which a clerical or procedural error has been made.

SECTION 12. DIRECTOR

See Texas Local Government Code § 143.012.

- A. The Director shall administer these Rules and perform work incidental to the Civil Service System as required by the Commission. All communications or requests to the Commission shall be made in writing to the Director, who shall determine if the Commission has jurisdiction over the matter. The Director shall also act as Secretary to the Commission. The Commission may designate one (1) or more person(s) as deputy secretaries of the Commission.
- B. If for any reason the appointed Director separates from employment with the City, a new Director will be appointed by the Commission.
- C. The Director may delegate any and/or all responsibilities to other City staff as necessary. The Director's duties include, but are not limited to:
 1. Supervising all examinations or appointing Test Monitors to prepare, schedule, score, and ensure the security of test materials, and preparation of eligibility lists;
 2. Coordinating the recruitment and examination of applicants, including certifying names from the eligibility list to the Fire Chief;
 3. Assisting in the classification of Department positions;
 4. Setting the agenda for the Commission meetings;
 5. Acting as liaison and providing staff support to the Commission;

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6. Determining whether the Commission has jurisdiction over any matter and, if so, bring it before the Commission in a reasonable and timely fashion;
 7. Calling, posting agendas, scheduling, rescheduling, attending, and cancelling meetings of the Commission;
 8. Post promotional examination notice;
 9. Acting as records custodian as provided by Tex. Local Gov't Code Section 143.011;
 10. Maintaining the personnel files of all employees in the civil service as required by Tex. Local Gov't Code Section 143.089(a);
 11. Acting on behalf of the Commission for actions and issues not specifically addressed in Chapter 143 or these Rules;
 12. When a specific Rule does not address a particular question or issue, interpreting the Rules based on circumstances, facts, and issues, and taking appropriate action;
 13. Presenting to the Commission changes in these Rules;
 14. Performing such other functions as may be deemed reasonably necessary in regard to the efficient and effective administration of the civil service system of the City;
 15. Preparing and keeping minutes of all Commission meetings, and obtaining appropriate signatures on approved minutes and on all decisions entered by the Commission;
 16. Maintaining the Record of Certification and Appointment as required by Tex. Local Gov't Code Section 143.037;
 17. Maintaining a seniority roster for the Department by date of hire and seniority rank by date of promotion;
 18. Coordinating Commission investigations;
 19. Approving active duty and reserve military leave for purposes of Chapter 143; and
 20. Appointment of medical and psychological examiners pursuant to Tex. Local Gov't Code Section 143.022.
 - 21.

SECTION 13. APPOINTMENT AND REMOVAL OF FIRE CHIEF

See Texas Local Government Code § 143.013.

**SECTION 14. APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED
IMMEDIATELY BELOW FIRE CHIEF**

See Texas Local Government Code§ 143.014.

SECTION 15. APPEAL OF COMMISSION DECISION TO DISTRICT COURT

See Texas Local Government Code§ 143.015.

SECTION 16. PENALTY FOR VIOLATION OF CHAPTER

See Texas Local Government Code§ 143.016

SECTIONS 17-20 NOT APPLICABLE

See Texas Local Government Code§ 143.017 through 143.020

SECTION 21. CLASSIFICATION: EXAMINATION REQUIREMENT

See Texas Local Government Code§ 143.021.

- A. The Commission shall provide for the classification of all firefighters. City Council shall establish by ordinance the number of positions in each classification in the department.
- B. The Fire Chief shall develop job descriptions for each position in each classification in the department. Specifications for the various classifications shall conform as follows:
 - 1. The job specifications are descriptive only and are not restrictive. They shall indicate the kinds of positions that should be allocated to each classification as determined by their duties, responsibilities and qualification requirements.
 - 2. Titles shall be suggestive of the kind of work performed by the incumbent of the position and indicative of the rank.
 - 3. The description of duties shall be construed as a general description of the kind of work performed and shall not limit what the duties of any position shall be.
- C. Examples of work shall be construed as typical tasks only, illustrative of the duties as outlined in the general statements. Examples are not intended to be exhaustive or exclusive, and the fact that actual tasks performed by the incumbent of a position do not appear on the job specification shall not be taken to mean that the position is necessarily excluded from the classification, provided that the tasks constituting the main work are duly covered by the general statements of duties.

SECTION 22. PHYSICAL REQUIREMENTS AND EXAMINATIONS

See Texas Local Government Code§ 143.022.

- A. **GENERAL REQUIREMENTS** - Each applicant for entry-level position shall be required to submit to such physical and mental tests as determined by the Fire Chief to be reasonably necessary and proper to determine the physical and mental ability of the applicant to perform the essential functions required for the position sought. An applicant who is not capable of performing the essential job functions with or without reasonable accommodation, or that would otherwise endanger citizens or other employees while performing such duties, shall not be appointed.
- B. **ENTRY LEVEL APPEALS** - If an applicant is not appointed due to failure to successfully pass the medical or psychological examination, the applicant may appeal to the Commission. If the applicant elects to appeal, the applicant shall submit written notice of appeal to the Director within ten (10) days of initial receipt of notification of rejection.
- C. **PROMOTIONAL REQUIREMENTS** - Any candidate for promotion shall successfully complete an appropriate medical examination. An official Department examination taken within six (6) months of promotion test date may be used for this requirement.

SECTION 23. ELIGIBILITY FOR BEGINNING POSITION

See Texas Local Government Code§ 143.023.

- A. **EMPLOYMENT STANDARDS** -To the extent that employment standards for an entry-level fire fighter as provided in the approved classifications exceed the requirements of Chapter 143 and other applicable State laws, any of such entry-level employment requirements not prescribed by State laws may be waived by the Fire Chief with the concurrence of the Director and consent of the City Manager, when such waiver would be in the best interests of the Department and provided further that such waiver of requirements shall not substantially lower the high standards sought by the City. Any changes under this Section shall be based on each hiring process.
- B. **MINIMUM ELIGIBILITY REQUIREMENTS FOR FIRE FIGHTERS** - An applicant for fire fighter shall meet the following criteria in order to be considered for an entry-level position:
 - 1. Achieve a minimum passing score of seventy (70) percent on the written examination;
 - 2. Successfully complete the physical ability test;
 - 3. Pass a background investigation;
 - 4. Pass oral interviews;
 - 5. Pass the Fire Chief's interview;
 - 6. Successfully complete a post-job offer psychological examination and medical examination that includes passing a visual acuity test, and physician certification that the applicant is not dependent on and does not use illegal drugs;
 - 7. Be at least eighteen (18) years of age and not more than thirty-five (35) years of age at the time

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- of hire;
 8. Be a graduate of an accredited high school or have an equivalency certificate;
 9. Have a valid Texas driver's license at the date of hire (
 10. Be able to obtain a Class A driver's license;
 11. Be a citizen of the United States by birth or naturalization;
 12. Be able to read, write, and speak the English language;
 13. Be of good moral character;
 14. Be eligible to work within the United States;
 15. Obtain or possess certifications required by the job description.

SECTION 24. ENTRANCE EXAM NOTICE

See Texas Local Government Code § 143.024.

- A. An applicant shall complete a City of Leander application for employment and other forms as prescribed by the Director in order to take an entrance examination. Failure to pre-register in the manner and within the time limit prescribed in the "Notice of Entrance Examination," and/or failure to file the application or other supporting documents with the Director by the specified deadline, shall render an applicant ineligible to take the examination. An applicant shall make the application in their own handwriting or in typed form and shall certify the correctness of the facts.
- B. The Director may, because of the small number of candidates, or because of any other good and sufficient reasons, such as death in the immediate family, public emergency, unavailability of test site, etc., postpone an examination to a later date.

SECTION 25. ENTRANCE EXAMINATION

See Texas Local Government Code § 143.025.

A. EXAMINATIONS

1. The actual conduct of every examination shall be under the direction of the Director who shall be responsible to the Commission. The Director shall have the authority to designate a test administrator, who shall be responsible for administering the examination. The Director may also select one or more persons as test monitor to assist in the administering, proctoring and grading of an entrance examination. An examination shall be conducted on an "as needed" basis.
2. No person shall:
 - a. Deceive or obstruct any person in respect of their right of examination under the provision of these Rules and the Local Government Code;
 - b. Falsely mark, grade or report the examination or standing of any person examined hereunder; or

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- c. Aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion.
 3. No applicant may deceive the Commission for the purpose of improving their chance for appointment or promotion.
 4. An applicant for an entry-level position shall achieve a passing score on the written examination as established by the Commission, in order to be placed on the Eligibility List.

B. ENTRANCE EXAMINATION ADMINISTRATION PROCEDURES

1. Tobacco and e-cigarette products shall be prohibited at all times in the testing area.
2. Check In - An applicant shall be checked in and provide proof of identity with a valid Driver's License or other government issued photo ID. No applicant shall be admitted once test instructions start.
3. Military Service Credit - An applicant who desires to have military service credit of five (5) points added to a passing test score of seventy percent (70%) or better shall provide an original DD-214 showing a minimum of one hundred eighty (180) total days of active military service at the time of written exam. Any discharge other than honorable discharge is not creditable for the purpose of this section.
4. Failure to Appear - The application of an applicant who fails to appear for the entrance examination shall be voided and shall be disposed of by the Director.
5. Cancellation or postponement of entrance examination - The Commission or Director may cancel or postpone a scheduled entrance examination for sufficient cause.
6. Dishonesty- An examinee taking an entrance examination who uses or attempts to use any dishonest means to answer a question on such an examination shall have their examination confiscated and voided by the test administrator. The examinee will be removed from the testing site. The test administrator shall report the action to the Director.
7. Upon request, accommodations shall be provided to an applicant in accordance with the Americans with Disabilities Act. An applicant who needs special arrangements shall submit a request in writing to the Director at a time to be determined by the Director.

C. CHILD OF FIRE FIGHTER WHO DIED IN THE LINE OF DUTY

1. Each applicant who is a natural born or adopted child of a fire fighter who died in the line of duty, upon receiving a passing grade on the entrance examination, will be automatically ranked at the top of that eligibility list, subject to meeting all entry-level hiring requirements.
2. The deceased fire fighter parent must have been employed by a municipality covered by Chapter 143, Texas Local Government Code.
3. The applicant must provide the name of the deceased fire fighter parent on they/them application. The Director will be responsible for verifying the information relating to the line of duty death prior to placing that applicant at the top of the eligibility list.

D. **TIE-BREAKERS** - Whenever two (2) or more applicants for an entry-level position attain the same grade, the tie shall be broken in the order listed below prior to the posting of the Eligibility List:

1. Highest Test Score - If a tie exists, the persons shall be ranked in the order according to which person had the highest examination raw score prior to the addition of Veteran's points.
2. Higher Certification - If a tie still exists, the persons shall be ranked in the order according to which person has the higher certification level as a fire fighter through Texas Commission on Fire Protection.
3. Years of Experience - If a tie still exists, the persons shall be ranked in the order according to which person has the most number of years of active paid full-time experience as a fire fighter.
4. Bachelor's Degree - If a tie still exists, the persons shall be ranked in the order according to which person possesses a Bachelor's degree.
5. Associate's Degree - If a tie still exists, the persons shall be ranked in the order according to which person possesses an Associate's degree.
6. Earliest Application Time - If a tie still exists, the persons shall be ranked in the order according to which person has the earliest stamped time of application.
7. By Lot - If a tie still exists, the persons shall be ranked in the order by lot as determined by the Director.

E. **ELIGIBILITY LIST**

1. An Eligibility List shall be in effect for one (1) year, unless exhausted before one year.
2. Each person on an Eligibility List shall notify the Director of any change in address. A notice sent to a person's last known address shall be considered sufficient notification.

SECTION 26. PROCEDURES FOR FILLING BEGINNING POSITIONS

See Texas Local Government Code§ 143.026.

In making appointments from an eligibility list, the Chief Executive, at their ~~his/her~~ discretion, may give preference to applicants who already possess the required national and/or state certifications. In addition, the Chief Executive may give preference to applicants who are certified paramedics. This may result in non-certified applicants being bypassed to reach certified applicants on the eligibility list. Existing certifications shall constitute a valid reason and a good and sufficient reason for bypass under Section 143.026(a) of Chapter 143.

SECTION 27. PROBATION PERIOD

See Texas Local Government Code § 143.027.

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- A. Probationary employees shall have no rights under Chapter 143 or under these Rules.
 - B. A person appointed to an entry level position in the Department who is not previously certified by the Texas Commission on Fire Protection and is required to attend a basic academy for such certification shall serve an eighteen (18) month probationary period as provided by Chapter 143. Otherwise, persons appointed to an entry level position in the Department shall serve a one (1) year probationary period, also as provided by Chapter 143. A person does not achieve Civil Service status until satisfactorily completing probation.

SECTION 28. ELIGIBILITY FOR PROMOTION

See Texas Local Government Code § 143.028.

SECTION 29. PROMOTIONAL EXAMINATION NOTICE

See Texas Local Government Code § 143.029.

SECTION 30. ELIGIBILITY FOR DEPARTMENT PROMOTIONAL EXAMINATION

See Texas Local Government Code § 143.030.

The length of service for determining the eligibility for taking a promotional examination shall include the probationary period in the Department.

SECTION 31. NOT APPLICABLE

See Texas Local Government Code § 143.031.

SECTION 32. PROMOTIONAL EXAMINATION PROCEDURE

See Texas Local Government Code § 143.032.

A. EXAMINATIONS

1. An examination shall be of such nature that it will test the relative capacity and fitness of the person examined to discharge the duties of the particular position to which they seek appointment.
2. The actual conduct of every examination shall be under the direction of the Director who shall be responsible to the Commission. The Director shall have the authority to designate a test administrator, who shall be responsible for administering the examination. The Director may also select one or more persons as test monitor to assist in the administering, proctoring and grading of an entrance examination. An examination shall be conducted on an "as needed" basis.
3. The Commission or Director may, because of the small number of eligible promotional

candidates for any position, or because of any other good and sufficient reasons, such as death in the immediate family, public emergency, unavailability of test site, etc., postpone an examination to a later date.

4. To provide for a competitive promotional examination so as to better serve the public, at least one (1) more than the number of openings or three (3) qualified candidates, whichever is greater, in the next lower position with two (2) years' service shall sit for an examination. If there are not three (3) candidates in the next lower position, the Commission shall follow the procedures relating to eligibility for promotional examinations outlined in Section 143.030(d) of Chapter 143 until at least three (3) qualified candidates sit for the examination. When more than one (1) vacancy exists at the time an examination is to be given, the Director shall determine whether the number of examinees who have filed notices of intent to test is competitive. If necessary, the Director, on behalf of the Commission, shall open the examination to additional employees, as outlined in Section 143.030(d) of Chapter 143.

B. PROHIBITED CONDUCT - No person shall:

1. Deceive or obstruct any person in respect of their right of examination under the provision of these rules and Chapter 143;
2. Falsely mark, grade or report the examination or standing of any person examined hereunder;
3. Aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion; or

C. NOTICE OF INTENT TO TEST-An employee shall complete a notice of intent to test, as prescribed by the Director, in order to take a promotional examination. Failure to make application in the manner prescribed in the notice of promotional examination" and failure to file the application with the Director within the time limits prescribed in the notice of promotional examination shall render the employee ineligible to take the examination.

D. PROMOTIONAL EXAMINATION ADMINISTRATION PROCEDURES

1. Tobacco and e-cigarettes shall be prohibited at all times in the testing area.
2. Check In - An examinee shall be checked in and provide proof of identity with a valid Driver's License or other government issued ID with photograph. No examinee shall be admitted once test instructions start.
3. Cancellation or postponement of promotional examination - The Commission or Director may cancel or postpone a scheduled promotional examination for sufficient cause.
4. Dishonesty - An examinee taking a promotional examination who uses or attempts to use any dishonest means to answer a question on such an examination shall have their examination

confiscated and voided by the test administrator. The examinee will be removed from the testing site. The test administrator shall report the action to the Director.

5. Upon request, accommodations shall be provided to an applicant in accordance with the Americans with Disabilities Act. An examinee who needs special arrangements shall submit a request in writing to the Director at a time to be determined by the Director.

E. PROMOTIONAL EXAMINATION PROCEDURES FOR PERSONNEL ON ACTIVE MILITARY DUTY

1. Promotional candidates, who are eligible to take a promotional examination, and who are serving on active military duty, outside the State of Texas or more than two hundred (200) miles from Leander City Hall, are eligible to take a separate promotional examination. An examination, that is or is not identical to the examination administered to other eligible candidates, may be administered outside the presence of other candidates.
2. Employees who are called to active military duty shall be required to notify in writing the Director prior to being deployed stating whether or not they intend to take any promotional examination administered during their active duty.
3. If the employee signifies intent to take promotional exams, they shall provide the Director with a valid e-mail address, fax number, or contact method during active duty, and shall notify the Director of any changes in their contact information in order to be notified of scheduled exams.
4. The Director is authorized to coordinate all testing under this subsection and may exercise discretion necessary to ensure the confidentiality of the examination and to assure proper administrative procedures are followed.
5. Before the ninety (90th) day before the date a promotional examination is held, a notice listing the sources from which the examination questions will be taken will be sent to each military promotional candidate. The notice will be sent to the person's last known address, including their last known e-mail address.
6. It shall be the military promotional candidate's responsibility to secure the necessary source material.
7. The employee shall make arrangements with a military exam coordinator, their JAG (military attorney), or if unavailable, the commanding officer, to proctor the promotional exam and shall provide the name of that individual and contact information along with a valid fax number, if available, to the Director thirty days before the examination is held. Once designated, the same person shall be used throughout the examination process as noted herein.
8. Before the thirty (30th) day before the date a promotional examination is held, a notice of the

examination will be sent to each military promotional candidate at their last known address, including their last known e-mail address. The employee shall fax or e-mail confirmation to take the test within ten (10) days of receipt of the notice of exam. If military operations prevent an employee from meeting this deadline to confirm intent to take the test, the employee shall submit written confirmation as soon as possible, along with a statement from their commanding officer verifying military operations prevented a response during the ten (10) day period. If a military promotional candidate plans to take the exam offsite, then that information must be included in the confirmation within time period prescribed.

9. It shall be the military promotional candidate's responsibility to work with the Director to schedule the administration of the examination.
10. Test packets containing the written examination, answer sheet, an affidavit, and test instructions shall be provided to the military exam coordinator at least twenty-four (24) hours prior to the scheduled exam date. If possible, the written examination for the active duty personnel should be administered on, or as close to, the same day and time as the scheduled exam at the City.
11. All exam materials (exam, answer sheet, and answer key) shall be returned to the Director immediately following the scoring of the exam.
12. At no time will the administration of a promotional examination being given to a promotional candidate serving on active military duty unnecessarily interfere with ongoing military efforts.
13. If the candidate serving on military duty takes and passes a promotional examination, the candidate's name shall be included on the promotional eligibility list created nearest in time to the time at which the candidate on active military duty took the examination.
14. Candidates serving on military duty, who take the promotional examination outside of Leander, shall be eligible to file an appeal of the examination as provided in 143.034 of Chapter 143. The Director shall coordinate all matters related to the review of the examination and the filing of the appeal, and may extend the time limit for appeal upon a showing of exigent circumstances.
15. All employees covered by Chapter 143 who are called to active military duty must notify the Director of their mailing address and/or their e-mail addresses. The Director shall use their best efforts to inform the employees serving active military duty of upcoming promotional examinations.
16. All candidates for a promotional examination should execute an affidavit averring to the fact that they have not shared or discussed the test materials with a candidate serving on military duty.

SECTION 33. PROMOTIONAL EXAMINATION GRADES

See Texas Local Government Code§ 143.033.

- A. **GRADING OF EXAMINATION** - The requirement for "grading at the examination location" is met if the grading location is in the same building, if examinees who have finished are permitted to accompany the person who takes examination answer sheets to the grading location, and if examinees are allowed to observe as the sheets are graded. The test monitor and the examinee will ensure the scantron sheet has been properly graded prior to signing out and leaving the test site.
- B. **SENIORITY POINTS** - Each applicant is entitled to receive one (1) point for each full year of service in the Department, as defined by these Rules, with a maximum of ten (10) points. Seniority points will only be added to applicants who score a passing grade of seventy percent (70%) or higher on the written examination. Each full year of service equals one (1) point. Seniority points shall be awarded only for whole years of service. Seniority points will be calculated as of the date of the promotional exam.
- C. **TIE-BREAKERS** - Whenever two (2) or more candidates for promotion attain the same grade, including seniority points, the tie shall be broken in the order listed below:
 - 1. **Highest Test Score** - If a tie exists, the candidates shall be ranked in the order according to which candidate had the highest examination raw score prior to the addition of seniority points and after the Commission's determination of appeals, if any.
 - 2. **Advanced Education** – If a tie still exists, the candidate shall be ranked according to which person possesses the highest advanced education, as follows:
 - a. **Master's Degree**- If a tie still exists, the persons shall be ranked according to which person possess a Master's degree.
 - b. **Bachelor's Degree** - If no person possesses a Master's degree, and if a tie still exists, the persons shall be ranked according to which person possess a Bachelor's degree.
 - c. **Associate's Degree** - If no person possesses a Bachelor's degree, and if a tie still exists, the persons shall be ranked according to which person possess an Associate's degree.
 - 3. **Seniority in Rank** - If a tie still exists, the candidates shall be ranked in the order according to the earlier hire date in their most recent continuous service in the position immediately below the position for which the examination was given.
 - 4. **Certification** - If a tie still exists, the candidates shall be ranked in order to which

candidate has the highest structural fire fighter certification level, if any, as follows:

- a. Master Firefighter
 - b. Advanced Firefighter
 - c. Intermediate Firefighter
5. Earliest Date/Time of Application – If a tie still exists, the candidate shall be ranked according to which person submitted their application first.
 6. By Lot – If a tie still exists, the candidates shall be ranked according by lot as determined by the Director.

D. **VERIFYING EXAMINATION SCORES** - After the grading of all tests and prior to the posting of the Eligibility List, the Director shall examine each scantron sheet to ensure it has been scored properly. Additionally, the calculation of each examinees grade will be verified again by using the master key. If the Director discovers a clerical error prior to the posting of the Eligibility List, the Director shall correct the clerical error and notify the affected examinee of the error.

E. **POSTING OF RESULTS**- The results of such examination for promotion shall be posted on a bulletin board located outside of City Hall, in the office of the Director, and in the entrance lobby of the Fire Administration office within twenty-four (24) hours after the examination.

SECTION 34. REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION

See Texas Local Government Code§ 143.034

- A. Beginning on the first (1st) business day following the posting of the raw test scores, a promotional candidate may review the examination booklet; their answer sheet, the answer key, and the source material for the examination in the presence of a monitor(s) designated by the Director.

A copy of the appealed question(s) along with the respective answer(s) from the answer key and the title and page number from the reference materials will be given to the appealing candidate at the time of the Commission meeting. The packet of appealed question(s) will need to remain in the Civil Service meeting room at all times.

- B. The period of review of test materials begins the first (1st) business day after promotional examination raw scores are posted and is limited to five (5) business days during which an appeal may be filed. No electronic devices, personal papers, books, notebooks or briefcases may be brought in during review.
1. Appeals must be made in writing and include a reasoned statement explaining the examinee's belief as to which (if any) answer or answers should be accepted as correct. Support for an appeal may include factors such as:

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- a. Another answer choice being an equally valid answer to the question and coming from the same source.
 - b. A typographical, copying, or other error significantly altering the meaning of the question or answer in such a way as to render the approved answer invalid.
2. Factors that do not support an appeal include, but are not limited to, typographical errors or omissions that are disclosed to the examinees and are verbally corrected during the examination.
 3. No examinee will be shown another examinee's answer sheet.
- C. Prior to the Commission meeting, at which test appeals will be considered, each Commissioner shall receive a copy of each written appeal submitted, the appealed question(s) and answer(s), the correct answer(s), and the appropriate source reference sheet(s). If possible, the responses of the test writer would also be appropriate. The appeal information shall not reveal the name of the appellant prior to the regularly scheduled Commission meeting. The Director will provide copies of the test writer's responses to appealed questions (if possible) to interested persons at the Commission meeting at which the appeal is heard. Comments, discussion, and questions shall be limited to the question(s) being appealed.
- D. During the Commission's appeal hearing, the following Rules will apply:
1. The appealed questions will be considered in numerical order.
 2. If there are multiple appellants on a question, the Chair will call them forward for comments in alphabetical order. The Chair will first ask each appellant if they still wish to appeal. The appellant will then be allowed to make a brief presentation of the reasons for their appeal.
 3. After all appellants on a question have been given the opportunity to address a question, the Chair will allow other persons who took the examination an opportunity to speak regarding the questions.
 4. The Chair will set and enforce a three (3) minute limit on the time for an appellant to speak on each question. The Commission may vote to alter the time limit set by the Chair. Persons other than the appellant who wish to speak will also be limited to three (3) minutes.
 5. Only one (1) appellant will be allowed to speak at a time and only one (1) speaking turn will be allowed per person. Groups of two (2) or more individuals with the same position may choose, but are not required to choose, a representative for the group. This Rule does not limit the ability of the Commissioners to ask questions of the appellant or others participating in the discussion. The appellant will have a maximum of one (1) minute to rebut arguments against their appeal.
 6. After comments by the appellants who took the examination, the Director and the Fire Chief for which the examination was conducted may submit comments to the Commission.

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7. The Commission may ask questions of an appellant or anyone else who addresses the Commission.
- E. After receiving comments on a question (including any comments from the public), the Commission will discuss and make a determination of the question. A promotional examination question appealed to the Commission shall be sustained, overruled, or eliminated by a ruling issued by the Commission. Each ruling shall be made by a majority vote of the Commission, as follows:
1. Sustain the answer key (test scores shall remain as reported)
A ruling which rejects the appeal presented to the Commission shall require the Director to accept the answer as given on the answer key, while grading the promotional examinations of all eligible candidates.
 2. Overrule the answer key (the Commission shall designate another answer(s) to be accepted
A ruling which sustains the appeal of a promotional examination question shall require the Director to accept a different answer or accept two (2) or more answers, as directed in the Ruling, while grading the promotional examination of all eligible candidates.
 3. Eliminate the test question (the test question shall not be included)
A ruling which rejects the test question related to the appeal of a promotional examination question shall require the Director to disregard the question and its answer while grading the promotional examination of all eligible candidates.
- F. After all questions have been considered, the Director will re-score all answer sheets and establish an amended Eligibility List. Seniority points, for those having score of seventy percent (70%) or better, will be added after the re-scoring. The amended Eligibility List shall have the same effective date as the original list. The Director will post the amended Eligibility List within twenty-four (24) hours of the Commission meeting.
- G. Occupying the top position on a promotional Eligibility List does not create an absolute right to be promoted. It creates only an expectancy of being promoted, subject to the creation of a vacancy in the classified position during the one (1) year (365 days) existence of the Eligibility List and subject to these Rules.
- H. Candidates serving on military duty, who take the promotional examination outside of Leander, shall be eligible to file an appeal of the examination as provided in Section 143.034 of Chapter 143 and these Rules. The Director shall coordinate all matters related to the review of the examination and the filing of the appeal and may extend the time limit for appeal upon a showing of exigent circumstances.

SECTION 35. NOT APPLICABLE

See Texas Local Government Code § 143.035.

SECTION 36. PROCEDURE FOR MAKING PROMOTIONAL APPOINTMENTS

See Texas Local Government Code § 143.036.

- A. **ROLE OF THE DIRECTOR** - When the term "Commission" is used in Section 143.036 of Chapter 143 and this Section, the Director may perform the duties specified.
- B. **CRITERIA FOR PROMOTION**
 - 1. Persons accepting a promotion in the Department shall be medically and physically capable to perform the essential functions of the job and meets the job description requirements.
 - 2. The Director and/or the Fire Chief may establish other reasonable, valid criteria for promotion to the particular position.
- C. **PROMOTIONAL PROCEDURES FOR DEPLOYED MILITARY PERSONNEL** –
 - 1. In this Section 143.036, "deployed person" means a civil service employee of the Department who is a member of the U.S. military and who has been deployed under orders in the service of the United States of America; "federal regulations" means USERRA; and "state regulations" means Chapter 143, Section 143.072 and Section 143.075.
 - 2. When a person in the Department is ordered to active military duty and deployed, all federal and state regulations shall apply.
 - 3. When a deployed person is the person with the highest grade on a promotional eligibility list, and a promotional vacancy is to be filled, the Fire Chief may:
 - a. Promote the deployed person per Section 143.036 (Procedure for Making Promotional Appointments);
 - b. Not promote the deployed person for a valid reason per Section 143.036(f) of Chapter 143;
 - c. Designate a person from the next lower classification to temporarily fill the position that is vacant due to the absence of the deployed person per Section 143.038 of Chapter 143 (Temporary Duties in Higher Classification); or
 - d. Promote the deployed person and the next person having the highest grade on the Eligibility List to fill the vacant position until the return of the deployed person.
 - 5. If the Fire Chief promotes the deployed person and the next person on the list having the highest grade on the Eligibility List, the last person promoted to that rank may be demoted to their previous rank upon the return and reemployment of the deployed person no matter if the last person promoted was promoted from the same promotional list as the deployed person or from a later promotional list.

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6. The Fire Chief shall cause each person promoted but subject to being demoted upon the return of a deployed person to be notified of such risk in writing. However, the failure of the Fire Chief to notify a person subject to being demoted in writing does not protect the person from being demoted to their previous rank upon the return of the deployed person.

D. **BYPASSING A CANDIDATE** – The following non-exclusive list along with failing to meet the eligibility requirements shall constitute a valid reason for the Fire Chief to bypass the highest-ranking candidate on a promotional list:

1. Failure to meet minimum eligibility requirements for the position, or, with respect to certification requirements, the inability to obtain the required certifications;
2. A recent history of corrective/disciplinary action;
3. Pending disciplinary action;
4. Pending criminal charges; or
5. Such other reason that the Fire Chief determines is in the best interest of the Department, the City, or the citizens and articulates in writing.

SECTION 37. RECORD OF CERTIFICATION AND APPOINTMENT

See Texas Local Government Code § 143.037.

SECTION 38. TEMPORARY DUTIES IN HIGHER CLASSIFICATION

See Texas Local Government Code § 143.038.

The Fire Chief may prescribe methods of selecting and making temporary appointments to higher classifications. The Fire Chief shall determine eligibility for higher classification pay and requirements to earn higher classification pay above the base salary.

SECTIONS 39-40. NOT APPLICABLE

See Texas Local Government Code § 143.039 – 143.040.

SECTION 41. SALARY

See Texas Local Government Code § 143.041.

See City of Leander Personnel Policies

SECTION 42. ASSIGNMENT PAY

See Texas Local Government Code § 143.042.

SECTION 43. NOT APPLICABLE

See Texas Local Government Code § 143.043.

SECTION 44. CERTIFICATION AND EDUCATIONAL INCENTIVE PAY

See Texas Local Government Code § 143.044.

SECTION 45. ACCUMULATION AND PAYMENT OF SICK LEAVE

See Texas Local Government Code § 143.045.

See City of Leander Personnel Policies, as applicable.

An employee who is temporarily suspended or indefinitely suspended shall exhaust all appeal rights before the City is obligated to pay any accumulated civil service sick leave as prescribed under Chapter 143. The City shall not authorize a withdrawal from the Texas Municipal Retirement System (TMRS) unless the employee is terminated in payroll.

SECTION 46. VACATIONS

See Texas Local Government Code § 143.046.

See City of Leander Personnel Policies, as applicable.

An employee who is temporarily suspended or indefinitely suspended shall exhaust all appeal rights before the City is obligated to pay any accumulated vacation pay as prescribed under Chapter 143.

SECTION 47. SHIFT DIFFERENTIAL PAY

See Texas Local Government Code § 143.047.

(Sections 48-50 reserved for expansion.)

SECTION 51. CAUSE FOR REMOVAL OR SUSPENSION

See Texas Local Government Code § 143.051.

PURPOSE - These Rules shall apply to and govern all disciplinary actions and appeals of Department employees subject to Chapter 143. The following are declared to be grounds for dismissal or suspension of any employee from the classified service in the City of Leander:

1. Indictment, deferred adjudication, pre-trial diversion, or other deferred disposition, or conviction of a felony, State Class A or B misdemeanor, federal misdemeanor, or other crime involving moral turpitude;
2. Violation of the provisions of the Charter of the City of Leander;
3. Acts of incompetence or the inability or failure to perform essential job duties;

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4. Neglect of duty;
 5. Discourtesy to the public or to fellow employees;
 6. Acts showing a lack of good moral character;
 7. Drinking intoxicants while on duty or intoxication while off duty;
 8. Conduct prejudicial to good order;
 9. Insubordination;
 10. Refusal or neglect to pay other just debts;
 11. Absence without leave;
 12. Shirking of duties;
 13. Cowardice;
 14. Violation of any of the rules and regulations of the Department; of special orders, as applicable; of these Rules; or of any of the City Personnel Policies; or of any other City ordinance or policy applicable to Department employees.

SECTION 52. DISCIPLINARY SUSPENSIONS

See Texas Local Government Code § 143.052.

A. "CAUSE" FOR SUSPENSION

1. An employee may be suspended for violation of:
 - a. An applicable provision of Chapter 143, Texas Local Government Code;
 - b. An applicable rule or regulation duly adopted by the Commission, including these Rules;
 - c. Department rules and regulations ;
 - d. The City's Personnel Policies; or
 - e. Any other City ordinance or policy applicable to the Department employees.
2. For a suspension, a determination of what constitutes "cause" is generally made by comparison to what a reasonable person, who is mindful of the habits and customs of their Department, who is also mindful of the responsibilities and needs of their Department and who is also mindful of the standards of justice and fair dealing prevalent in the City, should have done (or should have not done) under similar circumstances.

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3. Prior to imposing any particular level of disciplinary action, the Fire Chief may use lesser forms of disciplinary or corrective action. However, nothing herein shall prohibit the Fire Chief from proceeding directly to the appropriate level of discipline without using progressive discipline if, in the opinion of the Fire Chief, the employee's misconduct warrants more severe discipline.

B. WORKING OFF SUSPENDED TIME - The provisions of this Section shall apply solely to a suspension, which is agreed to by the employee and no appeal to the Commission or to a Hearing Examiner may be instituted on a suspension where the employee has agreed to the suspended time.

1. A fire fighter in the Department who is suspended 60 hours or less may, upon the employee's request and at the respective Fire Chief's discretion, forfeit vacation designated by the Fire Chief for a period equal to the time of the suspension. The employee shall be required to work on the forfeited vacation days.
2. The employee shall have their vacation leave accumulated balance deducted in an amount equal to the suspension to qualify for this provision. In order to request Working Off Suspended Time, the suspended employee shall make a written request to the respective Fire Chief within ten (10) days after receiving the Notice of Suspension. Failure to make a written request to the Fire Chief within the allotted time shall result in an employee not being eligible for the provisions of this Section.

SECTION 53. APPEAL OF DISCIPLINARY SUSPENSION

See Texas Local Government Code§ 143.053.

A. SCOPE OF MATTERS SUBJECT TO APPEAL

1. **MATTERS SUBJECT TO APPEAL**-The following matters are subject to appeal:
 - a. Indefinite suspension;
 - b. Temporary suspension;
 - c. Demotion (except for demotions under Section 143.014 of Chapter 143); and/or
 - d. Promotional passover.

If an action is subject to appeal, the employee may file an appeal. In the event of an appeal, the employee shall give written notice to the Director as provided under Section 143.010 of Chapter 143. If the appeal is timely and valid, the Director shall arrange to have an appeal hearing placed on the Commission's agenda or obtain a panel of Hearing Examiners, as provided under Section 143.057 of Chapter 143.

2. Employee dissatisfaction resulting from a transfer or reassignment of duties shall not constitute grounds for disciplinary appeal procedures.

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3. Employee dissatisfaction resulting from a discretionary policy decision or policy matters, shall not constitute grounds for disciplinary appeal procedures.
 4. An employee who has voluntarily resigned or retired from their position thereby forfeits all rights to the disciplinary appeal processes.
 5. An employee may voluntarily enter a written agreement that expressly evidences their intent finally to resolve the issue(s) of any type of disciplinary action imposed. The agreement shall also include a statement that the employee waives all rights to further proceedings in the disciplinary appeal processes.

B. OPTIONS FOR DISCIPLINARY HEARINGS

1. At any time after filing the original notice of appeal but before either party has incurred third party hearing examiner expenses; an employee may withdraw the original request for the independent third-party hearing examiner and submit the appeal to a hearing before the Commission. The election must be made in writing and filed with the Director's office. However, this election may not be used to manipulate the thirty (30) day hearing deadline imposed on Commission decisions by Chapter 143.
2. At any time after filing of the notice of appeal, the parties may mutually agree to withdraw the appeal from an independent third-party hearing examiner and submit the appeal to a hearing before the Commission. The mutual agreement must be made in writing and filed with the Director's office.

C. DIRECTOR TO COORDINATE ALL MATTERS

1. The location and accommodations for all hearings and appeals shall be arranged by the Director.
2. All subsequent matters raised by either party regarding attendance, scheduling, requests for subpoenas, request for continuance, etc., shall be coordinated through the Director. All such information shall be provided to the Director who shall then provide copies of same to the opposing party or representative and also coordinate the appropriate response or action to be taken. In a hearing coordinated by an outside agency, that agency shall also provide coordination services between the parties and the hearing examiner in conjunction with the Director's office.

D. EXPENSE AND COSTS

1. If appealed to a Hearing Examiner, the Hearing Examiner's fees and expenses are shared equally by the employee and the Department. The cost of a witness is paid by the party who calls the witness.
2. The appropriate amount, as well as payment of all costs and expenses, may be determined

and collected by the Director. An employee may receive an estimate of anticipated costs upon written request to the Director. All costs charged by the court reporter shall be split equally between the parties. Any costs of the Commission or a third-party hearing examiner to reset and/or continue a hearing under these Rules, regardless of whom requested the reset and/or continuance, shall be split equally between the parties.

3. When applicable, the state law governing the doctrine of "mitigation of damages" shall be applied in computing reimbursements or an offset from an award of back pay. The Commission or Hearing Examiner shall permit introduction of evidence on mitigation of back pay by either the employee or the Fire Chief.

E. FAILURE TO ATTEND SCHEDULED HEARING

The failure of a party to attend a scheduled appeal hearing, or to file a timely request for a continuation of the hearing to a later date, shall not in itself prevent the hearing from proceeding as scheduled nor prevent the Commission from proceeding to take such action as may be appropriate. Requests for continuation of the hearing to a later date must be filed with the Director at least three (3) business days prior to the date and time of the scheduled hearing. Requests for continuance must be date(s) specific and must address the thirty (30) day hearing deadline imposed on Commission decisions as required by Chapter 143. The thirty (30) day Commission decision deadline will be enforced unless the appealing party and Commission can agree on new dates.

F. EMPLOYEE AND DEPARTMENT REPRESENTATIVES

1. The hearing process shall recognize the right of employees as well as the Department to be represented by one or more persons throughout the proceedings of a disciplinary appeal. However, only one (1) representative shall be allowed to speak or otherwise present evidence on behalf of either party throughout the questioning of a particular witness.
2. Employee and Department representatives shall use their best efforts to conclude all proceedings smoothly, expediently, and as fairly as possible to all concerned.
3. The function of the representatives shall be to articulate the best interests of the employee or the Department represented and to make their presentations pertinent to the issue(s) being considered. Dissatisfaction with a representative shall not constitute grounds for modification of the final ruling.
4. All representatives or employees who represent themselves shall become familiar with and follow these Rules at all times during the disciplinary appeal process.
5. Any problems or concerns regarding the manner in which the opposing party or their representative is handling a particular disciplinary appeal should be brought

to the attention of Director. The difficulty will be expeditiously addressed.

G. EXCHANGE OF DOCUMENTATION AND IDENTITY OF WITNESS

1. The Texas Rules of Civil Procedure, the Texas Rules of Criminal Procedure, and all other rules of court regarding what is commonly known as "discovery" shall not apply to any civil service proceedings. Mediation and arbitration rules and processes do not apply to any civil service hearings.
2. Parties who request photocopies of documents from the opposing party should be accommodated if such requests are reasonable. Items from departmental policies, rules and regulations manual may be photocopied upon request, and payment of applicable copying charges. Items such as Accident Review Board recommendations, time and attendance records, duty status forms and other such documents may also be provided so long as they are relevant to the employee and the disciplinary action under appeal.
3. Employees and their representatives may obtain copies of matters contained in the employee's own personnel and Department files after the employee has signed the appropriate release form(s).
4. Before requesting a subpoena duces tecum for the production of documents, a party shall first make a request for the documents directly to the other party and allow a reasonable time for a response. If the request is refused or otherwise not produced, then a request may be filed with the Director requesting the Commission to issue a subpoena duces tecum. This request shall be filed with the Director at least ten (10) days prior to the scheduled hearing date, and the party requesting the documents shall also serve the opposing party with a copy of the request for issuance of a subpoena duces tecum at least ten (10) days prior to the scheduled hearing date.
5. All requests for subpoenas to compel the attendance of witnesses shall be coordinated through the Director's office. Requests for subpoenas shall be completed at least ten (10) days prior to the scheduled hearing date in order to be processed in a timely manner. The Director may issue subpoenas on behalf of the Commission.

H. FORMAT OF APPEAL HEARINGS - The format for an appeals hearing before the Commission will be as follows:

1. Both parties may be allowed to make brief opening statements.
2. The City's (Department's) case:
 - a. Direct testimony of witness
 - b. Cross-examination of witness
 - c. Redirect

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- d. Additional questions, if any, by Commission
 3. Employee's response:
 - a. Direct testimony of witness
 - b. Cross-examination of witness
 - c. Redirect
 - d. Additional questions, if any, by Commission
 4. Rebuttal by City / Department, if any:
 - a. Direct testimony of witness
 - b. Cross-examination of witness
 - c. Redirect
 - d. Additional questions, if any, by Commission
 5. Short argument, summary by City
 6. Short argument, summary by employee
 7. Rebuttal by City
 8. Deliberation by the Commission in executive session.
 9. Decision-rendered by public vote.

I. HEARING PROCEDURES

1. All disciplinary appeal proceedings shall be public hearings. The Commission or Hearing Examiner may place limitations on photographers, media personnel, and audience when necessary to avoid distraction or violation of the sequestration rule.
2. At the scheduled time and place, the hearing shall be called to order.
3. All parties shall come to the hearing prepared and ready to proceed so as to minimize any disruption of the hearing process. All parties shall bring at least six (6) copies of all documents or exhibits to be considered by the Commission at the hearing.
4. A record of the proceedings, capable of clear and accurate reproduction or transcription, shall be made and maintained by the Director.
5. After being called to order but prior to the beginning of testimony or evidence, consideration shall be made as to any pre-hearing motions, requests or jurisdictional matters as submitted by either party. The participants shall also seek to obtain as many stipulations as possible as to non-contested or non-material matters. The Commission may "carry" such pre-hearing motions until the hearing is completed

and all factual evidence has been presented before making its final ruling thereto.

6. Unless waived by the participants, the hearing shall then proceed with the reading into the record the statement of charges and specifications as well as factual summary of the operative events as filed with the Commission by the Fire Chief and which forms the basis of the disciplinary action imposed on the employee.
7. The hearing shall then proceed to develop the evidence and testimony as to those contested matters.
8. The Department shall go first in the presentation of evidence and testimony. Thereafter, the employee shall have the opportunity to respond with their own evidence, witnesses or testimony. Thereafter, the Department may come forward with rebuttal evidence or testimony as may be necessary. Presentations by both parties shall be as brief and as closely related to the issue(s) as much as is possible. Throughout the proceedings, Commission members may also ask questions as needed in order to aid their consideration of the testimony or evidence.
9. Witnesses may be sworn and their testimony taken under oath or affirmation. Witnesses are subject to reasonable and relevant cross-examination by the opposing party.
10. Upon request by either party, the hearing process may utilize what is commonly known as "the Rule" concerning oral testimony, meaning that all persons who shall be expected to testify at the hearing, other than the parties and their representatives, shall not be allowed to observe or listen to any of the proceedings except when they are actually testifying as a witness. "The Rule" may be used to ensure one witness' testimony is not influenced by another's testimony. While under "the Rule," potential witnesses shall not discuss any aspect of the appeal or hearing except with the attorneys or the representative involved. Invoking "the Rule" is not mandatory and may be waived in whole or in part by agreement.
11. The Chair shall exercise reasonable control over the questioning of witnesses and the presentation of evidence so as to:
 - a. Effectively ascertain the truth;
 - b. Keep such presentations relevant to the issues to be determined;
 - c. Avoid the needless consumption of time and expense; and
 - d. Protect the witnesses and employees from harassment or undue embarrassment.
12. The Commission may establish equal time limits for presentation of each side of the case.
13. The parties and their respective representatives shall cooperate in keeping

all presentations as brief and to the point as possible. Long drawn-out sessions shall be discouraged. The Commission may establish time limits for presentation of each side of the case.

14. All hearings must remain business-like and focus upon resolution of factual matters. Hearings shall not be a time for accusations, threats, speeches or arguments. The Commission shall have the discretion to adjourn any meeting, which deteriorates into a "shouting match" or where fruitful dialogue ceases.
15. The Commission shall have the discretion to control the length of time of any particular session as well as the amount of time provided for recesses, breaks, lunch hours, etc.
16. Before adjourning, the Commission may adjourn to executive session for deliberation. Thereafter, the Commission shall reconvene in open session and shall, upon motion and second, make its decision. Thereafter, a written order containing it shall be prepared and signed by the Commissioners prior to adjourning the hearing.

J. RULES OF EVIDENCE

1. Technical rules of evidence shall not apply nor control the conduct of any hearing. The Texas Rules of Court and the Texas Rules of Evidence shall not apply nor govern any aspect of any civil service proceeding.
2. The scope of evidence to be considered at a disciplinary hearing shall be generally limited to matters relevant to the statement of charges as set forth in the Department's written statement, the employee's notice of appeal as well as the employee's previous employment record with the Department.
3. Either party may offer such relevant evidence as they may desire to aid in the determination of material disputed issues.
4. It shall be the province of the Commission to ultimately determine:
 - a. The admissibility of any particular evidence of testimony;
 - b. The relevance or non-relevance of any particular evidence or testimony;
 - c. The credibility, or lack thereof, of any particular evidence or testimony; and
 - d. The materiality or "weight" to be given to any particular evidence or testimony.
5. Subject to limited exceptions for compelling reasons shown by a party, the Commission may refuse to hear or consider any testimony or item of

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- evidence if:
- a. A party has deliberately withheld previously known and duly requested evidence from the other party until the hearing, and that evidence should have been previously produced as per these rules; or
 - b. The hearing has been closed.
6. The Commission may receive and consider the evidence of witnesses by affidavit and assign same such weight as it deems proper after consideration of objections, if any, made to its admission.
 7. On-site inspections shall be discouraged and may be conducted only if the evidence to be considered cannot be otherwise presented via stipulations, photographs, videotapes, maps, diagrams, etc.
 8. All evidence and testimony shall be presented and received into the record while in open session.

K. ISSUES TO BE DETERMINED IN DISCIPLINARY APPEALS

1. Generally, the determinative issues to be considered and determined by the disciplinary action appeal process shall be:
 - a. Did cause exist to support the imposing of some form of disciplinary action as to the employee?
 - b. Was the degree of disciplinary action imposed by the Department reasonable under the circumstances? And
 - c. Has the hearing process developed matters that justify or compel modification of the Fire Chief's disciplinary action?
2. The Fire Chief shall establish the violation(s) by a preponderance of the evidence standard.
3. It shall be recognized that prior to imposing any form of discipline, the Fire Chief may use lesser forms of disciplinary or corrective action, or progressive discipline.

However, the failure to utilize progressive discipline shall not in itself be grounds to overturn or otherwise modify a Fire Chief's decision to proceed directly to the appropriate level of discipline if the employee's misconduct warrants such disciplinary action, including indefinite suspension. Progressive discipline need not always apply and the seriousness of a single offense may negate a previously unblemished record.

4. The hearing shall provide the employee a reasonable opportunity to produce

objective evidence and/or testimony to develop:

- a. That the employee did not commit the misconduct as alleged, i.e., "the allegations are not true"; or
 - b. That even if the employee committed the acts as alleged, that such activity does not constitute actionable misconduct; or
 - c. That even if the employee committed actionable misconduct, that the degree of discipline imposed is too harsh or severe, i.e. the disciplinary action imposed was "unreasonable, arbitrary or capricious"; or
 - d. A combination of any of these matters would justify or compel modification of the Fire Chief's action.
5. An employee's mere disagreement or difference in opinion in regard to the Fire Chief's actions or reasoning shall not constitute grounds to overturn or modify the disciplinary action.
 6. If the Commission determines one (1) valid charge of misconduct is supported by evidence sufficient to establish its truth, the Commission shall sustain that charge even if the evidence at the hearing does not support other charges in the letter of disciplinary action.

L. FINDINGS AND ORDERS OF THE COMMISSION

1. As a result of the evidence and testimony presented at the hearing, the Commission shall vote and issue a decision on the matter via a written statement finding the truth of the specific charge(s) against the employee, or a written statement finding that the specific charge(s) against the employee are not true.
2. In the event that all of the charge(s) of misconduct against the employee are found to be "not true," then the final order and ruling shall be promptly to restore the employee to the employee's proper position or status without penalty.
3. In the event that specific charges of misconduct against the employee are found to be "true," then the final order and ruling shall clearly state whether the employee is:
 - a. Permanently dismissed from the Department; or
 - b. Temporarily suspended from the Department and shall then set forth the definite time period and conditions of suspension which shall be imposed or
 - c. Demoted (Section 143.054 of Chapter 143).

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4. The final written ruling on all disciplinary appeals shall also include such other matters so as to finally and clearly resolve the issues under consideration, particularly to resolve questions concerning:
 - a. The employee's resulting employment status;
 - b. Back pay and other employment benefits; and
 - c. Mitigation of damages.
 5. If modifying the disciplinary action of the Department, the final order shall clearly explain in writing the factors and rationale for doing so. If affirming the disciplinary action of the Department, it shall be presumed to be for the same reasons and facts as presented by the Department unless otherwise indicated.
 6. The Commission may consider matters involving questions of applying Chapter 143 to facts or events that may arise during the disciplinary appeal process and that are outside the scope of the Department's statement of charges or the employee's notice of appeal, to the extent permitted by law.
 7. The final ruling and order of the Commission may be made by the majority vote of two (2) of the three (3) Commissioners present. If only two (2) Commissioners are present, the final ruling and order must be made in agreement by both Commissioners present.
 8. A copy of the Department's disciplinary action, a copy of the employee's request for appeal, the record of the proceedings, a copy of the exhibits submitted together with a copy of the final decision shall be filed in the Commission record. The Commission may cite these records as reference material in subsequent determinations

SECTION 54. DEMOTIONS

See Texas Local Government Code § 143.054.

- A. The Commission's consideration of whether there is probable cause to support the Fire Chief's recommendation for demotion does not require an evidentiary hearing. If the Commission determines that probable cause exists for a recommended demotion, the Commission's letter to the employee shall include the Hearing Examiner option under Chapter 143.
- B. After the Commission has determined that probable cause exists for a requested demotion and has provided the employee with a written Notice as per Chapter 143, the action for appeal of the demotion may be conducted according to the same hearing procedures as set forth herein for all other disciplinary actions or as expressly provided otherwise in Chapter 143.

SECTION 55. NOT APPLICABLE

See Texas Local Government Code § 143.055.

SECTION 56. PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT

See Texas Local Government Code § 143.056.

Conviction or deferred adjudication of a felony shall result in the employee being terminated from their position. No hearing before the Commission or a Hearing Examiner shall be provided.

SECTION 57. HEARING EXAMINERS

See Texas Local Government Code § 143.057.

A. APPEALS TO INDEPENDENT THIRD PARTY HEARING

1. Disciplinary actions concerning an indefinite suspension, suspension, a promotional passover, or a recommended demotion are appealable to Hearing Examiners. When an employee requests the appeal to a Hearing Examiner, the employee filing the appeal shall strike the first name from the list of possible hearing examiners.
2. At the time that the Director submits the parties' agreed date(s) for the hearing, the Director shall also forward to or see that the Hearing Examiner has the following materials:
 - a. A copy of these Civil Service Commission Rules;
 - b. A copy of Chapter 143; and
 - c. A copy of the applicable City policy, ordinance, or , Department rules and/or regulations alleged to have been violated. The Director shall thereafter coordinate with the parties and the agency sponsoring the Hearing Examiner as to all matters regarding scheduling, place of hearing, accommodations, etc.
3. The rule-making power and authority of the Civil Service Commission is in no way conferred upon and/or delegated to any Hearing Examiner, either by implication or otherwise.
4. In every disciplinary appeal conducted under Chapter 143, the Hearing Examiner shall have the "same duties and powers" as would the Commission, including the right to issue subpoenas to compel the attendance of a witness.
5. A disciplinary proceeding conducted by a Hearing Examiner instead of the Commission shall not be conducted or resolved via arbitration or arbitration processes. An employee's election of appeal to a Hearing Examiner shall not constitute a right or an agreement to

submit the appeal to arbitration or arbitration processes.

6. The Hearing Examiner is to conduct a hearing fairly, objectively and impartially under the provisions of Chapter 143 and these Rules. The Hearing Examiner is to render a fair and just decision based solely on the evidence presented in the hearing. The scope of evidence to be considered at the hearing shall be generally limited to matters closely relevant to the charges of misconduct as set forth in the Fire Department's written statement and the employee's notice of appeal as filed with the Commission as well as the appealing party's previous work record with the Fire Department.
7. All hearings conducted by Hearing Examiners shall also be recorded so as to be capable of clear and accurate reproduction or transcription. The Director will coordinate with the Hearing Examiner for use of City equipment for this purpose.
8. After the close of evidence and testimony a Hearing Examiner may deliberate and thereafter enter the ruling either in the same manner as the Commission or as per Chapter 143.
9. If a situation arises pertaining to the administration process of selecting a Hearing Examiner, or meeting notices, or request for rescheduling, refusal, conflict or interest, etc., and the situation is not provided for Chapter 143 or in these Rules, then the parties and the Director shall attempt to mutually resolve the situation by agreement. If the matter is not one capable of being reasonably resolved by agreement then the Director may refer the matter to the administrative processes of the entity sponsoring the Hearing Examiner to resolve the situation within their own processes.
10. If a Hearing Examiner has been initially selected but is thereafter objected to or is asked to be excused by a party, both parties may mutually agree to excuse the Hearing Examiner and thereafter request a new list of qualified and neutral Hearing Examiners and start the selection process over again. If no such agreement can be reached, then both parties shall prepare a written statement including their requests and reasoning therefore which shall be submitted to the Director. The Director shall then transmit it to the agency sponsoring the Hearing Examiner, which shall then resolve the dispute according to its own administrative processes. The response shall either excuse the Hearing Examiner or thereafter provide a new list or it shall provide a written statement of reasons why the Hearing Examiner was not excused.

B. ESSENTIAL ELEMENTS

1. The time limit for appeal to a Hearing Examiner will be the same as for appeal to the Commission.
2. In appeals to a Hearing Examiner, the "rules of evidence" will not be observed.
3. Hearing examiners shall base their decisions on a preponderance of the evidence.

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4. All hearings conducted by a Hearing Examiner will be conducted within the City limits of Leander.
 5. Hearing Examiners are limited to the scope of Fire Chief options when hearing disciplinary appeals. Hearing Examiners may: (a) uphold, reduce, or overturn a temporary suspension; (b) uphold an indefinite suspension; (c) reinstate an indefinitely suspended employee and provide for a reduced suspension; or (d) overturn the indefinite suspension entirely. If the appeal concerns a temporary or indefinite suspension, the Hearing Examiner has no authority to order an involuntary demotion of an employee.
 6. Hearing Examiners will observe the procedures as described in 143.010, 143.052, 143.053, and 143.057 of Chapter 143.

(Sections 58-70 reserved for expansion.)

SECTION 71. LEAVES OF ABSENCE: RESTRICTION PROHIBITED

See Texas Local Government Code § 143.071.

SECTION 72. MILITARY LEAVE OF ABSENCE

See Texas Local Government Code § 143.072.

This section is not intended to create any rights beyond those created by the Uniformed Services Employment and Reemployment Rights Act (USERRA) 38 USC 4301, the Texas Government Code, and 143.072 of Chapter 143. The following definitions apply:

"Military Reinstatement List" means a list of persons, broken down by civil service classification, and arranged in the order provided by these Rules, who have been demoted to the next lowest position in grade or compensation due to the reinstatement of an employee from a military leave of absence.

"Military Service" means US Marine Corps, US Navy, US Army, US Air Force, and US Coast Guard.

"Reservist" means a member of the US Marine Corps Reserve, US Navy Reserve, US Army Reserve, US Air Force Reserve, US Coast Guard Reserve, Army National Guard and Air National Guard (collectively, the **"Reserves"**).

A. MILITARY LEAVE OF ABSENCE FOR NEWLY ENLISTING FIRE FIGHTERS

1. A classified member of the Department may newly enlist or enter into the United States military service. The member shall follow the procedure set forth in 143.072 of Chapter 143 in order to obtain an unpaid military leave of absence (the **"Military Leave of Absence"**). The Director of Civil Service, on behalf of the Commission, shall grant the Military Leave of Absence upon receipt of a copy of the member's military orders and upon receipt of a form approved by the Director and signed by the eligible member; or, if

the eligible member is unavailable, then signed by the member's Fire Chief. The Director shall report the same to the Civil Service Commission at the next scheduled meeting. Such Military Leave of Absence may not exceed the period of compulsory military service or the basic minimum enlistment period.

2. As a benefit provided solely by the City of Leander, a newly enlisting member may be eligible for annual paid leave and military supplemental pay under the City of Leander Personnel Policies or ordinances, as applicable.
3. After the granting of a Military Leave of Absence and the start thereof, the Director shall treat the position as vacated and shall initiate the normal procedure for filling a vacancy.
4. Members will be subject to the reinstatement rules provided herein and may also be placed on a Military Reinstatement List as follows:
 - a. If the reinstatement of a member who received a Military Leave of Absence causes a surplus in the rank to which the member was reinstated, then the member who has the least seniority in the position shall be returned to the position immediately below the position to which the returning member was reinstated.
 - b. If a member is returned to a lower position in grade or compensation under this Rule without charges being filed against the member for violation of civil service rules, the member shall be placed on a Military Reinstatement List in order of seniority.
 - c. Appointment from the Military Reinstatement List shall be made in order of seniority on the list. If more than one member is placed on the list on the same date, the tie shall be broken in the order listed below prior to posting the Military Reinstatement List:
 - i. Seniority in Rank – The members shall be ranked in the order according to the earlier hire date in their most recent continuous service.
 - ii. Placement on promotional list – The members shall be ranked in order according to their placement on the promotional list.
 - d. A member who is not on the reinstatement list may not be appointed to a position to which the list applies until the list is exhausted. A Military Reinstatement List has no expiration date.
 - e. If there is no lower position in grade/rank, then the person most recently hired may be laid off. If laid off, that person must be placed on a Military Reinstatement List, giving him or her a preferential right to the next subsequent vacancy.
 - f. Upon reinstatement, the deployed fire fighter will receive full seniority credit.

B. LEAVE OF ABSENCE FOR RESERVISTS

1. The Director must grant a Reservist leave of absence for members to engage in initial training or annual duty in the military reserves or National Guard (“**Reservist Leave of Absence**”). The Director must report the Reservist Leave of Absence to the Civil Service Commission at the next scheduled meeting.
2. A member on a Reservist Leave of Absence for greater than three continuous months may be eligible for military leave time account donations as detailed in the City’s Personnel Policies and Section 75 herein in addition to the annual paid leave and supplemental military pay in the City's Personnel Policies.
3. After the granting of a Reservist Leave of Absence and the start thereof, the position the Reservist held will be treated as a temporary assignment and not a vacancy. In accordance with Section 143.038 of Chapter 143, the duties that are temporarily performed in a higher classification by an employee who has not been promoted as prescribed by Chapter 143 shall not be construed as a promotion and members performing those duties shall not have any preferential right to the next vacancy.
4. Section 143.028(c) of Chapter 143 applies only to Reservist Leaves of Absence.

C. REINSTATEMENT REQUIREMENTS FOR NEWLY ENLISTING FIRE FIGHTERS AND RESERVISTS

1. A member returning from military service must report back to work or apply for reemployment within the time constraints prescribed by USERRA, the City's Personnel Policies and Chapter 143 as applicable.
2. It is a member's responsibility to keep their certifications required by the job description for the position and assignment held prior to deployment and state law current during deployment.
3. Depending on the duration of leave, the member must undergo appropriate training upon return to work and will be evaluated by a supervisor before placement back into operations.
4. The member is responsible for ensuring the City has current contact information for the employee throughout deployment, unless the nature of their assignment prohibits such information from being provided to the department.
5. Members should consult the Human Resources Department for assistance in determining the impact of their active military service on their pension plans and health insurance benefits.

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6. A member who has not completed the Civil Service probationary period when they enter the uniformed service will upon their return, resume the Civil Service probationary period at the point the Civil Service probationary period was interrupted by military service.

SECTION 73. LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE

See Texas Local Government Code§ 143.073.

The purpose of this section is to provide guidelines for Civil Service salary continuation under illness or injury leaves of absence for classified employees. Notwithstanding the leave provisions and accommodations authorized by these Rules, Chapter 177A of the Texas Local Government Code, and the City's Personnel Policies, the Fire Chief may at any time invoke the fitness for duty process authorized by Section 143.081 of Chapter 143 if the employee is unable to perform their essential job functions ("**Fitness for Duty Evaluation**").

A. DEFINITIONS

"Full Pay" during a Line of Duty Illness or Injury Leave is defined as the classified employee's regular rate of pay for their normally scheduled work time, less the amount of any deductions authorized by the Texas Workers' Compensation Act and related regulations.

"Illness or Injury Leave" is leave that is provided to eligible classified employees who are unable to work due to a compensable illness or injury. Light Duty Assignment is not considered Illness or Injury Leave.

"Line of Duty Illness or Injury Leave" is Illness or Injury Leave granted to a classified employee who has suffered a compensable illness or injury as a direct or proximate result of the person's line of duty, which is in the course and scope of their employment as determined by the Director, and is unable to work. This may include an illness or injury suffered during an employee's regular duty hours, authorized overtime, or authorized special events.

"Reassignment" may be available if the classified employee can only work with restrictions on a permanent basis, and the employee may be accommodated through permanent reassignment to a non-classified position for which the employee is qualified.

"Temporary Leave" is unpaid leave provided at the discretion of the Fire Chief, in consultation with the Human Resources Department, after the classified employee has exhausted their Illness or Injury Leave and any extensions granted, and/or the employee has exhausted all leave benefits as described herein.

"Light Duty Assignment" may be available when the classified employee suffers a temporary illness or injury but can return to work with restrictions or limitations.

"Unpaid" leave does not consider the employee as being on active service with the City, and the

employee neither receives pay nor the employer's contribution amounts for health care insurance or other benefits. Paid leave does not accrue during unpaid leave.

"Work Days" will be converted to shift equivalents for persons regularly assigned to other than the regular City eight (8)-hour work day.

B. ILLNESS OR INJURY LEAVE REQUIREMENTS

To the extent the City's Personnel Policies do not conflict with these Rules, any requirements contained therein are incorporated into this Section.

1. Procedure. The classified employee eligible for Line of Duty Illness and Injury Leave must report the injury within 24 hours after the injury occurs. The employee must complete a worker's compensation injury packet using the procedures outlined in the City Personnel Policies. The form must state that the employee is unable to return to full duty or limited duty with restrictions in order to obtain such leave; otherwise, the employee must qualify for Light Duty Assignment.
2. Worker's Compensation. Denial of worker's compensation benefits will cause the employee's illness or injury to be considered "Off-duty" unless otherwise compensable under the Chapter 143. Use of leave benefits may be authorized without regard to Maximum Medical Improvement.
3. Salary Continuation (Phase I). A classified employee on Line of Duty Illness or Injury Leave shall receive Full Pay and shall retain the same level of health care insurance benefits as the employee received while on active duty for a period commensurate with the nature of the illness or injury, not to exceed 2080 hours for the 40-hour work week or 2912-hours for the 24-hour shift employee ("**one-year period**") as of the end of the employee's last shift. This time does not have to be continuous, but such leave must be in accordance with the rules and regulations of the Department and Chapter 143. The benefits period starts from the date of injury and may be used intermittently.
4. Extended Salary Continuation (Phase 11). If the one-year period was required for the illness or injury sustained by the employee, the Leander City Council may, upon expiration of the one-year period, extend the Line of Duty Illness or Injury Leave, commensurate with the illness or injury, at Full or reduced pay. At least 30 days prior to the end of the one-year period, the employee, or authorized representative, must submit a request to the Fire Chief asking for such an extension, and it is in the Fire Chief's discretion, in consultation with the Human Resources Department, whether to forward the request for approval or denial to the City Council.
5. TMRS Disability. For classified employees on Line of Duty Illness or Injury Leave who have eligible benefits through the Texas Municipal Retirement System (TMRS) and who either do not receive Extended Salary Continuation or suffer a

reduction of salary below 60 percent of their monthly salary, the employee may be eligible to obtain disability retirement benefits under TMRS. However, if the employee is deemed "recovered" by TMRS regulations, then he or she is eligible for reappointment in accordance with the reappointment rules in Rule 74.

6. Use of Leave Benefits (Phase III). Accumulated sick leave, holiday time, vacation time, any applicable catastrophic leave donations, and/or frozen leave banks (in an FMLA qualifying event) may be used prior to being placed in Temporary Leave status in the following situations:
 - a. Employees, on Line of Duty Illness or Injury Leave, who exhaust the one-year period and the Extended Salary Continuation outlined in Subsection (4);
 - b. Employees, on Line of Duty Illness or Injury Leave, who exhaust the one-year period and who do not receive Extended Salary Continuation outlined in Subsection (4);
 - c. Employees, on Line of Duty Illness or Injury Leave, who do not have eligible benefits through TMRS outlined in Subsection (5); and
 - d. Employees who are on Off-duty Illness or Injury Leave.
7. Temporary Leave (Phase IV). Classified employees, whether in the Line of Duty or Off-Duty may be eligible for Temporary Leave. Temporary Leave, if granted, shall only be allowed in thirty (30) day increments and shall not exceed a six (6) month period, unless the employee has not expired their FMLA leave in which case Temporary Leave must accommodate the FMLA leave available to the employee. If an employee recovers during the time that they are on Temporary Leave, then the employee may apply for reinstatement at the same rank and seniority as they held prior to taking leave using the reappointment procedures in Rule 74. Temporary Leave is considered a break in service for insurance purposes.
8. Non-Certified Probationary Employees. Non-certified probationary employees will not be eligible to receive Salary Continuation benefits for Line of Duty Illness or Injury Leave. Accommodations, if any, will be in accordance with the City Personnel Policies and federal law.
9. FMLA. Any days in which Illness or Injury Leave, whether in the Line of Duty or Off-duty, is utilized will be applied toward the classified employee's leave benefit under the Family Medical Leave Act. Upon exhaustion of FMLA benefits, classified employees shall be subject to reassessment in accordance with Department policy.
10. Documentation Required. The classified employee shall attend all doctor appointments as scheduled by their physician. The employee shall be responsible to schedule a monthly medical appointment and must update their supervisor after each appointment. Employees must provide signed documentation from a treating

licensed physician in accordance with City policy in order to continue to obtain benefits under these Rules and may be ordered to appear before the Commission in the event of a failure to comply with this requirement.

11. Availability on Leave. An employee who wishes to travel or otherwise be unavailable while on Illness or Injury Leave, whether in the Line of Duty or off duty, must get approval from the Fire Chief in consultation with Human Resources.
12. Verification. The Fire Chief or Director may order home checks to be made on any employee off work under this Section and may order an employee to provide a doctor's letter verifying any claimed illness or non-work injury.
13. Contact Information. An Employee is responsible for ensuring that the City has their current contact information, including personal address, phone number and personal electronic mail, while they are on Illness or Injury Leave.

C. PROHIBITIONS

While on Illness and Injury Leave, whether in the Line of Duty or Off-duty, employees shall not engage in the following conduct:

1. Drive a city-owned vehicle;
2. Participate in activities that could possibly hinder recovery (i.e., strenuous athletic activity);
3. Work any secondary employment;
4. Wear any part of the Department Uniform, including T-Shirts;
5. Carry a City issued weapon; or
6. Display their Department Identification or Special Events Identification card in a manner that may identify them as a member of the Department

D. LIGHT DUTY ASSIGNMENT OR PERMANENT RE-ASSIGNMENT

To the extent the City's Personnel Policies donot conflict with these Rules, any requirements contained therein are incorporated into this Section. The Department will make every effort to offer a reasonable accommodation to enable an employee to perform the essential functions of their position when the employee cannot otherwise perform their full duties unless (1) a need cannot be properly substantiated, (2) the accommodation would not be effective, or (3) it would impose an undue hardship on the City.

1. Documentation Required. A classified employee returning to duty after Illness or Injury Leave must provide a written release from the treating licensed physician indicating the employee's fitness to return to duty, stipulating any type of restrictions and the date of the employee's release from medical care. If restrictions are specified, the employee must report to the Human Resources Department before reporting to work.

2.Light Duty Required. If the employee is subject to restrictions that render the employee temporarily unable to perform the essential functions of the job, an attempt will be made to find a Light Duty Assignment that the employee can perform. If Light Duty is available, an employee must take the offered assignment; failure to accept the assignment may result in the employee forfeiting their workers' compensation indemnity benefits. In assigning Light Duty to classified employees, the Fire Chief may assign employees to duties outside the Department. Light Duty Assignments must be compliant with the City of Leander Personnel Policies, Chapter 177A of the Texas Local Government Code and Federal law. A Light Duty Assignment may continue for at least one (1) year per illness or injury.

3. Extended Light Duty. The Fire Chief has the option, but is not required, either to approve Extended Light Duty or call for a Fitness for Duty Evaluation. Employees with a Line of Duty Illness or Injury will have preference over employees with an Off-duty Illness or Injury for Extended Light Duty.
4. Re-assessment. An employee on Light Duty Assignment is subject to continuous re-assessment to ensure current medical need and estimated length of need. Employees on Light Duty Assignments will be required to undergo medical re-evaluations or designated doctor visits as directed.
5. Non-Certified Probationary Employee Accommodations. If the employee is a non-certified probationary employee at the time of Line of Duty Injury or Illness and can perform duties with restrictions, then the employee may be given a Light Duty Assignment in the fire training class for the academic component only, holding the physical component of training until a full release is received by a treating licensed physician, so long as it is approved by the Fire Chief and does not disrupt operations.
6. Re-assignment. Upon expiration of the Light Duty Assignment and Extended Light Duty, the employee may be eligible for permanent re- assignment to a non-classified, vacant position for which they are qualified with or without reasonable accommodation. The employee may be re-assigned to a lower graded position if there are no other accommodations that would enable the employee to be permanently re-assigned. If there is no other vacant position for which the employee is qualified or capable and Illness and Injury Leave has been exhausted, then the employee may be subject to a fitness for duty evaluation.

SECTION 74. REAPPOINTMENT AFTER RECOVERY FROM DISABILITY

See Texas Local Government Code§ 143.074.

SECTION 75. MILITARY LEAVE TIME ACCOUNTS

See Texas Local Government Code§ 143.075.

(Sections 76-80 reserved for expansion.)

SECTION 81. DETERMINATION OF PHYSICAL OR MENTAL

See Texas Local Government Code§ 143.081.

- A. If the Fire Chief questions whether an employee is mentally or physically fit for duty, the Fire Chief may order that the employee, at the employee's cost, attend an appointment with the employee's personal physician, psychiatrist, or psychologist, as applicable, in order to obtain a fitness for duty evaluation report under Tex. Local Gov't Code Section 143.081 (the "**report**"), and the Fire Chief must give a copy of such order to the employee. An employee ordered to submit to a fitness for duty evaluation must execute a written consent to the release of the report directly from the healthcare provider to the Director, Fire Chief, and Commission, in the form required by the City. The Fire Chief may allow the employee to continue working in the employee's regular or light duty assignment, or may place the employee on applicable Administrative Leave or unpaid Temporary Leave pending the outcome of the response, depending on the circumstances of the case and in the Fire Chief's discretion
- B. Once the employee's healthcare provider returns the report, the Director or their designee, shall file a copy of the confidential report with the Fire Chief within three (3) business days of receipt. No later than ten (10) calendar days before the Commission meeting on fitness for duty, the Director or their designee must send a copy of the report and a notice of the hearing date and time to the affected employee. A copy of all healthcare correspondence, other than the report to be provided in executive session, and of the Fire Chief's response will be sent to the Commission in advance of the meeting. The report must state whether the employee is sufficiently physically or mentally fit to continue the employee's duties and the procedure shall be as follows:
1. If the employee's personal healthcare provider finds the employee *fit for duty*, and the Fire Chief agrees with the finding, the Commission shall consider this agreement in reviewing whether the report is true. If the Fire Chief or the Commission disagrees with the report, then the Commission shall appoint another physician, psychiatrist or psychologist, as appropriate, to evaluate the employee and to provide an additional evaluation report to the Commission, at the City' cost.
 2. If the employee's personal healthcare provider finds the employee *not fit for duty* and the Fire Chief agrees with the finding, the Commission shall consider this agreement in reviewing whether the report is true. If the employee or the Commission disagree with the report, then the Commission shall appoint another physician, psychiatrist or psychologist, as appropriate, to evaluate the employee and to provide an additional evaluation report to the Commission, at the City's cost.
 3. If the reports from the employee's personal healthcare provider and the Commission's appointed healthcare provider conflict, the Commission shall appoint a board of three (3) physicians, psychiatrists or psychologists, as applicable, pursuant to 143.081(d) of Chapter 143. The employee must see all three (3) healthcare providers within the time

prescribed by the Commission, at the City's cost. The Commission may set a deadline for the return of additional evaluation reports and may grant an extension of its deadline for good cause shown by the employee. The board's decision is a simple majority finding, and it is final and not appealable to the Commission.

4. If the Commission orders additional evaluation reports in subsection (1), (2), or (3) above, the employee must execute a separate written consent to the release of the evaluation report directly from the personal or appointed healthcare provider to the Director, Fire Chief, and Commission, in the form required by the City.

- C. Failure of the employee to attend an appointment with any healthcare provider or to cause any healthcare provider to fail to return the fitness for duty evaluation report within fifteen (15) business days of the order shall be considered grounds for formal disciplinary action, unless within five (5) business days of the order, the employee requests a reasonable extension for good cause from the Fire Chief or Commission, as the case may be. However, if an extension is granted, in no event shall an employee cause any healthcare provider to fail to return the fitness for duty report later than twenty-one (21) business days after the initial order or Commission appointment. Such failure may be grounds for formal disciplinary action.

SECTION 82. EFFICIENCY REPORTS

See Texas Local Government Code § 143.082.

- A. The performance of all employees who are not in entry-level probationary status will be evaluated on an annual basis through individual efficiency reports (“**Efficiency Reports**”). These reports are intended to ensure that all employees are aware of the expected level of performance for effectiveness and efficiency in their duties. These reports allow for timely feedback to encourage education, training and employee development to ensure a consistently fair evaluation process.
- B. Entry-level employees who are in probationary status under Section 27 will undergo an Efficiency Report evaluation monthly as well as an environmental assessment to evaluate the employee's personal experience as it relates to their current work environment. The results of a monthly Efficiency Report during probationary status does not necessarily guarantee the employee any rights to a position, and the Fire Chief maintains **full** rights of discharge during the probationary period.
- C. The Director must provide each employee a copy of their individual Efficiency Report. Within ten (10) calendar days after the date an employee receives the copy of their Efficiency Report, the employee may make a statement in writing concerning the report. The statement shall be placed in the employee's personnel file with the Efficiency Report.
- D. The Fire Chief may establish procedures for Efficiency Reports. Efficiency Report evaluations are not appealable to the Commission. Continued poor efficiency evaluations may result in disciplinary actions under these Rules.

SECTION 83. EMERGENCY APPOINTMENT OF TEMPORARY FIREFIGHTERS

See Texas Local Government Code § 143.083.

SECTION 84. CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIREFIGHTERS

See Texas Local Government Code § 143.084.

SECTION 85. FORCE REDUCTION AND REINSTATEMENT LIST

See Texas Local Government Code § 143.085.

SECTION 86. POLITICAL ACTIVITIES

See Texas Local Government Code § 143.086.

SECTION 87. STRIKE PROHIBITION

See Texas Local Government Code § 143.087.

SECTION 88. UNLAWFUL RESIGNATION OR RETIREMENT

See Texas Local Government Code § 143.088.

SECTION 89. PERSONNEL FILE

See Texas Local Government Code § 143.089.

SECTION 90. RELEASE OF PHOTOGRAPHS OF POLICE OFFICER

See Texas Local Government Code § 143.090.