

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

Development Services - San Gabriel Conference Room
201 N. Brushy Street - Leander, Texas
Tuesday, August 13, 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 and confirm a quorum is present.

Opened meeting at 6:13 p.m. and confirmed a quorum was present.

CONSENT AGENDA: ACTION

Motion: Approve Consent Agenda.

By: Vice-Chair McDonald
Seconded: Chair Rasmussen

Vote: 3 - 0

2. Approval of the minutes for meeting held on June 25, 2024.

REGULAR AGENDA

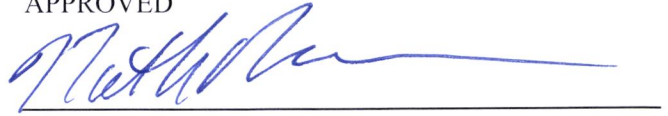
3. Discuss and consider action on adoption of rules necessary for the proper conduct of commission business.

Discussion included rationale for samples provided; pros and cons of the various policy layouts; working through a subchapter per meeting to help meet timeline for completion; and recommendations for Subchapter A Section .001 through .018 (attached).

4. Adjournment

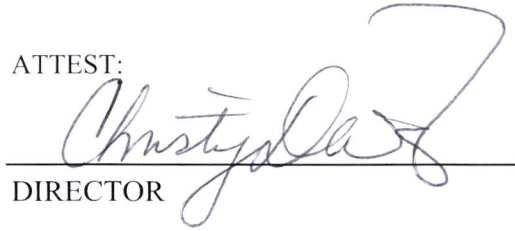
Adjourned at 8:00 p.m.

APPROVED

A handwritten signature in blue ink, appearing to be "Matthew", written over a horizontal line.

CHAIR

ATTEST:

A handwritten signature in black ink, appearing to be "Christy", written over a horizontal line.

DIRECTOR

LEANDER FIRE DEPARTMENT CIVIL SERVICE COMMISSION LOCAL RULES



ADOPTED BY THE CIVIL SERVICE COMMISSION

Origination Date:

Month Day, Year

**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 and Regulations, 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 Policy Manual, the City of Leander Employee Handbook, or the residual discretionary authority vested in a Department Head. 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.

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 Department Heads.

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.

See Texas Local Government Code§ 143.003.

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.

See Ordinance Number 24-051-00, Establishing the Civil Service Commission

1)

2)

A. CIVIL SERVICE COMMISSION

1. **OFFICERS** –Each January, the members shall elect one member to serve as chair and one 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-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 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.

a)

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).
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 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.

SECTION 7. REMOVAL OF COMMISSION MEMBER

See Texas Local Government Code§ 143.007.

- A. A member of the Commission may tender his/her 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. 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. Upon the occurrence of any of these events or those 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 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 classified employees 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 Department Head shall adopt and promulgate written rules, regulations and personnel policies pertaining to the operation of the Department. No such Departmental rule shall be in conflict with the provisions of these civil service rules. Copies of all Departmental 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 Fire or Police Departments 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;
 - 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 240 hours after receiving the notice of disciplinary action from the Department Head. An employee may withdraw his/her 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 (i) fails to file a

notice of appeal of a disciplinary action with the Director or Director's designee within the 240-hour period allowed in Chapter 143 or (ii) 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 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 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."

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.

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.

If for any reason the appointed Director separates from employment with the City, a new Director will be appointed by the Commission.

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:

- A. Supervising all examinations or appointing Test Monitors to prepare, schedule, score, and ensure the security of test materials, and preparation of eligibility lists;
- B. Coordinating the recruitment and examination of applicants, including certifying names from the eligibility list to the Department Head;
- C. Assisting in the classification of Fire Department positions;
- D. Setting the agenda for the Commission meetings;
- E. Acting as liaison and providing staff support to the Commission;
- F. Determining whether the Commission has jurisdiction over any matter and, if so, bring it before the Commission in a reasonable and timely fashion;
- G. Calling, posting agendas, scheduling, rescheduling, attending, and cancelling meetings of the

- Commission;
- H. Post promotional examination notice;
 - I. Acting as records custodian as provided by Tex. Local Gov't Code Section 143.011;
 - J. Maintaining the personnel files of all employees in the civil service as required by Tex. Local Gov't Code Section 143.089(a);
 - K. Acting on behalf of the Commission for actions and issues not specifically addressed in Chapter 143 or these Rules;
 - L. 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;
 - M. Presenting to the Commission changes in these Rules;
 - N. 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;
 - O. Preparing and keeping minutes of all Commission meetings, and obtaining appropriate signatures on approved minutes and on all decisions entered by the Commission;
 - P. Maintaining the Record of Certification and Appointment as required by Tex. Local Gov't Code Section 143.037;
 - Q. Maintaining a seniority roster for the Fire Department by date of hire and seniority rank by date of promotion;
 - R. Coordinating Commission investigations; and
 - S. Approving active duty and reserve military leave for purposes of Chapter 143.
 - T. Appointment of medical and psychological examiners pursuant to Tex. Local Gov't Code Section 143.022.

SECTION 13. APPOINTMENT AND REMOVAL OF DEPARTMENT HEAD

See Texas Local Government Code § 143.013.

**SECTION 14. APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED
IMMEDIATELY BELOW DEPARTMENT HEAD**

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