AGENDA
CIVIL SERVICE COMMISSION MEETING
CITY OF LEANDER, TEXAS

Development Services - San Gabriel Conference Room
201 N. Brushy Street - Leander, Texas
Tuesday, September 10, 2024
Regular Meeting at 6:00 PM

Place 1 - Kate McDonald, Vice Chair	**Director - Christy Davis**
Place 2 – Nathan Rasmussen, Chair	**Legal - Paige Saenz**
Place 3 – Donna Sherrill	**Staff Liasion – Dara Crabtree**

REGULAR MEETING

1. Open Meeting.

2. Roll Call.

CONSENT AGENDA: ACTION

3. Approval of the minutes for meeting held on August 27, 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 6 day of September 2024 by 5:00 p.m. pursuant to Chapter 551 of the Texas Government Code.

Dara Crabtree

Dara Crabtree, City Secretary

AGENDA ITEM # 3

EXECUTIVE SUMMARY
9/10/2024

AGENDA SUBJECT:
Approval of the minutes for meeting held on August 27, 2024.

BACKGROUND:
Attached are the minutes for the meeting held on August 27, 2024.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

PRESENTER:
Dara Crabtree, City Secretary

Fiscal Impact

Attachments:

1. Draft Minutes with attachment 08.27.2024

MINUTES
CIVIL SERVICE COMMISSION MEETING
CITY OF LEANDER, TEXAS

Development Services - San Gabriel Conference Room
201 N. Brushy Street - Leander, Texas
Tuesday, August 27, 2024
Regular Meeting at 6:00 PM

Place 1 - Kate McDonald, Vice Chair	**Director - Christy Davis**
Place 2 - Nathan Rasmussen, Chair	**Legal - Paige Saenz**
Place 3 - Donna Sherrill	**Staff Liasion - Dara Crabtree**

REGULAR MEETING

1. Open Meeting and confirm a quorum is present.

   Opened meeting at 6:12 p.m. and confirmed a quorum was present with Vice Chair McDonald absent.

CONSENT AGENDA: ACTION

Motion: Approve consent agenda.

By: Board Member Rasmussen
Seconded: Board Member Sherrill

Vote: 2 - 0

2. Approval of the minutes for meeting held on August 13, 2024.

REGULAR AGENDA

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

   Discussion included recommendations of Subchapter B, Sections 0.21 through 0.26 (attached).

4. Adjournment

   Adjourned at 8:24 p.m.

APPROVED

_____

CHAIR

ATTEST:

_____

DIRECTOR

LEANDER FIRE DEPARTMENT
CIVIL SERVICE COMMISSION LOCAL RULES

SUBCHAPTER B. CLASSIFICATION AND APPOINTMENT

Section 21. Classification: Examination Requirement ..... *
Section 22. Physical Requirements and Examinations ..... *
Section 23. Eligibility for Beginning Position ..... *
Section 24. Entrance Exam Notice ..... *
Section 25. Entrance Examination ..... *
Section 26. Procedure for Filling Beginning Positions ..... *

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.
4. 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 ~~Commission -~~ 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~~two hundred forty hours (240) 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 ~~and police officer~~ as provided in the Civil Service Classification Plan 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 ~~or Police Chief~~ with the concurrence of the Director and consent of the City Manager, when such waiver would be in the best interests of the Fire Department ~~or Police 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. 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;
6. Be at least eighteen (18) years of age and not more than thirty-five (35) years of age at the time of hire; ~~;~~(until amended through collective bargaining)
7. Be a graduate of an accredited high school or have an equivalency certificate;
8. Have a valid Texas driver's license at the date of hire;~~;~~(should have the ability to obtain a Class A driver's license)
9. Be a citizen of the United States by birth or naturalization;
10. Be able to read, write, and speak the English language;
11. Be of good moral character;
12. Must be eligible to work within the United States;
13. Must obtain or possess certifications consistent with Department Hiring Policy.

SECTION 24. ENTRANCE EXAM NOTICE

See Texas Local Government Code§ 143.024.

A. An applicant shall complete a City of ~~Cedar Park~~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 ~~his/her~~ 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.

Application for employment shall be made to the Director on the appropriate application forms.

A. EXAMINATIONS - 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.

B. No person shall:

1. Deceive or obstruct any person in respect of ~~his/her~~ their right of examination under the provision of these rules and the Local Government Code;
2. Falsely mark, grade or report the examination or standing of any person examined hereunder; or
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.
4. No applicant may deceive the Commission for the purpose of improving ~~his/~~ their chance for appointment or promotion.

C. 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.

D. ENTRANCE EXAMINATION ADMINISTRATION PROCEDURES

1. ~~Smoking~~ -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 70% or better shall provide an original DD-214 showing a minimum of 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 ~~his/her~~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.

E. 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. The deceased fire fighter parent must have been employed by a municipality covered by Chapter 143, Texas Local Government Code. The applicant must provide the name of the deceased fire fighter parent on ~~his or her~~ their 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.

F. 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.

G. 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

Tabled.

AGENDA ITEM # 4

EXECUTIVE SUMMARY
9/10/2024

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. Arlington
2. Cedar Park 143
3. Georgetown 143
4. Round Rock
5. Comparison civil service rules

ARLINGTON FIRE DEPARTMENT
CIVIL SERVICE COMMISSION
LOCAL RULES

Updated March 2024

Proposed Amendments to the Arlington Fire Department Civil Service Commission Local Rules March 2024

Subchapter	Section	Change
A	3	Add definition for "Certified Eligibility List"
B	21	Add new position titles; eliminate language related to "BC removal due to attrition"
B	25(c)1	Remove language related to previous physical assessment
B	26(B) (1)	Remove reference to Exhibit A
B	26(B)(10)	Remove FF & FP applicants must achieve a minimum fitness rating of 3 (Good) or better by the FD Physician
B	26(D)	Change language to state notification to the Civil Service Office vs City
B	26(F)(2)(m)	Add disqualifier for Applicants terminated or dismissed from the Arlington Fire Department for misconduct, policy violations, inefficiency
B	36	Update position titles to reflect reorganization
	Multiple	Include reference to new attachment listing current ordinances

ARLINGTON 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 Arlington 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 Arlington Fire Department and the City of Arlington.

The following Rules, as may be amended from time to time, are the Arlington 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.

ARLINGTON FIRE DEPARTMENT
CIVIL SERVICE COMMISSION LOCAL RULES

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SECTION 1. PURPOSE

See Texas Local Government Code § 143.001.

The Arlington Fire Department Civil Service Commission is hereby established with the adoption of these Rules in compliance with Chapter 143 of the Texas Local Government Code, as amended, (hereinafter referred to as "Chapter 143"). The captions used in these Rules are not intended to convey any legal meaning or benefit but are included solely to aid in the organization of the Rules.

The scope and construction of the Rules hereinafter set forth shall be interpreted and applied within the spirit and intent of Chapter 143. It is the intent of these Rules 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 Arlington Personnel Policies, Arlington Fire Department Standard Operating Procedures ("SOPs") and directives, and/or the residual discretionary authority vested in a Department Head and the Chief Executive. These Rules shall apply to all the classified, non–probationary employees covered under Chapter 143.

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 standards for appointment and the procedures for appointment and certification;

C. The proper conduct of examinations for entry-level and promotional eligibility;

D. The proper conduct of appeals of testing and examination scoring;

E. The prescribed cause or causes for the removal or suspension of a civil service employee;

F. The procedures for the hearing of disciplinary appeals concerning suspensions without pay, indefinite suspensions, promotional bypass, recommended demotions, including hearings conducted by third-party Hearing Examiners, and/or appeals of written promotional examinations;

G. 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, Chief Executive, Director, or the Department Head; and

H. All other areas in which the Commission is granted authority under Chapter 143.

SECTION 2. MUNICIPALITIES COVERED BY CHAPTER

See Texas Local Government Code § 143.002.

SECTION 3. DEFINITIONS

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. **ACCREDITED COLLEGE OR UNIVERSITY HOURS –** Accreditation for college semester hours or degrees shall be in alignment with the City of Arlington Personnel Policies and/or Arlington Fire Department SOPs.

B. **APPOINTMENT –** The designation of a person by the Chief Executive to become an employee in a classified civil service position.

C. **ATTRITION –** A vacancy in a position caused by resignation, retirement, death, promotion, demotion, indefinite suspension, or any other type of voluntary or involuntary permanent leaving of the position.

D. **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.

E. **CERTIFIED ELIGIBILITY LIST –** The list requested from the Department Head that contains applicants deemed suitable for employment.

F. **CHIEF EXECUTIVE –** The City Manager of the City of Arlington.

G. **CHAPTER 143 –** The portion of the Texas Local Government Code containing the civil service provisions.

H. **CHAPTER 419 –** The portion of the Texas Government Code containing the provisions for the Texas Commission on Fire Protection. This Government Code Chapter establishes minimum standards relating to competence and reliability, including education, training and other standards for fire protection personnel.

I. **CJIS –** Criminal Justice Information System (criminal background check system).

J. **CLASSIFICATION –** A position or group of positions that involve similar duties and

responsibilities and require similar qualifications. The classifications are identified by two (2) separate job division categories: Firefighters and Fire Prevention Inspectors.

K. **COMMISSION –** The Arlington Fire Department Civil Service Commission.

L. **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, pre-trial diversion 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. **DAY –** Calendar day, unless otherwise specified.

N. **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. **DEPARTMENT –** The Arlington Fire Department.

P. **DEPARTMENT HEAD –** The Fire Chief of the City of Arlington Fire Department, or that person's equivalent position regardless of name or title used.

Q. **DIRECTOR –** The Director of Civil Service as designated by the City of Arlington Civil Service Commission to act in the capacity of Secretary to the Commission and Director of Civil Service, and includes his/her designee.

R. **FIREFIGHTERS AND FIRE PREVENTION INSPECTORS – CIVIL SERVICE ENTRY JOB CATEGORIES –** Members of the Arlington Fire Department classified as civil service employees under Chapter 143 who are in alignment with Texas Government Code Chapter 419 are recognized under these Rules. The two (2) civil service job entry categories in the Arlington Fire Department are Firefighters and Fire Prevention Inspectors.

S. **ELIGIBILITY LIST –** A list of applicants for a classified civil service position who have taken the written 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.

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

U. **RAW SCORE –** The numerical grade, based upon the questions correctly answered, on a written examination. This score will be calculated to the 100th of a decimal point in promotions.

V. **SENIORITY** –Seniority will be calculated based on the years of service in Suppression or Prevention sworn classifications within the City of Arlington Fire 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. **TEMPORARY DISQUALIFICATION –** An applicant temporarily deemed disqualified will be disqualified until the next testing period subject to the resolution of their disqualification, unless otherwise specified.

X. **TCOLE –** the Texas Commission on Law Enforcement is an agency of this state that has statutory authority under Chapter 1701 of the Texas Occupations Code for establishing minimum standards relating to competence and reliability, including education, training, physical, mental, and moral standards, for licensing as a (Fire Prevention) peace officer.

Y. **VETERAN –** A person who has served a minimum of one hundred and eighty (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.

Z. **WORKING DAY –** A working day is defined as follows:

1. In the case of a Firefighter or Fire Prevention Inspector civil service classified employee working a 2080-hour schedule per year, a "working day" shall be considered as eight (8) hours or adjusted for 10-hour work days when appropriate, as determined by management.

2. In the case of a Firefighter or Fire Prevention Inspector working a 2912-hour (estimated) fire suppression schedule per year, a "working day" shall be considered as twelve (12) hours.

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.

The Commission may, by majority, vote and make rules of procedure for the administration of Chapter 143.

The Commission shall select a chairperson and vice-chair on an annual basis.

The Commission shall conduct all meetings in compliance with the provisions of Texas Government Code Chapter 551, the Open Meetings Act. All Commission hearings will be open to the public.

A quorum for the Commission shall be two (2) members. A lesser number may meet and reschedule, recess, or adjourn a meeting or hearing.

A Commission decision may be approved by a vote of two (2) of the three (3) Commissioners when all three (3) Commissioners are present. When two (2) Commissioners are present, the decision must be unanimous to be approved.

The Director will establish meetings as needed of the Civil Service Commission. The Director will also coordinate the use of audio, video, or transcription services as necessary for Commission meetings.

In conducting business, the Commission should default to Robert's Rules of Order when there is a procedural question. The Chair of the Commission will maintain order and decorum and ensure the efficient hearing of all Commission matters.

Commission meetings will typically proceed in the following order:

1. Call to Order;
2. Approval of Minutes;
3. Announcements;
4. Unfinished Business;
5. New Business;
6. Executive Session; and
7. Adjournment.

Items to be discussed under announcements, unfinished business, and new business must be properly identified in the posted agenda in accordance with the Texas Open Meetings Act. All agenda items must be submitted to the Director at least seven (7) business days prior to the scheduled meeting. The Director will determine whether items will be placed on the agenda.

The Commission can only take formal action on items listed on the agenda.

SECTION 7. REMOVAL OF COMMISSION MEMBER

See Texas Local Government Code § 143.007.

A member of the Commission may tender his/her resignation in writing at any time to the Chief Executive.

A Commission member may be removed from office by the City Council for misconduct in office or otherwise in accordance with Chapter 143

If a Commission member is absent for three (3) meetings during a 12-month period without good and reasonable cause, to be determined by the Director, the absent member may be automatically deemed to have submitted a resignation. If accepted by the Chief Executive, the position shall be deemed vacant until a new Commission member is appointed.

If a Commission member has been appointed as chairperson or vice-chairperson and the member's term expires, an election will be held at the next scheduled Commission meeting to appoint a chairperson or vice-chairperson, as necessary.

Upon the occurrence of any of these events, a request shall be made by the Director to the Chief Executive for a replacement of such member.

SECTION 8. ADOPTION AND PUBLICATION OF RULES

See Texas Local Government Code § 143.008.

A copy of these Rules will be available to all covered employees upon request. Also, copies of these Rules will be kept available for distribution to members of the public.

A. The Rules of the Commission currently in effect are only those contained herein. These Rules have been approved by the Commission and shall remain in effect until officially amended, revised, or repealed by the Commission.

B. Amendments to these Rules may be made at any meeting of the Commission and such amendments shall become effective on the date of compliance with the posting and notice requirements of Chapter 143 and of these Rules.

C. 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" or any other official act of the City Council.

D. All other Departmental Rules, Policies, Procedures, and Orders, City of Arlington Personnel Policies, and other regulations adopted or authorized by the City of Arlington which are not in conflict with Chapter 143 or these Rules shall also be applicable to Civil Service Employees.

The Fire Department Administration Office at 620 West Division Street, Arlington, Texas shall be considered as the Central Fire Station.

SECTION 9. COMMISSION INVESTIGATIONS

See Texas Local Government Code § 143.009.

After any investigation made by the Commission pursuant to Tex. Local Gov't Code Section 143.009, the Commission shall issue its ruling, if any, in writing.

SECTION 10. COMMISSION APPEAL PROCEDURE

See Texas Local Government Code § 143.010.

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 counselings, written reprimands, off duty employment requests, and approval/denials.

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.

Notice of Appeal: The employee's notice of appeal must be filed in writing with the Director within ten (10) calendar days after the date the action being appealed occurred. If an employee withdraws the appeal request any time thereafter, the proceedings shall terminate. The employee's notice of appeal shall conform to Tex. Local Gov't Code Sections 143.010 and 143.057.

At any time after filing the notice of appeal to a Hearing Examiner, but prior to either party incurring an expense related to a Hearing Examiner, the employee may withdraw their request and submit the appeal to a hearing before the Commission. The election must be made in writing and submitted to the Director. This does not alter any of the 30-day hearing deadlines imposed by Chapter 143 on the Commission decisions.

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.

The Department Head, under Arlington City Ordinance, may appoint to the rank (Assistant Fire Chief) immediately below Department Head pursuant to Tex. Local Gov't Code Section 143.014. The Department Head may appoint this position directly or ask the Director to arrange for a competitive examination, interview, and/or assessment center to help the Department Head select an appointee immediately below the rank of Department Head. Although Tex. Local Gov't Code Section 143.014 limits the number of persons who may be appointed by the Department Head to positions immediately below Department Head, the City of Arlington City Council may create more positions immediately below the rank of Department Head than the Department Head may appoint. These positions in excess of the number the Department Head appoints shall be filled by competitive examination.

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 reserved for expansion.)

SECTION 21. CLASSIFICATION; EXAMINATION REQUIREMENT

See Texas Local Government Code § 143.021.
See City of Arlington Ordinance No. 17-064, No. 18-079, No. 19-050, and any future amendments. A list of current ordinance amendments attached as Exhibit A.

The civil service positions in the Fire Department are classified on the basis of similarity in duties and responsibilities. The City Council shall provide by ordinance the number of authorized positions.

A. **CLASSIFICATIONS**

1. The following classifications, from lowest to highest, are established for the Fire Suppression (Firefighter) civil service members of the Arlington Fire Department:

   a. Firefighter
   b. Fire Apparatus Operator
   c. Fire Lieutenant
   d. Fire Captain
   e. Fire Battalion Chief

2. The following classifications are established, from lowest to highest, for the Fire Prevention (Fire Prevention Inspector) civil service members of the Arlington Fire Department:

   a. Fire Prevention Inspector
   b. Fire Prevention Specialist
   c. Fire Prevention Lieutenant
   d. Fire Prevention Captain

3. Appointed/Management Classification

   a. Fire Prevention Division Chief/Fire Marshal
   b. Division Chief
   c. Assistant Fire Chief

B. The title and number of all authorized positions in each of the classifications in the Fire Department shall be only those as prescribed by ordinances enacted by the City Council.

C. The Department Head shall have the discretion to make assignments of duty within the classifications in the Department. Duty assignments shall not be subject to review by the Commission. Changes in duty assignment, work hours, and/or schedule shall always be at the discretion of the Department Head or his/her designee.

SECTION 22. PHYSICAL REQUIREMENTS AND EXAMINATIONS

See Texas Local Government Code § 143.022.

A. **GENERAL REQUIREMENTS –** Each applicant for entry-level positions shall be required to submit to such physical and mental tests as determined by the Commission 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.

To be eligible for employment as a Firefighter or a Fire Prevention Inspector, an applicant must meet medical requirements based on the current edition of NFPA 1582, the Standard on Comprehensive Occupational Medical Program for Fire Departments.

For additional information, entry-level candidates should review Section 26.B.9 & 10 and promotional candidates should review Section 36 of these Rules.

B. **EXAMINATION APPEAL –** If a beginning applicant is not appointed due to failure to successfully pass the medical, physical fitness portion of the medical, or psychological examinations or if a promotional applicant fails to successfully pass the medical examination, the following steps can be applied:

1. A beginning applicant may request a retest of the physical fitness portion of the medical examination at no expense to the applicant, or

2. A beginning applicant may request another medical or psychological examination by a board of three physicians, psychiatrists, or psychologists, as appropriate, ("the Board") out of a list appointed by the Director and approved by the Commission, at the applicant's expense.

3. A promotional applicant may request a retest of the medical examination at no expense to the applicant.

An applicant's appeal of an examination must be filed with the Director within ten (10) calendar days after the date indicated on the notice of disqualification.

The applicant shall comply with all provisions provided by the Director in regard to completing any additional examinations as allowed under Tex. Local Gov't Code Section 143.022.

The Director shall work with the Board and applicant to complete testing and provide a decision at the earliest possible dates.

The Board shall notify the Director of the panel majority decision, and the Director shall notify the applicant. A Commission meeting is not required.

C. **PROMOTIONAL REQUIREMENTS –** Any candidate for promotion shall successfully complete an appropriate medical examination and drug test. With the approval of the Department Head, an official Department examination taken within six (6) months prior to the date of appointment may be used to satisfy this requirement, or the Department Head may order the candidate to undergo a medical examination and/or drug test prior to promotion.

SECTION 23. ELIGIBILITY FOR BEGINNING POSITION

See Texas Local Government Code § 143.023.

A. MINIMUM ELIGIBILITY REQUIREMENTS

An applicant for Firefighter or Fire Prevention Inspector entry classifications shall meet the following qualifications to be considered for an entry-level position:

1. Be a graduate of an accredited high school or have an equivalency certificate. Applicants shall be required to furnish official transcripts or other competent evidence of completion of the aforementioned academic requirements.

2. Applicants shall be a citizen of the United States.

3. Applicants shall be able to read, write and fluently speak English.

4. Be of good moral character.

5. A person is not eligible to take an entrance examination for a beginning position in the Fire Department unless the person is at least eighteen (18) years of age but not forty-six (46) years of age or older as of date of test. The hiring age range for an Arlington Fire Department Suppression position is 18 to 45 years old. The hiring age range for an Arlington Fire Department Prevention position is 21 to 45 years old.

   Applicant must obtain the age of eighteen (18) years before they are eligible for employment in an Arlington Fire Department Suppression position and twenty-one (21) years before they are eligible for employment in an Arlington Fire Department Prevention position. Applicant must have not exceeded the maximum age limit prior to appointment or the expiration of the eligibility list, whichever occurs first.

6. Makes application in the manner prescribed in the Notice of Examination, and files the application with the Director within the time limits prescribed in the notice of examination.

7. Additional consideration may be given for candidates with existing certifications: Preferably possess certification as a basic Firefighter, or become certifiable at time of appointment, as established by the Texas Commission on Fire Protection (i.e., the AISD Fire Academy Program). At or before the time of entrance examination, applicant shall provide either (1) evidence of certification issued by the Texas Commission on Fire Protection, or (2) evidence of current enrollment in a basic recruit fire training academy approved by the Texas Commission of Fire Protection.

8. Additional consideration may be given for candidates with existing certifications: Preferably possess certification as a (1) Paramedic (more preferable) or (2) an

Advanced EMT or EMT-I by the Texas Department of State Health Services at time of appointment. At or before the time of the entrance examination, applicant shall provide either (1) a Paramedic or Advanced EMT or EMT-I Certificate issued by the Texas Department of State Health Services, or (2) evidence of current enrollment in a Paramedic (more preferable) or Advanced EMT or EMT-I course approved by the Texas Department of State Health Services.

9. Additional consideration may be given for candidates with any other relevant existing certifications.

10. Possess a valid Texas Class B Exempt driver's license that is not in jeopardy of suspension or revocation or be able to obtain one within one (1) year of employment.

11. An Applicant may not be certified as eligible for a beginning position with a Fire Department unless the applicant meets all legal requirements necessary to become eligible for future certification by the Commission on Fire Protection Personnel Standards and Education.

12. An applicant may not be certified as eligible for a beginning position with Fire Prevention unless the applicant meets all legal requirements necessary to become eligible for future licensing by the Texas Commission on Law Enforcement.

13. To the extent the employment standards for beginning Firefighters or Fire Prevention Inspectors as provided in these Rules 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 Department Head with the concurrence of the Director and consent of the Chief Executive when such waiver would be in the best interest of the Fire Department and provided further that such waiver of requirements shall not substantially lower the high standards sought by the City.

SECTION 24. ENTRANCE EXAMINATION NOTICE

See Texas Local Government Code § 143.024.

A. The Director shall cause to be posted in plain view on a bulletin board in the lobby of City Hall and also in the office of the Director the appropriate notices to timely announce upcoming entry-level examinations, as well as the deadlines for accepting and processing applications. Posting of the examination date will be in compliance with the law.

B. An applicant shall complete a City of Arlington Application for Employment and other forms, as prepared by the Director and/or Fire Department, and submit the form(s) to the Director, in order to take an entrance examination. The Director shall notify any applicant who is obviously disqualified for appointment, e.g., exceeding maximum age limit. 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.

C. 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 EXAMINATIONS

See Texas Local Government Code § 143.025.

A. EXAMINATIONS

Applicants must choose one (1) of the two (2) career tracks in the Arlington Fire Department, either the Firefighter track or the Fire Prevention Inspector track, on the application. Only one (1) form of civil service test is provided in the Arlington Fire Department, regardless of the track the applicant chooses. However, if an applicant achieves employment in the Arlington Fire Department, the applicant will remain in the career track they indicated on the application prior to the test, and there will be no lateral moves between the two (2) career paths of Firefighter and Fire Prevention Inspector.

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 develop procedures for administering the entrance examination and designate a Test Administrator, who shall be responsible for administering the examination. The Director may also select one (1) 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. Written examinations shall be purchased from an outside vendor, as determined by the Director.

No person shall deceive or obstruct any person in respect of his/her right of examination under the provision of these Rules and the Chapter 143; or falsely mark, grade, or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion. No applicant may deceive the Commission for the purpose of improving his/her chance for appointment or promotion.

An applicant for an entry-level position shall achieve a passing score of at least seventy percent (70%) before the addition of military service credit points or certification points on the written examination in order to be placed on the eligibility list. Nine (9) points is the maximum number of points that can be added to a passing examination grade. Any applicant who fails to make a grade of at least seventy percent (70%) will be disqualified from being placed on the eligibility list.

B. ENTRANCE EXAMINATION ADMINISTRATION PROCEDURES

Regardless of an applicant's status on previous or current lists, to be eligible for notification of the next exam, applicants must register prior to the cutoff date, which date is established by the Commission or Director acting on behalf of the Commission. Applicants who have registered for the exam will be notified by mail and/or electronic mail of the exact date, time, and place the exam will be held. Applicants are responsible for notifying the Human Resources staff when their address changes. Obvious errors for which, in the Test Administrator's opinion, the City of Arlington is responsible will not prevent a registered

applicant from taking the entrance examination.

1. The Director, because of any good and sufficient reason, may postpone, reschedule, or cancel a fire entrance examination.

2. Check In – An applicant shall be checked in and provide proof of identity with a valid unexpired Driver's License or valid unexpired government issued photo identification card. No applicant shall be admitted once test instructions start. Failure to provide proof of a valid unexpired Driver's License or Government Issued Photo Identification Card will disqualify the applicant from taking the exam. No applicant shall be readmitted to the testing area after withdrawing or leaving the examination room without consent of the Test Administrator.

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 a copy of their DD-214, and their Honorable Discharge Certificate if available and applicable, showing a minimum of one hundred and eighty (180) total days served in the military at the time of application or by the specified application deadline. In lieu of the DD-214, an applicant may provide a letter from their Battalion Commander or equivalent or higher, stating the individual will ETS (Expiration Term of Service) within ninety (90) days of employment and has the expectation of receiving an honorable discharge.

   Any discharge other than honorable discharge is not creditable for the purpose of this section.

4. Certification Points for Fire Suppression Entry Positions – An applicant can obtain a total of four (4) additional points added to a passing examination grade for certifications.
   a. An applicant can obtain two (2) additional points added to a passing test score of seventy percent (70%) or better if the applicant can (1) provide proof of successfully completing the AISD Fire/EMT-B Academy program, or (2) the applicant can provide proof of possessing a current Texas Commission on Fire Protection Firefighter/EMT-B certification. No additional duplicate points will be awarded. The applicant must choose either (1) or (2) for the purposes of this certification credit.

   b. The applicant can obtain two (2) additional points added to a passing test score of seventy percent (70%) or better if the applicant can provide proof of possessing a current Paramedic or Licensed Paramedic certification issued by the Texas Department of State Health Services.

5. Certification Points for Fire Prevention Entry Positions – An applicant can obtain a total of four (4) additional points added to a passing examination grade for certifications.

    a. An applicant can obtain two (2) additional points added to a passing test score of seventy percent (70%) or better if the applicant can provide proof of possessing a current Texas Commission on Fire Protection Fire Inspector certification.
    b. An applicant can obtain two (2) additional points added to a passing test score of seventy percent (70%) or better if the applicant can provide proof of possessing a current Texas Commission on Law Enforcement (TCOLE) peace officer certification.

6. 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. A new application form shall be required for subsequent tests.

7. Test Monitors – The Director shall appoint a Test Administrator and select a reasonable number of persons employed by the City to assist in the administration, proctoring, and grading of entrance examinations.

8. Tobacco (including e-cigarettes) shall be prohibited at all times in the testing area.

9. Inappropriate Behavior – Any applicant may be removed from the testing process for inappropriate behavior during any phase of the application or testing process. A report shall be submitted to the Commission of any such action.

10. 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 no later than forty- eight (48) hours before the date of examination.

11. Guns will not be allowed in the possession of a candidate during the tests.

12. 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 his/her 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, who shall report it to the Commission.
13. Applicants will not be allowed to review the entrance examination before the examination is administered or after the applicant completes the examination.

14. An applicant who receives a passing grade on the entrance exam and who is a natural-born or legally adopted child of a Firefighter who previously suffered a line- of-duty death while covered by Chapter 143 shall be ranked at the top of the respective Fire eligibility list, provided that official documentation, as specified below, is presented to the Director prior to that respective examination date.

a. Proof of line-of-duty death of the parent by:

(1) Verification from the Fire Marshal of the State of Texas, the National Fallen Firefighters Foundation, or the United States Fire Administration; and Verification that, at the time of the parent's death, the decedent was a Firefighter appointed and covered by Chapter 143 or its predecessor, Article 1269m, Vernon's Revised Texas Civil Statutes.

b. Proof of relationship with the deceased Firefighter, i.e., birth certificate or court adoption order.

C. FIRE DEPARTMENT TIE-BREAKERS

Whenever two (2) or more competitors 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 raw score prior to the addition of Veteran's and Certification points.

2. Higher Certification –

   a. Fire Suppression – If a tie still exists, the persons shall be ranked in the order according to which person has a higher emergency medical certification from the Texas Department of State Health Services as first consideration. If equal, then which person has a higher certification as a Firefighter through the Texas Commission on Fire Protection.

   b. Fire Prevention – If a tie still exists, the persons shall be ranked in the order according to which person has a higher certification as a Fire Inspector through the Texas Commission on Fire Protection.

3. Master's Degree – If a tie still exists, the persons shall be ranked in the order according to which person possesses a Master's degree.

4. Bachelor's Degree – If no person possesses a Master's Degree, and 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 no person possesses a Bachelor's degree, and if a tie still exists, the persons shall be ranked in the order according to which person possesses an Associate's degree.

6. Highest number of accredited college hours – if no degree.

7. By earliest date and time stamp of entrance test registration.

D. **ELIGIBILITY LIST –** An eligibility list shall be in effect for one (1) year (365 days), unless the Commission establishes an expiration date of no less than six (6) months and no more than twelve (12) months at the time an exam is posted, or the list is exhausted prior to expiration.

1. 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.

2. Establishing the Entrance Eligibility List – The eligibility list shall be comprised of the total final grades on the written examination, beginning with the highest grade. Grades below seventy percent (70%) on the written examination are not placed on the eligibility list.

3. An additional five (5) points shall be added to the examination grade of an applicant who served in the United States armed forces, received an honorable discharge or a letter from their Battalion Commander, and made a passing grade on the examination.

4. An additional four (4) points shall be added to the examination grade of a Fire Suppression Entry Position applicant who completed the AISD Fire/EMT-B Academy program or possesses a current Texas Commission on Fire Protection Firefighter/EMT-B certification and possesses a current Paramedic or Licensed Paramedic certification issued by the Texas Department of State Health Services.

5. An additional four (4) points shall be added to the examination grade of a Fire Prevention Entry Position applicant that possesses a current Texas Commission on Fire Protection Fire Inspector certification and a current Texas Commission on Law Enforcement (TCOLE) peace officer certification.

6. An applicant may withdraw from consideration for employment by filing a written request with the Director.

7. The Commission or the Director shall have the power to order a re-examination of applicants and the power to correct, amend, or remove any eligibility list in which an error has been made, and the power to remove an applicant's name from the eligibility list if the applicant has become ineligible for appointment in the Fire Department.

SECTION 251. NOT APPLICABLE

See Texas Local Government Code § 143.0251.

SECTION 26. PROCEDURE FOR FILLING BEGINNING POSITIONS

See Texas Local Government Code § 143.026.

The following process begins with the successful completion of the Civil Service entrance examination that is administered by the Director.

An applicant who at any point in this process fails to meet any scheduled appointment, fails to provide any required paperwork by the specified deadline, or otherwise fails to perform as required by the Arlington Fire Department or City of Arlington Human Resources staff, may be disqualified from employment.

Applicant may also be disqualified for employment based on any relevant factual information obtained during the hiring process. When an applicant is disqualified for employment, the Department Head or his/her designee will notify the Director of the reason(s) for the determination in writing.

A. ELIGIBILITY LIST AND REQUEST FOR CERTIFIED LIST

1. The Director provides the Department Head with an Eligibility List (the List) of Applicants. The List is comprised of the names and scores of the applicants who successfully complete the entrance examination. The List is ordered by the exam scores plus any points available for being honorably discharged from the armed services of the United States, and any certification points, from highest to lowest. Tied scores are addressed according to these Rules.

   The List expires when it no longer contains the required number of applicants to form a Certified Eligibility List or when its expiration date arrives.

2. The City Council determines the number of positions allocated to the Fire Department. The Fire Department determines the number of positions to be filled based on vacancies in approved positions. The Department Head determines if and when entry-level positions will be filled, as well as the number of applicants required.

3. Once the Department Head, or his/her designee, determines that a vacancy is to be filled, he/she must send a memo to the Director requesting a Certified Eligibility List of suitable applicants. The Director, acting on the Commission's behalf, determines which, if any, applicants are deemed unsuitable for employment and officially disqualifies them from further consideration. The remaining applicants comprise the Certified Eligibility List.

B. ADDITIONAL REQUIREMENTS FOR EMPLOYMENT

Applicants will be deemed disqualified for employment if the following items are not met and/or if the applicant has deliberately falsified or failed to provide any of the requested

information. The following items are all required, but the order may be varied.

1. Physical Fitness and Physical Ability Test

The Fire Department selects a date for the physical fitness and physical ability test to be held. Firefighter applicants are notified of the date, time, and appropriate attire for this test. Fire Prevention Inspector applicants will not be required to take the physical fitness and ability test.

The physical fitness and ability test for the Fire Department's beginning position of Firefighter is a timed 1 ½ mile run and series of events designed to measure the ability of applicants to perform physical tasks that they may reasonably be expected to encounter as firefighters. It is periodically reevaluated and will continue to be revised as needed to reflect actual requirements of the job. All applicants from the same eligibility list shall be subject to the same physical fitness and ability test within their type of civil service classification. Failure to complete the 1 ½ mile run in the required timeframe results in applicant disqualification. Details of the current specific events utilized in the test can be obtained from the Director.

2. Oral Interviews

The applicants who have passed the physical fitness and ability test, background checks, and polygraph test are requested to report for the oral interview process. The oral interview process consists of an Interview Board and a Fire Chief's Panel Interview.

Interview Board

At the interview, the applicant is presented to a Fire Suppression Interview Board or a Fire Prevention Interview Board.

The Fire Suppression Team Oral Interview Board will be made up of four (4) members from the ranks of FF, AO, LT & Capt. with four (4) alternate members from each rank. Three (3) of those members and three (3) of the alternate members shall come from the Department. One (1) of those members and one (1) of the alternate members shall be an Executive Board member from APFF Local 1329.

The Fire Prevention Team Oral Interview Board will be made up of four (4) members from the ranks of FI, FPS, Inv & DFM. Three (3) of those members shall come from the Department. One (1) of those members shall be an Executive Board member from APFF Local 1329.

Each Interview Board member is issued an evaluation form and asked to assign an applicant a score from zero (0) to one hundred (100) points. The average of those four (4) scores will be calculated and will be the final Oral Interview Board score for each eligible applicant. If an applicant obtains a final Oral Interview Board score of seventy (70) points or more, an applicant will proceed to the Fire Chief's Panel Interview. If an applicant does not pass with a score of seventy (70) points or more, the applicant will be disqualified from any further consideration in the hiring process.

Fire Chief's Panel

The Fire Chief's Panel will interview eligible applicants who have received a score of seventy (70) points or more from the Interview Board. The Department Head shall invite the Assistant Fire Chiefs and/or one or more of the Deputy Chiefs or Battalion Chiefs to attend the Fire Chief's Panel Interview for all eligible applicants.

The Fire Chief's Panel will assign an applicant a score from zero (0) to one hundred (100) points. The Department Head may assign an Assistant Chief to lead the Fire Chief's Panel process. The average of scores will be calculated by the Fire Chief's panel for each eligible applicant. This score will be the final Chief's Panel Interview score for each eligible applicant. If an applicant does not pass with a score of seventy (70) points or more, the applicant will be disqualified.

3. Background Check

The following non-exclusive list of items may be used as a basis for this background check: the Arlington Fire Department employment application; Departmental applicant background questionnaire; pre-polygraph interview form; and the "Department Personal History Statement for Applicants." The applicant's references and other people may be contacted and interviewed. The applicant's work history, driving record, and criminal record will be documented and reviewed.

4. Polygraph Test

Applicants shall be given notification instructing them to report for the polygraph test. The administration of the test may be performed by a private agency and the results are returned to the Fire Department.

5. Suitability Memorandum

Individuals who do not pass the physical fitness and ability test, background check, and polygraph test are not to be certified as suitable for a beginning position. The Department Head or his/her designee must send a memo to the Director stating the cause for unsuitability.

6. Certified Eligibility List

Upon receipt of the Department Head's memo, the Director prepares a "Certified Eligibility List," which certifies qualified, suitable individuals from whom the vacancies are to be filled. The "Certified Eligibility List" shall number two (2) more than the number of vacancies to be filled and shall consist of those applicants remaining on the Eligibility List taken in order until the required number is reached, or the list is exhausted.

7. Conditional Offer of Employment

The Chief Executive or his/her designee may conditionally offer employment to the first applicant on the "Certified Eligibility List" contingent upon passing a drug screen and alcohol test, medical and psychological examinations and being appointed in accordance with Tex. Local Gov't Code Section 143.026.

8. Drug Screen and Alcohol Test

The applicant is instructed to report for a standard drug-screening laboratory test. The test type used is a urine analysis. The applicant may also be instructed to report for a breathalyzer examination to test for alcohol impairment. (A reading of greater than .02% blood alcohol shall be considered failing and render the applicant unsuitable.)

9. Psychological Evaluation

Applicants for a civil service position must be certified by a licensed psychologist or psychiatrist, appointed by the Commission or its designee, to be in satisfactory psychological and emotional health appropriate to the duties and functions of the respective position.

Applicants who fail to be certified as psychologically fit to perform the duties of a Firefighter or a Fire Prevention Inspector by an appointed, licensed psychologist or psychiatrist are deemed unsuitable. In accordance with Tex. Local Gov't Code Section 143.022, applicants deemed unsuitable under this cause may request another examination by an appeals board of three (3) psychiatrists, or psychologists, as appropriate, appointed by the Commission or its designee. The applicant must pay for board examination and provide the Director a release to allow the healthcare provider to disclose information concerning the applicant in accordance with the law. The board's decision is final.

10. Medical Examination

Applicants must be declared physically sound and medically free from defect which may adversely affect the performance of the duties of a Firefighter or Fire

Prevention Inspector. To this end, applicants must be certified by a licensed physician appointed by the Commission or its designee in accordance with Chapter 143 to meet or exceed the physical requirements in (accordance with NFPA 1582) as established by the Commission for the position for which application has been made.

In accordance with Tex. Local Gov't Code Section 143.022, applicants deemed unsuitable under this cause may request another examination by an appeals board of three (3) physicians, appointed by the Commission or its designee. The applicant must pay for board examination and provide the Director a release to allow the healthcare provider to disclose information concerning the applicant in accordance with the law. The board's decision is final.

11. Revocation of Conditional Offer

If the applicant fails to pass any of the conditional requirements in the Chief Executive's Conditional Offer of Employment, then the Conditional Offer of Employment will be revoked, and the applicant will be temporarily or permanently disqualified in accordance with these Rules. The Chief Executive has the right to bypass the highest-grade applicant for good cause in accordance with Tex. Local Gov't Code Section 143.026.

C. PREFERENCE TO CERTIFIED APPLICANTS

In making appointments from an eligibility list, the Chief Executive, at his/her discretion, may give preference to applicants who already possess the required national and/or state certification(s). This may result in non-certified applicant(s) being bypassed to reach certified applicants on the eligibility list. Existing certifications shall constitute a valid reason for bypass under Section 143.026(a) of the Tex. Loc. Gov't Code.

D. CANDIDATE'S ACCEPTANCE

A candidate's offer will be withdrawn if he/she does not notify the Civil Service Office in writing, within seven (7) calendar days, of acceptance of the job offer.

E. REMOVAL OF CANDIDATE FROM ELIGIBILITY LIST

The name of any suitable person who has been offered appointment and declines the appointment may be stricken from the eligibility list by the Director or his/her designee.

F. CAUSES FOR DISQUALIFICATION FOR FIREFIGHTER OR FIRE PREVENTION INSPECTOR APPLICANTS

1. The following causes will result in a **temporary disqualification** of the applicant from employment in the Arlington Fire Department until the standard is met, the applicant successfully retakes the written examination and the applicant is otherwise eligible under these Rules:

   a. Applicant has failed to comply with any of the minimum requirements or qualifications for a beginning position as established by Chapter 143 or these Rules;

   b. Applicant has failed to provide proof of completion of high school, such as a diploma, transcript, General Equivalency Diploma, or other proof which is acceptable to the Department Head;

   c. Applicant has not attained the age of nineteen (18) years at the time the position is offered to the applicant;

   d. Applicant has failed to meet all legal requirements necessary for future licensing and certification as required by the Texas Commission on Fire Protection and Texas Department of State Health Services;

   e. Applicant has failed to meet the standards prescribed by the Texas Commission on Law Enforcement, if the person is being appointed to Fire Prevention Inspector classification;

   f. Applicant has failed to provide proof of discharge for military services or a letter from a Battalion Commander or equivalent or higher, stating that the individual will ETS (Expiration Term of Service) within 90 days of employment;

   g. Applicant driver's license has been suspended within the last two (2) years;

   h. Applicant has a driving record or driving violations that are incompatible with the safe operation of emergency vehicles or which presents potential liabilities to the City of Arlington, including three (3) or more moving violations or preventable accidents in the preceding thirty-six (36) months or reckless driving within the preceding sixty (60) months;

   i. Applicant is not a citizen of the United States of America;

   j. Applicant has failed to demonstrate his/her ability to read, write, and fluently speak the English language;

   k. Applicant was unsuccessful on the written examination;

l. Applicant has not successfully completed the physical fitness and ability test, as determined by the Department;

m. Applicant has unsuccessfully completed a polygraph test;

n. Applicant has failed to receive the required approval for employment by the Commission's psychologist, psychiatrist, or medical doctor;

o. Applicant has failed to complete or satisfactorily meet the employment process requirements of the Fire Department, including but not limited to: missed appointments, failure to return necessary paperwork, failure to notify the Department of changes in address or telephone numbers, or has otherwise failed to complete the proper application process;

p. Applicant has failed to complete or obtain satisfactory results of the Interview Board process;

q. Applicant has admitted conduct that constitutes a Class A or Class B Misdemeanor under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice and/or has accepted probation and/or deferred adjudication for such conduct. Temporary disqualification until the statute of limitation expires for the applicable violation and the applicant has demonstrated an appropriate improvement in judgment;

r. Applicant has been convicted of conduct that constitutes a Class B Misdemeanor (e.g., First Offense DWI) under state or federal law, to include the Uniform Code of Military Justice (UCMJ) or equivalent UCMJ violation within the last ten (10) years;

s. Applicant has been found to have used or has admitted to the recreational use of marijuana within the last two (2) years;

t. Applicant has been found to have used or has admitted to the use of methamphetamines, speed, crank, crack, or any other form of cocaine, steroids, or any other controlled substances without a prescription, or felony grade substances as defined in the Texas Penal Code within the last ten (10) years;

u. Applicant has been found to have abused or has admitted to abuse of legally obtained prescription medications or illegal use of prescription medication of another person. Conduct involving abuse and/or misuse of prescription medication shall be considered on a case-by-case basis with consideration given to circumstances and time of occurrence;

v. Applicant has been found to have used or has admitted to illegal use of anabolic steroids within the last ten (10) years;

w. Applicant has charges that are pending for any criminal offense, other than Class C traffic offenses;

x. Applicant has a history of unstable work including, but not limited to, short terms of employment over the applicant's employment history; termination of employment without proper notice; dismissal from any public safety position; and/or has been disciplined, dismissed, or resigned in lieu of dismissal from any employment for inefficiency, delinquency, misconduct, or policy violations, unless otherwise determined reasonable by the Department Head;

y. Applicant has exercised poor judgment skills within the preceding five (5) years by demonstrating immaturity or poor judgment in the applicant's decision- making process, such conduct including, but not limited to: (1) attendance at parties or social functions at which controlled substances or dangerous drugs are consumed, and such activity is known or should have been known by the applicant; (2) silent acceptance of known illegal conduct by others in his presence; (3) workplace behavior/decisions that adversely affect the business or associates, with little or no objectively justifiable need for such behavior. Applicant is disqualified until judgment shows improvement;

z. Applicant's name appears on the Inspector General (OIG) List of Excluded Individuals/Entities indicating those who have been debarred, suspended, or otherwise deemed ineligible to participate in the federal healthcare programs, managed under the U.S. Department of Health and Human Services (DHHS) (i.e. Medicare and Medicaid) until removed, regardless of whether the applicant's position will include billing;

aa. Applicant is unable to comply with Fire Department Uniform Standards; or

bb. Applicant has a prohibited relationship: Employment of related persons to a Fire Department Deputy Chief, Assistant Chief, or the Fire Chief is not allowed. Employees may not be part of a hiring committee when a relative is considered for a position within the Fire Department. The provisions of this section apply to persons from outside the City workforce who are applying for employment with the Fire Department. Restrictions on persons who are already employed by the Fire Department, and who become related to another person who is employed by the City, are specified in the City of Arlington Personnel Policies.

i. **Scope.** For the purposes of determining a relative relationship (Nepotism) only, Fire Department employee includes probationary, regular full-time and part-time employees.

ii. **Relative.** The following are considered relatives under this provision:

(1) Any person related by blood or adoption as follows:
(a) mother or father
(b) daughter or son
(c) sister or brother
(d) grandmother or grandfather
(e) granddaughter or grandson
(f) niece or nephew
(g) aunt or uncle
(h) first cousins

(2) Any person who is married to any person specified above; or

(3) An employee's spouse and any person related to the employee's spouse as specified above.

iii. **Disclosure.** All persons applying for employment are required to disclose any relative serving as the Mayor or as a Council Member and any relative who is employed by the City.

2. The following causes will result in a **permanent disqualification** of the applicant from employment in the Arlington Fire Department:

a. Applicant is forty-six (46) years old or greater at the time of appointment;

b. Applicant has been convicted of, received deferred adjudication for or probation for a misdemeanor involving moral turpitude, a Class A Misdemeanor, or for a felony under State or Federal law or a Uniform Code of Military Justice equivalent violation, bribery, official oppression, or arson;

c. Applicant has a history of substandard performance and/or a negative recommendation or referral from his/her fire and/or EMS training school, unless otherwise determined by the Department Head;

d. Applicant has made a false statement in any material fact; withheld information, practiced or attempted to practice deception or fraud in his/her application, examination, background investigation, polygraph examination, or medical examination;

e. Applicant has failed a background check or is unable to obtain CJIS area access clearance, unless otherwise determined to be a temporary issue by the Department Head;

f. Applicant has admitted to conduct involving a felony or a crime or act of moral turpitude that, given the nature of the event, has the potential for the conduct to impact the applicant's ability to perform public safety duties and to uphold the expected conduct and image required of a Firefighter or Fire Prevention Inspector;

g. Applicant is registered as a "sex offender";

h. Applicant has been convicted of any family violence offense;

i. Applicant has tested positive for alcohol, marijuana, or any controlled substance on the pre-employment drug and/or alcohol tests;

j. Applicant has been found to have used or has admitted to the use of methamphetamines, speed, crank, crack, or any other form of cocaine on more than three (3) occasions;

k. Applicant has been found to have used or admitted to the use of heroin or any heroin-based substances, opium, PCP, Ketamine, intentionally used LSD, or has sold or distributed marijuana or any other controlled substance; or

l. Applicant has been rejected as a witness by a criminal prosecutor for Brady violations and/or being placed on a Brady list or disclosure list under the Michael Morton Act and/or Section 39.14 of the Code of Criminal Procedure, unless otherwise determined by the Department Head.

m. Applicant has been dismissed from the Arlington Fire Department for inefficiency, misconduct, and/or policy violations.

SECTION 27. PROBATIONARY PERIOD

See Texas Local Government Code § 143.027.

A person appointed to a beginning position in the Fire Department must serve a probationary period of 12 to 18 months, depending on certification beginning on that person's date of employment as a Firefighter, Fire Prevention Inspector, or academy trainee.

A. All pre-certified trainees shall serve a probationary period of twelve (12) months, beginning on the date of employment with the Department. To be considered pre-certified, trainees must have the following certifications:

   a. **Fire Suppression:** Texas Commission on Fire Protection Basic Structural Firefighter AND Texas Department of State Health Services Advanced Emergency Medical Technician (previously known as Emergency Medical Technician Intermediate/EMT-I) or higher.

   b. **Fire Prevention:** Texas Commission on Fire Protection Basic Fire Inspector.

B. All non-certified trainees shall serve a probationary period of eighteen (18) months, beginning on the date of employment with the Department.

C. The Department Head shall have full rights of discharge during the probationary period without the necessity of following the provisions of these Rules pertaining to indefinite suspension or discharge of Firefighters or Fire Prevention Inspectors. Classification trainees discharged during the probationary period have no rights of appeal to the Commission or under City policies. During the probationary period, employees shall not be afforded any rights under these Rules.

D. Fire Trainees may be front loaded vacation leave to be used during their probationary period only with approval of and at the discretion of the Department Head and/or his designee, subject to the City Personnel Policy requirements for terminal pay. Vacation leave for Fire Trainees will not accumulate from year to year in accordance with Local Rule 46.

E. Fire Trainees will not be eligible for the salary continuation program under Local Rule 73 but will be accommodated in accordance with the City Personnel Policy.

SECTION 28. ELIGIBILITY FOR PROMOTION

See Texas Local Government Code § 143.028.

A. A candidate is not eligible for promotion to the rank of Captain or its equivalent unless the person has at least four (4) years of actual service in the Arlington Fire Department. A candidate failing to meet this requirement will be disqualified from taking the promotional exam, unless otherwise allowed by these Rules or state law.

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

C. A Firefighter or Fire Prevention Inspector's prior service, whether part-time or full-time, with the City of Arlington or any other city, does not count toward meeting the two-year requirement established in Tex. Local Gov't Code Section 143.030(b) and (e). A Firefighter or Fire Prevention Inspector who is rehired is not given credit for prior service to determine eligibility to take a promotional examination.

SECTION 29. PROMOTIONAL EXAMINATION NOTICE

See Texas Local Government Code § 143.029.

A. The Director will post for at least ninety (90) days:

1. Newly added fire promotional examination sources. After the required posting such sources may be used for promotional exams and remain valid until withdrawn; and

2. Withdrawn fire promotional examination sources.

B. The 30-day notice of examination required by Tex. Local Gov't Code Section 143.029(b) will not further describe the list of promotional materials, the number of questions taken from each source, nor the chapter used in each source.

CONTENTS OF NOTICE

The notice of promotional examination shall contain the following:

1. Position to be filled;

2. Date, time, and place of examination;

3. Qualifications required to take the examination; and

4. Dates during which registration for test will be conducted.

C. The Director, or the Director's designee, shall post the notice of promotional examination in plain view on a bulletin board located in the main lobby of the City Hall and in the Commission's office before the 30th day before the date of the promotional examination.

D. On the same date that the notice of promotional examination is posted in subsection (c) above, the Director, or the Director's designee, shall send a copy of the notice to AFD members and fire stations through electronic mail. It is the responsibility of the on-duty officer for the station to print and post the notice of promotional examination in an accessible area on the date the notice is issued.

E. In the event a promotional examination must be postponed or otherwise rescheduled, the Director, or the Director's designee, must post the amended notice of promotional examination at least ten (10) calendar days prior to the new examination date in the same manner as Subsection C herein. By the same date, a copy of the notice of promotional examination with the new date will be sent by electronic mail only to those candidates who registered by the original deadline.

SECTION 30. ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION

See Texas Local Government Code § 143.030.

A. A candidate must have held for at least two (2) years, a position in the classification that is immediately below, in salary, the classification for which the examination is to be held. The two-year eligibility requirement to take a promotional examination shall be based upon the date of the promotional examination. A candidate failing to meet this requirement will be disqualified from taking the promotional exam, unless otherwise allowed by these Rules or state law.

B. Exceptions.

1. The Director may lower the two-year eligibility requirement to take a promotional examination to less than two years to persons in the next lower position if one or more of the following conditions exist:

   i. If no personnel pass the written promotional examination and an eligibility list cannot be established; or
   ii. If a promotional eligibility list is exhausted prior to filling all available vacancies and the list was created by an examination open to persons with at least two (2) years' service in the position immediately below the classification for which the examination was held; or
   iii. If there are not enough individuals in the next lower position to provide an adequate number of persons to take the examination.

2. Exhausted promotional eligibility list: If a promotional eligibility list is exhausted prior to filling all available vacancies and was created by an examination open to persons with less than two (2) years' service in the position immediately below the classification, then the Director may open to persons with at least two (2) years' service in the second lower position.

3. Insufficient number in next lower class: If there are not enough individuals in the next lower position with less than two years to provide an adequate number of persons to take the examination, the Director may open the examination to individuals with at least two (2) years' service in the second lower position, or other positions specified by the Director, in order to make the examination competitive.

4. 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 shall open the examination to additional employees, as outlined in Tex. Local Gov't Code Section 143.030(d).

C. The Director or his or her designee must notify the commission if an exam is opened beyond the second lower rank, as soon as practicable.

SECTION 31. NOT APPLICABLE

See Texas Local Government Code § 143.031.

SECTION 32. PROMOTIONAL EXAMINATION PROCEDURE

See Texas Local Government Code § 143.032.

A. Promotional examinations will contain no less than one hundred (100) nor greater than three hundred (300) multiple choice questions.

B. No examinee will be shown another's answer sheet.

C. The Director may, because of any good and sufficient reason, postpone or cancel a fire promotional examination.

D. Any person late to the examination will not be allowed to participate in the written examination and is therefore disqualified from the test.

1. Examinations

a. An examination shall be of such nature that it will test the ability of the person examined to discharge the duties of the particular position to which he/she seeks appointment.

b. 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 and ensuring all exam materials are locked and secured until the date of the test. The Director may also select one (1) or more persons as Test Monitor to assist in the administering, proctoring, and grading of a promotional examination. An examination shall be conducted on an "as needed" basis. Written exams shall be purchased from an outside vendor, as determined by the Director. On the day of the promotional examination the secured exam materials will be taken to the test site and distributed at the beginning of the exam. At the close of the examination after all tests have been scored; the exam materials will be secured and placed in the Civil Service office until the review and appeal process begins.

c. To provide for a competitive promotional examination so as to better serve the public, at least three (3) qualified candidates in the Fire Suppression Division, or at least two (2) in the Fire Prevention Division (depending on the test) in the next lower position with two (2) years' service shall sit for an examination. If there are not the appropriate number of candidates in the next lower position, the Commission shall follow the procedures relating to eligibility for promotional examinations outlined in Tex. Local Gov't Code Section 143.030(d) until the appropriate number of qualified candidates sit for the examination.

d. No person shall deceive or obstruct any person in respect of his/her right of examination under the provision of these Rules and the Civil Service Act; or falsely mark, grade, or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion. No promotional candidate shall deceive the Commission for the purpose of improving his/her chance for appointment or promotion.

2. 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.

3. Promotional Examination Administration Procedures

a. Tobacco shall be prohibited at all times in the testing area.

b. Check In – An examinee shall be checked in and provide proof of identity with a valid unexpired Driver's License or valid unexpired government issued photo identification card. No examinee shall be admitted after the posted time.

c. At the beginning of the promotional examination, roll shall be taken.

d. At the posted examination time, all examinees shall be provided a copy of the test and instructed to read the instructions with the Test Administrator.

e. Instructions will be given as to time and location where examination materials and answer sheets may be reviewed following the examination.

f. All examinations shall be given in the presence of all other persons taking the examination, except as provided in Tex. Local Gov't Code Section 143.032.

g. 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 his/her 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, who shall report it to the Department Head and to the Commission.

h. 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

within forty-eight (48) hours prior to testing date.

For any problems that arise during the promotional examination, the Director is authorized to use his/her judgment to determine a proper course of action. The Director shall thereafter report to the Commission the problem that arose and the course of action he/she determined would best accomplish the goals of the civil service system. The Commission shall thereafter vote to ratify the action taken by the Director or provide other relief, as it may deem appropriate.

E. PROMOTIONAL EXAMINATION PROCEDURES FOR PERSONNEL ON ACTIVE MILITARY DUTY

1. Fire 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 fifty (50) miles from Arlington 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, he/she 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 his/her 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 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 his/her 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, his/her 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 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 his/her 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 his/her commanding officer verifying military operations prevented a response during the 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 Arlington, shall be eligible to file an appeal of the examination as provided in Tex. Local Gov't Code Section 143.034. 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 his/her 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 Arlington Fire 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 and shall not be awarded for years of part-time employment. 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. 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.

3. Certification – If a tie still exists, the candidates shall be ranked in order to which candidate has the highest certification level, if any.

   a. Fire Certifications Considered for Fire Prevention Classification

      (1) Intermediate Fire Inspector
      (2) Advanced Fire Inspector
      (3) Master Fire Inspector

   b. Fire Certifications Considered for Fire Suppression Classification

      (1) Intermediate Firefighter
      (2) Advanced Firefighter
      (3) Master Firefighter

4. Master's Degree – If a tie still exists, the persons shall be ranked according to which person possess a Master's degree.

5. 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.

6. 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.

7. If a tie still exists, the persons shall be ranked in the order according to which person obtained the highest overall ranking in recruit school, as identified by lowest Fire Department identification number.

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 in the lobby 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 business day following the posting of the raw test scores, a promotional candidate may review the examination booklet; his/her 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 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 this visit.

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.

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. In the event a candidate for promotion is serving in the military and takes the examination off-site, the Director may determine the number of days in which the candidate must submit all appeals, and may prescribe the method for the submission of same. In such circumstances, e-mail submission may be used, if determined by the Director to be appropriate.

D. 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.

E. 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 he/she still wishes to appeal. The appellant will then be allowed to make a brief presentation of the reasons for his or her 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 Department Head 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.

8. For members of the public, in addition to the rules stated above:
   a. 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.

b. The City of Arlington 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.

c. Persons who intend to speak shall register with Civil Service staff outside the meeting location on the day of the meeting, beginning 15 minutes prior to the meeting start time, by signing in on the Speaker Sign-In Sheet and including:
   i. the speaker's first and last name;
   ii. the agenda item on which the speaker plans to speak;
   iii. an indication whether the speaker will be speaking through a translator; and
   iv. any other information requested by Civil Service staff.

d. 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.

F. After receiving comments on a question, 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.

G. 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.

H. 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.

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.

When the term "Commission" is used in Tex. Local Gov't Code Section 143.036, the Director may perform the duties specified.

If a person voluntarily declines a promotional appointment for an available vacancy, the person's name shall be returned to its place on the eligibility list and shall be resubmitted to the Department Head if another vacancy occurs. A person's name shall be removed from the eligibility list if they voluntarily decline a promotional appointment two (2) times for the same eligibility list.

The following non-exclusive list of considerations along with failing to meet the eligibility requirements, shall constitute a valid reason for the Department Head to bypass the highest-ranking candidate on a promotional list:

A. Failure to obtain the following:

1. Beginning January 1, 2022, applicants should have 25 hours of college for the rank of Apparatus Operator. If the applicant has an Intermediate Structural Fire Protection Certification, applicants should have 20 college hours.

2. Beginning January 1, 2022, applicants should have 50 hours of college for the rank of Lieutenant. If the applicant has an Advanced Structural Fire Protection Certification, the applicant should have 40 college hours.

3. Beginning January 1, 2022, applicants should have 75 hours of college for the rank of Captain. If the applicant has a Master Structural Fire Protection Certification, the applicant should have 60 college hours.

4. Beginning January 1, 2022, applicants should have 25 hours of college for the rank of Fire Prevention Specialist. If the applicant has TCFP Intermediate Inspector Certification, the applicant should have 20 college hours.

5. Beginning January 1, 2022, applicants should have 50 hours of college for the rank of Fire Prevention Lieutenant. If the applicant has TCFP Advanced Fire/Arson Investigator Certification, the applicant should have 40 college hours.

6. Beginning January 1, 2022, applicants should have 75 hours of college for the rank of Fire Prevention Captain. If the applicant has a TCFP Master Fire Inspector or Master Fire Investigator Certification, the applicant should have 60 college hours.

7. Beginning January 1, 2022, applicants should have a Bachelor's Degree for promotion to the rank Division Chief/Fire Marshal.

8. Beginning January 1, 2022, applicants should have a Bachelor's Degree for promotion to the rank of Division Chief.

B. Failure to pass a drug screen and/or alcohol test.

C. Candidate's receipt of a disciplinary suspension within the last year, or demotion within the last two (2) years, or receipt of a written reprimand or performance improvement plan within the last six (6) months, prior to the promotional date.

D. Failure to maintain educational and/or certification criteria. An employee failing to maintain such criteria may be subject to demotion or other discipline pursuant to Chapter 143. Nothing in this provision is intended to conflict with the provisions of Chapter 143 or any provisions of these Rules, and it is the province of the Department Head to initiate any related disciplinary or demotion process.

E. The Firefighter or Fire Prevention Inspector classification promotional candidate should successfully obtain the required college credit hours and/or degree from an accredited institution of post-secondary education as certified through a commission on higher education of a regional education agency for colleges and universities. Official transcripts must be forwarded by candidates to Fire Administration to provide proof of course completion.

F. Failure to obtain a minimum overall rating of "Satisfactory" on the two (2) most recent performance evaluations conducted prior to the effective date of the current promotional list.

G. Failure to meet the following applicable state certification criteria prior to promotion:

Apparatus Operator	Basic Certification
Lieutenant	Intermediate Certification
Captain	Advanced Certification
Division Chief	Master Certification
Fire Prevention Specialist	TCFP Basic Inspector Certification
Fire Prevention Lieutenant	TCFP Intermediate Inspector Certification; TCFP Arson Investigator; TCOLE Basic Peace Officer
Fire Prevention Captain	TCFP Advanced Inspector Certification; TCOLE Intermediate Peace Officer;

	Hazardous Devices Technician Certification
Division Chief/Fire Marshal	TCFP Master Inspector Certification; TCFP Master Arson Investigator; TCOLE Advance Peace Officer; Hazardous Devices Technician Certification; TCFP Master Fire Marshal Certification

H. For the rank of Apparatus Operator: Failure to complete successfully the Second Driver Training Program and failure to maintain a current Second Driver status prior to the start of the petitioning process; and failure to have passed the most recent physical assessment and pass a competency exercise.

I. For the rank of Lieutenant: Failure to hold Fire Officer I Certification as well as to complete successfully the Officer Development "Emergency Operations" course or Company Officer I course; and failure to have passed the most recent physical assessment.

J. For the rank of Captain: Failure to hold Fire Officer II Certification, and to hold a state certification as a Hazardous Materials Technician within twelve (12) months of promotion to the rank of Captain: and failure to have passed the most recent physical assessment.

K. For the rank of Battalion Chief: Failure to hold state certification as a Hazardous Materials Technician prior to the start of the petitioning process; and failure to have passed the most recent physical assessment.

L. For the rank of Fire Prevention Specialist: Failure to have passed the most recent physical assessment.

M. For the rank of Fire Prevention Lieutenant: Failure to complete successfully the FBI Hazardous Devices School within eighteen (18) months of promotion to the rank of Fire Investigator/Bomb Technician; and failure to have passed the most recent physical assessment.

N. For the rank of Fire Prevention Captain: Failure to have passed most recent physical assessment.

O. For the rank of Division Chief/Fire Marshal: Failure to hold a Hazardous Devices Technician certification; failure to attend the FBI Bomb Squad Commanders course; and failure to have passed the most recent physical assessment

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.

(Sections 39–40 reserved for expansion.)

SECTION 41. SALARY

See Texas Local Government Code § 143.041.
See City of Arlington Personnel Policy.
See City of Arlington Ordinance No. 17-065 and any future amendments. A list of current ordinance amendments attached as Exhibit A.

SECTION 42. ASSIGNMENT PAY

See Texas Local Government Code § 143.042.
See City of Arlington Fire Department Standard Operating Procedures.

SECTION 43. FIELD TRAINING OFFICER ASSIGNMENT PAY – 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 Arlington Fire Department Standard Operating Procedures.
See City of Arlington Ordinance No. 17-065 and any future amendments. A list of current ordinance amendments attached as Exhibit A.

SECTION 45. ACCUMULATION AND PAYMENT OF SICK LEAVE

See Texas Local Government Code § 143.045.
See City of Arlington Personnel Policy.
See City of Arlington Fire Department Standard Operating Procedures.
See City of Arlington Ordinance No. 17-067 and any future amendments. A list of current ordinance amendments attached as Exhibit A.

SECTION 46. VACATIONS

See Texas Local Government Code § 143.046.
See City of Arlington Personnel Policy.
See City of Arlington Fire Department Standard Operating Procedures.
See City of Arlington Ordinance No. 17-066 and any future amendments. A list of current ordinance amendments attached as Exhibit A.

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 Fire 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 Arlington:

1. Conviction of a felony or other crime involving moral turpitude;

2. Violations of an Arlington Charter provision;

3. Acts of incompetency;

4. Neglect of duty;

5. Discourtesy by said employee to the public or to fellow employees while the employee is in the line of duty;

6. Acts of said employee showing a lack of good moral character;

7. Drinking of intoxicants while on duty or intoxication while off duty;

8. Conduct prejudicial to good order;

9. Neglect or refusal to pay just debts;

10. Absence without leave;

11. Shirking duties;

12. Cowardice at fires;

13. Violation of the rules and regulations of the Arlington Fire Department's Standard Operating Procedures, Guidelines, medical and operational protocols, Administrative memos, Department Head memos, Special Orders or Direct Orders and Mandates of the Arlington Fire Department, or of Special Orders as applicable, and City Personnel Policies.

SECTION 52. DISCIPLINARY SUSPENSIONS

See Texas Local Government Code § 143.052.

A. **"CAUSE" FOR SUSPENSION –** 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 his/her Department, who is also mindful of the responsibilities and needs of his/her 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. The term "cause" shall also mean "employee misconduct" and shall necessarily include any act or omission that violates: (a) an applicable provision of Chapter 143, or (b) an applicable rule or regulation duly adopted by the Commission, or (c) the Arlington Fire Department's Orders, Directives and Standard Operating Procedures or (d) the City of Arlington Personnel Policies.

Prior to imposing a suspension, the Department Head may use lesser forms of disciplinary or corrective action. However, nothing herein shall prohibit the Department Head from proceeding directly to the appropriate level of discipline without using progressive discipline if, in the opinion of the Department Head, the employee's misconduct warrants more severe disciplinary action. Progressive disciplines may be used at the discretion of the Department Head.

B. **WORKING OFF SUSPENDED TIME –** A classified employee in the Arlington Fire Department who is suspended less than forty (40) hours for the 40-hour week/2080-hour year employee or less than sixty (60) hours for the 24-hour shift/2912-hour year employee may, upon the employee's request and at the Department Head's sole discretion, forfeit vacation designated by the Department Head for a period equal to the time of the suspension. The employee shall be required to work on the forfeited vacation days. An employee electing to use vacation time to satisfy his suspension agrees to pursue no further appeals. The election must be made prior to appealing to the Commission or a Hearing Examiner.

The employee shall have his/her 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 Department Head within ten (10) days after receiving the Notice of Suspension. Failure to make a written request to the Department Head within the allotted time shall result in an employee not being eligible for the provisions of this Section.

C. **NOTICE TO COMMISSION** -- If the Department Head suspends an employee, the Department Head shall, within one hundred and twenty (120) hours after the hour of suspension, file a written statement with the Commission giving the reasons for the suspension. The Department Head will deliver a copy of the statement in person to the suspended employee.

SECTION 53. APPEAL OF DISCIPLINARY SUSPENSION

See Texas Local Government Code § 143.053.

A. **SCOPE OF MATTERS SUBJECT TO APPEAL –** The following disciplinary matters are subject to appeal only to the Commission and may not be appealed through the City's grievance procedure:

1. Indefinite suspension;
2. Temporary suspension;
3. Demotion; and/or
4. Promotional bypass.

An employee who has voluntarily resigned or retired from his/her position forfeits all rights to utilize the disciplinary appeal processes.

An employee may voluntarily enter a written agreement with the Department Head that expressly evidences his/her 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 appeal.

B. If the appeal is timely and valid, the Director will arrange to have the matter placed on the Commission's agenda or obtain a list of Independent Third-Party Hearing Examiners, as provided under Tex. Local Gov't Code Section 143.057.

C. **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 a 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 alter the 30-day hearing deadline imposed on Commission decision by Chapter 143.

2. At any time after filing of the notice of appeal, the parties may mutually agree to withdraw the appeal from a 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.

D. **DIRECTOR TO COORDINATE ALL MATTERS –** The location and accommodations for a hearing or appeal shall be arranged by the Director. All subsequent matters raised by the appealing employee or the Department ("the parties") regarding attendance, scheduling, requests for subpoenas, request for continuance, etc., shall be coordinated through the Director or the Director's designee. 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.

E. **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 Department Head.

F. **FAILURE TO ATTEND SCHEDULED HEARING –** The Commission or Hearing Examiner shall treat the appealing employee's failure to attend a scheduled appeal hearing or to file a timely request for a continuance as a request to withdraw the appeal. Absent extenuating circumstances, any request for a continuance must be filed with the Director or the Hearing Examiner at least three (3) business days before the date of the hearing.

G. **EMPLOYEE AND DEPARTMENT REPRESENTATIVES**

1. The hearing process shall recognize the right of the employee, as well as the Department, to be represented throughout the 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. An employee or Department representative shall use his/her best efforts to conclude all proceedings smoothly, expediently, and as fairly as possible to all concerned.

3. The function of the representative shall be to articulate the best interests of the employee or the Department represented and to make his/her presentations pertinent to the issue(s) being considered. Dissatisfaction with a representative shall not constitute grounds for modification of the final ruling.

4. A representative or an employee who represents himself/herself shall become familiar with and follow these Rules at all times during the disciplinary appeal process.

5. A problem or concern regarding the manner in which the opposing party or his/her representative is handling a particular disciplinary appeal should be brought to the attention of the Director. The difficulty shall be expeditiously addressed.

H. LIMITED DISCOVERY

1. The Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, and all other Rules of Procedure, whether civil or criminal, 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. Items from Departmental policies, rules, and regulations manuals may be photocopied.

   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.

2. An employee and his/her representative may obtain copies of documents contained in the employee's official civil service file, maintained under Tex. Local Gov't Code Section 143.089(a), after the employee has signed the appropriate release form(s).

3. Before requesting a subpoena duces tecum for the production of documentary material, a party shall first make a request for the materials directly to the other party and provide a reasonable time for a response. If the request is refused or otherwise not produced, then a request may be made to the Commission or Hearing Examiner to issue the subpoena duces tecum. Requests for subpoenas duces tecum shall be submitted the day before the **20th calendar day** before the scheduled hearing will be held. In the event that the submission date falls on a weekend or a City recognized holiday, the deadline will be the first business day after the weekend or the holiday.

4. All requests for subpoenas ad testificandum to compel the attendance of witnesses shall be coordinated through the Director's Office or through the Hearing Examiner. Requests for witness subpoenas shall be submitted the day before the **15th calendar day** prior to the scheduled hearing date in order to be processed in time. The Director may have subpoenas issued on behalf of the Commission. In the event that the submission date falls on a weekend or a City recognized holiday, the deadline will be the first business day after the weekend or the holiday.

   A Fire Department employee will not be paid for attending or appearing as a witness in his or her own appeal hearing, with or without a subpoena, unless the appealing employee requests use of pre-approved time off. A request for time off for an employee to attend his/her own appeal hearing will not be unreasonably denied by the respective Supervisor.

5. The parties will exchange exhibit lists and the identity of all potential witnesses to the other party at least **ten (10) business days** prior to the beginning of the scheduled hearing. Parties must exchange a copy of the exhibits to be used at the hearing with the other party at least **five (5) business days** prior to the beginning of the scheduled hearing. If an exhibit to be used at the hearing is not produced by this deadline, then the Commission or a third-party Hearing Examiner must exclude the exhibit from and not admit the exhibit into the record at the hearing. Unless there is good cause, this rule does not apply to exhibits used as rebuttal evidence.

I. **FORMAT OF APPEAL HEARINGS –** The format for an appeal hearing before the Commission shall be as follows:

1. City's opening statement

2. Employee's opening statement

3. 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

4. Employee's response:

   a. Direct testimony of witness
   b. Cross-examination of witness
   c. Redirect
   d. Additional questions, if any, by Commission

5. Rebuttal by the City, if any:

   a. Direct testimony of witness
   b. Cross-examination of witness
   c. Redirect
   d. Additional questions, if any, by Commission

6. City's closing argument

7. Employee's closing argument

8. City's rebuttal

9. If the case is heard by the Commission, then deliberation in Executive Session

10. If the case is heard by the Commission, then decision and vote in open session

11. If the case is heard by the Hearing Examiner and the parties choose to forgo an oral closing argument in favor of a written brief, each party shall submit a written closing argument brief on the date determined by the Hearing examiner. Since the City bears the initial burden of proof, the City will be entitled to file a closing reply brief that will serve as rebuttal. No further replies may be considered.

J. 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. Each party shall come to the hearing prepared and ready to proceed so as to minimize any disruption of the hearing process. Each party 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 public 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 parties 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. Upon request by either party, the hearing process shall utilize what is commonly known as "the Rule" concerning oral testimony, meaning that a person 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 he/she is 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," a potential witness shall not discuss any aspect of the appeal or hearing except with the attorneys or the representatives involved. Invoking "the Rule" is not mandatory and may be waived in whole or in part by agreement between the parties.

7. The hearing shall then proceed to develop the evidence and testimony as to those contested matters.

8. The City shall make the first presentation of evidence and testimony. Thereafter, the employee shall have the opportunity to respond with his/her own evidence, witnesses, or testimony. Thereafter, the City 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, a Commission member or Hearing Examiner may also ask questions as needed in order to aid his/her consideration of the testimony or evidence.

9. A witness may be sworn and his/her testimony taken under oath or affirmation. A witness is subject to reasonable and relevant cross-examination by the opposing party.

10. The Chairperson, or the Hearing Examiner, shall exercise reasonable control over the questioning of a witness 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 witness from harassment or undue embarrassment.

11. A party and his/her representative shall cooperate in keeping all presentations as brief and to the point as possible. Long drawn-out sessions shall be discouraged. The Commission, or the Hearing Examiner, may establish equal time limits for presentation of each side of the case.

12. A hearing shall remain business-like and focus upon resolution of factual matters. A hearing shall not be a time for accusations, threats, speeches, or arguments. The Commission, or the Hearing Examiner, shall have the discretion to adjourn any meeting where fruitful dialogue ceases.

13. The Commission, or the Hearing Examiner, 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.

14. In the case of a hearing in front of the Commission, before adjourning, the Commission may adjourn to Executive Session to deliberate. Thereafter, the Commission shall reconvene in open session and shall, upon motion and second, vote upon its decision. Thereafter, a written Order containing the Decision shall be prepared and signed by the Commissioners prior to adjourning the hearing.

K. RULES OF EVIDENCE

1. Technical rules of evidence shall not apply nor control the conduct of any hearing. The Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, and all other Rules of Procedure, whether civil or criminal, 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 material and probative 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 material and probative evidence as he/she may desire to aid in the determination of disputed issues.

4. It shall be the province of the Commission, or the Hearing Examiner, to determine:

   a. the admissibility or inadmissibility of any particular evidence or testimony;
   b. the relevance or value, of any evidence or testimony;
   c. the credibility, or lack thereof, of any particular evidence or testimony;
   d. the weight to be given to any particular evidence or testimony.

5. Subject to limited exceptions for compelling reasons shown by a party, the Commission shall refuse to hear or consider any testimony or item of evidence after the hearing has been closed. An example of a "compelling reason" would be where a party has deliberately withheld previously known and duly requested evidence from the other party until the hearing has been closed, and such evidence should have been previously produced as per these Rules.

6. The Commission may receive and consider the evidence of a witness by affidavit and assign same such weight as it deems proper after consideration of objections, if any, made to its admission. On-site inspections are discouraged and shall be conducted only if the evidence to be considered cannot be otherwise presented via stipulations, photographs, videotapes, maps, diagrams, etc.

7. All evidence and testimony shall be presented and received into the record while in open session.

8. When a hearing is to be conducted by the Commission or a Hearing Examiner under Tex. Local Gov't Code Sections 143.052 or 143.054, or a promotional bypass under Tex. Local Gov't Code Section 143.036, the Department Head may submit confidential material from the Departmental Personnel file in camera for the Commission's or Hearing Examiner's consideration. If the Commission or Hearing Examiner decides to admit the confidential documents as evidence, the Commission or Hearing Examiner shall admit them under seal with instructions they are not to be released to any third-party. The Commission or Hearing Examiner shall sign a protective order to this effect and make such order a part of the official record of the hearing. This rule applies equally to hearings conducted under Tex. Local Gov't Code Section 143.057 by Hearing Examiners.

L. 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 Department Head's disciplinary action?

2. The Department Head 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 Department Head 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 Department Head'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 Department Head's action.

5. An employee's mere disagreement or difference in opinion in regard to the Department Head's actions or reasoning shall not constitute grounds to overturn or modify the disciplinary action.

6. If the Commission determines one 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.

M. FINDINGS AND ORDERS OF THE COMMISSION

1. On the basis of the evidence and testimony presented at the hearing, the Commission shall vote and issue a decision on the matter via a written Order finding the truth of the specific charge(s) against the employee, or a written Order finding that the specific charge(s) against the employee is not true.

2. The Commission's decision 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 decision shall be made unanimously.

3. In the event that the charge(s) of misconduct against the employee is found to be "not true," then the final Order shall be promptly to restore the employee to the employee's proper position or status without penalty.

4. In the event that the charge(s) of misconduct against the employee is found to be "true," then the final Order shall clearly state whether the employee is:

   a. Permanently dismissed from the Fire Department; or
   b. Temporarily suspended from the respective Department and shall then set forth the definite time period and conditions of suspension which shall be imposed; or
   c. Demoted (see Tex. Local Gov't Code Section 143.054).

5. The final Order on a disciplinary appeal shall also include such other matters as to resolve the issues under consideration, particularly:

   a. The employee's resulting employment status;
   b. Back pay and other employment benefits; and/or
   c. Mitigation of damages.

6. If modifying the disciplinary action of the Department, the 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.

7. The Commission may consider evidence of facts or events during the disciplinary appeal process 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.

8. A copy of the Department's disciplinary action, a copy of the employee's request for appeal, the record of the proceedings, and a copy of the exhibits submitted together with a copy of the final Order 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. **PROBABLE CAUSE MEETING –** The Commission's consideration of whether there is probable cause to support the Department Head's recommendation for demotion does not require an evidentiary hearing.

B. **APPEAL OF PROBABLE CAUSE FINDING –** If the Commission determines that probable cause exists for a recommended demotion, the Commission shall give the employee a written notice either to appear before to Commission for a public hearing at a specified time and place or appeal the determination to a third-party Hearing Examiner. The Commission shall give the notice to the employee before the 10th day before the date the hearing will be held. The procedures for appeal of the demotion shall be conducted according to the same hearing procedures as set forth above 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, deferred adjudication, or other agreement founded on a pleading of "Guilty" or "No Contest" of a felony shall result in the employee being terminated from his/her position.

All employees must notify their Department Head or acting designee of any arrest and any misdemeanor charge or felony indictment within twenty-four (24) hours of its occurrence. Any employee so arrested, charged, or indicted must report to his/her Department Head the outcome of the arrest, charge, or indictment within twenty-four (24) hours after final disposition. This requirement also applies to all deferred adjudications.

Whenever an employee has been temporarily suspended under Tex. Local Gov't Code Section 143.056(a), then found not guilty of the indictment or complaint, and appeals for back pay under Tex. Local Gov't Code Section 143.056(e), the issue to be determined by the Commission or Hearing Examiner is whether or not, under a preponderance of the evidence, the employee committed any of the criminal acts alleged in the indictment or complaint. If the employee is found by the Hearing Examiner or Commission to have committed any of the acts alleged, including lesser included offenses above the level of Class C Misdemeanor, no back pay shall be awarded. If the employee is found by the Hearing Examiner or Commission to have committed none of the acts alleged, and no lesser included offenses above the level of Class C Misdemeanor, the Commission shall have discretion to award some or all back pay.

A conviction of a lesser included offense above the level of Class C Misdemeanor shall result in a finding that the employee shall not have a basis to appeal to the Commission for back pay.

Entry of an Order of Deferred Adjudication or other agreement founded on a pleading of "Guilty" or "No Contest", because it is founded on a plea of "Guilty" or "No Contest" shall be proof that the actions alleged were committed in the case of a Class A or B Misdemeanor

SECTION 57. HEARING EXAMINERS

See Texas Local Government Code § 143.057.

A. Only a disciplinary action concerning an indefinite suspension, a suspension, a promotional bypass, a recommended demotion, or back pay under Tex. Local Gov't Code Section 143.056(e) is appealable to a Hearing Examiner.

B. The Director shall coordinate with the parties and the agency sponsoring the Hearing Examiner as to all matters regarding scheduling, place of hearing, accommodations, etc.

C. The rule-making power and authority of the Commission is in no way conferred upon and/or delegated to any Hearing Examiner, either by implication or otherwise.

D. In a 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.

E. 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.

F. 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 Department's written statement and the employee's notice of appeal as filed with the Commission, as well as the employee's previous work record with the Department.

G. All hearings conducted by a Hearing Examiner shall also be recorded so as to be capable of clear and accurate reproduction or transcription.

H. If a situation arises pertaining to the administration process of selecting a Hearing Examiner, or meeting notices, or request for rescheduling, refusal, conflict of interest, etc., and the situation is not provided for in 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, the Director may refer the matter to the administrative processes of the entity sponsoring the Hearing Examiner to resolve the situation within its own processes.

I. 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 entity sponsoring the Hearing Examiner, which shall then resolve the dispute according to its own administrative processes. The response shall either excuse the Hearing Examiner and thereafter provide a new list, or it shall provide a written statement of reasons why the Hearing Examiner was not excused.

J. In all cases, the employee filing the appeal shall strike the first name from the list of possible Hearing Examiners.

K. ESSENTIAL ELEMENTS

a. The time limit for appeal to a Hearing Examiner will be the same as for appeal to the Commission.

b. In appeals to a Hearing Examiner, the "rules of evidence" will not be observed.

c. Hearing examiners shall base their decisions on a preponderance of the evidence.

d. All hearings conducted by a Hearing Examiner will be conducted within the City limits of Arlington.

e. Hearing Examiners are limited to the scope of Department Head options when hearing disciplinary appeals. Hearing Examiners may: (1) uphold, reduce, or overturn a temporary suspension; (2) uphold an indefinite suspension; (3) reinstate an indefinitely suspended employee and provide for a reduced suspension; or (4) 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.

f. Hearing Examiners will observe the procedures as described in Tex. Local Gov't Code Sections 143.010, 143.052, 143.053, and 143.057

(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 Texas Local Government Code Section 143.072. 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 Members

1. A Civil Service member may newly enlist or enter into the United States military service. The Civil Service member shall follow the procedure set forth in Texas Local Government Code Section 143.072 in order to obtain an unpaid 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 Civil Service Office and signed by the eligible member; or, if the eligible member is unavailable, then signed by the member's department 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 Arlington, a newly enlisting member may be eligible for annual paid leave and military supplemental pay under the City of Arlington Personnel Policy. Newly enlisting members will not be eligible for Military Leave Time Account donations under Section 75 of these local rules. Any time required over the maximum allowed compensated military leave must be taken without pay.

3. After the granting of a Military Leave of Absence and the start thereof, the Director of Civil Service 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 day, the tie breaking criteria cited in Local Rule 33 shall be utilized to determine the final ranking on the 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 must be laid off but must be placed on a Military Reinstatement List, giving him or her a preferential right to the next subsequent vacancy.

f. Upon reinstatement, a member will receive full seniority credit.

B. Leave of Absence for Members of the Reserves

1. The Director of Civil Service must grant a Reservist Leave of Absence for members to engage in initial training or annual duty in the military reserves or National Guard. 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 Section 75 herein in addition to the annual paid leave and supplemental military pay in the City's Personnel Policy.

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 the Tex. Loc. Gov't Code, 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. Texas Local Government Code Section 143.028(c) applies only to Reservist Leaves of Absence.

C. Reinstatement Requirements for Newly Enlisting Members and Members of the Reserves

1. A member returning from military service must report back to work or apply for reemployment within the time constraints prescribed by USERRA and the City's Personnel Policy, and the member will be reinstated by the Director of Civil Service to the position that he or she held in the department at the time the leave of absence was granted if the employee meets the following requirements, in addition to any requirements under federal law and the City's Personnel Policy:

   a. Member must be separated from service with an honorable discharge;

   b. Members on active duty for a period of one year or more, or on active combat for any time, must pass a return-to-work physical and psychological evaluation to determine whether the member can discharge the duties of their position prior to reinstatement;

   c. A member on a military leave of absence must make an application for reinstatement within 90 days from their discharge date and provide evidence of discharge, separation, or release from military active duty in accordance with the USERRA guidelines.

   d. A member on a reservist leave of absence must reapply within the following timeframes:

      i. A reservist ordered to active duty by the President of the United States for an indefinite period has 90 days to reapply upon expiration of active duty status;

      ii. A reservist who is involuntarily ordered to active duty for training for a period of three to six months has 31 days to reapply upon expiration of active duty status;

      iii. A reservist who is ordered to active duty for 15 days summer encampment, week-end drills, disaster duty, or similar duty must return to regular employment on the next regular working day following release.

   e. Unless otherwise provided under federal law, the member has five years or less of cumulative service in the military during his or her employment relationship; and

f. A member must have provided advanced notice of his or her service except where such notice was prevented by military necessity or was otherwise impossible. The Department of Defense recommends a 30-day notice to employers.

2. It is a member's responsibility to keep their certifications, required by Section 36.G of these Rules 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 his/her 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 he or she enters the uniformed service will upon his or her 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 TLGC, and the City's Personnel Policy, the Department Head may at any time invoke the fitness for duty process authorized by Section 143.081 of the Texas Local Government Code 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 his/her 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. Transitional Assignment Duty 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 his/her employment as determined by the Civil Service 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 Department Head, in consultation with HR, after the classified employee has exhausted his/her Illness or Injury Leave and any extensions granted, and/or the employee has exhausted all Leave Benefits as described herein.

"Transitional 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 8-hour work day.

B. Illness or Injury Leave Requirements

To the extent the City's Personnel Policy Manual does not conflict with these Local 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 the Worker's Compensation Injury Packet using the procedures outlined in the City Personnel Policy Manual. 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 Transitional 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 Civil Service Act. 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 Fire 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 Arlington 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 must submit a request to the Department Head asking for such an extension, and it is in the Department Head's discretion, in consultation with HR, 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 Local 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 his/her FMLA leave in which case Temporary Leave must accommodate the FMLA leave available to the employee. If an employee recovers during the time that he/she is on Temporary Leave, then the employee may apply for reinstatement at the same rank and seniority as he/she 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 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 Policy Manual 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 SOP 101.50.

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 Department Head in consultation with Human Resources.

12. Verification. The Department Head 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 his/her 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 Arlington Fire Department Uniform, including T-Shirts;
5. Carry a City issued weapon; or
6. Display their Fire Department Identification or Special Events Identification card in a manner that may identify them as a member of the Fire Department.

D. Transitional Duty Assignment or Permanent Re-Assignment

To the extent the City's Personnel Policy Manual does not conflict with these Local Rules, any requirements contained therein are incorporated into this Section. The Arlington Fire Department will make every effort to offer a reasonable accommodation to enable an employee to perform the essential functions of his/her position when the employee cannot otherwise perform his/her 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 HR before reporting to work.

2. Transitional 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 Transitional Duty Assignment that the employee can perform. If Transitional 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 Transitional Duty to

classified employees, the Department Head may assign employees to duties outside the Fire Department. Transitional Duty Assignments must be compliant with the City of Arlington Personnel Policy Manual, Chapter 177A of the TLGC and Federal law. A Transitional Duty Assignment may continue for at least one (1) year per illness or injury.

3. Extended Transitional Duty. The Department Head has the option, but is not required, either to approve Extended Transitional 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 Transitional Duty.

4. Re-assessment. An employee on Transitional Duty Assignment is subject to continuous re-assessment to ensure current medical need and estimated length of need. Employees on Transitional Duty Assignments will be required to undergo medical re-evaluations or designated doctor visits as directed.

5. Trainee Accommodations. If the employee is a Fire Trainee at the time of Line of Duty Injury or Illness and can perform duties with restrictions, then the employee may be given a Transitional 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 Department Head and does not disrupt operations.

6. Re-assignment. Upon expiration of the Transitional Duty Assignment and Extended Transitional Duty, the employee may be eligible for permanent re-assignment to a non-classified, vacant position for which he/she is 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.

These rules apply to all classified employees who are returning to work after a Line of Duty Illness or Injury Leave and who are certified by a licensed treating physician selected by TMRS as having recovered from a disability for which the person has been receiving a monthly disability pension in accordance with Section 143.074 of the Texas Local Government Code. These qualifications also apply to classified employees who recover during Temporary Leave and seek reinstatement. Employees must coordinate with Fire Administration to determine first official date of return. The employee must meet the following qualifications:

1. An employee seeking reappointment or reinstatement under these rules must make an application for reappointment or reinstatement and provide evidence of a full medical release from a licensed physician;

2. Employee must pass a return to work physical to determine whether the employee can discharge the duties of his/her position;

3. If the employee has been on disability pension with TMRS or has been on Illness and Injury Leave for more than two (2) years, then the employee must pass a psychological evaluation to determine whether he/she can discharge the duties of his/her position prior to reappointment or reinstatement;

4. If the employee has been on disability pension with TMRS or has been on Illness and Injury Leave for more than ninety (90) days, then the employee must pass a drug and alcohol screening;

5. The employee must keep his/her certifications, required by Section 36.H of these Rules and state law, current during an Illness or Injury Leave, whether in the Line of Duty or off-duty, unless the illness or injury prevents the employee from doing so as determined by the Department Head. In such case, the employee must be able to qualify for a renewed certification;

6. Depending on the duration of the leave, the employee must undergo appropriate training upon return to work and will be evaluated by a supervisor before placement back into operations; and

7. An employee will be responsible for paying any balances owed as a result of overpayment of benefits while on leave. If necessary, the Department Head may approve a payment plan for the employee to repay any amounts owed.

After the employee meets these qualifications, the employee's supervisor must complete a memorandum regarding the employee's fitness for duty status and provide supporting reasons to present to the Civil Service Commission for approval.

SECTION 75. MILITARY LEAVE TIME ACCOUNTS

See Texas Local Government Code § 143.075.

"City Wages" means a fixed amount paid to an employee for work at the City of Arlington that does not include any additional pays such as benefits, overtime, longevity or any other special pays.

"Donated Leave" means unexpired, unused, and available vacation, holiday, or sick pay hours that were accumulated in the same fiscal year (Civil Service fiscal year ending October 29th) as the donation and that are voluntarily donated by Civil Service members of the Arlington Fire Department. Donated Leave will expire at the end of the fiscal year in which it was donated for administrative purposes.

"Eligible Employee" means a regular Civil Service employee from the Arlington Fire Department, who is a member of the Texas National Guard or the armed forces reserves of the United States and was called to active federal military duty while serving as a firefighter and has served on active duty for a period of three (3) continuous months or longer after receiving a **Reservist Leave of Absence** from the Director of Civil Service for the City of Arlington.

"Military Wages" means all pay received by a member of the Texas National Guard or armed forces reservist when called to active duty as reflected on official military orders and the Leave and Earning Statements from the U.S. Military.

A. Military Leave Time Account Eligibility

The Military Leave Time Account is comprised of Donated Leave from Civil Service members of the Arlington Fire Department to be used for salary continuation by Eligible Employees as outlined in this Section. The Finance Department will administer the account and shall equally distribute the necessary number of hours to bring an Eligible Employee's total earnings, including Military Wages, up to the City Wages amount, at the time the Eligible Employee was called to active military service, as determined herein. The Eligible Employee must provide the City with a copy of the official military orders, as well as a Leave and Earning Statement from the U.S. Military on a monthly basis during active duty. Hours will not be distributed in the following instances:

1. The employee has not received an approved Leave of Absence from the Director; or

2. The Military Wages are equal to or greater than the City Wages; or

3. The Eligible Employee has not yet exhausted the fifteen (15) day Annual Paid Leave for military duty provided by the Arlington Personnel Policy; or

4. The Eligible Employee has been on deployment for a period of ninety (90) days or less; or

5. The Eligible Employee is not under military orders but is absent seeking diagnosis or treatment of any service connected sickness, injury or disability.

B. Termination of Eligibility

Any benefits under the Military Leave Time Account will end when one of the following occurs, whichever is earlier:

1. The Eligible Employee returns to work at the City of Arlington; or

2. The Eligible Employee loses military active pay status or is converted to non-pay status; or

3. The Eligible Employee's employment at the City of Arlington terminates; or

4. The Eligible Employee fails to provide a Leave and Earning Statement from the U.S. Military within 45 days from the end of the month; or

5. There are zero hours in the Military Leave Time Account to distribute.

C. Donated Leave

1. Participation in the Military Leave Time Account is voluntary. Both a Civil Service member who wishes to provide Donated Leave, and an Eligible Employee who wishes to use Donated Leave, in the Military Leave Time Account must authorize their request in writing on a form approved by the Director of Civil Service with a copy to Fire Administration.

2. The Director must approve all requests for distributions of hours from the Military Leave Time Account. The Director's decision is final and non-appealable.

3. The Director will announce when donations will be accepted.

4. Donated Leave will be held in reserve for the fiscal year in which it is donated, and then it will expire and be removed from the Military Leave Time Account and shall not be returned to the original donor. All Donated Leave, once donated, is nonrefundable.

5. A Civil Service member may not donate, and an Eligible Employee may not use, any leave accumulated prior to the implementation of Civil Service by the City of Arlington on October 30, 2017, including any "frozen" leave balances.

D. Distribution

1. Time in the Military Leave Time Account will be distributed by the Finance Department using the method outlined in the Civil Service Standard Operating Procedure for distribution of time from the Military Leave Time Account.

2. Fire Administration will be responsible for maintaining records to show hours donated, hours awarded, and the Military Leave Time Account available balance, and for verifying the availability of leave time for the Director.

3. Hours distributed from the Military Leave Time Account are not productive hours or subject to overtime under the Fair Labor Standards Act (FLSA).

4. Any time required over the maximum allowed compensated military leave must be taken without pay.

(Sections 76–80 reserved for expansion.)

SECTION 81. DETERMINATION OF PHYSICAL OR MENTAL FITNESS

See Texas Local Government Code § 143.081.

A. If the Department Head questions whether an employee is mentally or physically fit for duty, the Department Head 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 Department Head 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, Department Head, and Commission, in the form required by the City. The Department Head may allow the employee to continue working in the employee's regular or transitional 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 Department Head's discretion

B. Once the employee's healthcare provider returns the report, the Director or his/her designee, shall file a copy of the confidential report with the Department Head 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 his/her 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 Department Head'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 Department Head agrees with the finding, the Commission shall consider this agreement in reviewing whether the report is true. If the Department Head 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 Department Head 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 Tex. Local Gov't Code Section 143.081(f). 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, Department Head, 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 Department Head 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.

The performance of all employees who are not in entry-level probationary status will be evaluated on a semiannual basis through individual 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.

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 Department Head maintains full rights of discharge during the probationary period.

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.

The Department Head 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, Chapter 143.

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. PERMANENT PERSONNEL FILE

See Texas Local Government Code § 143.089.

(Sections 90–100 reserved for expansion.)

EXHIBIT A

Ordinance	Current Ordinance	Date Modified	Previous Versions
Ord. 17-064 Fire Dept Classifications and Positions	Ord. 24-004 Fire Dept Classifications and Positions	2/13/2024	Ord. 18-079, Ord. 19-050, Ord. 21-054, Ord. 22-017, Ord. 22-042, Ord. 22-049, Ord. 23-015, Ord. 23-056
Ord. 17-065 Special Pays	Ord. 24-006 Special Pays	2/13/2024	Ord. 20-047, Ord. 23-016
Ord. 17-066 Vacation Leave	Ord. 22-023 Vacation Leave	6/28/2022	
Ord. 17-067 Sick Leave	Ord. 24-005 Sick Leave	2/13/2024	Ord. 22-024

CITY OF CEDAR PARK

FIRE FIGHTERS' AND POLICE OFFICERS'

CIVIL SERVICE COMMISSION

RULES AND REGULATIONS

As amended September 13,2019

CITY OF CEDAR PARK CIVIL SERVICE RULES AND REGULATIONS

INTRODUCTION

The purpose of Chapter 143 of the Local Government Code is to secure efficient Fire and Police Departments composed of capable personnel, free from political influence.

These Rules are promulgated in compliance with Chapter 143 of the 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 administer these Rules in the best interest of the Fire and Police Departments.

CITY OF CEDAR PARK
FIRE FIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION
RULES AND REGULATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Section 143.001 PURPOSE

There is hereby established the City of Cedar Park Fire Fighters' and Police Officers' 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 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 Cedar Park Human Resources Policy Manual 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.

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

(1) The proper conduct of Commission business meetings;

(2) The proper conduct of examinations for entry level and promotional eligibility;

(3) The proper conduct of appeals of testing and examination scoring;

(4) The prescribed cause or causes for the removal or suspension of a civil service employee;

(5) The procedures for the hearing of disciplinary appeals concerning suspensions without pay, indefinite suspensions, promotional passovers; recommended demotions; or written promotional examinations; and

(6) 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 143.002 MUNICIPALITIES COVERED BY CHAPTER
See Section 143.002 of Chapter 143

Section 143.003 DEFINITIONS
See Section 143.003, Chapter 143

[Subject to additions, deletions or modifications as additional rules are adopted.]

(1) **APPOINTMENT** - The designation of a person by the City Manager to become an employee in a classified civil service position.

(2) **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.

(3) **CHIEF EXECUTIVE** - The City Manager of the City of Cedar Park.

(4) **CHAPTER 143** - The portion of the Texas Local Government Code containing the civil service provisions.

(5) **CLASSIFICATION** - A position or group of positions that involve similar duties and responsibilities and require similar qualifications.

(6) **COMMISSION** – The City of Cedar Park Fire Fighters' and Police Officers' Civil Service Commission.

(7) **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:

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

(8) **DAY** - Calendar day, unless otherwise specified.

(9) **DEPARTMENT HEAD** - The Fire or Police Chief of the City of Cedar Park.

(10) **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.

(11) **DIRECTOR** - The Director of Civil Service as designated by the City of Cedar Park Fire Fighters' and Police Officers' Civil Service Commission to act in the capacity of Secretary to the Commission and Director of Civil Service, and includes his/her designee.

(12) **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 respective Department prior to any offer of employment being extended.

(13) **MILITARY SERVICE CREDIT** - The points added to the passing score of an entrance examination taken by a qualified veteran.

(14) **RAW SCORE** - The numerical grade based upon the questions correctly answered on an examination.

(15) **SENIORITY –** For the purpose of breaking a tie on a promotional examination, years of service as a full-time peace officer or fire fighter within the Department, whether interrupted or uninterrupted. Seniority points shall be awarded only for whole years of service.

(16) **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 143.004 ELECTION TO ADOPT OR REPEAL CHAPTER
See Section 143.004, Chapter 143

Section 143.005 STATUS OF EMPLOYEES IF CHAPTER ADOPTED
See Section 143.005, Chapter 143

Section 143.006 IMPLEMENTATION: COMMISSION
See Section 143.006, Chapter 143

(1) **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 Chapter 551 of the Government Code (Open Meetings Act), as amended.

A meeting shall be called by the Director at the request of the Chairperson, 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 two (2) hours notice shall be given in accordance with the provisions of the Government Code.

In all matters of procedure not controlled by the provisions of the Local Government Code, the order of business and conduct of meetings shall be in conformity with Robert's Rules of Order. The Commission may, by majority vote, make rules of procedure for the administration of Chapter 143 of the Local Government Code.

(2) **RULES OF THE COMMISSION** -The rules of the Commission currently in effect are only those contained herein. These Rules have been approved by the Commission and shall remain in effect until officially amended, revised or repealed by the Commission.

Amendment to these Rules may be made at any meeting of the Commission and such amendment shall become effective on the date of 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.

(3) **APPOINTMENT, VACANCY AND TERM OF COMMISSIONER** - The City Manager shall appoint and the City Council shall confirm the appointment of the three members of the Commission who meet the required statutory qualifications. The members shall elect one member to serve as Chairperson and one to serve as Vice-Chairperson.

When a vacancy on the Commission occurs, the replacement of Chairperson and Vice-Chairperson shall be handled as follows: 1) in the event of a vacancy in the Chairperson position, the Vice-Chairperson shall

assume the role of Chairperson and an interim election shall be held to elect a new Vice-Chairperson: and 2) in the event of vacancy in the Vice-Chairperson position, an interim election shall be held to fill that office.

Each member of the Commission holds office for a staggered three-year term and thereafter until a successor is appointed and confirmed. An interim vacancy 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.

Section 143.007 REMOVAL OF COMMISSION MEMBER
See Section 143.007, Chapter 143

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.

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, a request shall be made by the Director to the City Manager for a replacement of such member.

Section 143.008 ADOPTION AND PUBLICATION OF RULES
See Section 143.008, Chapter 143

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.

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.

Section 143.009 COMMISSION INVESTIGATIONS AND INSPECTIONS
See Section 143.009, Chapter 143.

Section 143.010 COMMISSION APPEAL PROCEDURE
See Section 143.010, Chapter 143

(1) **ORIGINAL NOTICE OF APPEAL—**The employee’s notice of appeal shall be filed in writing with the Director within ten (10) days after receiving the Notice of disciplinary action from the Department Head. An employee may withdraw his/her request for an appeal at any time, and thereby terminate the appeals process.

The employee’s notice of appeal and request for hearing shall set forth the employee’s basis for appeal in compliance with Chapter 143.

(2) **FAILURE TO TIMELY FILE AN APPEAL OR SET FORTH BASIS FOR APPEAL—**There shall 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 within ten (10) days as 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 state the basis for appeal, the Director shall notify the employee that the appeal shall not be considered.

(3) **SUBPOENA-**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 subpoena duces tecum at least ten (10) days prior to the hearing date. 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 date. 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 date to determine whether to issue, quash or modify the requested subpoena. This meeting may be convened by conference call, at the discretion of the Chairman. 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.

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.

(4) In appeals to the Commission, the "rules of evidence" shall not be observed.

(5) 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 143.011 DECISIONS AND RECORDS
See Section 143.011, Chapter 143

Section 143.012 DIRECTOR
See Section 143.012, Chapter 143

The Director shall 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. The Director shall also act as Secretary to the Commission. The Director's duties include, but are not limited to:

(1) Supervising all examinations, including the preparation, scheduling, scoring and security of test materials;

(2) Coordinating the recruitment and examination of applicants;

(3) Assisting in the classification of Fire and Police Department positions;

(4) Assisting the Chairperson in setting the agenda for the Commission meetings;

(5) Acting as liaison and providing staff support to the Commission;

(6) Determining whether any matter is appropriately brought before the Commission in a reasonable and timely fashion;

(7) Calling, scheduling, rescheduling, and canceling meetings of the Commission;

(8) Acting as records custodian as provided by Chapter 143;

(9) Acting on behalf of the Commission for actions and issues not specifically addressed in Chapter 143 or these Rules;

(10) Establishing and monitoring procedures for the discipline and termination of civil service employees;

(11) 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; and

(12) 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.

Section 143.013 APPOINTMENT AND REMOVAL OF DEPARTMENT HEAD
See Section 143.013, Chapter 143

Section 143.014 APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED IMMEDIATELY BELOW DEPARTMENT HEAD
See Section 143.014, Chapter 143

Section 143.015 APPEAL OF COMMISSION DECISION TO DISTRICT COURT
See Section 143.015, Chapter 143

Section 143.016 PENALTY FOR VIOLATION OF CHAPTER
See Section 143.016, Chapter 143

Section 143.017 COMMISSION PROCEDURES

(1) **RULE OF CONDUCT—**In the discharge of their duties, members of the Commission act as a body and not as individuals. An individual Commission member shall not speak for the Commission unless specially authorized in advance to do so by action of the Commission.

(2) **AGENDA—**The Director shall assist the Chairperson in preparing an agenda for a Commission meeting. If a Commission member wants an item placed on an agenda, he/she shall submit a written request to the Director for consideration by the Chairperson.

(3) **QUORUM—**Two members of the Commission constitute a quorum sufficient to conduct business meetings and hearings.

(4) **CONDUCT OF REGULAR BUSINESS MEETINGS—**The Commission shall set reasonable rules and procedures for proper 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 Chairperson may alter the order of business at his/her discretion.

(4) **MINUTES—**The Secretary of the Commission shall prepare the minutes of each meeting. The minutes of a meeting shall 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. A copy 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 Chairperson, or in the Chairperson's absence, the Vice-Chairperson.

(Sections 143.018 - 143.020 reserved for expansion)

SUBCHAPTER B. CLASSIFICATION AND APPOINTMENT

Section 143.021 CLASSIFICATION; EXAMINATION REQUIREMENT
See Section 143.021, Chapter 143

The civil service positions in the Fire and Police Departments are classified on the basis of similarity in duties and responsibilities.

Section 143.022 PHYSICAL REQUIREMENTS AND EXAMINATION
See Section 143.022, Chapter 143

(1) **GENERAL REQUIREMENTS—**Each applicant for entry-level positions shall be required to submit to such physical and mental tests as determined by the respective Department Heads 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 shall not be appointed.

(2) **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.

(3) **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 143.023 ELIGIBILITY FOR BEGINNING POSITION
See Section 143.023, Chapter 143

(1) **EMPLOYMENT STANDARDS—**To the extent that employment standards for an entry-level fire fighter and police officer as provided in the Civil Service Classification Plan 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 or Police Chief with the concurrence of the Director and consent of the City Manager, when such waiver would be in the best interests of the Fire Department or Police 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.

(2) **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:

(a) Achieve a minimum passing score of seventy (70) percent on the written examination;

(b) Successfully complete the physical ability test;

(c) Pass a background investigation;

(d) Pass oral interviews;

(e) 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;

(f) Be at least eighteen (18) years of age and not more than thirty-five (35) years of age at the time of hire;

(g) Be a graduate of an accredited high school or have an equivalency certificate;

(h) Have a valid Texas driver's license at the date of hire;

(i) Be a citizen of the United States by birth or naturalization;

(j) Be able to read, write, and speak the English language;

(k) Be of good moral character;

(l) Be certified as basic firefighter at time of oral interview, as established by the Texas Commission on Fire Protection and the Texas Department of Health. At or before the time of entrance examination, applicants shall provide either (1) evidence of certifiability issued by the Texas Commission on Fire Protection, or (2) evidence of current enrollment in a basic recruit fire training academy approved by the Texas Commission of Fire Protection; and

(m) Be certified as EMT-Basic or higher by the Texas Department of Health at time of oral interview. At or before the time of entrance examination, applicants shall provide either (1) an EMT Certificate issued by the Texas Department of Health, or (2) evidence of current enrollment in an EMT course approved by the Texas Department of Health.

(3) **MINIMUM ELIGIBILITY REQUIREMENTS FOR POLICE OFFICERS**

An applicant for police officer shall meet the following criteria in order to be considered for an entry-level position:

(a) Achieve a minimum passing score of seventy (70) percent on the written examination;

(b) Pass a background investigation; which may include a polygraph or similar investigative/evaluation tool per discretion of the Department Head.

(c) Successfully complete the physical fitness and/or physical ability test.

(d) Successfully complete the video-based behavioral testing (BPAD) or other situational reasoning testing and assessment;

(e) Pass oral interviews;

(f) 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;

(g) Be at least twenty-one (21) years of age and not more than forty-four (44) years of age at the time of hire. A person who is thirty-six (36) years of age or older and under forty-five (45) years of age may not be certified as eligible for an entry-level position in the Police Department unless the person has at least five years of experience as an active full-time paid peace officer or at least five years of active military duty.

(h) Be a graduate of an accredited high school or have an equivalency certificate;

(i) Have a valid Texas driver's license at the date of hire;

(j) Be a citizen of the United States by birth or naturalization;

(k) Be able to read, write, and speak the English language;

(l) Be of good moral character;

(m) Shall not be prohibited from carrying a firearm or possessing ammunition; and

(n) Be certified as a peace officer as established by the Texas Commission on Law Enforcement at time of examination. Applicant shall provide evidence of certification on or before date of entrance examination.

(4) **CAUSE FOR REJECTION FOR FIRE FIGHTERS AND POLICE OFFICERS**

The City may reject an applicant for one or more of the following reasons listed below. Time calculations for an action that constitutes rejection for a specified period of time shall be calculated from the date the application for employment is submitted by an applicant.

(a) Applicant fails to pass any part of the entrance examinations.

(b) Applicant fails to make application in the manner prescribed in the notice of examination, and/or fails to file the application with the Director within the time limits prescribed in the notice of examination.

(c) Applicant fails to meet Minimum Standards for Initial Licensure as set forth by Texas Commission on Law Enforcement for peace officer candidates or fails to meet any of the minimum requirements expressed in the rules of the Texas Commission on Fire Protection and the Texas Department of Health for fire fighter candidates.

(d) Applicant is not a citizen of the United States of America by birth or naturalization. The applicant shall be considered disqualified until citizenship is obtained in compliance with federal laws.

(e) Applicant fails to demonstrate his/her ability to read, write, and fluently speak the English language. The applicant shall be disqualified until the deficiency is corrected.

(f) Applicant is unable to perform the essential functions of the position to which he/she seeks appointment, with or without reasonable accommodation.

(g) Applicant has been convicted of or admitted to conduct that constitutes a Class A or Class B Misdemeanor, other than DWI/BWI/FWI/DUI, under the Penal Code or equivalent under federal law, to include the Uniform Code of Military Justice (UCMJ), within the past ten (10) years. Conviction of or admission to conduct that constitutes a Class A or Class B Misdemeanor may result in a temporary rejection.

Crimes involving moral turpitude may result in permanent disqualification and shall be considered on a case-by-case basis with appropriate consideration of circumstances and recency.

Applicant has been convicted of or admitted to conduct which constitutes a felony under state or federal law, to include the UCMJ. Conviction of or admission to conduct that constitutes a felony may result in permanent disqualification.

An applicant shall not be considered for employment while charges are pending for any criminal offense or while he/she is currently on probation for any offense.

(h) Applicant has made any false statement in any material fact, withheld information, practiced or attempted to practice any deception or fraud in his/her application, examination or appointment. Depending on the variables involved, rejection may be either permanent or temporary.

(i) Applicant fails to complete or satisfactorily meet the employment process requirement of the respective Department, including missed appointments, failure to return necessary paperwork, failure to notify Department of changes in address or telephone numbers, failure to properly complete any or all application materials, or otherwise fails to complete application process.

(j) Applicant fails to satisfactorily complete the oral interview process, including but not limited to situational based assessment for police officer applicants. An applicant shall be disqualified for failure to verbally communicate effectively and appropriately, failure to demonstrate an understanding of the roles and responsibilities of a fire fighter or police officer, failure to present the maturity expected of a fire fighter or police officer, or failure to accurately and precisely respond to the questions of the interviewers.

(k) Applicant has used illicit substances as indicated by the following guidelines:

(i) An applicant may be temporarily or permanently disqualified if it has been determined by the City that, or he/she has admitted to, conduct which constitutes excessive and/or recent use of illicit substance(s) or excessive use of intoxicants as identified by Texas Penal Code, Texas Health and Safety Code, and/or City of Cedar Park Code of Ordinances, as amended from time to time. Conduct involving excessive and/or recent use of illicit substance or excessive use of intoxicants shall be considered on a case-by-case basis with consideration given to circumstances and recency.

(ii) An applicant may be temporarily or permanently disqualified if it has been determined by the City that, or he/she admitted to conduct which constitutes the use, selling, manufacturing, distributing, or transporting any illegal substance(s), drug(s), or controlled substance(s), other than marijuana, or the selling, manufacturing, or distributing of marijuana within ten (10) years and without legal authorization.

(iii) An applicant may be temporarily disqualified if it has been determined by the City that, or he/she has admitted to, conduct which constitutes the use or transporting of marijuana, or any derivation as defined by the Texas Health and Safety Code, within the two (2) years preceding the date of their application for employment, regardless of the geographical legality of use. The use of marijuana and/or derivatives for medical reasons, regardless of whether or not it was prescribed by a licensed practicing physician, cannot be used as a mitigating factor.

(iv) An applicant may be temporarily or permanently disqualified if it has been determined by the City that, or he/she has admitted to, conduct which constitutes abuse, selling, manufacturing, distributing, or transporting of legally obtained prescription medication(s), or illegal use of the prescription medication(s) of another person. Conduct involving the abuse and/or misuse of prescription medication(s) shall be considered on a case-by-case basis with consideration given to circumstances and recency.

(v) An applicant may be temporarily disqualified if it has been determined by the City that, or he/she has admitted to conduct which constitutes the use of anabolic steroids without a prescription from a licensed practicing physician within the past five (5) years preceding the date of the application for employment.

(vi) An applicant shall be permanently disqualified if it has been determined by the City that, or he/she has admitted to, conduct which constitutes illegal use of felony grade substances as defined in the Texas Health and Safety Code.

(vii) Disqualified candidates, under previous illicit substances rules, shall be eligible to reapply under the revised illicit substances rules.

(viii) The Department Head has final discretion on any illicit substances disqualifiers and the decisions are final and not subject to appeal.

(l) Applicant has a conviction of DWI/BWI/FWI/DUI within the past three (3) years or more than four (4) driving-related violations (moving violations or at-fault accidents) within the past three (3) years. An applicant shall be temporarily disqualified until he/she can meet the above standards.

Fewer, but more severe, violations which tend to indicate driving habits that are not compatible with the operation of emergency vehicles and present potential liabilities to the City, as reasonably determined by the Department Head, shall be temporary disqualifications. Reapplication shall be permitted when the applicant can meet the above standards.

(m) Applicant has been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Said dismissal or resignation shall be considered on a case-by-case basis. Rejection under this provision shall be considered permanent.

(n) Applicant has demonstrated a failure to pay just debts. Due to the variables involved, each situation shall be considered on a case-by-case basis. Factors which shall be considered include, but are not limited to: type and number of debts, reasons for the bad credit, extenuating circumstances, and the potential for the credit-related problems to impact the applicant's judgment and integrity. Resolution of debts may result in requalification.

(o) Applicant has exercised poor judgment skills or demonstrated immaturity in documented situations within the past five (5) years, as reasonably determined by the Department Head. Examples of such conduct would include, but is not limited to: attendance at a party or social function at which controlled substances or dangerous drugs are consumed, and such activity is known or should have been known by the applicant; silent acceptance of known illegal conduct by others in his/her presence; workplace behavior/decisions that adversely affect the business or associates, with little or no objectively justifiable need for such behavior. Rejection for this cause shall be temporary until the applicant can demonstrate that his/her judgment skills have developed.

(p) Applicant has a history of unstable work, including short terms of employment over his/her employment history or a history of employment in an illegal occupation. Rejection under this provision shall be temporary in nature and an applicant shall be eligible for reapplication after a five (5) year period, unless rejection is due to employment an illegal occupation, which shall result in a permanent disqualification. .

(q) Applicant has failed to meet all legal requirements necessary for future licensing and certification as required by the Texas Commission on Law Enforcement or the Texas Commission on Fire Protection. Rejection for this cause shall be temporary until applicant can meet those standards.

(r) Applicant has been discharged from any military service under less than honorable conditions, including specifically:

i. Under other than honorable conditions;
ii. Bad conduct;
iii. Dishonorable; or
iv. Any other characterization of service indicating bad character.

(s) Applicant fails to return a completed Personal History Statement at a time designated by the Department Head.

Section 143.024 ENTRANCE EXAMINATION NOTICE
See Section 143.024, Chapter 143

An applicant shall complete a City of Cedar Park 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 his/her own handwriting or in typed form and shall certify the correctness of the facts.

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 143.025 ENTRANCE EXAMINATIONS
See Section 143.025, Chapter 143

Application for employment shall be made to the Director on the appropriate application forms.

(1) **EXAMINATIONS—**

(a) 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.

(b) No person shall:

(i) deceive or obstruct any person in respect of his/her right of examination under the provision of these rules and the Local Government Code;
(ii) falsely mark, grade or report the examination or standing of any person examined hereunder; or
(iii) aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion.

(c)No applicant may deceive the Commission for the purpose of improving his/her chance for appointment or promotion.

(d) 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.

(2) **ENTRANCE EXAMINATION ADMINISTRATION PROCEDURES**

(a) Smoking shall be prohibited at all times in the testing area.

(b) 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.

(c) Military Service Credit – An applicant who desires to have military service credit of five (5) points added to a passing test score of 70% or better shall provide an original DD-214 showing a minimum of 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.

(d) 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.

(e) Cancellation or postponement of entrance examination - The Commission or Director may cancel or postpone a scheduled entrance examination for sufficient cause.

(f) 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 his/her 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.

(g) 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.

(3) **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:

POLICE DEPARTMENT:

(a) **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.

(b) **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 certified peace officer.

(c) **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 peace officer through TCOLE.

(d) **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.

(e) **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.

(f) **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.

(g) **By Lot—** If a tie still exists, the persons shall be ranked in the order by lot as determined by the Director.

FIRE DEPARTMENT:

(a) **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.

(b) **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.

(c) **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.

(d) **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.

(e) **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.

(f) **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.

(g) **By Lot—** If a tie still exists, the persons shall be ranked in the order by lot as determined by the Director.

(4) **ELIGIBILITY LIST—**An Eligibility List shall be in effect for one (1) year, unless exhausted before one year.

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 143.0251 REAPPOINTMENT OF POLICE OFFICERS AFTER RESIGNATION
See Section 143.0251, Chapter 143

A classified employee who voluntarily resigns from the City of Cedar Park Police Department may be reappointed as a Police Officer with the Department without taking another entrance examination or being placed on an Eligibility List. Reappointment of a classified employee is at the discretion of the Police Chief, in accordance with this Section.

(1) The former officer shall submit a written request to be reappointed, within twenty-four (24) months from the date of separation, to the Police Chief, who makes the final recommendation to the City Manager for reappointment. A candidate for reappointment shall not be considered unless recommended by the Police Chief. A candidate for reappointment may not appeal his/her rejection by the Police Chief.

(2) Prior to recommending reappointment of a former officer to the department, the Police Chief may review past performance records of the officer, conduct a background investigation, require appropriate alcohol and drug tests and require any other portion of the employment process he/she deems appropriate.

(3) The former officer shall successfully complete the physical fitness and/ physical ability test.

(4) Upon receiving an offer of reappointment, the Police Officer shall pass a physical and psychological examination prescribed by the City.

(5) A former officer requesting reappointment shall fully meet the requirements of the Texas Commission On Law Enforcement.

(6) A former officer requesting reappointment may be appointed regardless of the availability of an eligibility list. A former officer has priority over candidates on an eligibility list.

(7) In addition to the reasons for rejection listed in Section 143.023, a former officer may be rejected for reasons related to previous work performance as a Cedar Park Police Officer.

(8) Any former officer reappointed to the Police Department shall serve a one (1) year probationary period and prior service shall not count toward service for promotional eligibility.

(9) The former officer's years of prior service may be counted to determine placement in the salary step system.

(10) The cformer officer's years of prior service shall not count for determining vacation eligibility and rate.

(11) Age limitations, as provided under Chapter 143, Section 143.023(c), do not apply to reappointments.

Section 143.026 PROCEDURE FOR FILLING BEGINNING POSITIONS
See Section 143.026, Chapter 143

Section 143.027 PROBATIONARY PERIOD
See Section 143.027, Chapter 143

Section 143.028 ELIGIBILITY FOR PROMOTION
See Section 143.028, Chapter 143

Section 143.029 PROMOTIONAL EXAMINATION NOTICE
See Section 143.029, Chapter 143

Section 143.030 ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION
See Section 143.030, Chapter 143

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

A rehired fire fighter's prior service with the City does not count toward meeting the two (2) year requirement established in Chapter 143, Section 143.030(b) and (e).

Section 143.031 ELIGIBILITY FOR POLICE DEPARTMENT PROMOTIONAL EXAMINATION
See Section 143.031, Chapter 143

(1) For an employee hired after October 30, 2003, the length of service for determining the eligibility for taking a promotional examination shall include the probationary period in the Police Department. For an employee hired prior to October 30, 2003, the probationary period shall be equivalent to the length of the employee's Field Training Officer program and shall be counted towards eligibility for taking a promotional examination. The length of the probationary period for employees hired prior to October 30, 2003, may be different.

(2) The qualifications for a Lieutenant shall include intermediate certification as a peace officer as established by TCOLE at time of examination.

(3) The qualifications for a Sergeant shall include intermediate certification as a peace officer as established by TCOLE at time of examination.

Section 143.032 PROMOTIONAL EXAMINATION PROCEDURE
See Section 143.032, Chapter 143

(1) **EXAMINATIONS—**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 he/she seeks appointment.

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.

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.

To provide for a competitive promotional examination so as to better serve the public, at least three (3) qualified candidates in the next lower position with two 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) and 143.031(c) until at least three (3) qualified candidates sit for the examination. When more than one 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 shall make a recommendation to the Commission to open the examination to additional employees, as outlined in Section 143.030(d) and 143.031(c).

(2) **PROHIBITED CONDUCT -** No person shall:
(a) deceive or obstruct any person in respect of his/her right of examination under the provision of these rules and the Civil Service Act;
(b) falsely mark, grade or report the examination or standing of any person examined hereunder;
(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; or
(d) shall deceive the Commission for the purpose of improving his/her chance for appointment or promotion.

(3) **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.

(4) **PROMOTIONAL EXAMINATION ADMINISTRATION PROCEDURES**

(a) Smoking shall be prohibited at all times in the testing area.

(b) 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.

(c) Cancellation or postponement of promotional examination - The Commission or Director may cancel or postpone a scheduled promotional examination for sufficient cause.

(d) 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 his/her 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.

(e) 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.

Section 143.033 PROMOTIONAL EXAMINATION GRADES
See Section 143.033, Chapter 143

(1) **SENIORITY POINTS—**Up to ten (10) seniority points shall be added to the score of an examinee who receives a grade of at least 70 percent on the written examination, based upon whole years of service as a

certified fire fighter in the Fire Department or police officer in the Police Department. Each full year of service equals one point. Seniority points shall be awarded only for whole years of service.

(2) **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:

(a) **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.

(b) **Time in Rank** – If a tie still exists, the candidates shall be ranked in the order according to which candidate has the most recent continuous seniority in the position immediately below the position for which the examination was given.

(c) **Seniority in the Department** - If a tie still exists, the candidates shall be ranked in the order according to which candidate has the most seniority with the respective Department in a certified position, whether interrupted or uninterrupted.

(d) **Total Years of Experience as a Certified Fire Fighter or Police Officer**- If a tie still exists, the candidates shall be ranked in the order according to which candidate has the (i) most years of experience as a full-time, paid fire fighter for a position in a Fire Department; or (ii) most years of experience as an active, full-time, paid peace officer for a position in a Police Department.

(e) **Total City Service** – If a tie still exists, the candidates shall be ranked in order according to which candidate has the most total service time with the City, including time in a non-classified position.

(f) **Earliest Date of Initial Application** – If a tie still exists, the candidates shall be ranked in order according to the earliest stamped date and time of initial application for the promotion.

(g) **By Lot** – If a tie still exists, the candidates shall be ranked by lot as determined by the Director.

Section 143.034 REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION
See Section 143.034, Chapter 143

Beginning on the first business day after promotional examination grades are posted, a promotional candidate may review the examination booklet, his/her answer sheet, the answer key, and the source material for the examination in the presence of a monitor(s) designated by the Director. At such time that a promotional candidate submits a written appeal to 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 shall be given to the appellant.

The period of review of test materials begins the first business day after promotional examination grades are posted and is limited to five business days during which an appeal may be filed.

The Commission shall receive a copy of each appeal submitted, the appealed question(s), and the appropriate source reference sheet(s). The appeal information shall not reveal the name of the appellant, prior to the regularly scheduled Commission meeting.

A promotional examination question appealed to the Commission shall be sustained, overruled, or eliminated by a Ruling issued by the Commission.

(a) **Sustain the answer key** (test scores shall remain as reported)

A Ruling which sustains the answer key shall require the Director to accept the answer as given on the answer key, while grading the promotional examinations of all eligible candidates.

(b) **Overrule the answer key** (the Commission shall designate another answer(s) to be accepted)

A Ruling which overrules the answer key shall require the Director to accept two or more answers, as directed in the Ruling, while grading the promotional examination of all eligible candidates.

(c) **Eliminate the test question** (the test question shall not be included)

A Ruling which eliminates the appealed test question shall require the Director to disregard the question and its answer while grading the promotional examination of all eligible candidates.

Formula for calculating scores after appeals:

The formula for calculating the promotional test scores shall be as follows:

(100) / (total number of test questions used) = point value of each question

(# of total test questions)- (# of wrong questions) = # of correct questions

(# of correct questions) x (value of each question) = score

Section 143.035 ALTERNATE PROMOTIONAL SYSTEM IN POLICEDEPARTMENT
See Section 143.035, Chapter 143

Section 143.036 PROCEDURE FOR MAKING PROMOTIONAL APPOINTMENTS
See Section 143.036, Chapter 143

When the term “Commission” is used in Section 143.036 of the Local Government Code, the Director may perform the duties specified.

Section 143.037 RECORD OF CERTIFICATION AND APPOINTMENT
See Section 143.037, Chapter 143

Section 143.038 TEMPORARY DUTIES IN HIGHER CLASSIFICATION
See Section 143.038, Chapter 143

The Department Head may prescribe methods for selecting and making a temporary appointment to a higher classification when there is a vacancy. “Vacancy” does not mean temporary absence.

(Sections 143.039-143.040 reserved for expansion)

SUBCHAPTER C. COMPENSATION

Section 143.041 SALARY
See Section 143.041, Chapter 143

Section 143.042 ASSIGNMENT PAY
See Section 143.042, Chapter 143

Section 143.043 FIELD TRAINING OFFICER ASSIGNMENT PAY
See Section 143.043, Chapter 143

Section 143.044 CERTIFICATION, EDUCATIONAL INCENTIVE, AND FITNESS INCENTIVE PAY
See Section 143.044, Chapter 143

Section 143.045 ACCUMULATION AND PAYMENT OF SICK LEAVE
See Section 143.045, Chapter, 143

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 143.046 VACATIONS
See Section 143.046, Chapter 143

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 143.047 SHIFT DIFFERENTIAL PAY
See Section 143.047, Chapter 143

(Sections 143.048-143.050 reserved for expansion)

SUBCHAPTER D. DISCIPLINARY ACTIONS

Section 143.051 CAUSE FOR REMOVAL OR SUSPENSION
See Section 143.051, Chapter 143

The following are declared to be grounds for dismissal or suspension of any employee from the classified service in the City of Cedar Park:

(1) Filing of an indictment or information for, 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 Cedar Park;

(3) Acts of incompetency;

(4) Neglect of duty;

(5) Discourtesy by said employee to the public or to fellow employees;

(6) Acts of said employee showing a lack of good moral character;

(7) Drinking of intoxicants while on duty or intoxication while off duty;

(8) Conduct prejudicial to good order;

(9) Neglect to pay just debts;

(10) Absence without leave;

(11) Shirking duties or cowardice; or

(12) Violation of any of the rules and regulations of the Fire Department or General Orders of the Police Department; or of special orders as applicable; or of these Rules and Regulations; or of any of the policies in the City Human Resources Policy Manual; or of any other City Ordinance or Policy applicable to Police and Fire Department employees.

Section 143.052 DISCIPLINARY SUSPENSIONS
See Section 143.052, Chapter 143

(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;

(c) Fire Department rules and regulations or Police Department General Orders;

(d) The City's Human Resources Policy Manual; or

(e) Or any other City Ordinance or Policy applicable to Police or Fire Department employees.

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 his/her Department, who is also mindful of the responsibilities and needs of his/her 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.

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

(2) **WORKING OFF SUSPENDED TIME –** A classified employee in the Police or Fire Department who is suspended less than 40 hours in the Police or Fire Department or less than 60 hours in the Fire Department for shift work employees may, upon the employee's request and at the respective Department Head's discretion, forfeit vacation designated by the Department Head for a period equal to the time of the

suspension. The employee shall be required to work on the forfeited vacation days. 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.

The employee shall have his/her 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 Department Head within ten (10) days after receiving the Notice of Suspension. Failure to make a written request to the Department Head within the allotted time shall result in an employee not being eligible for the provisions of this Section.

Section 143.053 APPEAL OF DISCIPLINARY SUSPENSION
See Section 143.053, Chapter 143

(1) **SCOPE OF MATTERS SUBJECT TO APPEAL—**The following disciplinary matters are subject to appeal:

(a) Indefinite suspension;
(b) Temporary suspension;
(c) Demotion; 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. 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.

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

Employee dissatisfaction resulting from a discretionary policy decision or policy matters shall not constitute grounds for disciplinary appeal procedures.

An employee who has voluntarily resigned or retired from his/her position forfeits all rights to utilize the disciplinary appeal processes.

An employee may voluntarily enter a written agreement with the Fire Chief or Police Chief that expressly evidences his/her 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 appeal.

(2) **OPTIONS FOR DISCIPLINARY HEARINGS—**At any time after filing the original notice of appeal but before either party has incurred Hearing Examiner expenses, an employee may withdraw the original request for the Hearing Examiner and either completely waive his/her right to appeal or submit the appeal to a hearing before the Commission. The election shall be made in writing and filed with the Director. If the employee elects to submit the appeal to a hearing before the Commission, the Commission must hold the appeal hearing within thirty (30) days of the withdrawal of the request for a Hearing Examiner.

At any time after filing of the notice of appeal, the employee and the Fire Chief or Police Chief may mutually agree to withdraw the appeal from a Hearing Examiner and submit the appeal to a hearing before the Commission. The mutual agreement shall be made in writing and filed with the Director.

(3) **DIRECTOR TO COORDINATE ALL MATTERS—**The location and accommodations for a hearing or appeal shall be arranged by the Director.

All subsequent matters raised by the appealing employee or the Department ("the parties") 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.

(4) **EXPENSE AND COSTS—**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.

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.

(5) **FAILURE TO ATTEND SCHEDULED HEARING—**The Commission or Hearing Examiner shall treat the appealing employee's failure to attend a scheduled appeal hearing or to file a timely request for a continuance as a request to withdraw the appeal. Any request for a continuance must be filed with the Director or the Hearing Examiner at least three (3) business days before the date of the hearing.

(6) **EMPLOYEE AND DEPARTMENT REPRESENTATIVES—**The hearing process shall recognize the right of the employee, as well as the Department, to be represented throughout the appeal. However, only one representative shall be allowed to speak or otherwise present evidence on behalf of either party throughout the questioning of a particular witness.

An employee or Department representative shall use his/her best efforts to conclude all proceedings smoothly, expediently, and as fairly as possible to all concerned.

The function of the representative shall be to articulate the best interests of the employee or the Department represented and to make his/her presentations pertinent to the issue(s) being considered. Dissatisfaction with a representative shall not constitute grounds for modification of the final ruling.

A representative or an employee who represents him/herself shall become familiar with and follow these Rules and Regulations at all times during the disciplinary appeal process.

A problem or concern regarding the manner in which the opposing party or his/her representative is handling a particular disciplinary appeal should be brought to the attention of the Director. The difficulty shall be expeditiously addressed.

(7) **LIMITED DISCOVERY--**The Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, and all other Rules of Procedure, whether civil or criminal, 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.

Items from Departmental policies, rules and regulations manuals may be photocopied. 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.

An employee and his/her representative may obtain copies of documents contained in the employee's own personnel files after the employee has signed the appropriate release form(s).

(8) **FORMAT OF APPEAL HEARINGS—**The format for an appeals hearing before the Commission shall be as follows:

(a) City's opening statement

(b) Employee's opening statement

(c) The City's (Department's) case:
- (i) Direct testimony of witness
- (ii) Cross-examination of witness
- (iii) Redirect
- (iv) Additional questions, if any, by Commission

(d) Employee's response:
- (i) Direct testimony of witness
- (ii) Cross-examination of witness
- (iii) Redirect
- (iv) Additional questions, if any, by Commission

(e) Rebuttal by the City, if any:
- (i) Direct testimony of witness
- (ii) Cross-examination of witness
- (iii) Redirect
- (iv) Additional questions, if any, by Commission

(f) City's closing argument

(g) Employee's closing argument

(h) City's rebuttal

(i) Deliberation by the Commission in Executive Session

(j) Decision

(9) **HEARING PROCEDURES**

(a) At the scheduled time and place, the hearing shall be called to order.

(b) Each party shall come to the hearing prepared and ready to proceed so as to minimize any disruption of the hearing process. Each party shall bring at least six (6) copies of all documents or exhibits to be considered by the Commission at the hearing.

(c) A record of the public proceedings, capable of clear and accurate reproduction or transcription, shall be made and maintained by the Director.

(d) 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 parties 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.

(e) Unless waived by the parties, 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 Department Head and which forms the basis of the disciplinary action imposed on the employee.

(f) Upon request by either party, the hearing process shall utilize what is commonly known as "the Rule" concerning oral testimony, meaning that a person 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 he/she is 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," a potential witness shall not discuss any aspect of the appeal or hearing except with the attorneys or the representatives involved. Invoking "the Rule" is not mandatory and may be waived in whole or in part by agreement between the parties.

(g) The hearing shall then proceed to develop the evidence and testimony as to those contested matters.

(h) The City shall make the first presentation of evidence and testimony. Thereafter, the employee shall have the opportunity to respond with his/her own evidence, witnesses or testimony. Thereafter, the City 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, a Commission member may also ask questions as needed in order to aid his/her consideration of the testimony or evidence.

(i) A witness may be sworn and his/her testimony taken under oath or affirmation. A witness is subject to reasonable and relevant cross-examination by the opposing party.

(j) The Chairperson shall exercise reasonable control over the questioning of a witness and the presentation of evidence so as to:

(i) effectively ascertain the truth;
(ii) keep such presentations relevant to the issues to be determined; and
(iii) avoid the needless consumption of time and expense.

(k) The Commission may establish equal time limits for presentation of each side of the case.

(l) A hearing shall remain business-like and focus upon resolution of factual matters. A hearing shall not be a time for accusations, threats, speeches or arguments. The Commission shall have the discretion to adjourn any meeting that deteriorates into a "shouting match" or where fruitful dialogue

ceases.

(m) 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.

(n) Before adjourning, the Commission may adjourn to Executive Session to deliberate. Thereafter, the Commission shall reconvene in open session and shall, upon motion and second, vote upon its decision. Thereafter, a written Order containing the Decision shall be prepared and signed by the Commissioners prior to adjourning the hearing.

(10) **RULES OF EVIDENCE**

(a) Technical rules of evidence shall not apply nor control the conduct of any hearing. The Texas Rules of Evidence and all other Rules of Procedure, whether civil or criminal, shall not apply nor govern any aspect of any civil service proceeding.

(b) The scope of evidence to be considered at a disciplinary hearing shall be generally limited to matters material and probative 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.

(c) Either party may offer such material and probative evidence as he/she may desire to aid in the determination of disputed issues.

(d) It shall be the province of the Commission to determine:
(i) The admissibility of any particular evidence or testimony;
(ii) The materiality or probative value, of any evidence or testimony; and
(iii) The weight to be given to any particular evidence or testimony.

(e) Subject to limited exceptions for compelling reasons shown by a party, as reasonably determined by the Commission, the Commission shall refuse to hear or consider any testimony or item of evidence after the hearing has been closed.

(f) The Commission may receive and consider the evidence of a witness by affidavit and assign same such weight as it deems proper after consideration of objections, if any, made to its admission.

(g) On-site inspections are discouraged and shall be conducted only if the evidence to be considered cannot be otherwise presented via stipulations, photographs, videotapes, maps, diagrams, etc.

(h) All evidence and testimony shall be presented and received into the record while in open session.

(11) **ISSUES TO BE DETERMINED IN DISCIPLINARY APPEALS**

(a) Generally, the determinative issues to be considered and determined by the disciplinary action appeal process shall be:

(i) Did cause exist to support the imposing of some form of disciplinary action as to the employee?
(ii) Was the degree of disciplinary action imposed by the Department reasonable under the

circumstances? and

(iii) Has the hearing process developed matters that justify or compel modification of the Department Head's disciplinary action?

(b) The Department Head shall establish the violation(s) by a substantial evidence standard.

(c) It shall be recognized that prior to imposing any form of discipline, the Department Head may use lesser forms of disciplinary or corrective action. However, the failure to utilize progressive discipline shall not in itself be grounds to overturn or otherwise modify a Department Head'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.

(d) The hearing shall provide the employee a reasonable opportunity to produce objective evidence and/or testimony to demonstrate:

(i) That the employee did not commit the misconduct as alleged, i.e., "the allegations are not true"; or

(ii) That even if the employee committed the acts as alleged, that such activity does not constitute actionable misconduct; or

(iii) 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

(iv) A combination of any of these matters would justify or compel modification of the Department Head's action.

(e) An employee's mere disagreement or difference in opinion in regard to the Department Head's actions or reasoning shall not constitute grounds to overturn nor modify the disciplinary action.

(f) If the Commission determines one 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.

(12) FINDINGS AND ORDERS OF THE COMMISSION

(a) On the basis of the evidence and testimony presented at the hearing, the Commission shall vote and issue a decision on the matter via a written Order finding the truth of the specific charge(s) against the employee, or a written Order finding that the specific charge(s) against the employee is not true.

(b) The Commission's decision may be made by the majority vote of two of the three Commissioners present. If only two Commissioners are present, the final decision shall be made unanimously.

(c) In the event that the charge(s) of misconduct against the employee is found to be "not true," then the final Order shall be promptly to restore the employee to the employee's proper position or status.

(d) In the event that the charge(s) of misconduct against the employee is found to be "true," then the final Order shall clearly state whether the employee is:

(i) Permanently dismissed from the Fire or Police Department; or
(ii) Temporarily suspended from the respective Department and shall then set forth the definite time period and conditions of suspension which shall be imposed;
(iii) Demoted (See Section 143.054) or
(iv) Restored to the former position or status.

(e) The final Order on a disciplinary appeal shall also include such other matters as to resolve the issues under consideration, particularly:

(i) The employee's resulting employment status;
(ii) Back pay and other employment benefits; and/or
(iii) Mitigation of damages.

(f) If modifying the disciplinary action of the Department, the 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.

(g) The Commission may consider evidence of facts or events during the disciplinary appeal process 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.

(h) 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 Order shall be filed in the Commission record. The Commission may cite these records as reference material in subsequent determinations.

Section 143.054 DEMOTIONS
See Section 143.054, Chapter 143

The Commission's consideration of whether there is probable cause to support the Department Head'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.

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 143.055 UNCOMPENSATED DUTY OF POLICE OFFICERS
See Section 143.055, Chapter 143

Section 143.056 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 his/her position. No hearing before the Commission or a Hearing Examiner shall be provided.

Section 143.057 HEARING EXAMINERS
See Section 143.057, Chapter 143

(1) Only a disciplinary action concerning an indefinite suspension, a suspension, a promotional passover because of disciplinary history or a recommended demotion is appealable to a Hearing Examiner.

(2) The Director shall 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 Commission is in no way conferred upon and/or delegated to any Hearing Examiner, either by implication or otherwise.

(4) In a 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 and Regulations. 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 Department's written statement and the employee's notice of appeal as filed with the Commission as well as the employee's previous work record with the Department.

(7) A hearing conducted by a Hearing Examiner shall also be recorded so as to be capable of clear and accurate reproduction or transcription.

(8) 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 in Chapter 143 or in these Rules and Regulations, 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, the Director may refer the matter to the administrative processes of the entity sponsoring the Hearing Examiner to resolve the situation within its own processes.

(9) 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 entity sponsoring the Hearing Examiner, which shall then resolve the dispute according to its own administrative processes. The response shall either excuse the Hearing Examiner and thereafter provide a new list, or it shall provide a written statement of reasons why the Hearing Examiner was not excused.

(Sections 143.058-143.070 reserved for expansion)

SUBCHAPTER E. LEAVES

Section 143.071 LEAVES OF ABSENCE; RESTRICTION PROHIBITED
See Section 143.071, Chapter 143

Section 143.072 MILITARY LEAVE OF ABSENCE
See Section 143.072, Chapter 143

Section 143.073 LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE
See Section 143.073, Chapter 143

"Temporary leave" under this section shall not exceed one (1) year.

Section 143.074 REAPPOINTMENT AFTER RECOVERY FROM DISABILITY
See Section 143.074, Chapter 143

Section 143.075 MILITARY LEAVE TIME ACCOUNTS
See Section 143.075, Chapter 143

(Sections 143.076 - 143.080 reserved for expansion)

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

Section 143.081 DETERMINATION OF PHYSICAL OR MENTAL FITNESS
See Section 143.081, Chapter 143

Each employee shall continually remain in such physical and mental condition as to be capable of rendering safe and efficient service to the City and performance of the duties and essential functions assigned to the employee.

Each employee shall be required to submit to a psychological or physical examination where there exists some reasonable basis to believe that the employee's mental or physical fitness for duty is an issue. Determination of the employee's mental and/or physical fitness for duty shall not be subject to Commission or Hearing Examiner's review. The findings of the medical panel as outlined in Chapter 143 shall be determinative and final.

Section 143.082 EFFICIENCY REPORTS
See Section 143.082, Chapter 143

Section 143.083 EMERGENCY APPOINTMENT OF TEMPORARY FIRE FIGHTERS AND POLICE OFFICERS
See Section 143.083, Chapter 143

Section 143.084 CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIRE FIGHTERS AND POLICE OFFICERS
See Section 143.084, Chapter 143

Section 143.085 FORCE REDUCTION AND REINSTATEMENT LIST
See Section 143.085, Chapter 143

Section 143.086 POLITICAL ACTIVITIES
See Section 143.086, Chapter 143

Section 143.087 STRIKE PROHIBITION
See Section 143.087, Chapter 143

Section 143.088 UNLAWFUL RESIGNATION OR RETIREMENT
See Section 143.088, Chapter 143

Section 143.089 PERSONNEL FILE
See Section 143.089, Chapter 143

Access to records of employees in the classified service, employment applications, background investigation records and reports, examinations and answer sheets shall be governed by Chapter 143 of the Texas Local Government Code and the Texas Government Code and appropriate federal statutes.

Section 143.090 RELEASE OF PHOTOGRAPHS OF POLICE OFFICERS
See Section 143.090, Chapter 143

RULES AND REGULATIONS

OF THE

FIREFIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION

CITY OF GEORGETOWN, TEXAS

ADOPTED BY THE CIVIL SERVICE COMMISSION

Origination Date: July 30, 2003
Revision Date: April 19, 2021

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The Firefighters' and Police Officers'
Civil Service Rules and Regulations
of the
City of Georgetown, Texas

PREAMBLE: Pursuant to Chapter 143 of the Texas Local Government Code, the Fire Fighters' and Police Officers' Civil Service Commission of the City of Georgetown, Texas does hereby adopt the following rules and regulations for the administration of the civil service system for the City of Georgetown, Texas (the "City").

CHAPTER A
GENERAL PROVISIONS

001. **PURPOSE**

There is hereby established a Fire Fighters' and Police Officers' Civil Service with the adoption of these Local Civil Service 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 scope and construction of the Rules hereinafter set forth shall be interpreted and applied in a manner to complement Chapter 143. It is intent of these Rules 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 Georgetown Personnel Policies or the residual discretionary authority vested in a department head. The Rules shall apply to all of the classified, non-probationary employees covered under Chapter 143.

002. **MUNICIPALITIES COVERED BY CHAPTER (RESERVED)**

003. **DEFINITIONS**

[Subject to additions, deletions or modifications as additional rules are adopted.]

(1) **APPOINTMENT -** The designation of a person by the City Manager to become an employee in a classified civil service position.

(2) **BUSINESS DAY -** Any day the City is customarily open for normal business. "Business Day" does not refer to the employee's workday or holidays observed by the City.

(3) **CHIEF EXECUTIVE -** The City Manager of the City of Georgetown.

(4) **CHAPTER 143 -** The portion of the Texas Local Government Code containing the civil service provisions.

(5) **CLASSIFICATION -** A position or group of positions that involve similar duties and responsibilities and require similar qualifications.

(6) **CIVIL SERVICE ANNIVERSARY DATE -** The date a person was most recently appointed to a classified civil service position in this city.

(7) **COMMISSION -** The City of Georgetown Firefighters' and Police Officers' Civil Service Commission.

(8) **CONVICTION OR CONVICTED -** A person is convicted if he or she has plead guilty, no contest (Nolo contendere), or been found guilty in a trial, regardless of whether:

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

(9) **DAY -** Calendar day, unless otherwise specified.

(10) **DEPARTMENT HEAD -** The Fire or Police Chief of the City of Georgetown.

(11) **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.

(12) **DIRECTOR -** The Director of Civil Service as designated by the City of Georgetown Civil Service Commission to act in the capacity of secretary to the Commission and Director of Civil Service and includes his or her designee.

(13) **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.

(14) **MILITARY SERVICE CREDIT -** The points added to the passing score of an examination taken by a veteran.

(15) **RAW SCORE -** The numerical grade based upon the questions correctly answered on entrance and promotional examinations unverified and subject to verification by the Commission.

(16) **SENIORITY -** Years of service within the department, whether interrupted or uninterrupted.

(17) **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.

004. **ELECTION TO ADOPT OR REPEAL CHAPTER (RESERVED)**

005. **STATUS OF EMPLOYEES IF CHAPTER ADOPTED (RESERVED)**

006. **IMPLEMENTATION: COMMISSION**

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).

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 two (2) hours notice shall be given in accordance with the provisions the Texas Government Code.

In all matters of procedure not controlled by the provisions of the Texas Local Government Code, chapter 143, the order of business and conduct of meetings shall be in conformity with Robert's Rules of Order. The Commission may, by majority vote, make rules of procedure for the administration of the Texas Local Government Code.

(A) **RULES AND REGULATIONS**

(1) The rules of the Civil Service Commission currently in effect are only those contained herein. These rules have been approved by the Commission and shall remain in effect until officially amended, revised or repealed by the Commission.

(2) Notice of Rules - 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.

(3) 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.

(B) **ENACTMENT**

(1) 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.

(2) These rules completely repeal and replace such earlier rules and regulations as have been adopted by the Civil Service Commission. These rules are made and shall be construed in accordance with Chapter 143. It is intent of these rules to cover situations not mentioned in Chapter 143 or which are ambiguous in Chapter 143.

(3) The scope and construction of the rules hereinafter set forth shall be interpreted and applied within the spirit and intent of Chapter 143. All situations that are not expressly covered by Chapter 143, City ordinances or these rules and regulations shall be resolved in accordance with the City of Georgetown Personnel Rules and Regulations or the residual discretionary authority vested in a department head. These rules and regulations 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.

(C) **CIVIL SERVICE COMMISSION**

(1) **APPOINTMENTS -** The City Manager shall appoint and the City Council shall confirm the appointment of the three members of the Civil Service Commission who meet the required statutory qualifications. 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: 1) 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: 2) 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.

(4) **RESPONSIBILITIES -** 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 discretionary or managerial authority of the City Council, City Manager, Director of Civil Service, or Department Head.

(5) **RULE OF CONDUCT**

(a) 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.

(6) **QUORUM -** Two members of the Commission constitute a quorum sufficient to conduct business meetings and hearings.

(7) **CONDUCT OF BUSINESS MEETINGS -** The Commission may set reasonable rules and procedures for proper 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.

(8) **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.

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

007. REMOVAL OF COMMISSION MEMBER

REMOVAL FROM OFFICE - A member of the Commission may tender his or 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.

If a Civil Service Commission member is absent three (3) meetings during a twelve (12) month period without good and reasonable cause, then 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, a request shall thereafter be made by the Director to the City Manager for a replacement of such member.

008. **ADOPTION AND PUBLICATION OF RULES**

Where there is a conflict between these Rules and other rules pertaining to the employees of the City of Georgetown, then these Rules will 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.

These rules are enacted by the Civil Service 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.

009. **COMMISSION INVESTIGATIONS AND INSPECTIONS (RESERVED)**

010. **COMMISSION APPEAL PROCEDURE**

(A) **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.

(B) **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.

(C) **SUBPOENA**

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. 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.

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.

(D) In appeals to the Commission, the "rules of evidence" shall not be observed.

(E) 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."

011. **DECISIONS AND RECORDS**

Access to records of employees in the classified service including, employment applications, background investigation records and reports, examinations and answer sheets shall be governed by the Texas Local Government Code and the Texas Government Code.

012. **DIRECTOR**

(A) **APPOINTMENT -** The Commission shall appoint a director who shall be responsible for implementing these rules and administering the civil service system.

(B) **DUTIES -** The Director or designee shall also act as secretary to the

Commission and as chief examiner of tests and test appeals. The Director's duties include but are not limited to:

(1) Serves as Secretary to the Commission;
(2) Serves as the chief test examiner for the Commission and supervisor of all examinations, including the preparation, scheduling, scoring and security thereof;
(3) Recruitment and examination of applicants;
(4) Classification of positions;
(5) Sets agenda for Commission meetings;
(6) Acts as liaison and provides staff support to Commission;
(7) Determines whether any matter is appropriately brought before Commission in a reasonable and timely fashion;
(8) Calls, schedules, reschedules, and cancels meetings of the Civil Service Commission;
(9) Acts as records custodian as provided by Chapter 143;
(10) Acts on behalf of Civil Service Commission for actions and issues not specifically addressed in Chapter 143 or these rules;
(11) Recodifies Civil Service Commission rules as necessary in a professional and timely fashion;
(12) Establishes and monitors procedures for the discipline and termination of civil service employees;
(13) Performs such other functions as may be deemed reasonably necessary in regard to the efficient and effective administration of City's civil service system; and
(14) When a specific rule does not address a particular question or issue, it is the responsibility of the Director of the Civil Service Commission to interpret the rules based on circumstances, facts and issues, and take appropriate action.

013. **APPOINTMENT AND REMOVAL OF DEPARTMENT HEAD**

A person that has promoted through the ranks of the Fire or Police Department to Department Head prior to the adoption of Chapter 143 continues to serve in that position at the pleasure of the City Manager. If the Department Head is removed, he or she is entitled to be placed in the rank or classification occupied prior to his or her appointment as Department Head.

014. **APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED IMMEDIATELY BELOW DEPARTMENT HEAD (RESERVED)**

015. **APPEAL OF COMMISSION DECISION TO DISTRICT COURT (RESERVED)**

016. **PENALTY FOR VIOLATION OF CHAPTER (RESERVED)**

017. **MEETINGS OF THE COMMISSION**

The members of the Commission shall, at a date, hour, and place set by the Commission, hold such meetings as may be required in the proper discharge of their duties. Two members of said Commission shall constitute a quorum to transact business. The Director may call, schedule, reschedule or cancel meetings of the Civil Service Commission. All agenda items shall be submitted in a manner prescribed by the Director. The Director shall have discretion to place or not to place on the agenda any item which he/she believes the Commission lacks jurisdiction.

All meetings of the Commission shall be open to the public and to representatives of the press, except to the extent that executive sessions are allowed under the Texas Open Meetings Act, Section 551 of the Texas Government Code.

Notice of all meetings of the Commission shall be given by the Director to the members of the Commission and an agenda shall be posted on the bulletin board at City Hall at least 72 hours prior to any meeting. Only such topics as are listed on the agenda may be acted upon. However, the Commission may meet in an emergency session by complying with the provisions of the Texas Government Code.

The Commission may, by majority vote, make rules of procedure from time to time to implement the administration of these rules.

018. **DEPARTMENT RULES**

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.

CHAPTER B
CLASSIFICATION AND APPOINTMENT

021. **CLASSIFICATION: EXAMINATION REQUIREMENT; JOB DESCRIPTIONS**

The civil service positions in the Fire and Police Departments are classified on a basis of similarity in duties and responsibilities as shown in the list of positions referenced and published in the pay plan for the Fire and Police Departments in the City's budget, adopted annually by City Council.

Only employees of the City authorized by this section shall be classified under

civil service in the Fire or Police Department. These positions should be filled by examination as provided in Chapter 143. All civil service personnel shall receive the salary specified and set forth in the current City budget.

The Department Heads of their respective Departments shall develop job descriptions for each position in each classification. The specifications for the various classifications are to have the following force and effect:

(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.

022. PHYSICAL REQUIREMENTS AND EXAMINATIONS

(A) **GENERAL REQUIREMENTS**:
Each applicant for entry level and promotional positions shall be required to submit to such physical and mental tests as are reasonably necessary and proper to determine the physical and mental ability of the applicant to perform the essential functions required for the position sought. Applicants who are not capable of performing the essential job functions with reasonable accommodation or no accommodation will 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's appeal must be received by the Director or designee, in writing, within 240 hours of initial receipt of notification of rejection.

The applicant must request that the Commission appoint a board of three (3) physicians, psychiatrists, or psychologists, as appropriate, to perform another examination of him or her. The applicant must pay for all costs associated with the board's examination, and the board's determination is final.

023. ELIGIBILITY FOR BEGINNING POSITIONS

To the extent that employment standards for an entry-level fire fighter and police officer as provided in the Civil Service Classification Plan 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 Department Heads with the concurrence of the Director and consent of the City Manager, when such waiver would be in the best interests of the Fire

Department or Police Department and provided further that such waiver of requirements shall not substantially lower the high standards sought by the City.

If requested by the Police Chief, and with the concurrence of the Director and City Manager, at the time the Civil Service Commission approves the eligibility list, applicants who possess TCOLE certification who are on the eligibility list may be given preference, regardless of their position on the list. Applicants shall provide evidence of TCOLE certification at the time they take the test or no later than the time the eligibility list is approved, if they seek to demonstrate eligibility for preference.

If requested by the Fire Chief, and with the concurrence of the Director and City Manager, at the time the Civil Service Commission approves the eligibility list, applicants certified as a basic firefighter who are on the eligibility list or applicants possessing more than three (3) recent ("recent" means within one year preceding the date of application) years' experience as a certified Paramedic, within an active 9-1-1 system that provides ALS services, who are on the eligibility list, may be given preference, regardless of their position on the list. Applicants shall provide evidence of basic firefighter certification and/or the experience as a Paramedic at the time they take the test, or no later than the time the eligibility list is approved, if they seek to demonstrate eligibility for preference.

If preference is given, applicants who have proven the applicable preference shall be considered in the order of their test scores on the entrance examination. After all certified applicants have been considered, the non-certified applicants will be considered, in order of their test scores on the entrance examination. Any changes under this Section shall be based on each hiring process.

(A) **MINIMUM ELIGIBILITY REQUIREMENTS FOR FIRE FIGHTERS.**

(B)

(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) 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;

(6) Be at least eighteen (18) years of age and not be forty-five (45) years of age or older at the time of hire;

(7) Be a graduate of an accredited high school or have an equivalency certificate;

(8) Have a valid Texas driver's license at the date of hire;

(9) Be legally eligible to work within the United States;

(10) Be able to read, write, and speak the English language;

(11) Be of good moral character;

(12) Obtain or possess certifications consistent with Departmental Hiring Policy.

(B) **MINIMUM ELIGIBILITY REQUIREMENTS FOR POLICE OFFICERS**

(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) Successfully complete a polygraph examination;

(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 twenty-one (21) years of age and not be forty-five (45) years of age or older 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 a citizen of the United States by birth or naturalization;

(11) Be able to read, write, and speak the English language;

(12) Be of good moral character;

(13) Shall not be prohibited from carrying a firearm or possessing ammunition; and

(14) Be certified as a peace officer, or certifiable at time of appointment, as established by the Texas Commission on Law Enforcement Officer Standards and Education.

(C) **CAUSE FOR REJECTION FOR FIRE FIGHTERS AND POLICE OFFICERS**

The City may reject an applicant for one or more of the following reasons listed below. Time calculations for an action that constitutes rejection for a specified period of time shall be calculated from the date the application for employment is submitted by an applicant

(1) Failure of the applicant to pass any part of the entrance examinations;

(2) Conviction of or has received deferred adjudication or pre-trial diversion for a Class A or Class B Misdemeanor under the State Law or equivalent under federal law, to include the Uniform Code of Military Justice (UCMJ), within the past ten (10) years. Conviction of a Class A or Class B Misdemeanor may result in a temporary rejection. Crimes involving moral turpitude may result in permanent disqualification and shall be considered on a case-by-case basis with appropriate consideration of circumstances and recency.

Applicant has been convicted of or has received deferred adjudication or pre-trial diversion for a felony under state or federal law, to include the UCMJ. Conviction of a felony may result in permanent disqualification.

Admission to any conduct that could be considered criminal shall be considered on a case-by-case basis with appropriate consideration of circumstances and recency.

An applicant shall not be considered for employment while charges are pending for any criminal offense or while he/she is currently on probation or deferred adjudication for any offense;

(3) Making or knowingly attempting to make a false statement in any material fact in the application, examination, or appointment;

(4) Failure to make application in the manner prescribed in the notice of examination, and/or failure to file the application with the Director within the time limits prescribed in the notice of examination;

(5) If employment of the candidate would result in a violation of the City's Personnel Policy on Employment of Relatives;

(6) Applicant is not a citizen of the United States of America by birth or naturalization. The applicant will be disqualified until citizenship is obtained in compliance with federal laws;

(7) Applicant fails to demonstrate his/her ability to read, write, and fluently speak the English language. The applicant will be disqualified until the deficiency is corrected;

(8) Applicant is unable to perform the essential functions of the position to which he/she seeks appointment, with or without reasonable accommodation;

(9) Failure to complete or satisfactorily meet the employment process requirement of the respective Department, including missed appointments, failure to return necessary paperwork, failure to notify Department of changes in address or telephone numbers, failure to properly complete any or all application materials, or who otherwise fails to complete application process;

(10) Failure to meet Minimum Standards for Initial Licensure as set forth by Texas Commission on Law Enforcement Officer Standards and Education for peace officer candidates or fails to meet any of the minimum requirements expressed in the rules of the Texas Commission on Fire Protection and the Texas Department of State Health Services for fire fighter candidates;

(11) Applicant has been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Said dismissal or termination shall be considered on a case-by-case basis. Rejection under this provision shall be considered permanent;

(12) Applicant has a history of unstable work, i.e., including short terms of employment over his/her employment history; difficulty receiving orders or working with coworkers, etc. Due to the variables involved, each situation shall be considered on a case-by-case basis. Rejection under this provision shall be temporary in nature and an applicant shall be eligible for reapplication after a

five (5) year period;

(13) Applicant has a history of employment in an illegal occupation. Due to the variables involved, each situation shall be considered on a case-by-case basis. Rejection for employment in an illegal occupation shall be permanent in nature;

(14) Applicant has exercised poor judgment skills within the past ten (10) years. The applicant has demonstrated either immaturity or poor judgment in the applicant's decision-making process. Examples of such conduct would include, but is not limited to: attendance at a party or social function at which controlled substances or dangerous drugs are consumed, and such activity is known or should have been known by the applicant; silent acceptance of known illegal conduct by others in his/her presence; workplace behavior/decisions that adversely affect the business or associates, with little or no objectively justifiable need for such behavior. Rejection for this cause shall be temporary until the applicant can demonstrate that his/her judgment skills have developed;

(15) Applicant has demonstrated a failure to pay just debts. Due to the variables involved, each situation shall be considered on a case-by-case basis. Factors which shall be considered include, but are not limited to: type and number of debts, reasons for the bad credit, extenuating circumstances, and the potential for the credit-related problems impacting the applicant's judgment and integrity. Resolution of bad credit may result in re-qualification;

(16) Applicant has been discharged from any military service under less than honorable conditions, including specifically:
(a) Under other than honorable conditions;
(b) Bad conduct;
(c) Dishonorable; or
Any other characterization of service indicating bad character;

(17) Dismissal from public service for delinquency, misconduct, or inefficiency;

(18) Applicant has used illicit substances as indicated by the following guidelines:

An applicant may be temporarily or permanently disqualified if it has been determined by the City that he/she has admitted to conduct which constitutes excessive and/or recent use of illicit substance(s) or excessive use of intoxicants. Conduct involving

excessive and/or recent use of illicit substance or excessive use of intoxicants shall be considered on a case-by-case basis with consideration given to circumstances and recency.

An applicant may be temporarily or permanently disqualified if it has been determined by the City that or he/she has admitted to conduct which constitutes abuse of legally, obtained prescription medication(s), or illegal use of the prescription medication(s) of another person. Conduct involving the abuse and/or misuse of prescription medication(s) shall be considered on a case-by-case basis with consideration given to circumstances and recency.

An applicant may be permanently disqualified if it has been determined by the City that he/she has admitted to conduct which constitutes illegal use of felony grade substances as defined in the Texas Penal Code; or

(19) Applicant has received deferred adjudication or pre-trial diversion for, or has been convicted of Driving while intoxicated, Boating while intoxicated, Flying while intoxicated or Driving under the influence (DWI/BWI/FWI/DUI) within the past five (5) years or more than two (2) moving violations within the past one (1) year period or more than three (3) moving violations within the past two (2) years. An applicant will be temporarily disqualified until he/she can meet the above standards.

Lesser, but more severe, violations which tend to indicate driving habits that are not compatible with the operation of emergency vehicles and present potential liabilities to the City will be considered on a case-by-case basis. Rejection under this provision will be considered permanent.

024. **ENTRANCE EXAMINATION NOTICE**

(A) Applicants shall complete a City of Georgetown Employment Application 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 limits 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, will render the applicant ineligible to take the examination.

(B) Any person shall be considered for appointment to a vacancy in the classified service who has filed an application with the Director in the manner specified in these rules and upon the form furnished by the Director, and whose application has not been rejected by the Director

for cause in accordance with the provisions of these rules. The applicant shall make the application in his/her own handwriting or in typed form and shall certify the correctness of the facts.

(C) The Director may, because of the small number of candidates or because of any other good and sufficient reason (e.g. death in the immediate family, public emergency, unavailability of test site), postpone an examination to a later date.

025. **ENTRANCE EXAMINATIONS**

Application for employment shall be made to the Director on the appropriate application forms. Upon request to the Director or designee, accommodations will be provided to applicants in accordance with the Americans with Disabilities Act. The Director shall set forth the requirements and timelines for receipt of the notification.

Any person shall be permitted to take the entry-level examination so long as the applicant has not been rejected by the Director for cause in accordance with the provisions of these rules.

The Director may, because of the small number of applicants for any position, or because of any other good and sufficient reason, postpone an examination to a later date. Any examination may be cancelled by the Director should its occurrence become unnecessary because of a change in the personnel requirements of the classified service.

The Director shall provide an eligibility list for firefighters after the examination that shall remain in effect for six months unless the Commission sets the duration for twelve months before the test is given. The Director shall provide an eligibility list for police officers after the examination that shall remain in effect for twelve months unless the Commission sets the duration for six months before the test is given.

(A) **EXAMINATIONS**

All examinations shall be of such nature that they will test the relative suitability and ability of the persons examined to discharge the duties of the particular position to which they seek appointment.

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 an assistant to administer tests or examinations. No individual shall deceive or obstruct any person in respect to his/her right of examination under the provision of these rules and the Texas Local Government Code; or falsely mark, grade or report the examination or standing of any person examined hereunder; or aid or

furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion. Applicants shall not deceive the Commission for the purpose of improving their chances for appointment or promotion. Any person found to be cheating on an examination, or otherwise deceiving the Commission for purposes of improving his or her chances for appointment, shall be removed from further consideration and dropped from the eligibility list. Only persons with a passing raw score (70%) will be ranked on the eligibility list.

(1) **APPLICABLE TO FIRE DEPARTMENT APPLICANTS ONLY**

(a) 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.

(b) The deceased fire fighter parent must have been employed by a municipality covered by Chapter 143, Texas Local Government Code.

(c) The applicant must provide the name of the deceased fire fighter parent on his or her 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.

(B) **TIEBREAKERS**

Whenever two (2) or more applicants for entrance positions attain the same grade, the tie shall be broken in the following manner prior to the posting of the certified eligibility list. These criteria are ranked in order of importance.

FIRE DEPARTMENT

(1) **Highest Test Score—** If a tie still 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.

POLICE DEPARTMENT

(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) **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 certified peace officer.

(3) **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 peace officer through TCLEOSE.

(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.

(C) **ENTRANCE EXAMINATION ADMINISTRATION PROCEDURES**

(1) Smoking shall be prohibited at all times in the testing area.

(2) Check In – All applicants shall be checked in and provide proof of identity with a valid Driver's License. No applicant shall be admitted once test instructions start.

(3) Military Service Credit - Those persons who desire to have military service credit of five (5) points added to a passing test score of 70% or better, must provide a DD214 showing a minimum of 180 total days of active military service at the time of application and by the specified application deadline. Any discharge other than honorable discharge is not creditable for the purpose of this section.

(4) Failure to Appear - The applications of persons who fail to appear for the entrance examination shall be voided and shall be disposed of by the Director.

(5) Cancellation of entrance examination - The Director may cancel a scheduled entrance examination for sufficient cause.

(6) Cheating - Any person taking an entrance examination who uses or attempts to use any unfair or deceitful means to answer questions on such an examination shall be informed by the test administrator and the test administrator shall void that person's exam and remove them from the testing site. The test administrator shall report the action to the Director or designee.

(7) Test Monitors - The Director may select a reasonable number of persons employed by the City of Georgetown or an agency of the State of Texas to assist in the administration, proctoring and grading of an entrance examination.

(8) Personal History Statements - Applicants shall be given a personal history statement to be completed and returned at a time designated by the Department Head or designee. Failure to return this form at the prescribed time shall constitute reason for removal from the eligibility list.

(9) Upon request, accommodations will be provided to applicants in accordance with the American with Disabilities Act. Applicants who need special arrangements must submit a request in writing to the Director or designee at a time to be determined by the Director or designee.

(D) **ELIGIBILITY LISTS**

Each person on an eligibility list shall notify the Director of any change in address. Notices sent to a person's last known address shall be

considered sufficient notification.

0251. **REAPPOINTMENT OF POLICE OFFICERS AFTER RESIGNATION**

A classified employee who voluntarily resigns from the City of Georgetown Police Department may be reappointed as a Police Officer with the Department, if there is an available spot, without taking another entrance examination or being placed on an Eligibility List. Reappointment of a classified employee is totally at the discretion of the Police Chief.

(1) The former officer shall submit a written request to be reappointed, within twenty-four (24) months from the date of separation, to the Police Chief, who makes the final recommendation to the City Manager for reappointment. A candidate for reappointment shall not be considered unless recommended by the Police Chief. A candidate for reappointment may not appeal his/her rejection by the Police Chief.

(2) Prior to recommending reappointment of a former classified employee to the department, the Police Chief may review past performance records of the officer, conduct a background investigation, require appropriate alcohol and drug tests and require any other portion of the employment process he/she deems appropriate.

(3) Upon receiving an offer of reappointment, the Police Officer shall pass a physical and psychological examination prescribed by the City.

(4) A candidate for reappointment shall fully meet the requirements of the Texas Commission On Law Enforcement Officer Standards and Education.

(5) A candidate for reappointment may be appointed regardless of the availability of a list of eligibles. A candidate for reappointment has priority over candidates on a list of eligibles.

(6) In addition to the reasons for rejection listed in Section 143.023(C) of these Rules, a candidate for reappointment may be rejected for reasons related to previous work performance as a Georgetown Police Officer.

(7) Any candidate reappointed to the Police Department shall serve a one (1) year probationary period and prior service shall not count toward service for promotional eligibility.

(8) The candidate's years of prior service may be counted to determine placement in the salary step system.

(9) The candidate's years of prior service shall not count for determining vacation eligibility and rate.

(10) Age limitations, as provided under Section 143.023(c), do not apply to re-appointments.

026. **PROCEDURE FOR FILLING BEGINNING POSITIONS (RESERVED)**

027. **PROBATIONARY PERIOD**

A person appointed to an entry level position in the Fire or Police Department who is not previously certified by the Texas Commission on Fire Protection or the Texas Commission on Law Enforcement 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 Fire or Police 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.

028. **ELIGIBILITY FOR PROMOTION (RESERVED)**

029. **PROMOTIONAL EXAMINATION NOTICE (RESERVED)**

030. **ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION**

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

031. **ELIGIBILITY FOR POLICE DEPARTMENT PROMOTIONAL EXAMINATION**

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

032. **PROMOTIONAL EXAMINATION PROCEDURE**

All examinations shall be structured to test a candidate's relative capacity to discharge the duties of the particular position.

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 designee to administer tests and/or examinations.

No individual shall deceive or obstruct any person in respect of his/her right of examination under the provision of these rules and the Civil Service Statue; or falsely mark, grade or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion.

No promotional candidate shall deceive the Commission for the purpose of improving his/her chances for appointment or promotion. Any person acting in

this manner will be disqualified from further consideration for the position sought, and the Department Head may take additional disciplinary action.

Employees shall complete an official ”Notice of Intent to Test” form for each promotional examination, as prescribed by the Director, in order to take a promotional examination. Failure to submit a completed form in the manner prescribed in the Position Opportunity Announcement, and failure to file the form with the Director within the time limits prescribed will render the employee ineligible to take the examination.

To provide for a competitive promotional examination so as to better serve the public, at least two (2) qualified candidates in the next lower position with two years’ of service shall sit for an examination. If there are not two (2) candidates in the next lower position, the Commission shall follow the procedures relating to eligibility for promotional examinations outlined in Section 143.030(d) and 143.031(c) until at least two (2) qualified candidates sit for the examination. When more than one 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 shall make a recommendation to the Commission to open the examination to additional employees, as outlined in Section 143.030(d) and 143.031(c).

The Director may, for good and sufficient reasons, postpone an examination to a later date.

Promotional Examination Administration procedures:

(1) Smoking shall be prohibited at all times in the testing area.

(2) Check In - Candidates shall be checked in and shall provide a valid driver's license as proof of identity. No candidate shall be admitted once test instructions start.

(3) Failure to Appear - The applications of persons who fail to appear for the examination shall be voided and shall be disposed of by the Director.

(4) Cancellation of Examination- The Director may cancel a scheduled examination for sufficient cause.

(5) Cheating - Any candidate taking an examination who uses or attempts to use any unfair or deceitful means to answer questions on such examination shall be informed by the test administrator and the test administrator shall void that person’s exam.

(6) The examiner shall report the action to the Director or designee. Any person acting in this manner will be disqualified from further consideration for the position sought, and the Department Head

may take disciplinary action.

(7) Test Monitors - The Director or designee may select a reasonable number of persons employed by the City of Georgetown or an agency of the State of Texas to assist in the administration, proctoring and grading of an examination.

032A. **PROMOTIONAL EXAMINATION PROCEDURES FOR PERSONNEL ON ACTIVE MILITARY DUTY**

(1) For Fire and Police promotional candidates who are serving on active military duty, outside the State of Texas or more than 200 miles from Georgetown 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) The Director is authorized to coordinate all testing under this subsection and may exercise discretion necessary to ensure the secrecy of the examination and to assure proper administrative procedures are followed.

(3) 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.

(4) 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.

(5) Promotional candidates must notify the Director at least 25 days in advance of the examination of their desire to have the examination administered off-site.

(6) 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 his or her best efforts to inform the employees serving active military duty of upcoming promotional examinations.

033. **PROMOTIONAL EXAMINATION GRADES**

Whenever two (2) or more candidates obtain identical total final scores, the following procedures will be used to break the tie and determine placement on the final eligibility list for promotion:

(a) **Highest Test Score –** If two (2) or more candidates tie on total

final scores, the persons shall be ranked in the order according to which person had the highest examination raw score prior to the addition of seniority points and after the Commission's determination of appeals, if any.

(b) **Seniority Rank –** If a tie still exists, the candidates shall be ranked in the order according to which candidate has the most seniority in the position immediately below the position for which the examination was given.

(c) **Seniority in Department -** If a tie still exists, the candidate shall be ranked in the order according to which candidate has the most seniority with the respective Department in a certified position, whether interrupted or uninterrupted.

(d) **Total Years as a Certified Fire Fighter or Police Officer -** If a tie still exists, the candidates shall be ranked in the order according to which candidate has the (i) most years of experience as a full-time, paid fire fighter for a position in a Fire Department; or (ii) most years of experience as an active, full-time, paid peace officer for a position in a Police Department.

(e) **Total City Service -** If a tie still exists, the candidates shall be ranked in order according to which candidate has the most total service time with the City, including time in a non-classified, permanent position.

(f) **By Lot –** If a tie still exists, the candidates shall be ranked by lot as determined by the Director.

034. **REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION**

Upon completion of grading, each promotional candidate by himself or herself may review his/her examination and answers, the examination grading, and the source material for the examination in the presence of a monitor(s) designated by the Director. Any appeal must be filed within five (5) business days after the examination is graded. At such time that a promotional candidate submits a written appeal to 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 appellant.

The period of review of test materials begins after promotional examination grades are posted and is limited to five (5) business days during which an appeal must be filed. The Civil Service Commission shall receive a copy of each appeal submitted, the appealed question(s), and the appropriate source reference sheet(s). The appeal information shall not reveal the name of the appellant, prior to the regularly scheduled Civil Service Commission meeting.

Promotional examination questions appealed to the Civil Service Commission will be sustained, overruled, or eliminated by a ruling issued by the Civil Service Commission.

(a) **Sustain the answer key** (test scores will remain as reported)

A ruling which rejects the appeal presented to the commission will require the Director or designee to accept the answer as given on the answer key, while grading the promotional examinations of all eligible candidates.

(b) **Overrule the answer key** (the Commission will designate another answer(s) to be accepted)

A ruling which sustains the appeal of a promotional examination question will require the Director or designee to accept two or more answers, as directed in the ruling, while grading the promotional examination of all eligible candidates.

(c) **Eliminate the test question** (the test question will not be included)

A ruling, which rejects the test question, related to the appeal of a promotional examination question will require the Director or designee to disregard the question and its answer while grading the promotional examination of all eligible candidates.

Formula for calculating scores after appeals:

The formula for calculating the promotional test scores will be as follows:

(100) / (total number of test questions used) = point value of each question

(# of total test questions) - (# of wrong questions) – (# of unanswered questions) = # of correct questions

(# of correct questions) x (point value of each question) = score

034A **PROMOTIONAL EXAMINATION APPEAL PROCEDURES FOR PERSONNEL ON ACTIVE MILITARY DUTY**

Candidates serving on military duty, who take the promotional examination outside of Georgetown, shall be eligible to file an appeal of the examination as provided in Chapter 143.034. 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.

35. **ALTERNATE PROMOTIONAL SYSTEM IN POLICE DEPARTMENT**

The Alternate Promotional System shall consist of a promotional process involving two phases for each classification: a Written Exam (35pts)and an Assessment Center (65pts).

(A) **Promotional Examination Procedure**:
Section 032 of the Rules and Regulations of the Firefighters' and Police Officers' Civil Service Commission (Georgetown, Texas), remains in effect, unless otherwise addressed herein.

(B) **Eligibility Requirements**: The following outlines promotional eligibility requirements:

(1) ***Rank of Sergeant***:
The promotional examination for the rank of Sergeant is open to all police officers that have a minimum of five years full time combined law enforcement experience as of the day prior to the date of examination. A minimum of eighteen continuous months of service must be completed with the Georgetown Police Department prior to the exam date. For the purposes of this section acceptable *law enforcement experience* shall only include the following sections of the Texas Code of Criminal Procedure, Article 2.12; (1), (2), (3), (4), (5), (6), (10), (11), (22), and (23) provided the candidate was employed in a full time capacity for pay.

Prior Military Service: A candidate who has served a minimum of 36 continuous months on active duty with any branch of the United States Military provided the candidate has received an honorable discharge or, if still assigned to active reserve status is in good standing with his or her unit, shall receive one year of credit towards the five year full time combined law enforcement experience eligibility requirement.

College/Certification Requirement for Sergeant: Candidates must have either an advanced peace officer certificate or 30 credit hours from a regionally accredited college or university or accredited via the Distance Education and Training Council (DETC) to be eligible. If there are not at least three candidates who meet the certification or college requirement, eligibility shall be opened up to all otherwise qualified candidates.

(2) ***Rank of Lieutenant***:
The promotional examination for the rank of Lieutenant is open to all police officers that have served in the classification immediately below the classification for which the exam is

being held a minimum of two years prior to the date of examination.

College Requirement for Lieutenant: Candidates must have 60 credit hours from a regionally accredited college or university or accredited via the Distance Education and Training Council (DETC) to be eligible. If there are not at least three candidates who meet the college requirement, eligibility shall be opened up to all otherwise qualified candidates. The college requirement is effective January 1, 2012.

(3) ***Rank of Captain***:
The promotional examination for the rank of Captain is open to all police officers that have served in the classification immediately below the classification for which the exam is being held a minimum of two years prior to the date of examination.

College Requirement for Captain: Candidates must have a Bachelors degree from a regionally accredited college or university or accredited via the Distance Education and Training Council (DETC) to be eligible. If there are not at least three candidates who meet the college requirement, eligibility shall be opened up to all otherwise qualified candidates. The college requirement is effective January 1, 2012.

(C) **Phase One of Alternate Promotional Exam: Written Examination**
The Phase One written examination shall be weighted at 35% of the overall promotional process and be conducted in accordance with Section 143.032 (d), (e), (f), (g), (h) and (i) of the Texas Local Government Code; Sections 032, and 034 of the Rules and Regulations of the Firefighters' and Police Officers' Civil Service Commission (Georgetown, Texas), unless otherwise addressed herein.

(1) ***Ties***
Whenever two (2) or more candidates obtain identical total final scores on the written exam, the following procedures will be used in rank order to break the tie and determine placement on the Phase One eligibility list for advancement to Phase Two:

(a) **Highest Test Score –** If two (2) or more candidates tie on total final scores, the persons shall be ranked in the order according to which person had the highest examination raw score prior to the addition of seniority points and after the Commission's determination of appeals, if any.

(b) Certification / **College Education -** If a tie still exists, the candidates shall be ranked in accordance with the higher earned certification or formal degree from an accredited college or university in the following rank order from lowest to highest (Advanced Certificate, Associates, Master Certificate, Bachelors, Masters, PhD). If none of the tied candidates have earned a formal degree and a tie still exists based on certification, the candidates shall be ranked in accordance with who has earned the most college hours from an accredited college or university.

(c) **Seniority Rank –** If a tie still exists, the candidates shall be ranked in the order according to which candidate has the most seniority in the position immediately below the position for which the examination was given.

(d) **Seniority in Department -** If a tie still exists, the candidate shall be ranked in the order according to which candidate has the most seniority with the respective Department in a certified position, whether interrupted or uninterrupted.

(e) **Total Years as a Certified Police Officer -** If a tie still exists, the candidates shall be ranked in the order according to which candidate has the most years of experience as a full-time paid peace officer for a position in a Police Department.

(f) **Total City Service -** If a tie still exists, the candidates shall be ranked in order according to which candidate has the most total service time with the City, including time in a non-classified, permanent position.

(g) **By Lot –** If a tie still exists, the candidates shall be ranked by lot as determined by the Director.

(2) ***Rank Order***

A minimum raw score of 70% is required to pass Phase One. Those candidates acquiring a score of less than 70% will be eliminated from the process. Those candidates passing the written exam with a minimum of 70% shall have seniority points added to their raw score (after any ties are resolved) as follows:

(a) One point for each full year of full time law enforcement service (up to 10 years) with the Georgetown Police Department.

(b) Additional months of service not amounting to a full year shall be prorated at .083 per month and rounded to the nearest tenth.

(3) Phase One Scoring
The Phase One Written Exam is worth a total of 35% (35pts) of the overall promotional process score. It is possible to achieve a Phase One score of greater than 35 points once seniority points are assessed.

(4) ***Eligibility for Phase Two***
The Civil Service Director shall, within 24 hours of the completion of Phase One, post the final scores in rank order from highest to lowest in the main lobby at city hall and within the common area of the police department. All candidates scoring a minimum raw score of 70% (before the addition of seniority points) in Phase One will proceed to Phase Two.

(5) ***Review & Appeal of Phase One***
Review and appeal of Phase One of the Alternate Promotional System shall be in accordance with Section 143.034 of the Texas Local Government Code and shall be conducted within five (5) business days of the completion of Phase One.

E. **Phase Two of Alternate Promotional Exam: Assessment Center**
Phase Two shall occur anytime upon completion of Phase One, however, not more than 30 business days from the date of the Phase One examination. The Civil Service Director and the Department Head shall mutually agree upon an independent contractor to facilitate the assessment center. The contractor shall be independent of the Georgetown Police Department and the City of Georgetown. The contractor shall be an individual or company with the proven expertise in conducting such assessments.

(1) ***Assessment Center Design***
(a) The contractor will develop an assessment instrument commensurate for the classification sought and shall consist of no less than four (4) performance exercises that test and allow for the objective evaluation of the candidates possession of the following attributes including but not limited to:

- Leadership
- Decisiveness
- Self Initiative
- Adaptability
- Interpersonal Skills

- Written Communication Skills
- Problem Analysis
- Problem Solving
- Critical Thinking
- Judgment
- Planning and Organizing
- Risk Management
- Technical Proficiency
- Tactical Proficiency

(b) The performance exercises shall be appropriate for the classification being tested for and may include but not limited to:
- Oral Presentations
- Leaderless Group Exercises
- Prioritization Exercises
- Structured Interviews
- Written Exercises (Analysis, Proposal, etc)
- Role Play Exercises
- Tactical Exercise

(c) Neither the Department Head nor the Civil Service Director will be directly involved in the design of the assessment instrument other than the prerequisite interaction and dialogue with the contractor necessary to facilitate an effective and efficient assessment and in order to meet the contractor's informational needs for design.

(d) The contractor will make available an orientation to all candidates not more than 15 days nor less than 12 hours prior to the first day of the assessment. The orientation shall be designed to ease anxiety about what to expect from the assessment without revealing the totality of the instrument itself.

(2) ***Assessor Selection***

The contractor will select as many assessors as necessary to facilitate the assessment within the following parameters:

(a) The contractor will adequately train the assessors in their roles and responsibilities as assessors.

(b) Assessors selected by the contractor must be approved by both the Department Head and the Civil Service Director and must have the appropriate experience and educational background to evaluate the classification for which they are assessing.

(c) There must be two (2) commissioned law enforcement officer assessors for every one (1) civilian assessor appointed by the contractor.

(d) At least one (1) commissioned law enforcement member shall be the same rank as the classification being assessed. All other assessors shall be the same rank or higher than the classification being assessed.

(e) Each assessor will certify by a written, sworn, and notarized affidavit that he or she has not and will not talk to or correspond with ANY PERSON about any candidate's abilities, personality, or qualifications for promotion, prior to and during participation in the assessment center process. The assessor must further stipulate that he or she has no direct relationship with any candidate, other than professional, that would interfere with the assessor's objectivity in providing a fair, balanced, and impartial evaluation of the candidate.

(f) Each candidate will certify by a written, sworn, and notarized affidavit that he or she has not and will not talk to or correspond with ANY PERSON about any candidate's abilities, personality, or qualifications for promotion, prior to and during participation in the assessment center process.

(g) Assessors will not exceed a ten (10) hour work day (including lunch).

(h) No observers other than the contractor and/or designee, the Department Head, and Director of Civil Service shall be allowed during the assessment center.

(i) Upon completion, the contractor shall provide each candidate a written performance evaluation. The evaluation shall at minimum highlight the candidate's strengths and weaknesses as observed throughout the process. Each candidate may further review his or her process scores.

(3) ***Phase Two Scoring***

The Phase Two Assessment Center is worth a total of 65% (65pts) of the overall promotional process score. A minimum raw score of 70% on the assessment center is required to pass this phase and remain in the process. A score below that eliminates the candidate from the process.

(4) ***Review & Appeal of Phase Two***

Review and appeal of Phase Two of the Alternate Promotional System shall be in accordance with Section 143.034 of the Texas Local Government Code, shall be conducted within five (5) business days of the completion of Phase Two, and the appeal must be limited in scope to the actual assessment instrument itself (i.e. relevance and validity of specific exercises). The subjective opinions of assessors regarding candidate performance are not appealable to the Civil Service Commission.

F. **Final Alternate Promotional Process Score**

(1) Final scoring from each phase shall be given to the Civil Service Director for tabulation. Each candidate's final score shall be the sum of scores from Phases One and Two:

Written Examination	Possible:	35 pts
Assessment Center	Possible:	65 pts
Total Score	Max:	100 pts

(2) The Director shall place candidates on an eligibility list according to their total score, highest to lowest. Should a tie exist it shall be broken by the process outlined in Phase One.

G. **Eligibility List**

The Civil Service Director shall, within 24 hours of the completion of Phase Two, post the final scores in rank order from highest to lowest in the main lobby at city hall and within the designated common area of the police department.

H. **Promotions**

The Department Head shall promote from the eligibility list in accordance with Section 143.036 of the Texas Local Government Code.

I. **Application of Alternate Promotional System to Personnel on Active Military Duty**

(1) Promotional candidates serving on active duty during the time in which Phase One of a promotional exam is administered will be facilitated in accordance with Section 143.032 of the Texas Local Government Code and Sections 032A and 34A of the Rules and Regulations of the Firefighters' and Police Officers' Civil Service Commission (Georgetown, Texas) and will be administered and facilitated by the Civil Service Director.

(2) Should an active duty candidate be eligible to continue to Phase Two,, the remaining candidates shall proceed through the process

as outlined herein. When the active duty candidate returns to employment from active service the Civil Service Director shall, within 60 days, facilitate and supervise the administration of Phase Two, which may or may not be identical to the processes administered to the other candidates.

(3) After the returning active duty member completes Phase Two and all appeals processes outlined herein, the Civil Service Director shall establish a new eligibility list.

036. **PROCEDURE FOR MAKING PROMOTIONAL APPOINTMENTS (RESERVED)**

037. **RECORD OF CERTIFICATION AND APPOINTMENT (RESERVED)**

038. **TEMPORARY DUTIES IN HIGHER CLASSIFICATIQN**
The Department Head may prescribe methods for selecting and making assignments to temporarily fill a position in the next higher classification.

CHAPTER C
COMPENSATION

041. **SALARY (RESERVED)**

042. **ASSIGNMENT PAY (RESERVED)**

043. **FIELD TRAINING OFFICER ASSIGNMENT PAY (RESERVED)**

044. **CERTIFICATION AND EDUCATIONAL INCENTIVE PAY (RESERVED)**

045. **ACCUMULATION AND PAYMENT OF SICK LEAVE AND OTHER BENEFITS**
An employee who is temporarily suspended or indefinitely suspended must exhaust all appeal rights before the City is obligated to pay any accumulated sick leave as prescribed under Chapter 143. The City will not authorize withdrawals from the Texas Municipal Retirement System (TMRS) unless the employee submits a written resignation and terminates employment with the City of Georgetown.

All police officers and fire fighters in the classified service shall accrue 120 hours per year of sick leave and shall not be paid more than 720 hours of sick leave upon termination of employment.
For those members of the Fire Department who are scheduled to work 56 hours a week on an annual basis, payments shall not be based upon more than 1,080

hours of accumulated sick leave.

046. **VACATIONS**

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

047. **SHIFT DIFFERENTIAL PAY (RESERVED)**

CHAPTER D
DISCIPLINARY ACTION

051. **CAUSE FOR REMOVAL OR SUSPENSION**

The following are declared to be grounds for removal or suspension of any employee from the civil service in the City of Georgetown:

(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 Georgetown;

(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;

(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 City taxes;

(11) Refusal or neglect to pay other just debts;

(12) Absence without leave;

(13) Shirking of duties;

(14) Cowardice;

(15) Violation of any of the rules and regulations of the Police or Fire Department; of special orders, as applicable; of these rules and regulations; or of any of the City Personnel policies and regulations; or of any other City Ordinance or Policy applicable to Police and Fire Department employees.

52. **DISCIPLINARY SUSPENSIONS**

(A) **GENERAL PROVISIONS**

(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 Civil Service Commission of Georgetown;
(c) Fire Department Standard Operating Guidelines or Police Department General Orders;
(d) The City of Georgetown Personnel Policies; or
(e) Any other City Ordinance or Policy applicable to Police and Fire Department employees.

(2) Prior to imposing a suspension, the Department Head may use lesser forms of disciplinary or corrective action. However, nothing herein shall prohibit the Department Head from proceeding directly to the appropriate level of discipline without using progressive discipline, if in the opinion of the Department Head, the employee's misconduct warrants more severe disciplinary action.

(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 classified employee who is suspended for fifteen (15) calendar days or less may, upon the employee's request and at the respective Department Head's discretion, forfeit vacation designated by the Department Head 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 his/her 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 Department Head within 240 hours after receiving the Notice of Suspension. Failure to make a written request to the Department Head within the allotted time shall result in an employee not being eligible for the provisions of this Section.

53. **APPEAL OF DISCIPLINARY SUSPENSION**

(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 as to demotions under § 143.014); 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. 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.

(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 his/her position thereby forfeits all rights to the disciplinary appeal processes.

(5) An employee may voluntarily enter a written agreement that expressly evidences his/her 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) The appropriate amount as well as payment of all costs and expenses may be determined and collected by the Director. Generally, the employee will be required to pay for one-half the costs of the hearing examiner and any other fees assessed by the American Arbitration Association (AAA) or other outside agency. An employee may receive an estimate of anticipated costs upon written request to the Director.

(2) When applicable, the State law governing the doctrine of "mitigation of damages" will be applied in computing reimbursements or the offset for an award of back pay.

(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 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 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 and regulations 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 WITNESSES**

(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 departmental files after the employee has signed the appropriate release form(s).

(4) Before requesting a subpoena duces tecum for the production of documentation material, a party shall first make a request for the materials 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 made to the Commission to issue the subpoena duces tecum. 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.

(5) All requests for subpoenas to compel the attendance of a witness 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
- (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) At the scheduled time and place, the hearing shall be called to order.

(2) 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.

(3) A record of the proceedings, capable of clear and accurate reproduction or transcription, shall be made and maintained by the Director.

(4) 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.

(5) 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 Department Head and which forms the basis of the disciplinary action imposed on the employee.

(6) The hearing shall then proceed to develop the evidence and testimony as to those contested matters.

(7) The Department shall go first in the presentation of evidence and testimony. Thereafter, the employee shall have the opportunity to respond with his/her 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 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.

(13) 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.

(14) 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.

(15) 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 he/she 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; 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) The Department Head must establish the violation(s) by a preponderance of evidence standard.

(2) It shall be recognized that prior to imposing any form of discipline, the Department Head may use lesser forms of disciplinary or corrective action. However, the failure to utilize "progressive discipline" shall not in itself be grounds to overturn or otherwise modify a Department Head'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.

(3) The hearing shall provide the employee every 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 department head's action.

(4) An employee's mere disagreement or difference in opinion in regard to the Department's actions or reasoning shall not constitute grounds to overturn nor modify the disciplinary action.

(5) If the hearing establishes one valid charge of misconduct supported

by evidence sufficient to establish its truth, that charge shall be sustained 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.

(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 of the three Commissioners present. If only two 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.

054. **DEMOTIONS**

The Commission's consideration of a Department Head's recommendation for demotion does not require an evidentiary hearing. If the Commission determines that probable cause exists for a recommended demotion, the Director's notification of hearing to the employee will include the hearing examiner option under Chapter 143.

After the Commission has determined that probable cause does exist for a requested demotion and has provided the employee with written notice of hearing 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.

055. **UNCOMPENSATED DUTY OF POLICE OFFICERS (RESERVED)**

056. **PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT**

Conviction or deferred adjudication of a felony shall result in the employee being terminated from his or her position. No hearing before the Civil Service Commission or Independent Hearing Examiner will be provided.

057. **HEARING EXAMINERS**

APPEALS TO INDEPENDENT THIRD PARTY HEARING

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.

(1) 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 and Regulations:
   (b) A copy of Chapter 143; and
   (c) A copy of the applicable City Policy and Procedure , Police or Fire Department Rules and Regulations alleged to have been violated.

(2) 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.

The Hearing Examiner is to conduct a hearing fairly, objectively and impartially under the provisions of Chapter 143 and these Rules and Regulations. 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 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 department.

(6) 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.

(7) 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.

(8) 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 and Regulations, 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.

(9) 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.

CHAPTER E
LEAVES

071. **LEAVES OR ABSENCE: RESTRICTION PROHIBITED (RESERVED)**

072. **MILITARY LEAVE OF ABSENCE (RESERVED)**

073. **LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE (RESERVED)**

074. **REAPPOINTMENT AFTER RECOVERY FROM DISABILITY (RESERVED)**

075. **MILITARY LEAVE TIME ACCOUNTS (RESERVED)**

CHAPTER F
MISCELLANEOUS PROVISIONS

081. **DETERMINATION OF PHYSICAL AND MENTAL FITNESS**

All employees must continually remain in such physical and mental condition as to be capable of rendering safe and efficient service to the City and performance of the duties and essential functions of the appropriate Department.

All employees shall be required to submit to a psychological or physical examination where there exists some reasonable basis to believe that the individual's mental or physical fitness for duty is an issue. Determination of the employees' mental and/or physical fitness for duty shall not be subject to Commission or Hearing Examiner's review. The findings of the medical panel

as outlined in Chapter 143 shall be determinative and final.

082. **EFFICIENCY REPORTS**

The Department will participate in the established procedures and rules for performance evaluations in conjunction with City Personnel Policy.

083. **EMERGENCY APPOINTMENT OF TEMPORARY FIRE FIGHTERS AND POLICE OFFICERS (RESERVED)**

084. **CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIRE FIGHTERS AND POLICE BENEFITS (RESERVED)**

085. **FORCE REDUCTION AND REINSTATEMENT LIST (RESERVED)**

086. **POLITICAL ACTIVITIES (RESERVED)**

087. **STRIKE PROHIBITION (RESERVED)**

088. **UNLAWFUL RESIGNATION OR RETIREMENT (RESERVED)**

089. **PERSONNEL FILE (RESERVED)**

CITY OF ROUND ROCK, TEXAS FIRE FIGHTERS' CIVIL SERVICE SYSTEM

"MUNICIPAL CIVIL SERVICE RULES AND REGULATIONS"

INITIALLY ADOPTED October 29, 2001
REVISED January 09, 2003
REVISED June 24, 2003
REVISED May 24, 2006
REVISED January 29, 2010
REVISED April 16, 2013
REVISED October 22, 2013
REVISED December 11, 2014
REVISED August 17, 2016
REVISED September 2018
REVISED September 2022

PREAMBLE:

The City of Round Rock's Fire Fighters' Civil Service was established following adoption of Chapter 143, Texas Local Government Code, by the qualified voters of the city in an election held on May 5, 2001. The aim of such chapter is to secure an efficient fire department composed of capable personnel who are free from political influence and who have permanent employment tenure as public servants.

SUBCHAPTER A: GENERAL PROVISIONS

Section 143.001 PURPOSE AND APPLICATION OF RULES

The purpose of these "Municipal Civil Service Rules and Regulations" is to carry out state law and to provide for the local administration of such law by prescribing rules and regulations for the initial selection of employees into the fire department, for conducting promotional examinations, for governing disciplinary matters, and for providing general information concerning the rights and benefits of civil service employees. These "Municipal Civil Service Rules and Regulations" are promulgated in compliance with Chapter 143, Texas Local Government Code, which is incorporated herein for all purposes. It is intended that these "Municipal Civil Service Rules and Regulations" shall complement said statute and not conflict with the statute.

These "Municipal Civil Service Rules and Regulations" shall apply to all non- probationary employees appointed in substantial compliance with Chapter 143 holding a classified position in the fire department as reflected in the most recently approved classification ordinance passed by the Round Rock City Council.

Section 143.002 MUNICIPALITIES COVERED BY CHAPTER

See Section 143.002, Chapter 143

Section 143.003 DEFINITIONS

The following words, terms and phrases, when used herein, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular,

and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this ordinance. All words, terms and phrases contained in these rules shall be interpreted in harmony with the provisions of Chapter 143 and subsequent amendments thereto.

Appointment means the designation of a person by the City Manager to become an employee in a classified civil service position.

Business day means 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.

Chapter 143 means that portion of the Texas Local Government Code containing the civil service provisions.

Chief Executive means the City Manager of the City of Round Rock, Texas, who is the person with final authority to make appointments to the classified service.

Civil Service Anniversary Date means the date a person was most recently hired into a classified civil service position in the City of Round Rock, Texas.

Classification means a position or group of positions that involve similar duties and responsibilities and require similar qualifications.

Commission means the Round Rock Fire Fighters' Civil Service Commission.

Conviction or ***convicted*** means that a person is convicted if he/she has pled guilty, pled no contest/nolo contendere, or been found guilty in a trial, regardless of whether the sentence is subsequently probated and the person is discharged from probation; whether the defendant has received an unadjudicated or deferred adjudication probation, or similar deferred disposition, for a criminal offense; whether the case has been made the subject to an expunction order; or whether the person is pardoned, unless the pardon is expressly granted for subsequent proof of innocence.

Day means a calendar day, unless otherwise specified.

Department Head means the chief of the fire department of the City of Round Rock, Texas.

Demotion means 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.

Director means the director of the Fire Fighters' Civil Service Commission, who is also the person appointed by the Fire Fighters' Civil Service Commission to act in the capacity of secretary to the Commission, and includes his/her designee.

Eligibility List means the list of applicants for a position who have taken the requisite examination and passed, and been ranked on the list in order of the score received, taking into account tie-breaking rules and final determination of eligibility.

Fire Fighter means a member of the fire department appointed in substantial compliance with Chapter 143 or who is entitled to civil service status under Section 143.005 or Section 143.084. The term includes fire fighters who perform:

- Fire suppression;

- Fire prevention;
- Fire training;
- Fire safety education;
- Fire maintenance;
- Fire communications;
- Fire medical emergency technology;
- Fire photography; or
- Fire administration.

Military Service Credit means credit provided to a person who has served a minimum of one hundred eighty (180) days of active duty in the armed forces of the United States of America and who has received an honorable discharge. Any discharge by whatever name other than "honorable discharge" will not be recognized for purposes of the points referred to in Chapter 143.

Raw Score means the numerical grade based on questions correctly answered on entrance and promotional examinations, unverified and subject to Commission approval.

Veteran means an honorably discharged person who has served a minimum of one hundred eighty (180) days active duty in the armed forces of the United States of America.

Section 143.004 ELECTION TO ADOPT OR REPEAL CHAPTER

See Section 143.004, Chapter 143

Section 143.005 STATUS OF EMPLOYEES IF CHAPTER ADOPTED

See Section 143.005, Chapter 143

Except for an employee appointed under Section 143.014, each fire fighter serving in this municipality who has been in the service of this municipality less than six (6) months at the time Chapter 143 is implemented and who is entitled to civil service classification has the status of a civil service employee and is not required to take a competitive examination to remain in the position the person occupies at the time of implementation of Chapter 143.

Section 143.006 ESTABLISHMENT: COMMISSION APPOINTMENTS

See Section 143.006, Chapter 143

Establishment

Upon adoption of Chapter 143, the Round Rock Fire Fighters' Civil Service Commission is established in this municipality.

Initial Appointment to Commission
The City Manager of the city shall appoint the members of the Commission within sixty (60) days after the date Chapter 143 is adopted.

Thereafter, the City Manager shall appoint new members to the Commission as and when necessary.

Subsequent Appointment to Commission; Terms of Commissioners

The City Manager shall appoint and the City Council shall confirm the appointment of the three (3) members of the Commission who meet the required statutory qualifications. Each member of the Commission holds office for a staggered three- year term and thereafter until a successor is appointed and confirmed. An interim vacancy 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.

Commission Chair and Vice-Chair Election and Replacement

The members shall elect one (1) member to serve as Chair of the Commission and one (1) member to serve as Vice-Chair of the Commission. Whenever vacancies of members of the Commission occur, the replacement of Chair and Vice-Chair shall be handled as follows:

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;

In the event of a vacancy in the Vice-Chair position, an interim election will be held to fill the office.

Section 143.007 REMOVAL OF COMMISSION MEMBER

See Section 143.007, Chapter 143

A member of the Commission may tender his/her resignation in writing at any time to the City Manager. The City Council may remove a Commission member from office for misconduct in office or otherwise in accordance with Chapter 143.

If a Commission member is absent three (3) consecutive or non-consecutive meetings during a twelve (12) month period without reasonable cause, the absent member is automatically deemed to have submitted his/her resignation and, if accepted by the City Manager, the position will be deemed vacant without further action.

Upon the occurrence of any of the events enumerated under Section 143.007, a request will thereafter be made by the Director to the City Manager for a replacement of such member.

Section 143.008 ADOPTION AND PUBLICATION OF RULES

See Section 143.008, Chapter 143

The Commission may, by majority vote, make rules of procedure for the administration of Chapter 143.

The Commission has the responsibility to adopt, publish, and enforce rules relating to:

Proper conduct of Commission business;

Proper conduct of examinations of entry level and promotional eligibility;

Procedures for appointment and certification;

Proper conduct of appeals of testing and examination scoring;

Procedures for hearing disciplinary appeals concerning indefinite suspensions, suspensions, promotional Passovers, recommended involuntary demotions; and

Such other matters reasonably related to the selection, promotion, and discipline of civil service employees, not otherwise vested in the discretionary or managerial authority of the City Council, the City Manager, the Director, or the Fire Chief.

These rules shall remain in effect until officially amended, revised or repealed by the Commission in the same manner that the original rules were adopted.

Amendments to these rules may be made at any meeting of the Commission by appropriate inclusion on the agenda. If passed, such amendments will become effective on the date of their approval by the Commission and compliance with the posting and notice requirements of Chapter 143 and of these rules.

These rules are made and shall be construed in accordance with Chapter 143. It is the intent of these rules to cover situations not specifically addressed in or which may be ambiguous in Chapter 143, and to address those areas where a local rule is permitted, necessary, or desirable. These rules have been drafted to follow the same numbering system used in Chapter 143. In adopting these rules, the Commission has negated the necessity of repeating Chapter 143. The scope and construction of these rules shall be interpreted and applied within the spirit and intent of Chapter 143. In the event of a conflict between Chapter 143 and these rules, Chapter 143 shall govern.

If any part, 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.

These rules and regulations shall apply to all of the classified, non-probationary fire fighters covered under Chapter 143 and specifically certified by the Texas Commission on Fire Protection. For any provision of Chapter 143 that applies to probationary fire fighters, the corresponding local rule will apply.

Immediately upon becoming effective, all rules contained herein will thereafter be deemed to constitute full and effective prior notice to all civil service employees of prescribed or prohibited conduct as stated in any rule.

These rules are enacted by the Commission pursuant to the statutorily-delegated authority of Chapter 143. They were not acted upon in any official manner by the City Council and do not constitute any form of "policy" or "official act" of the City Council.

When a specific rule does not adequately address a particular questions or issue, it shall be the responsibility of the Director to interpret these rules based upon circumstances, facts and issues. All situations not expressly covered by Chapter 143, by these City of Round Rock Fire Fighters' Civil Service System "Municipal Civil Service Rules and Regulations," by fire department rules, by standard operating procedures, and/or by administrative directives shall be resolved in accordance with "City of Round Rock Human Resources Policies and Procedures" and/or the residual discretionary authority vested in a department head.

All rules and amendments shall be printed and made reasonably available for access by all civil service employees in accordance with Chapter 143, Section 143.008(e).

Civil Service Commission

Rules of Conduct

In the discharge of their duties, members of the Commission act as a committee of the whole and not as individuals. An individual Commission member has no legal or moral right to speak for the Commission unless specially authorized to do so by the action of the Commission.

Meetings

The Commission shall conduct all meetings in compliance with the provisions of the Open Meetings Act, Texas Government Code Annotated, Chapter 551 (Vernon 1994), as amended.

Regular meetings of the Commission will be routinely held at a time and place designated by the Commission. Special meetings may be called by the Director, at the request of the Chair, or at the written request of any two (2) commissioners.

The Commission shall conduct its meetings at such times and in such places as designated in its statutorily-required postings. Notice of a meeting shall be given to the members of the Commission and the public by posting at least seventy-two (72) hours preceding the scheduled time of the meeting, except in case of emergency or urgent public necessity, in which case two (2) hours notice shall be given prior to the meeting being convened, all in accordance with the provisions of the Open Meetings Act, Texas Government Code Annotated, Chapter 551 (Vernon 1994), as amended. Notices of Commission meetings shall be sent to the fire stations.

Meetings may be rescheduled or postponed when such action is deemed necessary. The Director may call, schedule, reschedule or cancel meetings of the Commission.

Meetings of the Commission may be closed from time to time in conformance with the provisions of applicable state law.

Agenda items shall be submitted as prescribed by the Director, and he/she shall have discretion over whether to place on the agenda any item over which he/she believes the Commission lacks jurisdiction. Only items properly listed on the agenda may be acted upon.

Quorum

Two (2) members of the Commission constitute a quorum sufficient to conduct business meetings and hearings.

Conduct of Business Meetings

In all matters of procedure not controlled by the provisions of Chapter 143, the order of business and conduct of meetings shall be in conformity with Robert's Rules of Order. Meetings of the Commission shall be conducted with an appropriate degree of formality so as to be conducive to the most effective conduct of business.

The Commission may set reasonable rules and procedures for proper and efficient conduct of business. The Chair will conduct meetings in an orderly and timely fashion. The normal order of business at non- disciplinary or non-appeal hearings will generally be as follows:

Call to order;

Approval of minutes;

Communication from meeting attendees;

Consideration of action items;

Consideration of miscellaneous matters;

Consideration of new business, including Commission members' suggestions of items for future agenda;

Executive session, if required; and

Adjournment.

Minutes

Official minutes of each meeting shall be prepared. The minutes shall 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, will be kept open for public inspection as governed by applicable state law. A Commission member may record in the minutes an approval of, or objections to, any act of the Commission together with that 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 all members of the Commission who are present.

Communications

All communications or requests to the Commission shall be made in writing through the office of the Director.

Departmental Rules

The Fire Chief shall adopt and promulgate written rules, regulations and policies pertaining to the operation of the fire department.

A departmental rule, regulation, general order, or policy shall not conflict with Chapter 143 or these rules.

If neither a departmental rule nor Chapter 143 addresses a policy or procedure, then the "City of Round Rock Human Resources Policies and Procedures" shall apply.

Section 143.009 COMMISSION INVESTIGATIONS AND INSPECTIONS

See Section 143.009, Chapter 143.

Section 143.010 COMMISSION APPEAL PROCEDURE

See Section 143.010, Chapter 143

Notice of Appeal

An employee's notice of appeal shall be filed in writing with the Director within 240 hours after receiving notice of disciplinary action from the Department Head. An employee may withdraw his/her request for an appeal at any time, and thereby terminate the appeals process.

In appeals to the Commission, formal "rules of evidence" will not be observed.

Subpoena

Before requesting a subpoena duces tecum for the production of documents under Section 143.010(e), 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 subpoena duces tecum at least ten (10) days prior to the hearing date. 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 not later than the third day before the hearing to determine whether to issue, quash, or modify the requested subpoena. This meeting may be convened by conference call, at the discretion of the Chair. The Director shall then notify the parties verbally and in writing of the Commission's decision. Because of the short timeframe permitted in this process, all written materials may be served by facsimile by the parties to each other and to the Director.

A request for a 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.

Except for the document subpoena provision in Section 143.010(e), there shall be no discovery in Commission proceedings.

Appeals for which the Commission has jurisdiction are as follows:

Disciplinary suspensions of one to fifteen days, and indefinite suspensions;

Demotions;

Promotional passovers; and

Written promotional examinations.

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 which 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, all 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 143.011 DECISIONS AND RECORDS

See Section 143.011, Chapter 143

Access to records of employees in the classified service, employment applications, background investigation records and reports, examinations and answer sheets shall be governed by the Open Records Act, Texas Government Code Annotated, Chapter 552 (Vernon 1994), as amended.

Section 143.012 DIRECTOR

See Section 143.012, Chapter 143

The Commission shall appoint a Director who shall be responsible for implementing these rules and for administering the civil service system.

The Director shall perform work incidental to the civil service system as required by the Commission. The Commission may, if necessary, appoint an assistant director. The Director shall:

Serve as Secretary to the Commission;

Serve as chief test examiner for the Commission; supervise all examinations, including the preparation, scheduling, scoring and security of test materials;

Coordinate the recruitment and examination of applicants;

Recommend classification of any newly-established fire department positions to the Commission, and assist in the classification of fire department positions;

Set or assist the Chair in setting agendas for Commission meetings;

Serve as liaison and provide staff support to Commission;
If necessary, obtain a determination from the City Attorney's office as to whether the Commission has jurisdiction over any matter, and determine whether any matter is appropriately brought before the Commission in a reasonable and timely fashion;

Call, schedule, reschedule, and cancel meetings of the Commission;

Serve as records custodian as provided by Chapter 143;

Act on behalf of the Commission for actions and issues not specifically addressed by Chapter 143 and these rules;

Recodify Commission rules as necessary in a professional and timely fashion;

Establish and monitor procedures for the discipline and termination of civil service employees; and

Perform other such functions as may be deemed reasonably necessary in regard to the efficient and effective administration of the civil service system for the city.

Section 143.013 APPOINTMENT AND REMOVAL OF DEPARTMENT HEAD

See Section 143.013, Chapter 143

Section 143.014 APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED IMMEDIATELY BELOW DEPARTMENT HEAD

See Section 143.014, Chapter 143

The Fire Chief is authorized to appoint each person occupying an authorized position in the classification immediately below that of department head, as allowed by state law.

Section 143.015 APPEAL OF COMMISSION DECISION TO DISTRICT COURT

See Section 143.015, Chapter 143

Section 143.016 PENALTY FOR VIOLATION OF CHAPTER

See Section 143.016, Chapter 143

(Sections 143.017 - 143.020 reserved for expansion)

SUBCHAPTER B: CLASSIFICATION AND APPOINTMENT
Section 143.021 CLASSIFICATION; EXAMINATION REQUIREMENT

See Section 143.021, Chapter 143

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.

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:

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.

Titles shall be suggestive of the kind of work performed by the incumbent of the position and indicative of the rank.

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.

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 143.022 PHYSICAL REQUIREMENTS AND EXAMINATION

See Section 143.022, Chapter 143

Applicants shall be required to take a physical ability test and shall be required to submit to such tests as are reasonably necessary to determine the physical fitness of the applicant to perform the essential functions of the position.

Applicants who are not capable of performing the essential functions of the job, with or without reasonable accommodation, will not be appointed. An applicant will not be appointed if it is determined that the applicant would be a physical danger to himself/herself or others.

The Fire Chief shall be responsible for developing physical ability tests in accordance with guidelines established by the state commission, in compliance with all applicable employment laws, and with the approval of the Director.

Section 143.023 ELIGIBILITY FOR BEGINNING POSITION

See Section 143.023, Chapter 143

Minimum eligibility requirements for a fire fighter are as follows:

Achieve a minimum passing score of seventy (70) percent on a written examination;

Successfully complete the physical ability test;

Pass a background investigation;

Pass an oral interview board;
Successfully complete a conditional (post-job offer) medical examination including visual acuity, and the physician must be able to certify that the applicant is free of drug dependency or illegal drug usage;

Be at least eighteen (18) years of age but not forty (40) years of age or older to take an entrance exam, and may not be certified as eligible for a beginning position if forty (40) years of age or older;

Be a graduate of an accredited high school or have an equivalency certificate;

Have a valid Texas driver's license at hire date;

Be authorized to work in the United States;

Discharge from military service shall not have been under less than honorable conditions;

Be able to read, write, and speak the English language;

Be of good moral character; and

Be able to meet all certification requirements as established by the Texas Commission on Fire Protection.
Any of the following will disqualify an applicant from further consideration at any stage of the process:

Is unable to perform the essential functions of the position to which he/she seeks appointment, with or without reasonable accommodation. Temporary disqualification based upon circumstances.
Has been convicted of conduct that constitutes a felony under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Permanent disqualification.

Has admitted conduct that constitutes a felony under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Permanent disqualification.

Has been convicted of conduct that constitutes a Class A Misdemeanor under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Permanent disqualification.

Has been convicted of conduct that constitutes a Class B Misdemeanor under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Temporary disqualification for a minimum of sixty (60) months.

Has admitted conduct that constitutes a Class A or Class B Misdemeanor under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Temporary disqualification for a minimum of twelve (12) months.

Has admitted to conduct involving a crime of moral turpitude, or being known to habitually associate with those of questionable moral character. Permanent disqualification.

Currently has pending criminal charges of any type, or is on "deferred adjudication" for a criminal offense. Temporary disqualification.

Has made a false statement in any material fact, withheld information, practiced or attempted to practice deception or fraud in his/her application, examination, background investigation, polygraph examination, or medical examination. Permanent disqualification.

Has failed to complete or satisfactorily meet employment process requirements of the Fire Department including but not limited to missing appointments, failing to return application package or other necessary paperwork, failing to promptly notify the Fire Department of changes in address/telephone numbers, or otherwise failing to complete the application process. Temporary disqualification for a minimum of twelve (12) months.

Has failed to satisfactorily complete the oral interview process including but not limited to any personal or automated interview process. Temporary disqualification for a minimum of twelve (12) months.

Has used illicit substances as indicated by the following guidelines:

Admission of illegal use of marijuana ten (10) or fewer times (experimentation) within the last two (2) years. Temporary disqualification until two (2) years have passed from last use.

Admission of illegal use of marijuana more than ten (10) times. Temporary disqualification until

five (5) years have passed from last use.

Admission of abuse or misuse of legally obtained prescription medication(s), or illegal use of the prescription medication(s) of another person. Conduct involving the use, abuse, and/or misuse of prescription medication(s) will be considered on a case-by-case basis with consideration given to circumstances and elapsed time since last drug use. Permanent or temporary disqualification based upon circumstances.

Admission of illegal use of felony-grade substances as defined in the Texas Penal Code. Temporary disqualification until ten (10) years have passed since last use.

Has a driving record incompatible with the safe operation of emergency vehicles, the required driving standards of the City of Round Rock Risk Management Department, or which present potential liabilities to the City of Round Rock:

Three (3) or more events (moving violations or preventable accidents) in the preceding thirty-six (36) months. Temporary disqualification.

Reckless driving or similar conviction within the preceding sixty (60) months. Temporary disqualification.

Driving while intoxicated or under the influence of drugs within the preceding sixty (60) months. Temporary disqualification.

Has been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Permanent or temporary disqualification.

Demonstrated poor maturity or judgment in the applicant's decision-making ability. Permanent or temporary disqualification based upon circumstances.

Has a history of unstable work including but not limited to short terms of employment over the candidate's employment history, employment in an illegal occupation, termination of employment without appropriate notice, dismissal for cause from employment, and/or dismissal from employment in a public safety position. Permanent or temporary disqualification based upon circumstances.

Has failed to meet all legal requirements necessary for future licensing and certification as required by the Texas Commission on Fire Protection and the Texas Department of State Health Services. Temporary disqualification.

Notification of Rejection

Whenever an applicant for employment is rejected before being placed on an eligibility list, the applicant shall be notified in writing by the Director. The applicant shall be further notified that he/she will not be able to apply again with the city for a period of one (1) year.

Section 143.024 ENTRANCE EXAMINATION NOTICE AND APPLICATION

See Section 143.024, Chapter 143

Applicants shall complete a City of Round Rock Employment Application 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 limits prescribed in the "Notice of Entrance Examination," and/or failure to file the application with the Director, will render the applicant ineligible to take the examination. Applicants shall make application in his/her own handwriting or in typed form and shall certify the correctness of the facts.
Any person shall be considered for appointment to a vacancy in the classified service who has filed an application with the Director in the manner specified in these rules and upon the form furnished by the Director, and whose application has not been rejected by the Director for cause in accordance with the provisions of these rules.

The Director may, because of the small number of candidates or because of any other good and sufficient reason (i.e. death in the immediate family, public emergency, unavailability of test site), postpone an examination to a later date.

Section 143.025 ENTRANCE EXAMINATIONS

See Section 143.025, Chapter 143

Written Entrance Examination

The actual conduct of every examination shall be under the direction of the Director who shall be responsible to the Commission. Examinations shall be conducted on an "as needed" basis. Any examination may be canceled by the Director should it become unnecessary due to i.e. a change in the personnel requirements of the classified service.

The minimum passing score shall be seventy (70) percent on the written examination.

An additional five (5) points shall be added to the examination grade of an applicant who served in the United States armed forces, received an honorable discharge as evidenced by a DD-214, and made a passing grade on the examination.

An additional three (3) points shall be added to the examination grade of an applicant who holds an intermediate certification or license through the National Registry Certification or the Texas Department of State Health Services and made a passing grade on the examination.

An applicant cannot receive both military and medical certification points.

Tie-breakers - whenever two (2) or more applicants attain the same grade on the entrance eligibility list, the applicant with the highest raw test score prior to the addition of military service points shall be listed first. If the score is still tied, the applicant listed first shall be based upon the following criteria in descending order of importance:

(a) The applicant having completed the highest level of formal education from an accredited high school, college or university. If the score is still tied, then

(b) The applicant holding the highest level of firefighter certification from the Texas Commission on Fire Protection. If the score is still tied, then

(c) The applicant with the earliest date stamp and the earliest time stamp on his/her properly completed and submitted application.

No person shall deceive or obstruct any person in respect of his/her right of examination under the

provision of these rules and the Civil Service Act; or falsely mark, grade or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion. No candidate shall deceive the Commission for purposes of improving his/her chances for appointment or promotion.

Eligibility List

The Director shall keep all eligibility lists for applicants for original positions in the fire department in effect for twelve (12) months. The Director shall provide in the eligibility list announcement that the list shall remain in effect for the time specified by these rules or until all names have been referred to the appropriate department, whichever event occurs first.

Child of a deceased fire fighter - each applicant who is either a natural-born or adopted child of a fire fighter who previously suffered a line-of-duty death while covered by Chapter 143 civil service shall be ranked at the top of any eligibility list in which said applicant receives a minimum passing grade on that respective eligibility exam if such applicant meets all entry-level hiring requirements. The eligible applicant shall have provided the name of the deceased fire fighter parent on his/her application, and it shall be the responsibility of the Director to verify the information relating to the line-of-duty death prior to placing the applicant at the top of the eligibility list.

Following compilation of the eligibility list, the remaining steps in the process are listed hereafter as (B) Physical Ability Test, (D) Background Investigation, (E) Oral Interview Board, (F) Medical Examination, and (G) Additional Examinations. The Director shall retain the right to determine the number of applicants who will continue through such process, based upon the City's staffing needs.

Physical Ability Test

All applicants shall be required to take a physical ability test approved by the Director to evaluate each applicant's overall agility and stamina.

Any applicant failing to pass the physical ability test, as recorded by the instructor, shall be rejected.

Background Investigation

The Fire Chief shall appoint an investigator to conduct background investigations on applicants for beginning positions in the fire department.

The investigator shall verify the applicant's statements on his/her written application and in the oral interview, and any other such verification of facts or character of the applicant as the Commission, the Director, or the Fire Chief may request.

Fingerprints may be required of all applicants accepted for beginning positions.

Oral Interview Board

An oral interview shall be required for fire department applicants occupying positions on the entrance eligibility list.

The interview board shall consist of five (5) city employees who shall be appointed by the Fire

Chief. The City's Director of Human Resources or his/her designee shall serve as an ex-officio member. The Fire Chief shall designate one member of the department to serve as chairperson of the interview board. At the Fire Chief's discretion, the chairperson may or may not be one of the five (5) voting members of the interview board. Only one
(1) substitution of a board member shall be permitted, and then only under special circumstances with approval from the Director. The board members shall continue to serve until the final selection of applicants, at which time the board shall disband.

The purpose of the interview is to determine if the applicant possesses necessary qualifications to satisfactorily perform all required duties of a fire fighter.

The reason or reasons for the recommendation for rejection of an applicant shall be stated fully, be clearly signed by each member of the oral interview board, and submitted to the Fire Chief.

Medical Examination

Appropriate post-job-offer medical examinations shall be required of all applicants for beginning positions.

The examinations shall be given by a physician or other authorized medical professional approved by the Director and paid for by the city.

In the event of rejection by such physician, the applicant may call for further examination by a board of three (3) physicians approved by the Director, but at the expense of the applicant, and the findings of such board shall be final.

The physician shall certify to the Director whether or not the applicant is physically fit for the service.

Additional Examinations

Applicants for original civil service positions may be required to take a psychological or psychiatric examination conducted by a psychologist or psychiatrist, and/or a polygraph examination conducted by a qualified polygraph examiner.

Such examiners shall be approved by the Director and paid for by the City. The examiner shall submit a written report of the results of the examination to the Director with the recommendation that the applicant be accepted or rejected, and this report is final.

Section 143.026 PROCEDURE FOR FILLING BEGINNING POSITIONS

See Section 143.026, Chapter 143

When a vacancy occurs in a beginning position in the fire department, the Fire Chief shall request in writing from the Commission the names of suitable persons from the eligibility list. The Director shall certify to the City's chief executive officer the names of the three (3) persons having the highest grades on the eligibility list.

From the three (3) names certified, the City's chief executive officer shall appoint the person having the highest grade unless there is a valid reason why the person having the second or third highest grade should be appointed.

As to a paramedic position in the fire department, the following shall constitute a "valid reason" and a "good and sufficient reason" in accordance with subsections (B) and (C) herein why a person having the next highest grade should be appointed over the person having the highest grade: if the person having a higher grade does not hold an EMT paramedic designation, then the person holding the next highest grade who does have such EMT paramedic designation may be appointed.

If the City's chief executive officer does not appoint the person having the highest grade, the City's chief executive officer shall clearly set forth in writing the good and sufficient reason why the person having the highest grade was not appointed.

The reason required by Subsection (C) shall be filed with the Commission and a copy provided to the person having the highest grade. If the City's chief executive officer appoints a person having the next highest grade, a copy of the report shall also be furnished to the person(s) having the higher grade.

Section 143.027 PROBATIONARY PERIOD

See Section 143.027, Chapter 143

Probationary employees shall have no rights under Chapter 143 or under these Rules.

The Department Head of the Fire Department may, at his/her discretion, extend the probationary period of a person who is appointed to a beginning position in the Fire Department from the mandatory twelve (12) months up to a maximum of eighteen (18) months from the date of appointment. Such extension shall only be permitted if the appointee is required to attend a basic training academy necessary for initial certification by the Texas Commission on Fire Protection. The decision of the Department Head of the Fire Department to extend the probationary period is not subject to appeal under Chapter 143.

Section 143.028 ELIGIBILITY FOR PROMOTION

See Section 143.028, Chapter 143

Section 143.029 PROMOTIONAL EXAMINATION NOTICE

See Section 143.029, Chapter 143

The Director shall post notices that list the sources from which the examination questions will be taken. A valid source list of promotional materials as agreed upon by the Fire Chief and the Association Executive Board will remain in effect for two (2) years from the day of the posting. If there are edition changes during the two (2) years, the Fire Chief and the Association Executive board can agree to update the material, bypassing 143.029(a).

The Director may post notices for each rank to be tested, or may post a combined notice for all ranks.

Section 143.030 ELIGIBILITY FOR PROMOTIONAL EXAMINATION

See Section 143.030, Chapter 143

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

A fire fighter's prior service with the City does not count toward meeting the two (2) year requirement established in Section 143.030. A fire fighter who has been rehired shall not be given credit for prior service to determine eligibility to take a promotional examination.

College Hour requirements for Promotion

Driver applicant – must have fifteen (15) hours from an accredited college or university. By October 2025, must have thirty (30) hours from an accredited college or university. Fire Certification credit up to twelve (12) hours will be accepted if the state exam has been passed and successful completion of a minimum of three (3) semester credit hours toward a Fire Protection Technology Associate degree plan.

Lieutenant applicant - must have thirty (30) hours from an accredited college or university. By October 2025, must have forty-five (45) hours from an accredited college or university. The education requirement will be sixty (60) hours for Lieutenant by October 2028.

Captain applicant - must have forty-five (45) hours. By October 2025, must have sixty (60) hours towards a Bachelor's degree from an accredited college or university. The education requirement will be seventy-five (75) hours for Captain by October 2028.

Battalion Chief applicant - must have sixty hours (60) towards a Bachelor's degree from an accredited college or university by October 2023. By October 2025, must have seventy-five (75) hours towards a Bachelor's degree from an accredited college or university. The education requirement will be a Bachelor's Degree for Battalion Chief by October 2028.

Section 143.032 PROMOTIONAL EXAMINATION PROCEDURE

See Section 143.032, Chapter 143

All examinations shall be of such nature so as to test the relative capacity and fitness of the person examined to discharge the duties of the particular position to which he/she seeks appointment.

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 an assistant to administer tests or examinations.

No person shall deceive or obstruct any person in respect of his/her right of examination under the provision of these rules and the Civil Service Act; or falsely mark, grade or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion. No promotional candidate shall deceive the Commission for purposes of improving his/her chances for appointment or promotion.

Employees shall complete an Official Application for Promotional Examination, 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/or failure to file the application with the Director within the time limits prescribed in the "Notice of Promotional Examination" will render

the employee ineligible to take the examination.

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 reason (i.e. death in immediate family, public emergency, unavailability of test site), postpone an examination to a later date.

Each promotional examination is open to each qualified firefighter candidate who has continuously held for at least two (2) years a position in the classification that is immediately below the classification for which the examination is to be held: and has met the requirements of the Round Rock Fire Department policy 4003 (Relief & Acting Position Requirements); and currently holding the relief position for the previous six (6) months. This requirement becomes effective January 1, 2019.

To provide for competitive promotional examinations at least three (3) qualified candidates must sit for an examination. If there are not three (3) candidates in the next lower position with two (2) years' service in that position and have met the requirements of department policy 4003, the Chief may open the examination to persons in that position with less than two (2) years' service that have not met the requirements of department policy 4003. If there is still an insufficient number, the Commission may open the examination to persons with at least two (2) years' experience in the second lower position to the position for which the examination is to be held as long as the applicant has met the requirements of department policy 4003 for that classification.

The Director shall establish a promotional eligibility list from those persons passing the promotional examination.

Medical examinations taken not earlier than twelve (12) months preceding date of promotion will be required prior to promotion.

Certification by the TCFP as a Fire Officer III/IV will be attended and completed before the end of one (1) year in grade as a Battalion Chief.

Promotional examination procedures for certain personnel on active military duty:

Promotional candidates who are serving on active military duty outside the state of Texas or on active military duty more than two hundred (200) miles from the Round Rock City Hall are eligible to take a separate promotional examination. Such an examination may or may not be identical to the examination administered to other eligible candidates, and such an examination may be administered outside the presence of other candidates.

The Director is authorized to coordinate all testing hereunder, and may exercise the discretion necessary to ensure the secrecy of the examination and to ensure that proper administrative procedures are followed.

At no time shall the administration of such a promotional examination unnecessarily interfere with ongoing military efforts.

If an eligible candidate serving on active military duty takes and passes such 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 took the examination.

Eligible candidates serving on active military duty who take such a promotional examination outside

of the City shall be eligible to file an appeal of the examination as provided in Section 143.034. 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.

Eligible promotional candidates must notify the Director at least twenty-five (25) days in advance of the examination of the candidate's desire to have the examination administered off-site.

Any employee covered by Chapter 143 civil service who is called to active military duty must notify the Director of his/her mailing address and email address. The Director shall use his/her best reasonable effort to inform any such employee who is on active military duty of upcoming promotional examinations.

Promotional examination procedures for deployed military personnel:

In this Section 143.032, "deployed person" means a civil service employee of the Round Rock Fire 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 USARA; and "state regulations" means Chapter 143, Section 143.072 and Section 143.075.

When a person in the Fire Department is ordered to active military duty and deployed, all federal and state regulations shall apply.

Deployed persons are responsible for providing a regular mailing address and email address if available to the Civil Service Director for the duration of their deployment. The Civil Service Director is not responsible to seek out contact information for deployed persons.

Deployed persons are to remain aware of the likelihood of promotional examinations being given during their deployment.

Civil Service processes govern all promotional examinations for deployed and non-deployed persons alike.

When the Civil Service Director posts study resource lists for promotional examinations, the Civil Service Director shall forward a copy of the study resource list to all deployed persons eligible to take the promotional examination to the email or regular mail address provided by the deployed person.

If requested by the deployed person, the Civil Service Director shall ship all resource material listed on the promotional examination resource study list to the deployed person to the regular mailing address provided by the deployed person at no cost to the deployed person. The deployed person is responsible for returning all resource material sent to the deployed person by the City to the City in good condition within six weeks after the examination is given.

When the Civil Service Director posts notice for promotional examinations, the Civil Service Director shall forward a copy of the posting to all deployed persons eligible to take the promotional examination to the email or regular mailing address provided by the deployed person.

The process for signing up for Civil Service promotional examinations shall follow the same process for deployed and non-deployed persons.

When a deployed person is eligible for promotional examination, and desires to take the promotional examination, the deployed person must notify the Civil Service Director of the desire to sit for the examination by email or regular mail within the sign-up period allowed for non-deployed persons to sign up to take the promotional examination.

Included with the notification to the Civil Service Director of the desire to sit for the promotional examination, the deployed person must enclose the name and address of the deployed person's commanding officer.

The Civil Service Director shall obtain a promotional examination for the deployed person that is equal in length and taken from the posted study resource lists but with different questions than the questions to be included in the promotional examination given to non-deployed persons.

The Civil Service Director shall notify the deployed person's commanding officer by email or regular mail of the impending arrival of the promotional examination accompanied by a copy of this SOP and specific instructions on how to administer the examination to the deployed person and how to preserve the integrity of the promotional examination process.

To the extent possible, the promotional examination should be administered to the deployed person by the commanding officer at or about the same time and on the same date as it is being administered to non-deployed persons.

The deployed person's commanding officer must return the test, answer sheet, and all sheets of scratch paper utilized during the examination by the deployed person to the Civil Service Director in the envelope provided by the Civil Service Director.

Upon receiving the examination packet from the deployed person's commanding officer, the Civil Service Director shall score the examination in the same manner as the examinations were scored for non-deployed persons.

The Civil Service Director shall place the grade of the deployed person on the list of scores in the same manner as the scores for non-deployed persons.

The Civil Service Director shall forward a copy of the raw grades and the final grades that are posted within the City to the deployed person by email or regular mail to the address provided by the deployed person.

Section 143.033 PROMOTIONAL EXAMINATION GRADES

See Section 143.033, Chapter 143

All test participants receiving a grade of seventy (70) points or more shall be determined to have passed an examination. Candidates shall have their seniority points provided for in Chapter 143 added after the assessment center and written exam scores are finalized for a raw score. The seniority points will be added to the raw score and shall determine the final score of each candidate. Seniority points will be defined as follows: each firefighter is entitled to receive 1 point for each year of seniority up to ten (10) years of service with the Round Rock Fire Department. Each firefighter with over ten (10) years of service is entitled to an additional ½ point for each year of seniority with the Round Rock Fire Department, with no maximum.

When two (2) or more applicants have equal total grades or scores (including seniority points) and a

tie exists on the eligibility list for promotion, the following shall be used, in the order listed, until the tie is broken:

Highest written test score;

Longest period of continuous employment in the department;

Earliest date of appointment to present rank;

Earliest appointment to previous ranks, from highest to lowest;

Highest position on entry-level eligibility list.

A promotional eligibility list shall be established with names listed in order from highest score to lowest score. All eligibility lists shall remain in existence for two (2) years and one (1) day from date of certification, unless exhausted. The Fire Chief shall notify the Director of the necessity to replace an exhausted eligibility list.

Assessment Centers
To participate in the assessment center, a candidate shall have received a grade of seventy (70) on the written examination. An assessment center will be conducted for the following ranks: Driver, Lieutenant, Captain and Battalion Chief. These assessment centers shall be used on every promotional test and remain in effect until changed by the Fire Chief in consultation with the Association Executive Board. The Director will be consulted on the assessment center and manage the process in conjunction with the Fire Department.

The Director is authorized to establish rules for grading examinations.

Section 143.034 REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION

See Section 143.034, Chapter 143

The Director is authorized to establish rules for the review of examinations.

Upon completion of grading, each promotional candidate by himself/herself may review his/her examination and answers, the examination grading, and the source material for the examination in the presence of the Director or a monitor(s) designated by the Director.

The period of review of test materials begins after promotional examination grades are posted and is limited to the time prior to the date when an appeal may be filed.

If any candidate appeals a question(s) on a promotional examination under this rule, the Director shall prepare a written notice of the hearing and notify all parties concerned as to the time, date, and place of the hearing. The appeal information shall not reveal the name of the appellant(s) prior to the appeal hearing before the Commission. The Director shall prepare a package of information for each test question being appealed, to include:
The question number;

The question and its answer choices from the examination;

The correct answer on the scoring key;

The correct answer, if different from the scoring key;

A copy of the source material;

The appellant(s) written reason(s) for appeal;

The Director's statements, if any;

The Fire Chief's statements, if any;

Other material deemed relevant by the Director.

During the appeal hearing, the following rules will apply:

Appealed questions will be considered in numerical order;

Each appellant will be given an opportunity to present reasons for the appeal. The appellant may designate someone else to present comments. The Commission may limit the time for each appellant to speak, and the Commission may require non-duplication of information presented.

After each appellant has spoken on the question, the Commission may ask questions of the appellant or anyone else that may have information pertinent to the question.

The chairperson shall allow others an opportunity to speak on the question offering differing opinions. The chairperson may limit the time for each speaker and may require non-duplication of information presented.

The Commission may go into executive session at any time during the appeal hearing in order to deliberate, but not vote.

The Commission will make a decision on each question presented. The Commission's options on each appealed question are to:

Let the question stand as it was originally graded;

Change the answer from the way it was originally graded to another answer choice;

Allow more than one correct answer; or

Delete the question from the examination.

The formula for calculating the promotional test scores after appeal is as follows:
(100) / (total number of test questions used) = point value of each question

(# of total test questions) - (# of wrong questions) = # of correct questions

(# of correct questions) x (value of each question) = score

The Commission will consider all questions being appealed.

The Commission will indicate its decision for each question on a form provided by the Director. Each Commission member who agrees with that decision will sign the form. A majority of the Commission agreeing on a decision will determine the final decision on that question.

If necessary, the Director will re-score all answer sheets as directed by the Commission and create and post a new eligibility list. The amended eligibility list will have the same effective date as the original eligibility list.

Section 143.036 PROCEDURE FOR MAKING PROMOTIONAL APPOINTMENTS

See Section 143.036, Chapter 143

Persons accepting a promotion in the Round Rock fire department shall be medically and physically capable to perform the essential functions of the job and shall demonstrate a driving record which meets current City liability insurance requirements.

The Director and/or the Fire Chief may establish other reasonable, valid criteria for promotion to the particular position.

When the term "Commission" is used in Section 143.036, the Director may perform the duties specified.

Promotional procedures for deployed military personnel:

In this Section 143.036, "deployed person" means a civil service employee of the Round Rock Fire 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 USARA; and "state regulations" means Chapter 143, Section 143.072 and Section 143.075.

When a person in the Fire Department is ordered to active military duty and deployed, all federal and state regulations shall apply.

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 department head may:

promote the deployed person per Section 143.036 (Procedure for Making Promotional Appointments);

not promote the deployed person for a valid reason per Section 143.036(f)(g);

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 (Temporary Duties in Higher Classification); or

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.

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.

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.

Section 143.037 RECORD OF CERTIFICATION AND APPOINTMENT

See Section 143.037, Chapter 143

Section 143.038 TEMPORARY DUTIES IN HIGHER CLASSIFICATION

See Section 143.038, Chapter 143

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 143.039-143.040 reserved for expansion)

SUBCHAPTER C: COMPENSATION
Section 143.041 SALARY

See Section 143.041, Chapter 143

Section 143.042 ASSIGNMENT PAY

See Section 143.042, Chapter 143

Section 143.043 FIELD TRAINING OFFICER ASSIGNMENT PAY

See Section 143.043, Chapter 143

Section 143.044 CERTIFICATION AND EDUCATIONAL INCENTIVE PAY

See Section 143.044, Chapter 143
Section 143.045 ACCUMULATION AND PAYMENT OF SICK LEAVE

See Section 143.045, Chapter, 143

Civil Service Sick Leave

The City of Round Rock Human Resources Policies and Procedures Manual, Chapter 5, Section 12. Sick Leave establishes and specifies sick leave accrual and usage for civil service employees.

Sick Leave Payment Upon Suspension

A fire fighter who is temporarily suspended or indefinitely suspended must exhaust all appeal rights before the City is obligated to pay any accumulated sick leave as prescribed under Chapter 143.

Specifically, a 12-hour work day shall be used in calculating the ninety (90) days set forth in Chapter 143. The City shall not authorize withdrawals from the Texas Municipal Retirement System (TMRS) or Fire Pension System unless the fire fighter submits a written resignation and terminates employment with the City of Round Rock.

Section 143.046 VACATIONS

See Section 143.046, Chapter 143

Section 143.047 SHIFT DIFFERENTIAL PAY

See Section 143.047, Chapter 143

(Sections 143.048-143.050 reserved for expansion)

SUBCHAPTER D: DISCIPLINARY ACTIONS

Section 143.051 CAUSE FOR REMOVAL OR SUSPENSION

See Section 143.051, Chapter 143

Each of the following are declared to be grounds for removal or suspension of any employee from the classified service in the City of Round Rock:

Indictment, deferred adjudication, or conviction of a felony, Class A or Class B misdemeanor, or other crime involving moral turpitude or violation of laws/ordinances of the United States, State of Texas or City of Round Rock;

Violation of the provisions of the Charter of the City of Round Rock;

Acts of incompetency;

Neglect of duty;

Discourtesy by said employee to the public or to fellow employees while the fire fighter is in the line of duty;
Acts of said employee showing a lack of good moral character;

Drinking of intoxicants while on duty; or intoxication while off duty;

Conduct prejudicial to good order;

Refusal or neglect to pay just debts;

Absence without leave;

Shirking duties;

Cowardice at fires;

Insubordination; or

Violation of any of the rules and regulations of the fire department; or of special orders as

applicable; or of these rules and regulations; or of any of the "City of Round Rock Human Resources Policies and Procedures."

Section 143.052 DISCIPLINARY SUSPENSIONS

See Section 143.052, Chapter 143

General Provisions

These rules shall apply to and govern all disciplinary actions and appeals of the City of Round Rock Fire Fighters' Civil Service pursuant to Chapter 143.

All disciplinary actions and appeals concerning civil service employees will be made in compliance with Chapter 143, these rules and regulations, the "City of Round Rock Human Resources Policies and Procedures," as well as the rules and regulations of the employee's department.

The term "cause" shall also mean "employee misconduct" and will necessarily include any act or omission that violates:

An applicable provision of Chapter 143; or

An applicable rule or regulation duly adopted by the Commission.

A department head may proceed with appropriate disciplinary action arising from any particular factual event(s) and/or misconduct which would constitute "cause" when the employee's misconduct is related to those matters set forth in Chapter 143, these rules, departmental rules and regulations, or the "City of Round Rock Human Resources Policies and Procedures."

For disciplinary action purposes, a determination of what constitutes "just cause" is generally made by comparison to what a reasonable person, who is mindful of the habits and customs of his/her department, and who is also mindful of the responsibilities and needs of his/her department, should have done (or should have not done) under similar circumstances.

After the Commission has determined that probable cause does exist for a requested demotion and has provided the employee with written notice as per Chapter 143, thereafter 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. An employee may elect the hearing examiner provisions of Section 143.057 only if the demotion is considered disciplinary in nature.

After an employee has been passed over for promotion as per Chapter 143, thereafter the promotional passover appeal will be conducted according to the hearing procedures as provided in Chapter 143. An employee may elect the hearing examiner provisions of Section 143.057 only if the promotional passover is considered disciplinary in nature.

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

severe discipline.

Filing of Charges

The Director or his/her designee shall file-stamp all disciplinary actions filed by the department head, showing the date and time of receipt.

Section 143.053 APPEAL OF DISCIPLINARY SUSPENSION

See Section 143.053, Chapter 143

The Commission hereby adopts the procedure set out in this section for hearing appeals of disciplinary suspensions. The format for the hearing shall generally be as follows:

Opening statement, City (department head).

Opening statement, fire fighter.

Presentation of City's (department head's) case.

Direct testimony of witnesses.

Cross-examination of witnesses.

Follow-up questions by Commission.

Response by fire fighter.

Direct testimony of witnesses.
Cross-examination of witnesses.

Follow-up questions by Commission.

Rebuttal by City (department head), if any.

Direct testimony of witnesses.

Cross-examination of witnesses.

Follow-up questions by Commission.

Final statement by City (department head).

Final statement by fire fighter.

Closing final statement by City (department head).

Deliberation by Commission in executive session.

Commission publicly votes on the appeal.

All Commission members voting shall immediately sign a written order memorializing the Commission's decision.

Section 143.054 DEMOTIONS

See Section 143.054, Chapter 143

Section 143.056 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. No hearing before the Commission or a Hearing Examiner shall be provided.

Section 143.057 HEARING EXAMINERS

See Section 143.057, Chapter 143

The time limit for appeal to a Hearing Examiner will be the same as for appeal to the Commission.

In appeals to a Hearing Examiner, formal "rules of evidence" will not be observed.

Hearing Examiners shall base their decisions on "substantial evidence."

All hearings conducted by a Hearing Examiner will be conducted within Round Rock's city limits. Hearing Examiners shall have the same authority to uphold the suspension, reduce the suspension, or overturn the suspension as does the Commission.

Unless expressly authorized by Section 143.057, Hearing Examiners will observe the procedures as described in Section 143.010.

The rule-making power and authority of the Commission is in no way conferred upon and/or delegated to any Hearing Examiner, either by implication or otherwise.

Disciplinary proceedings 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 agreement to submit the appeal to such arbitration.

The Hearing Examiner is to conduct a hearing fairly, objectively and impartially under the provisions of Chapter 143 and these Rules and Regulations. 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 Department's written statement and the employee's notice of appeal as filed with the Commission as well as the employee's previous work record with the Department.

In all cases, the employee filing the appeal shall strike the first name from the list of possible Hearing Examiners.

(Sections 143.058-143.070 reserved for expansion)

SUBCHAPTER E: LEAVES

Section 143.071 LEAVES OF ABSENCE: RESTRICTION PROHIBITED

See Section 143.071, Chapter 143

Section 143.072 MILITARY LEAVE OF ABSENCE

See Section 143.072, Chapter 143

Section 143.073 LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE

See Section 143.073, Chapter 143

Section 143.074 REAPPOINTMENT AFTER RECOVERY FROM DISABILITY

See Section 143.074, Chapter 143

Section 143.075 MILITARY LEAVE TIME ACCOUNTS

See Section 143.075, Chapter 143

(Sections 143.076 - 143.080 reserved for expansion)

SUBCHAPTER F: MISCELLANEOUS PROVISIONS

Section 143.081 DETERMINATION OF PHYSICAL OR MENTAL FITNESS

See Section 143.081, Chapter 143

Each employee shall continually remain in such physical and mental condition as to be capable of rendering safe and efficient service to the City and performance of the duties and essential functions assigned to the employee.

Each employee shall be required to submit to a psychological or physical examination where there exists some reasonable basis to believe that the employee's mental or physical fitness for duty is an issue. For purposes of this Section 143.081, a question arises as to sufficient physical or mental fitness to continue duties if the person self-refers for medical or psychological assistance, or if the person is so referred by the department head. The employee must submit to such mandatory psychological or physical examination as soon as is reasonably practical, but not later than ten (10) business days from referral. A business day, as used herein, is defined as follows: Any day (other than Saturday, Sunday, and legal holidays as specified by the City of Round Rock) on which the business of the City is conducted.

Determination of the employee's mental and/or physical fitness for duty shall not be subject to the Commission or Hearing Examiner's review. The decision of the three- member panel, as provided for in Section 143.081(d), is final and binding; and no further appeal to the Commission or to a Hearing Examiner shall be permitted if the employee is terminated from his/her position based on the panel's report.

If a question arises as to whether a fire fighter is sufficiently physically or mentally fit to continue

the persons' duties, the fire fighter shall submit to the Commission a report from the person's personal physician, psychiatrist, or psychologist, as appropriate.

If the Commission, the Fire Chief, or the fire fighter questions the report, the Commission shall appoint a physician, psychiatrist, or psychologist, as appropriate, to examine the fire fighter and to submit a report to the Commission, the Fire Chief, and the person. For purposes of this subsection (E), such second examination shall be conducted as soon as is reasonably practical, but not later than ten (10) business days from referral.

If the report of the appointed physician, psychiatrist, or psychologist, as appropriate, disagrees with the report of the fire fighter's personal physician, psychiatrist, or psychologist, as appropriate, the Commission shall appoint a three-member board composed of a physician, a psychiatrist, and a psychologist, or any combination, as appropriate, to examine the fire fighter. The board's findings as to the person's fitness for duty shall determine the issue.

The fire fighter shall pay the cost of the services of the person's personal physician, psychiatrist, or psychologist, as appropriate. The City shall pay all other costs.

Section 143.082 EFFICIENCY REPORTS

See Section 143.082, Chapter 143

Section 143.083 EMERGENCY APPOINTMENT OF TEMPORARY FIRE FIGHTERS

See Section 143.083, Chapter 143

Section 143.084 CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIRE FIGHTERS

See Section 143.084, Chapter 143

Section 143.085 FORCE REDUCTION AND REINSTATEMENT LIST

See Section 143.085, Chapter 143

Whenever the Fire Department reorganizes the number of positions in a particular rank which results in a position(s) being eliminated in one classification, and when a promotional eligibility list for the position being eliminated exists at the time of the reorganization, the Director shall notate in the "a" file of an affected employee(s) the following information:

Promotion of the top person(s) on the eligibility list to the abolished position(s) as of 7:00 a.m. on the effective date; and

Demotion of the same person(s) promoted to the abolished position(s) at 7:01 a.m. on the same date.

The Director shall create a Reinstatement List in accordance with the requirements of this section.

Section 143.086 POLITICAL ACTIVITIES

See Section 143.086, Chapter 143

Section 143.087 STRIKE PROHIBITION

See Section 143.087, Chapter 143

Section 143.088 UNLAWFUL RESIGNATION OR RETIREMENT

See Section 143.088, Chapter 143

Section 143.089 PERMANENT PERSONNEL FILE

See Section 143.089, Chapter 143

Access to records of employees in the classified service, employment applications, background investigation records and reports, examinations and answer sheets shall be governed by Chapter 143 of the Texas Local Government Code and the Texas Government Code and appropriate federal statutes.

Ordinance No. G-10-01-14-7A1, codified in Chapter 1, Section 1.1002.1(7) of the Code of Ordinances of the City of Round Rock, provides for the following:

Access to Subsection 143.089(g) File:

Access to a fire fighter's otherwise confidential subsection (g) file is an inherent right, in their official capacities, of the City Council, the City Manager, and the Director of Fire Fighters' Civil Service.

In addition to those persons listed in subsection (a) above, access to a fire fighter's otherwise confidential subsection (g) file shall be specifically granted to the Department Head of the Fire Department, the City Attorney, and outside attorneys retained by the City.

(Sections 143.090-143.100 reserved for expansion)

Comparison of Civil Service Rules

Cedar Park FD
Georgetown FD
Round Rock FD

This document is intended to compare these three cities Civil Service rules. Notations that I have made are in italics. I have highlighted some sections in order to show differences between cities which are explained at the beginning of those sections. If the cities rules are essentially the same, I have at times left out another city and have indicated that in the beginning of that section. I have taken some formatting liberties in order to simplify some of the original rules, so these rules do not appear exactly as they are in the .pdf files.

143.001 Purpose

Cedar Park (CP) & Georgetown (GT) are about the same. CP's last section numerating the rules, GT has in section 143.006, Section 4 responsibilities.

Cedar Park:

Section 143.001 PURPOSE

There is hereby established the City of Cedar Park Fire Fighters' and Police Officers' 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 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 Cedar Park Human Resources Policy Manual 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.

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

(1) The proper conduct of Commission business meetings;

(2) The proper conduct of examinations for entry level and promotional eligibility;

(3) The proper conduct of appeals of testing and examination scoring;

(4) The prescribed cause or causes for the removal or suspension of a civil service employee;

(5) The procedures for the hearing of disciplinary appeals concerning suspensions without pay, indefinite suspensions, promotional passovers; recommended demotions; or written promotional examinations; and

(6) 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.

Georgetown:

There is hereby established a Fire Fighters' and Police Officers' Civil Service with the adoption of these Local Civil Service 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 scope and construction of the Rules hereinafter set forth shall be interpreted and applied in a manner to complement Chapter 143. It is intent of these Rules 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 Georgetown Personnel Policies or the residual discretionary authority vested in a department head. The Rules shall apply to all of the classified, non-probationary employees covered under Chapter 143.

Round Rock:

The purpose of these "Municipal Civil Service Rules and Regulations" is to carry out state law and to provide for the local administration of such law by prescribing rules and regulations for the initial selection of employees into the fire department, for conducting promotional examinations, for governing disciplinary matters, and for providing general information concerning the rights and benefits of civil service employees. These "Municipal Civil Service Rules and Regulations" are promulgated in compliance with Chapter 143, Texas Local Government Code, which is incorporated herein for all purposes. It is intended that these "Municipal Civil Service Rules and Regulations" shall complement said statute and not conflict with the statute.

These "Municipal Civil Service Rules and Regulations" shall apply to all non- probationary employees appointed in substantial compliance with Chapter 143 holding a classified position in

the fire department as reflected in the most recently approved classification ordinance passed by the Round Rock City Council.

143.002 MUNICIPALITIES COVERED BY CHAPTER

Cedar Park & Round Rock: See Section 143.002 of Chapter 143

Georgetown: Reserved

143.003 DEFINITIONS

All three have similar terms defined, with just a couple differences.

Cedar Park	Georgetown	Round Rock
Appointment	Appointment	Appointment
Business Day	Business Day	
Chapter 143	Chapter 143	Chapter 143
Chief Executive	Chief Executive	Chief Executive
	Civil Service Anniversary Date	Civil Service Anniversary Date
Classification	Classification	Classification
Commission	Commission	Commission
Conviction or Convicted	Conviction or Convicted	Conviction or Convicted
Day	Day	Day
Department Head	Department Head	Department Head
Demotion	Demotion	Demotion
Director	Director	Director
Eligibility List	Eligibility List	Eligibility List
		Firefighter
Military Service Credit	Military Service Credit	Military Service Credit
Raw Score	Raw Score	Raw Score
Seniority	Seniority	
Veteran	Veteran	Veteran

143.006 IMPLEMENTATION: COMMISSION

CP and GT rules are more detailed. RR details more of theirs in section 143.008. I have highlighted sections of GTs rules that are not included in CP's.

Sections 5-8 of GT rules are in CP section 143.017.

Cedar Park*:*
See Section 143.006, Chapter 143

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 Chapter 551 of the Government Code (Open Meetings Act), as amended.

A meeting shall be called by the Director at the request of the Chairperson, 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 two (2) hours notice shall be given in accordance with the provisions of the Government Code.

In all matters of procedure not controlled by the provisions of the Local Government Code, the order of business and conduct of meetings shall be in conformity with Robert's Rules of Order. The Commission may, by majority vote, make rules of procedure for the administration of Chapter 143 of the Local Government Code.

RULES OF THE COMMISSION -The rules of the Commission currently in effect are only those contained herein. These Rules have been approved by the Commission and shall remain in effect until officially amended, revised or repealed by the Commission.

Amendment to these Rules may be made at any meeting of the Commission and such amendment shall become effective on the date of 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.

APPOINTMENT, VACANCY AND TERM OF COMMISSIONER- The City Manager shall appoint and the City Council shall confirm the appointment of the three members of the Commission who meet the required statutory qualifications. The members shall elect one member to serve as Chairperson and one to serve as Vice-Chairperson.

When a vacancy on the Commission occurs, the replacement of Chairperson and Vice-Chairperson shall be handled as follows: 1) in the event of a vacancy in the Chairperson position, the Vice-Chairperson shall assume the role of Chairperson and an interim election shall be held to elect a new Vice-Chairperson: and 2) in the event of vacancy in the Vice-Chairperson position, an interim election shall be held to fill that office.

Each member of the Commission holds office for a staggered three-year term and thereafter until a successor is appointed and confirmed. An interim vacancy 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.

Georgetown:

06. IMPLEMENTATION: COMMISSION

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).

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 two (2) hours notice shall be given in accordance with the provisions the Texas Government Code.

In all matters of procedure not controlled by the provisions of the Texas Local Government Code, chapter 143, the order of business and conduct of meetings shall be in conformity with Robert's Rules of Order. The Commission may, by majority vote, make rules of procedure for the administration of the Texas Local Government Code.

A. RULES AND REGULATIONS

1. The rules of the Civil Service Commission currently in effect are only those contained herein. These rules have been approved by the Commission and shall remain in effect until officially amended, revised or repealed by the Commission.

2. Notice of Rules - 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.

3. 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.

B. ENACTMENT

1. 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.

2. These rules completely repeal and replace such earlier rules and regulations as have been adopted by the Civil Service Commission. These rules are made and shall be construed in accordance with Chapter

143. It is intent of these rules to cover situations not mentioned in Chapter 143 or which are ambiguous in Chapter 143.

3. The scope and construction of the rules hereinafter set forth shall be interpreted and applied within the spirit and intent of Chapter 143. All situations that are not expressly covered by Chapter 143, City ordinances or these rules and regulations shall be resolved in accordance with the City of Georgetown Personnel Rules and Regulations or the residual discretionary authority vested in a department head. These rules and regulations 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.

C. CIVIL SERVICE COMMISSION

1. APPOINTMENTS - The City Manager shall appoint and the City Council shall confirm the appointment of the three members of the Civil Service Commission who meet the required statutory qualifications. 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: 1) 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: 2) 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.

4. RESPONSIBILITIES - 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 discretionary or managerial authority of the City Council, City Manager, Director of Civil Service, or Department Head.

5. RULE OF CONDUCT

a. 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.

6. QUORUM-Two members of the Commission constitute a quorum sufficient to conduct business meetings and hearings.

7. CONDUCT OF BUSINESS MEETINGS - The Commission may set reasonable rules and procedures for proper 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.

8. 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.

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

Round Rock:
See Section 143.006, Chapter 143

Establishment
Upon adoption of Chapter 143, the Round Rock Fire Fighters' Civil Service Commission is established in this municipality.

Initial Appointment to Commission
The City Manager of the city shall appoint the members of the Commission within sixty (60) days after the date Chapter 143 is adopted.

Thereafter, the City Manager shall appoint new members to the Commission as and when necessary.

Subsequent Appointment to Commission; Terms of Commissioners

The City Manager shall appoint and the City Council shall confirm the appointment of the three (3) members of the Commission who meet the required statutory qualifications. Each member of the Commission holds office for a staggered three- year term and thereafter until a successor is appointed and confirmed. An interim vacancy 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.

Commission Chair and Vice-Chair Election and Replacement
The members shall elect one (1) member to serve as Chair of the Commission and one (1) member to serve as Vice-Chair of the Commission. Whenever vacancies of members of the Commission occur, the replacement of Chair and Vice-Chair shall be handled as follows:

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;

In the event of a vacancy in the Vice-Chair position, an interim election will be held to fill the office.

143.007 REMOVAL OF COMMISSION MEMBER

The rules are essentially the same. Cedar Park and Georgetown mention removal for missing 3 meetings during a 12 month period without good and reasonable cause, may be automatically deemed to have submitted a resignation. Round Rock specifies 3 consecutive or non-consecutive meetings in 12 months without reasonable cause is automatically deemed to have submitted a resignation.

Cedar Park & Georgetown (identical).
A member of the Commission may tender his or 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.

If a Civil Service Commission member is absent three (3) meetings during a twelve (12) month period without good and reasonable cause, then 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, a request shall thereafter be made by the Director to the City Manager for a replacement of such member.

Round Rock:
See Section 143.007, Chapter 143

A member of the Commission may tender his/her resignation in writing at any time to the City Manager. The City Council may remove a Commission member from office for misconduct in office or otherwise in accordance with Chapter 143.

If a Commission member is absent three (3) consecutive or non-consecutive meetings during a twelve (12) month period without reasonable cause, the absent member is automatically deemed to have submitted his/her resignation and, if accepted by the City Manager, the position will be deemed vacant without further action.

Upon the occurrence of any of the events enumerated under Section 143.007, a request will thereafter be made by the Director to the City Manager for a replacement of such member.

143.008 ADOPTION AND PULBICATION OF RULES

Round Rock's rule in this section is lengthy compared to CP & GT. That is because CP & GT has similar rules listed in other sections of their rules. I have referenced those sections in RR's rules to the other sections. I have highlighted areas of RR's rules here that are not listed in other sections of CP or GT.

Cedar Park:
See Section 143.008, Chapter 143

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.

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.

Georgetown:
ADOPTION AND PUBLICATION OF RULES
Where there is a conflict between these Rules and other rules pertaining to the employees of the City of Georgetown, then these Rules will 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.

These rules are enacted by the Civil Service 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.

Round Rock:
See Section 143.008, Chapter 143

The Commission may, by majority vote, make rules of procedure for the administration of Chapter 143.

In CP & GT 143.001 Purpose:
The Commission has the responsibility to adopt, publish, and enforce rules relating to:

- Proper conduct of Commission business;
- Proper conduct of examinations of entry level and promotional eligibility;
- Procedures for appointment and certification;

- Proper conduct of appeals of testing and examination scoring;
- Procedures for hearing disciplinary appeals concerning indefinite suspensions, suspensions, promotional Passovers, recommended involuntary demotions; and
- Such other matters reasonably related to the selection, promotion, and discipline of civil service employees, not otherwise vested in the discretionary or managerial authority of the City Council, the City Manager, the Director, or the Fire Chief.

CP 143.006 (2):
These rules shall remain in effect until officially amended, revised or repealed by the Commission in the same manner that the original rules were adopted.

Amendments to these rules may be made at any meeting of the Commission by appropriate inclusion on the agenda. If passed, such amendments will become effective on the date of their approval by the Commission and compliance with the posting and notice requirements of Chapter 143 and of these rules.

CP 143.001 (para 2):
These rules are made and shall be construed in accordance with Chapter 143. It is the intent of these rules to cover situations not specifically addressed in or which may be ambiguous in Chapter 143, and to address those areas where a local rule is permitted, necessary, or desirable. These rules have been drafted to follow the same numbering system used in Chapter 143. In adopting these rules, the Commission has negated the necessity of repeating Chapter 143. The scope and construction of these rules shall be interpreted and applied within the spirit and intent of Chapter 143. In the event of a conflict between Chapter 143 and these rules, Chapter 143 shall govern.

CP 143.008 (para 1):
If any part, 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.

CP 143.001
These rules and regulations shall apply to all of the classified, non-probationary fire fighters covered under Chapter 143 and specifically certified by the Texas Commission on Fire Protection. For any provision of Chapter 143 that applies to probationary fire fighters, the corresponding local rule will apply.

Immediately upon becoming effective, all rules contained herein will thereafter be deemed to constitute full and effective prior notice to all civil service employees of prescribed or prohibited conduct as stated in any rule.

CP 143.008:
These rules are enacted by the Commission pursuant to the statutorily-delegated authority of Chapter 143. They were not acted upon in any official manner by the City Council and do not constitute any form of "policy" or "official act" of the City Council.

CP 143.012 (11):

When a specific rule does not adequately address a particular questions or issue, it shall be the responsibility of the Director to interpret these rules based upon circumstances, facts and issues.

CP 143.001:
All situations not expressly covered by Chapter 143, by these City of Round Rock Fire Fighters' Civil Service System "Municipal Civil Service Rules and Regulations," by fire department rules, by standard operating procedures, and/or by administrative directives shall be resolved in accordance with "City of Round Rock Human Resources Policies and Procedures" and/or the residual discretionary authority vested in a department head.

CP 143.006 (2)
All rules and amendments shall be printed and made reasonably available for access by all civil service employees in accordance with Chapter 143, Section 143.008(e).

CP 143.017:
Civil Service Commission
Rules of Conduct
In the discharge of their duties, members of the Commission act as a committee of the whole and not as individuals. An individual Commission member has no legal or moral right to speak for the Commission unless specially authorized to do so by the action of the Commission.

CP 143.006 (1)
Meetings
The Commission shall conduct all meetings in compliance with the provisions of the Open Meetings Act, Texas Government Code Annotated, Chapter 551 (Vernon 1994), as amended.

Regular meetings of the Commission will be routinely held at a time and place designated by the Commission. Special meetings may be called by the Director, at the request of the Chair, or at the written request of any two (2) commissioners.

The Commission shall conduct its meetings at such times and in such places as designated in its statutorily-required postings. Notice of a meeting shall be given to the members of the Commission and the public by posting at least seventy-two (72) hours preceding the scheduled time of the meeting, except in case of emergency or urgent public necessity, in which case two (2) hours notice shall be given prior to the meeting being convened, all in accordance with the provisions of the Open Meetings Act, Texas Government Code Annotated, Chapter 551 (Vernon 1994), as amended. Notices of Commission meetings shall be sent to the fire stations.

CP 143.012 (7):
Meetings may be rescheduled or postponed when such action is deemed necessary. The Director may call, schedule, reschedule or cancel meetings of the Commission.

Executive session is mentioned a couple times in the other department's rules, but not specifically stated like this:
Meetings of the Commission may be closed from time to time in conformance with the provisions of applicable state law.

Agenda items shall be submitted as prescribed by the Director, and he/she shall have discretion over whether to place on the agenda any item over which he/she believes the Commission lacks jurisdiction. Only items properly listed on the agenda may be acted upon.

CP 143.017 (3):
Quorum
Two (2) members of the Commission constitute a quorum sufficient to conduct business meetings and hearings.

CP 143.006 (1):
Conduct of Business Meetings
In all matters of procedure not controlled by the provisions of Chapter 143, the order of business and conduct of meetings shall be in conformity with Robert's Rules of Order. Meetings of the Commission shall be conducted with an appropriate degree of formality so as to be conducive to the most effective conduct of business.

CP 143.017 (4)
The Commission may set reasonable rules and procedures for proper and efficient conduct of business. The Chair will conduct meetings in an orderly and timely fashion. The normal order of business at non-disciplinary or non-appeal hearings will generally be as follows:
Call to order;
Approval of minutes;
Communication from meeting attendees;
Consideration of action items;
Consideration of miscellaneous matters;
Consideration of new business, including Commission members' suggestions of items for future agenda;
Executive session, if required; and Adjournment.

Minutes
Official minutes of each meeting shall be prepared. The minutes shall 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, will be kept open for public inspection as governed by applicable state law. A Commission member may record in the minutes an approval of, or objections to, any act of the Commission together with that 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 all members of the Commission who are present.

CP 143.012 (para 1):

Communications
All communications or requests to the Commission shall be made in writing through the office of the Director.

GT 143.018:
Departmental Rules
The Fire Chief shall adopt and promulgate written rules, regulations and policies pertaining to the operation of the fire department.

A departmental rule, regulation, general order, or policy shall not conflict with Chapter 143 or these rules.

If neither a departmental rule nor Chapter 143 addresses a policy or procedure, then the "City of Round Rock Human Resources Policies and Procedures" shall apply.

143.010 COMMISSION APPEAL PROCEDURE

Notice of appeal is all similar, two of them spell out the 10 days also as 240 hours. Subpoena process is the same, except Round Rock specifically states that no discovery is allowed in commission proceedings except for the document subpoena provision. Round Rock specifically states what actions the commission has jurisdiction over. I have highlighted sections of RR that are not in CP & GT.

Cedar Park:
Section 143.010 COMMISSION APPEAL PROCEDURE
See Section 143.010, Chapter 143

1. ORIGINAL NOTICE OF APPEAL-The employee's notice of appeal shall be filed in writing with the Director within ten (10) days after receiving the Notice of disciplinary action from the Department Head. An employee may withdraw his/her request for an appeal at any time, and thereby terminate the appeals process.

   The employee's notice of appeal and request for hearing shall set forth the employee's basis for appeal in compliance with Chapter 143.

2. FAILURE TO TIMELY FILE AN APPEAL OR SET FORTH BASIS FOR APPEAL-There shall 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 within ten (10) days as 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 state the basis for appeal, the Director shall notify the employee that the appeal shall not be considered.

3. SUBPOENA-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 subpoena duces tecum at least ten (10) days prior to the hearing date. 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 date. 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 date to determine whether to issue, quash or modify the requested subpoena. This meeting may be convened by conference call, at the discretion of the Chairman. 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.

   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.

4. In appeals to the Commission, the "rules of evidence" shall not be observed.

5. 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."

Georgetown:
COMMISSION APPEAL PROCEDURE

A. 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.

B. 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.

C. SUBPOENA
   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. 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.

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.

D. In appeals to the Commission, the "rules of evidence" shall not be observed.

E. 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."

Round Rock:
See Section 143.010, Chapter 143

Notice of Appeal
An employee's notice of appeal shall be filed in writing with the Director within 240 hours after receiving notice of disciplinary action from the Department Head. An employee may withdraw his/her request for an appeal at any time, and thereby terminate the appeals process.

In appeals to the Commission, formal "rules of evidence" will not be observed.

Subpoena
Before requesting a subpoena duces tecum for the production of documents under Section 143.0l0(e), 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 subpoena duces tecum at least ten (10) days prior to the hearing date. 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 not later than the third day before the hearing to determine whether to issue, quash, or modify the requested subpoena. This meeting may be convened by conference call, at the discretion of the Chair. The Director shall then notify the parties verbally and in writing of the

Commission's decision. Because of the short timeframe permitted in this process, all written materials may be served by facsimile by the parties to each other and to the Director.

A request for a 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.

Except for the document subpoena provision in Section 143.0l0(e), there shall be no discovery in Commission proceedings.

Appeals for which the Commission has jurisdiction are as follows:

Disciplinary suspensions of one to fifteen days, and indefinite suspensions; Demotions; Promotional passovers; and Written promotional examinations.

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 which 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, all 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."

143.011 DECISIONS AND RECORDS

Cedar Park:
Section 143.011 DECISIONS AND RECORDS
See Section 143.011, Chapter 143

Georgetown:
DECISIONS AND RECORDS
Access to records of employees in the classified service including, employment applications, background investigation records and reports, examinations and answer sheets shall be governed by the Texas Local Government Code and the Texas Government Code.

Round Rock:
See Section 143.011, Chapter 143

Access to records of employees in the classified service, employment applications, background investigation records and reports, examinations and answer sheets shall be governed by the Open Records Act, Texas Government Code Annotated, Chapter 552 (Vernon 1994), as amended.

143.012 DIRECTOR

Common Duties Across All Cities:

- *Serve as Secretary to the Commission.*
- *Supervise examinations, including preparation, scheduling, scoring, and security.*
- *Coordinate the recruitment and examination of applicants.*
- *Assist in the classification of positions.*
- *Set or assist in setting agendas for Commission meetings.*
- *Act as liaison and provide staff support to the Commission.*
- *Determine whether matters are appropriately brought before the Commission in a timely manner.*
- *Call, schedule, reschedule, and cancel meetings of the Commission.*
- *Act as records custodian as provided by Chapter 143.*
- *Act on behalf of the Commission for actions and issues not specifically addressed in Chapter 143 or the rules.*
- *Establish and monitor procedures for the discipline and termination of civil service employees.*
- *Perform other functions necessary for the efficient and effective administration of the civil service system.*

Cedar Park Specific Duties:

- *Interpret rules and take appropriate action when a specific rule does not address a particular question or issue.*

Georgetown Specific Duties:

- *Serves as chief test examiner for the Commission.*
- *Recodify Civil Service Commission rules as necessary in a professional and timely fashion.*
- *Responsibility to interpret the rules based on circumstances, facts, and issues when a specific rule does not address a question or issue.*

Round Rock Specific Duties:

- *Recommend classification of any newly established fire department positions to the Commission.*
- *Obtain determination from the City Attorney's office regarding Commission jurisdiction over matters if necessary.*
- *Recodify Commission rules as necessary in a professional and timely fashion.*

Cedar Park:
See Section 143.012, Chapter 143

The Director shall 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. The Director shall also act as Secretary to the Commission. The Director's duties include, but are not limited to:

1. Supervising all examinations, including the preparation, scheduling, scoring and security of test materials;
2. Coordinating the recruitment and examination of applicants;
3. Assisting in the classification of Fire and Police Department positions;
4. Assisting the Chairperson in setting the agenda for the Commission meetings;
5. Acting as liaison and providing staff support to the Commission;
6. Determining whether any matter is appropriately brought before the Commission in a reasonable and timely fashion;
7. Calling, scheduling, rescheduling, and canceling meetings of the Commission;
8. Acting as records custodian as provided by Chapter 143;
9. Acting on behalf of the Commission for actions and issues not specifically addressed in Chapter 143 or these Rules;
10. Establishing and monitoring procedures for the discipline and termination of civil service employees;
11. 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; and
12. 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.

Georgetown:

A. APPOINTMENT -The Commission shall appoint a director who shall be responsible for implementing these rules and administering the civil service system.

B. DUTIES - The Director or designee shall also act as secretary to the Commission and as chief examiner of tests and test appeals. The Director's duties include but are not limited to:

    1. Serves as Secretary to the Commission;
    2. Serves as the chief test examiner for the Commission and supervisor of all examinations, including the preparation, scheduling, scoring and security thereof;
    3. Recruitment and examination of applicants;
    4. Classification of positions;
    5. Sets agenda for Commission meetings;
    6. Acts as liaison and provides staff support to Commission;
    7. Determines whether any matter is appropriately brought before Commission in a reasonable and timely fashion;
    8. Calls, schedules, reschedules, and cancels meetings of the Civil Service Commission;
    9. Acts as records custodian as provided by Chapter 143;

10. Acts on behalf of Civil Service Commission for actions and issues not specifically addressed in Chapter 143 or these rules;
11. Recodifies Civil Service Commission rules as necessary in a professional and timely fashion;
12. Establishes and monitors procedures for the discipline and termination of civil service employees;
13. Performs such other functions as may be deemed reasonably necessary in regard to the efficient and effective administration of City's civil service system; and
14. When a specific rule does not address a particular question or issue, it is the responsibility of the Director of the Civil Service Commission to interpret the rules based on circumstances, facts and issues, and take appropriate action.

Round Rock:
See Section 143.012, Chapter 143

The Commission shall appoint a Director who shall be responsible for implementing these rules and for administering the civil service system.

The Director shall perform work incidental to the civil service system as required by the Commission. The Commission may, if necessary, appoint an assistant director. The Director shall:

Serve as Secretary to the Commission;

Serve as chief test examiner for the Commission; supervise all examinations, including the preparation, scheduling, scoring and security of test materials;

Coordinate the recruitment and examination of applicants;

Recommend classification of any newly-established fire department positions to the Commission, and assist in the classification of fire department positions;

Set or assist the Chair in setting agendas for Commission meetings; Serve as liaison and provide staff support to Commission;

If necessary, obtain a determination from the City Attorney's office as to whether the Commission has jurisdiction over any matter, and determine whether any matter is appropriately brought before the Commission in a reasonable and timely fashion;

Call, schedule, reschedule, and cancel meetings of the Commission; Serve as records custodian as provided by Chapter 143;

Act on behalf of the Commission for actions and issues not specifically addressed by Chapter 143 and these rules;

Recodify Commission rules as necessary in a professional and timely fashion;

Establish and monitor procedures for the discipline and termination of civil service employees; and

Perform other such functions as may be deemed reasonably necessary in regard to the efficient and effective administration of the civil service system for the city.

143.017

Cedar Park and Georgetown have created a section 143.017 below:

Cedar Park:
Section 143.017 COMMISSION PROCEDURES

1. RULE OF CONDUCT-In the discharge of their duties, members of the Commission act as a body and not as individuals. An individual Commission member shall not speak for the Commission unless specially authorized in advance to do so by action of the Commission.

2. AGENDA-The Director shall assist the Chairperson in preparing an agenda for a Commission meeting. If a Commission member wants an item placed on an agenda, he/she shall submit a written request to the Director for consideration by the Chairperson.

3. QUORUM-Two members of the Commission constitute a quorum sufficient to conduct business meetings and hearings.

4. CONDUCT OF REGULAR BUSINESS MEETINGS-The Commission shall set reasonable rules and procedures for proper 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 Chairperson may alter the order of business at his/her discretion.

5. MINUTES-The Secretary of the Commission shall prepare the minutes of each meeting. The minutes of a meeting shall 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. A copy 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 Chairperson, or in the Chairperson's absence, the Vice-Chairperson.

Georgetown:
17. MEETINGS OF THE COMMISSION
The members of the Commission shall, at a date, hour, and place set by the Commission, hold such meetings as may be required in the proper discharge of their duties. Two members of said Commission

shall constitute a quorum to transact business. The Director may call, schedule, reschedule or cancel meetings of the Civil Service Commission. All agenda items shall be submitted in a manner prescribed by the Director. The Director shall have discretion to place or not to place on the agenda any item which he/she believes the Commission lacks jurisdiction.

All meetings of the Commission shall be open to the public and to representatives of the press, except to the extent that executive sessions are allowed under the Texas Open Meetings Act, Section 551 of the Texas Government Code.

Notice of all meetings of the Commission shall be given by the Director to the members of the Commission and an agenda shall be posted on the bulletin board at City Hall at least 72 hours prior to any meeting. Only such topics as are listed on the agenda may be acted upon. However, the Commission may meet in an emergency session by complying with the provisions of the Texas Government Code.

The Commission may, by majority vote, make rules of procedure from time to time to implement the administration of these rules.

143.018

Georgetown has created a section 143.018 section:

Georgetown:

18. DEPARTMENT RULES

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.

143.021 CLASSIFICATION; EXAMINATION REQUIREMENT.

Georgetown and Round Rock are similar in wording.

Cedar Park:
See Section 143.021, Chapter 143

The civil service positions in the Fire and Police Departments are classified on the basis of similarity in duties and responsibilities.

Georgetown:
The civil service positions in the Fire and Police Departments are classified on a basis of similarity in duties and responsibilities as shown in the list of positions referenced and published in the pay plan for the Fire and Police Departments in the City's budget, adopted annually by City Council.

Only employees of the City authorized by this section shall be classified under civil service in the Fire or Police Department. These positions should be filled by examination as provided in Chapter 143. All civil service personnel shall receive the salary specified and set forth in the current City budget.

The Department Heads of their respective Departments shall develop job descriptions for each position in each classification. The specifications for the various classifications are to have the following force and effect:

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.

Round Rock:
See Section 143.021, Chapter 143

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.

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:

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.

Titles shall be suggestive of the kind of work performed by the incumbent of the position and indicative of the rank.

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.

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.

143.022 PHYSICAL REQUIREMENTS AND EXAMINATIONS

Cedar Park and Georgetown state that applicants must submit to physical and mental tests, Round Rock states a physical ability test and other necessary tests.

Cedar Park & Georgetown outline the appeal process for an applicant who is rejected, while Georgetown spells out more of the process. Round Rock does not mention a process.

Cedar Park outlines that promotional candidates must have had a physical within the last 6 months.

Round Rock, in addition to stating that applicants who are not capable of performing essential functions of the job (with or without accommodations), will not be appointed, also includes that applicants will not be appointed if they pose a physical danger to themselves or others.

Just FYI, LFD's process involves a physical agility test, a medical exam, and a psychological assessment for entry, and we require a physical annually.

Cedar Park:
Section 143.022 PHYSICAL REQUIREMENTS AND EXAMINATION
See Section 143.022, Chapter 143

1. GENERAL REQUIREMENTS-Each applicant for entry-level positions shall be required to submit to such physical and mental tests as determined by the respective Department Heads 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 shall not be appointed.

2. 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.

3. 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.

Georgetown:
PHYSICAL REQUIREMENTS AND EXAMINATIONS

A. GENERAL REQUIREMENTS:
   Each applicant for entry level and promotional positions shall be required to submit to such physical and mental tests as are reasonably necessary and proper to determine the physical and mental ability of the applicant to perform the essential functions required for the position sought. Applicants who are

not capable of performing the essential job functions with reasonable accommodation or no accommodation will 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's appeal must be received by the Director or designee, in writing, within 240 hours of initial receipt of notification of rejection.

C. The applicant must request that the Commission appoint a board of three (3) physicians, psychiatrists, or psychologists, as appropriate, to perform another examination of him or her. The applicant must pay for all costs associated with the board's examination, and the board's determination is final.

Round Rock:
See Section 143.022, Chapter 143

Applicants shall be required to take a physical ability test and shall be required to submit to such tests as are reasonably necessary to determine the physical fitness of the applicant to perform the essential functions of the position.

Applicants who are not capable of performing the essential functions of the job, with or without reasonable accommodation, will not be appointed. An applicant will not be appointed if it is determined that the applicant would be a physical danger to himself or herself or others.

The Fire Chief shall be responsible for developing physical ability tests in accordance with guidelines established by the state commission, in compliance with all applicable employment laws, and with the approval of the Director.

143.023 ELIGIBILITY FOR BEGINNING POSITION

Minimum qualifications: all of them are pretty similar with the top age cap being different for some of them who have negotiated it through meet and confer. I believe we will initially have to go with the 18-35 age limit until negotiated.

Cedar Park does not list any disqualifications, Georgetown and Round Rock spell out specific disqualifications.

Minimum Qualifications:

- Minimum passing score of 70%
- Pass a physical ability test
- Pass a background investigation
- Pass oral interviews
- Pass post-job offer psychological, medical exam, and drug test.
- Age 18 to 35, 40, or 45 (we will have to be 35 until amended through collective bargaining.
- Graduated high school or have GED.
- Possess valid Texas Driver's License by date of hire—*We should consider including being able to obtain a Class A driver's license.*
- Be able to read, write, and speak the English language
- Be of good moral character.

Slight differences:

Cedar Park	Georgetown	Round Rock
Must be a citizen of the United States by birth or naturalization.	Must be legally eligible to work within the United States.	Must be authorized to work in the United States.
Must be certified as a basic firefighter and EMT-Basic or higher by the Texas Department of Health at the time of the oral interview or provide evidence of certifiability or enrollment in relevant training.	Must obtain or possess certifications consistent with Departmental Hiring Policy	Must be able to meet all certification requirements as established by the Texas Commission on Fire Protection

Round Rock only:

- discharge from military service shall not have been under less than honorable conditions.

Disqualifications:

Georgetown	Round Rock
Failure of the applicant to pass any part of the entrance examinations; Failure to make application in the manner prescribed in the notice of examination, and/or failure to file the application with the Director within the time limits prescribed in the notice of examination; If employment of the candidate would result in a violation of the City's Personnel Policy on Employment of Relatives; Applicant is not a citizen of the United States of America by birth or naturalization. The applicant will be disqualified until citizenship is obtained in compliance with federal laws; Applicant fails to demonstrate his/her ability to read, write, and fluently speak the English language. The applicant will be disqualified until the deficiency is corrected; Failure to complete or satisfactorily meet the employment process requirement of the respective Department, including missed appointments, failure to return necessary paperwork, failure to notify Department of changes in address or telephone numbers, failure to properly complete any or all application materials, or who otherwise fails to complete application process;	Has failed to complete or satisfactorily meet employment process requirements of the Fire Department including but not limited to missing appointments, failing to return application package or other necessary paperwork, failing to promptly notify the Fire Department of changes in address/telephone numbers, or otherwise failing to complete the application process. Temporary disqualification for a minimum of twelve (12) months. Has failed to satisfactorily complete the oral interview process including but not limited to any personal or automated interview process. Temporary disqualification for a minimum of twelve (12) months.
Conviction of or has received deferred adjudication or pre-trial diversion for a Class A or Class B Misdemeanor under the State Law or equivalent under federal law, to include the Uniform Code of Military Justice (UCMJ), within the past ten (10) years. Conviction of a Class A or Class B Misdemeanor may result in a temporary rejection. Crimes involving moral turpitude may result in permanent disqualification and shall be considered on a case-by- case basis with appropriate consideration of circumstances and recency. Applicant has been convicted of or has received deferred adjudication or pre-trial diversion for a felony	Has been convicted of conduct that constitutes a felony under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Permanent disqualification. Has admitted conduct that constitutes a felony under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Permanent disqualification. Has been convicted of conduct that constitutes a Class A Misdemeanor under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Permanent disqualification.

under state or federal law, to include the UCMJ. Conviction of a felony may result in permanent disqualification. Admission to any conduct that could be considered criminal shall be considered on a case-by-case basis with appropriate consideration of circumstances and recency. An applicant shall not be considered for employment while charges are pending for any criminal offense or while he/she is currently on probation or deferred adjudication for any offense;	Has been convicted of conduct that constitutes a Class B Misdemeanor under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Temporary disqualification for a minimum of sixty (60) months. Has admitted conduct that constitutes a Class A or Class B Misdemeanor under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Temporary disqualification for a minimum of twelve (12) months. Has admitted to conduct involving a crime of moral turpitude, or being known to habitually associate with those of questionable moral character. Permanent disqualification. Currently has pending criminal charges of any type, or is on "deferred adjudication" for a criminal offense. Temporary disqualification.
Making or knowingly attempting to make a false statement in any material fact in the application, examination, or appointment;	Has made a false statement in any material fact, withheld information, practiced or attempted to practice deception or fraud in his/her application, examination, background investigation, polygraph examination, or medical examination. Permanent disqualification.
Applicant is unable to perform the essential functions of the position to which he/she seeks appointment, with or without reasonable accommodation;	Is unable to perform the essential functions of the position to which he/she seeks appointment, with or without reasonable accommodation. Temporary disqualification based upon circumstances.
Failure to meet Minimum Standards for Initial Licensure as set forth by Texas Commission on Law Enforcement Officer Standards and Education for peace officer candidates or fails to meet any of the minimum requirements expressed in the rules of the Texas Commission on Fire Protection and the Texas Department of State Health Services for fire fighter candidates;	Has failed to meet all legal requirements necessary for future licensing and certification as required by the Texas Commission on Fire Protection and the Texas Department of State Health Services. Temporary disqualification.
Applicant has a history of unstable work, i.e., including short terms of employment over his/her employment history; difficulty receiving orders or working with coworkers, etc. Due to the variables involved, each situation shall be considered on a case-by- case basis. Rejection under this provision shall be temporary in	Has a history of unstable work including but not limited to short terms of employment over the candidate's employment history, employment in an illegal occupation, termination of employment without appropriate notice, dismissal for cause from employment, and/or dismissal from employment in a

nature and an applicant shall be eligible for reapplication after a five (5) year period;	public safety position. Permanent or temporary disqualification based upon circumstances.
Applicant has exercised poor judgment skills within the past ten (10) years. The applicant has demonstrated either immaturity or poor judgment in the applicant's decision-making process. Examples of such conduct would include, but is not limited to: attendance at a party or social function at which controlled substances or dangerous drugs are consumed, and such activity is known or should have been known by the applicant; silent acceptance of known illegal conduct by others in his/her presence; workplace behavior/decisions that adversely affect the business or associates, with little or no objectively justifiable need for such behavior. Rejection for this cause shall be temporary until the applicant can demonstrate that his/her judgment skills have developed;	Demonstrated poor maturity or judgment in the applicant's decision-making ability. Permanent or temporary disqualification based upon circumstances.
Dismissal from public service for delinquency, misconduct, or inefficiency;	Has been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Permanent or temporary disqualification.
Applicant has used illicit substances as indicated by the following guidelines: An applicant may be temporarily or permanently disqualified if it has been determined by the City that he/she has admitted to conduct which constitutes excessive and/or recent use of illicit substance(s) or excessive use of intoxicants. Conduct involving excessive and/or recent use of illicit substance or excessive use of intoxicants shall be considered on a case-by-case basis with consideration given to circumstances and recency. An applicant may be temporarily or permanently disqualified if it has been determined by the City that or he/she has admitted to conduct which constitutes abuse of legally, obtained prescription medication(s), or illegal use of the prescription medication(s) of another person. Conduct involving the abuse and/or misuse of prescription medication(s) shall be considered on a case-by-case basis with consideration given to circumstances and recency.	Has used illicit substances as indicated by the following guidelines: Admission of illegal use of marijuana ten (10) or fewer times (experimentation) within the last two (2) years. Temporary disqualification until two (2) years have passed from last use. Admission of illegal use of marijuana more than ten (10) times. Temporary disqualification until five (5) years have passed from last use. Admission of abuse or misuse of legally obtained prescription medication(s), or illegal use of the prescription medication(s) of another person. Conduct involving the use, abuse, and/or misuse of prescription medication(s) will be considered on a case-by-case basis with consideration given to circumstances and elapsed time since last drug use. Permanent or temporary disqualification based upon circumstances. Admission of illegal use of felony-grade substances as defined in the Texas Penal Code. Temporary

An applicant may be permanently disqualified if it has been determined by the City that he/she has admitted to conduct which constitutes illegal use of felony grade substances as defined in the Texas Penal Code; or	disqualification until ten (I0) years have passed since last use.
Applicant has received deferred adjudication or pre-trial diversion for, or has been convicted of Driving while intoxicated, Boating while intoxicated, Flying while intoxicated or Driving under the influence (DWI/BWI/FWI/DUI) within the past five (5) years or more than two (2) moving violations within the past one (1) year period or more than three (3) moving violations within the past two (2) years. An applicant will be temporarily disqualified until he/she can meet the above standards. Lesser, but more severe, violations which tend to indicate driving habits that are not compatible with the operation of emergency vehicles and present potential liabilities to the City will be considered on a case-by-case basis. Rejection under this provision will be considered permanent.	Has a driving record incompatible with the safe operation of emergency vehicles, the required driving standards of the City of Round Rock Risk Management Department, or which present potential liabilities to the City of Round Rock: Three (3) or more events (moving violations or preventable accidents) in the preceding thirty-six (36) months. Temporary disqualification. Reckless driving or similar conviction within the preceding sixty (60) months. Temporary disqualification. Driving while intoxicated or under the influence of drugs within the preceding sixty (60) months. Temporary disqualification.
Applicant has a history of employment in an illegal occupation. Due to the variables involved, each situation shall be considered on a case-by-case basis. Rejection for employment in an illegal occupation shall be permanent in nature;	
Applicant has been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Said dismissal or termination shall be considered on a case-by-case basis. Rejection under this provision shall be considered permanent;	
Applicant has demonstrated a failure to pay just debts. Due to the variables involved, each situation shall be considered on a case-by- case basis. Factors which shall be considered include, but are not limited to: type and number of debts, reasons for the bad credit, extenuating circumstances, and the potential for the credit-related problems impacting the applicant's judgment and integrity. Resolution of bad credit may result in re-qualification;	

Applicant has been discharged from any military service under less than honorable conditions, including specifically: a. Under other than honorable conditions; b. Bad conduct; c. Dishonorable; or d. Any other characterization of service indicating bad character;	

Cedar Park:
See Section 143.023, Chapter 143

1. EMPLOYMENT STANDARDS-To the extent that employment standards for an entry-level fire fighter and police officer as provided in the Civil Service Classification Plan 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 or Police Chief with the concurrence of the Director and consent of the City Manager, when such waiver would be in the best interests of the Fire Department or Police 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.

2. 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:

   a. Achieve a minimum passing score of seventy (70) percent on the written examination;
   b. Successfully complete the physical ability test;
   c. Pass a background investigation;
   d. Pass oral interviews;
   e. 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;
   f. Be at least eighteen (18) years of age and not more than thirty-five (35) years of age at the time of hire;
   g. Be a graduate of an accredited high school or have an equivalency certificate;
   h. Have a valid Texas driver's license at the date of hire;
   i. Be a citizen of the United States by birth or naturalization;
   j. Be able to read, write, and speak the English language;
   k. Be of good moral character;

l. Be certified as basic firefighter at time of oral interview, as established by the Texas Commission on Fire Protection and the Texas Department of Health. At or before the time of entrance examination, applicants shall provide either (1) evidence of certifiability issued by the Texas Commission on Fire Protection, or (2) evidence of current enrollment in a basic recruit fire training academy approved by the Texas Commission of Fire Protection; and
m. Be certified as EMT-Basic or higher by the Texas Department of Health at time of oral interview. At or before the time of entrance examination, applicants shall provide either (1) an EMT Certificate issued by the Texas Department of Health, or (2) evidence of current enrollment in an EMT course approved by the Texas Department of Health.

Georgetown:
To the extent that employment standards for an entry-level fire fighter and police officer as provided in the Civil Service Classification Plan 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 Department Heads with the concurrence of the Director and consent of the City Manager, when such waiver would be in the best interests of the Fire Department or Police Department and provided further that such waiver of requirements shall not substantially lower the high standards sought by the City.

If requested by the Fire Chief, and with the concurrence of the Director and City Manager, at the time the Civil Service Commission approves the eligibility list, applicants certified as a basic firefighter who are on the eligibility list or applicants possessing more than three (3) recent ("recent" means within one year preceding the date of application) years' experience as a certified Paramedic, within an active 9-1-1 system that provides ALS services, who are on the eligibility list, may be given preference, regardless of their position on the list. Applicants shall provide evidence of basic firefighter certification and/or the experience as a Paramedic at the time they take the test, or no later than the time the eligibility list is approved, if they seek to demonstrate eligibility for preference.

If preference is given, applicants who have proven the applicable preference shall be considered in the order of their test scores on the entrance examination. After all certified applicants have been considered, the non-certified applicants will be considered, in order of their test scores on the entrance examination. Any changes under this Section shall be based on each hiring process.

A. MINIMUM ELIGIBILITY REQUIREMENTS FOR FIRE FIGHTERS.
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. 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;
6. Be at least eighteen (18) years of age and not be forty-five (45) years of age or older at the time of hire;
7. Be a graduate of an accredited high school or have an equivalency certificate;
8. Have a valid Texas driver's license at the date of hire;

9. Be legally eligible to work within the United States;
10. Be able to read, write, and speak the English language;
11. Be of good moral character;
12. Obtain or possess certifications consistent with Departmental Hiring Policy.

B. MINIMUM ELIGIBILITY REQUIREMENTS FOR POLICE OFFICERS *(Omitted)*

C. CAUSE FOR REJECTION FOR FIRE FIGHTERS AND POLICE OFFICERS
The City may reject an applicant for one or more of the following reasons listed below. Time calculations for an action that constitutes rejection for a specified period of time shall be calculated from the date the application for employment is submitted by an applicant

1. Failure of the applicant to pass any part of the entrance examinations;

2. Conviction of or has received deferred adjudication or pre-trial diversion for a Class A or Class B Misdemeanor under the State Law or equivalent under federal law, to include the Uniform Code of Military Justice (UCMJ), within the past ten (10) years. Conviction of a Class A or Class B Misdemeanor may result in a temporary rejection. Crimes involving moral turpitude may result in permanent disqualification and shall be considered on a case-by- case basis with appropriate consideration of circumstances and recency.

   Applicant has been convicted of or has received deferred adjudication or pre-trial diversion for a felony under state or federal law, to include the UCMJ. Conviction of a felony may result in permanent disqualification.

   Admission to any conduct that could be considered criminal shall be considered on a case-by-case basis with appropriate consideration of circumstances and recency.

   An applicant shall not be considered for employment while charges are pending for any criminal offense or while he/she is currently on probation or deferred adjudication for any offense;

3. Making or knowingly attempting to make a false statement in any material fact in the application, examination, or appointment;

4. Failure to make application in the manner prescribed in the notice of examination, and/or failure to file the application with the Director within the time limits prescribed in the notice of examination;

5. If employment of the candidate would result in a violation of the City's Personnel Policy on Employment of Relatives;

6. Applicant is not a citizen of the United States of America by birth or naturalization. The applicant will be disqualified until citizenship is obtained in compliance with federal laws;

7. Applicant fails to demonstrate his/her ability to read, write, and fluently speak the English language. The applicant will be disqualified until the deficiency is corrected;

8. Applicant is unable to perform the essential functions of the position to which he/she seeks appointment, with or without reasonable accommodation;

9. Failure to complete or satisfactorily meet the employment process requirement of the respective Department, including missed appointments, failure to return necessary paperwork, failure to notify Department of changes in address or telephone numbers, failure to properly complete any or all application materials, or who otherwise fails to complete application process;

10. Failure to meet Minimum Standards for Initial Licensure as set forth by Texas Commission on Law Enforcement Officer Standards and Education for peace officer candidates or fails to meet any of the minimum requirements expressed in the rules of the Texas Commission on Fire Protection and the Texas Department of State Health Services for fire fighter candidates;

11. Applicant has been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Said dismissal or termination shall be considered on a case-by-case basis. Rejection under this provision shall be considered permanent;

12. Applicant has a history of unstable work, i.e., including short terms of employment over his/her employment history; difficulty receiving orders or working with coworkers, etc. Due to the variables involved, each situation shall be considered on a case-by- case basis. Rejection under this provision shall be temporary in nature and an applicant shall be eligible for reapplication after a five (5) year period;

13. Applicant has a history of employment in an illegal occupation. Due to the variables involved, each situation shall be considered on a case-by-case basis. Rejection for employment in an illegal occupation shall be permanent in nature;

14. Applicant has exercised poor judgment skills within the past ten (10) years. The applicant has demonstrated either immaturity or poor judgment in the applicant's decision-making process. Examples of such conduct would include, but is not limited to: attendance at a party or social function at which controlled substances or dangerous drugs are consumed, and such activity is known or should have been known by the applicant; silent acceptance of known illegal conduct by others in his/her presence; workplace behavior/decisions that adversely affect the business or associates, with little or no objectively justifiable need for such behavior. Rejection for this cause shall be temporary until the applicant can demonstrate that his/her judgment skills have developed;

15. Applicant has demonstrated a failure to pay just debts. Due to the variables involved, each situation shall be considered on a case-by- case basis. Factors which shall be considered include, but are not limited to: type and number of debts, reasons for the bad credit, extenuating circumstances, and the potential for the credit-related problems impacting the applicant's judgment and integrity. Resolution of bad credit may result in re-qualification;

16. Applicant has been discharged from any military service under less than honorable conditions, including specifically:
    a. Under other than honorable conditions;
    b. Bad conduct;
    c. Dishonorable; or
    d. Any other characterization of service indicating bad character;

17. Dismissal from public service for delinquency, misconduct, or inefficiency;

18. Applicant has used illicit substances as indicated by the following guidelines:

    An applicant may be temporarily or permanently disqualified if it has been determined by the City that he/she has admitted to conduct which constitutes excessive and/or recent use of illicit substance(s) or excessive use of intoxicants. Conduct involving excessive and/or recent use of illicit substance or excessive use of intoxicants shall be considered on a case-by-case basis with consideration given to circumstances and recency.

    An applicant may be temporarily or permanently disqualified if it has been determined by the City that or he/she has admitted to conduct which constitutes abuse of legally, obtained prescription medication(s), or illegal use of the prescription medication(s) of another person. Conduct involving the abuse and/or misuse of prescription medication(s) shall be considered on a case-by-case basis with consideration given to circumstances and recency.

    An applicant may be permanently disqualified if it has been determined by the City that he/she has admitted to conduct which constitutes illegal use of felony grade substances as defined in the Texas Penal Code; or

19. Applicant has received deferred adjudication or pre-trial diversion for, or has been convicted of Driving while intoxicated, Boating while intoxicated, Flying while intoxicated or Driving under the influence (DWI/BWI/FWI/DUI) within the past five (5) years or more than two (2) moving violations within the past one (1) year period or more than three (3) moving violations within the past two (2) years. An applicant will be temporarily disqualified until he/she can meet the above standards.

    Lesser, but more severe, violations which tend to indicate driving habits that are not compatible with the operation of emergency vehicles and present potential liabilities to the City will be considered on a case-by-case basis. Rejection under this provision will be considered permanent.

Round Rock:
See Section 143.023, Chapter 143

Minimum eligibility requirements for a fire fighter are as follows:

Achieve a minimum passing score of seventy (70) percent on a written examination;

Successfully complete the physical ability test;

Pass a background investigation;

Pass an oral interview board;

Successfully complete a conditional (post-job offer) medical examination including visual acuity, and the physician must be able to certify that the applicant is free of drug dependency or illegal drug usage;

Be at least eighteen (18) years of age but not forty (40) years of age or older to take an entrance exam, and may not be certified as eligible for a beginning position if forty (40) years of age or older;

Be a graduate of an accredited high school or have an equivalency certificate;
Have a valid Texas driver's license at hire date;

Be authorized to work in the United States;

Discharge from military service shall not have been under less than honorable conditions;

Be able to read, write, and speak the English language;

Be of good moral character; and

Be able to meet all certification requirements as established by the Texas Commission on Fire Protection.

Any of the following will disqualify an applicant from further consideration at any stage of the process:

Is unable to perform the essential functions of the position to which he/she seeks appointment, with or without reasonable accommodation. Temporary disqualification based upon circumstances.

Has been convicted of conduct that constitutes a felony under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Permanent disqualification.

Has admitted conduct that constitutes a felony under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Permanent disqualification.

Has been convicted of conduct that constitutes a Class A Misdemeanor under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Permanent disqualification.

Has been convicted of conduct that constitutes a Class B Misdemeanor under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Temporary disqualification for a minimum of sixty (60) months.

Has admitted conduct that constitutes a Class A or Class B Misdemeanor under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Temporary disqualification for a minimum of twelve (12) months.

Has admitted to conduct involving a crime of moral turpitude, or being known to habitually associate with those of questionable moral character. Permanent disqualification.

Currently has pending criminal charges of any type, or is on "deferred adjudication" for a criminal offense. Temporary disqualification.

Has made a false statement in any material fact, withheld information, practiced or attempted to practice deception or fraud in his/her application, examination, background investigation, polygraph examination, or medical examination. Permanent disqualification.

Has failed to complete or satisfactorily meet employment process requirements of the Fire Department including but not limited to missing appointments, failing to return application package or other necessary paperwork, failing to promptly notify the Fire Department of changes in address/telephone numbers, or otherwise failing to complete the application process. Temporary disqualification for a minimum of twelve (12) months.

Has failed to satisfactorily complete the oral interview process including but not limited to any personal or automated interview process. Temporary disqualification for a minimum of twelve (12) months.
Has used illicit substances as indicated by the following guidelines:

Admission of illegal use of marijuana ten (10) or fewer times (experimentation) within the last two (2) years. Temporary disqualification until two (2) years have passed from last use.

Admission of illegal use of marijuana more than ten (10) times. Temporary disqualification until five (5) years have passed from last use.

Admission of abuse or misuse of legally obtained prescription medication(s), or illegal use of the prescription medication(s) of another person. Conduct involving the use, abuse, and/or misuse of prescription medication(s) will be considered on a case-by-case basis with consideration given to circumstances and elapsed time since last drug use. Permanent or temporary disqualification based upon circumstances.

Admission of illegal use of felony-grade substances as defined in the Texas Penal Code. Temporary disqualification until ten (I0) years have passed since last use.

Has a driving record incompatible with the safe operation of emergency vehicles, the required driving standards of the City of Round Rock Risk Management Department, or which present potential liabilities to the City of Round Rock:

Three (3) or more events (moving violations or preventable accidents) in the preceding thirty-six (36) months. Temporary disqualification.

Reckless driving or similar conviction within the preceding sixty (60) months. Temporary disqualification. Driving while intoxicated or under the influence of drugs within the preceding sixty (60) months. Temporary disqualification.

Has been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Permanent or temporary disqualification.

Demonstrated poor maturity or judgment in the applicant's decision-making ability. Permanent or temporary disqualification based upon circumstances.

Has a history of unstable work including but not limited to short terms of employment over the candidate's employment history, employment in an illegal occupation, termination of employment without appropriate notice, dismissal for cause from employment, and/or dismissal from employment in a public safety position. Permanent or temporary disqualification based upon circumstances.

Has failed to meet all legal requirements necessary for future licensing and certification as required by the Texas Commission on Fire Protection and the Texas Department of State Health Services. Temporary disqualification.

Notification of Rejection

Whenever an applicant for employment is rejected before being placed on an eligibility list, the applicant shall be notified in writing by the Director. The applicant shall be further notified that he/she will not be able to apply again with the city for a period of one (I) year.

143.024 ENTRANCE EXAMINATION NOTICE

All are pretty much the same.

Cedar Park:
Section 143.024 ENTRANCE EXAMINATION NOTICE
See Section 143.024, Chapter 143

An applicant shall complete a City of Cedar Park 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 his/her own handwriting or in typed form and shall certify the correctness of the facts.

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.

Georgetown:

A. Applicants shall complete a City of Georgetown Employment Application 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 limits 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, will render the applicant ineligible to take the examination.

B. Any person shall be considered for appointment to a vacancy in the classified service who has filed an application with the Director in the manner specified in these rules and upon the form furnished by the Director, and whose application has not been rejected by the Director for cause in accordance with the provisions of these rules. The applicant shall make the application in his/her own handwriting or in typed form and shall certify the correctness of the facts.

C. The Director may, because of the small number of candidates or because of any other good and sufficient reason (e.g. death in the immediate family, public emergency, unavailability of test site), postpone an examination to a later date.

Round Rock
See Section 143.024, Chapter 143

Applicants shall complete a City of Round Rock Employment Application 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 limits prescribed in the "Notice of Entrance Examination," and/or failure to file the application with the Director, will render the applicant ineligible to take the examination. Applicants shall make application in his/her own handwriting or in typed form and shall certify the correctness of the facts.

Any person shall be considered for appointment to a vacancy in the classified service who has filed an application with the Director in the manner specified in these rules and upon the form furnished by the Director, and whose application has not been rejected by the Director for cause in accordance with the provisions of these rules.

The Director may, because of the small number of candidates or because of any other good and sufficient reason (i.e. death in the immediate family, public emergency, unavailability of test site), postpone an examination to a later date.

143.025 ENTRANCE EXAMINATIONS

Examination procedures:

Cedar Park	Georgetown	Round Rock
Director's Role: The Director is responsible for the overall conduct of the exams and can appoint Test Administrators and Monitors. **Prohibitions**: No deceit or obstruction in the exam process is allowed. **Passing Score**: Applicants must pass the written exam to be placed on the eligibility list. **Specifics**: • **No Smoking**: Smoking is prohibited in the testing area. • **ID Check**: Applicants must provide valid ID at check-in. • **Military Service Credit**: Applicants with a DD-214 showing honorable discharge and 180 days of service receive 5 extra points if they score 70% or better. • **Failure to Appear**: Those who do not appear for the exam have their applications voided. • **Dishonesty**: Any dishonest behavior results in confiscation and voiding of the exam.	**Director's Role:** Similar to Cedar Park, the Director oversees the exams and can delegate administration duties. **Prohibitions**: Similar rules against deceit and cheating. **Passing Score**: Only applicants with a raw score of 70% are ranked on the eligibility list. **Specifics**: • **Accommodations**: Provided under ADA upon request. • **Military Service Credit:** Similar to Cedar Park. • **Failure to Appear**: Applications of no-show candidates are voided. • **Dishonesty:** Cheating results in voided exams and removal from the site.	**Director's Role**: Similar responsibility to Cedar Park and Georgetown. **Prohibitions**: Similar rules against deceit and cheating. **Passing Score**: Minimum passing score of 70%. **Specifics**: • **Military Service Credit:** Additional 5 points for qualifying veterans. • **Medical Certification Credit**: Additional 3 points for certain medical certifications. • **Physical Ability Test:** Required and must be passed. • **Background Investigation**: Conducted for all applicants. • **Oral Interview Board:** Required for applicants on the eligibility list. • **Medical and Additional Examinations:** Required and detailed procedures for rejections and further examinations.

Tie Breakers:

Cedar Park & Georgetown:	Round Rock
• Highest Test Score • Higher TCFP certification level • Years of Experience as FF	• Highest test score • Highest level of formal education from accredited university

• Bachelor's Degree • Associate's degree • Earliest application time • By Lot	• Highest level of TCFP FF Certification • Earliest application time

Eligibility List:

Cedar Park—one year unless exhausted. Applicants shall notify the Director of any change in address.

Georgetown—applicant shall notify the Director of any change in address.

Round Rock—one year unless exhausted.

May consider one year for certified or 18 months if non-certified. Not sure if we could simply say 12 months after being certified.

Other provisions: *Round Rock contains more provisions regarding:*

- *Process for child of deceased FF*
- *Physical Ability Test*
- *Background Investigation*
- *Oral Interview Board*
- *Medical Examination*
- *Additional Examinations*

Cedar Park:
See Section 143.025, Chapter 143

Application for employment shall be made to the Director on the appropriate application forms.

1. EXAMINATIONS-

    a. 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.

    b. No person shall:

        i. deceive or obstruct any person in respect of his/her right of examination under the provision of these rules and the Local Government Code;
        ii. falsely mark, grade or report the examination or standing of any person examined hereunder; or
        iii. aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion.

    c. No applicant may deceive the Commission for the purpose of improving his/her chance for appointment or promotion.

    d. 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.

2. ENTRANCE EXAMINATION ADMINISTRATION PROCEDURES
    a. Smoking shall be prohibited at all times in the testing area.

    b. 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.

    c. Military Service Credit - An applicant who desires to have military service credit of five (5) points added to a passing test score of 70% or better shall provide an original DD-214 showing a minimum of 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.

    d. 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.

    e. Cancellation or postponement of entrance examination - The Commission or Director may cancel or postpone a scheduled entrance examination for sufficient cause.

f. 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 his/her 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.

g. 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.

3. 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:

   a. 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.

   b. 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.

   c. 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.

   d. 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.

   e. 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.

   f. 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.

   g. By Lot- If a tie still exists, the persons shall be ranked in the order by lot as determined by the Director.

4. ELIGIBILITY LIST-An Eligibility List shall be in effect for one (1) year, unless exhausted before one year.

   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.

Georgetown:
Application for employment shall be made to the Director on the appropriate application forms. Upon request to the Director or designee, accommodations will be provided to applicants in accordance with the Americans with Disabilities Act. The Director shall set forth the requirements and timelines for receipt of the notification.

Any person shall be permitted to take the entry-level examination so long as the applicant has not been rejected by the Director for cause in accordance with the provisions of these rules.

The Director may, because of the small number of applicants for any position, or because of any other good and sufficient reason, postpone an examination to a later date. Any examination may be cancelled by the Director should its occurrence become unnecessary because of a change in the personnel requirements of the classified service.

The Director shall provide an eligibility list for firefighters after the examination that shall remain in effect for six months unless the Commission sets the duration for twelve months before the test is given. The Director shall provide an eligibility list for police officers after the examination that shall remain in effect for twelve months unless the Commission sets the duration for six months before the test is given.

A. EXAMINATIONS

All examinations shall be of such nature that they will test the relative suitability and ability of the persons examined to discharge the duties of the particular position to which they seek appointment.

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 an assistant to administer tests or examinations. No individual shall deceive or obstruct any person in respect to his/her right of examination under the provision of these rules and the Texas Local Government Code; or falsely mark, grade or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion. Applicants shall not deceive the Commission for the purpose of improving their chances for appointment or promotion. Any person found to be cheating on an examination, or otherwise deceiving the Commission for purposes of improving his or her chances for appointment, shall be removed from further consideration and dropped from the eligibility list. Only persons with a passing raw score (70%) will be ranked on the eligibility list.

1. APPLICABLE TO FIRE DEPARTMENT APPLICANTS ONLY
   a. 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.
   b. The deceased fire fighter parent must have been employed by a municipality covered by Chapter 143, Texas Local Government Code.
   c. The applicant must provide the name of the deceased fire fighter parent on his or her 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.

B. TIEBREAKERS

Whenever two (2) or more applicants for entrance positions attain the same grade, the tie shall be broken in the following manner prior to the posting of the certified eligibility list. These criteria are ranked in order of importance.

1. Highest Test Score- If a tie still 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.

C. ENTRANCE EXAMINATION ADMINISTRATION PROCEDURES

1. Smoking shall be prohibited at all times in the testing area.

2. Check In - All applicants shall be checked in and provide proof of identity with a valid Driver's License. No applicant shall be admitted once test instructions start.

3. Military Service Credit - Those persons who desire to have military service credit of five (5) points added to a passing test score of 70% or better, must provide a DD214 showing a minimum of 180 total days of active military service at the time of application and by the specified application deadline. Any discharge other than honorable discharge is not creditable for the purpose of this section.

4. Failure to Appear - The applications of persons who fail to appear for the entrance examination shall be voided and shall be disposed of by the Director.

5. Cancellation of entrance examination - The Director may cancel a scheduled entrance examination for sufficient cause.

6. Cheating - Any person taking an entrance examination who uses or attempts to use any unfair or deceitful means to answer questions on such an examination shall be informed by the test administrator and the test administrator shall void that person's exam and remove them from the testing site. The test administrator shall report the action to the Director or designee.

7. Test Monitors - The Director may select a reasonable number of persons employed by the City of Georgetown or an agency of the State of Texas to assist in the administration, proctoring and grading of an entrance examination.

8. Personal History Statements - Applicants shall be given a personal history statement to be completed and returned at a time designated by the Department Head or designee. Failure to return this form at the prescribed time shall constitute reason for removal from the eligibility list.

9. Upon request, accommodations will be provided to applicants in accordance with the American with Disabilities Act. Applicants who need special arrangements must submit a request in writing to the Director or designee at a time to be determined by the Director or designee.

D. ELIGIBILITY LISTS
Each person on an eligibility list shall notify the Director of any change in address. Notices sent to a person's last known address shall be considered sufficient notification.

Round Rock:
See Section 143.025, Chapter 143

Written Entrance Examination

The actual conduct of every examination shall be under the direction of the Director who shall be responsible to the Commission. Examinations shall be conducted on an "as needed" basis. Any examination may be canceled by the Director should it become unnecessary due to i.e. a change in the personnel requirements of the classified service.

The minimum passing score shall be seventy (70) percent on the written examination.

An additional five (5) points shall be added to the examination grade of an applicant who served in the United States armed forces, received an honorable discharge as evidenced by a DD-214, and made a passing grade on the examination.

An additional three (3) points shall be added to the examination grade of an applicant who holds an intermediate certification or license through the National Registry Certification or the Texas Department of State Health Services and made a passing grade on the examination.

An applicant cannot receive both military and medical certification points.

Tie-breakers - whenever two (2) or more applicants attain the same grade on the entrance eligibility list, the applicant with the highest raw test score prior to the addition of military service points shall be listed first. If the score is still tied, the applicant listed first shall be based upon the following criteria in descending order of importance:

a. The applicant having completed the highest level of formal education from an accredited high school, college or university. If the score is still tied, then

b. The applicant holding the highest level of firefighter certification from the Texas Commission on Fire Protection. If the score is still tied, then

c. The applicant with the earliest date stamp and the earliest time stamp on his/her properly completed and submitted application.

No person shall deceive or obstruct any person in respect of his/her right of examination under the provision of these rules and the Civil Service Act; or falsely mark, grade or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion. No candidate shall deceive the Commission for purposes of improving his/her chances for appointment or promotion.

Eligibility List

The Director shall keep all eligibility lists for applicants for original positions in the fire department in effect for twelve (12) months. The Director shall provide in the eligibility list announcement that the list shall remain in effect for the time specified by these rules or until all names have been referred to the appropriate department, whichever event occurs first.

Child of a deceased fire fighter - each applicant who is either a natural-born or adopted child of a fire fighter who previously suffered a line-of-duty death while covered by Chapter 143 civil service shall be ranked at the top of any eligibility list in which said applicant receives a minimum passing grade on that respective eligibility exam if such applicant meets all entry-level hiring requirements. The eligible applicant shall have provided the name of the deceased fire fighter parent on his/her application, and it shall be the responsibility of the Director to verify the information relating to the line-of-duty death prior to placing the applicant at the top of the eligibility list.

Following compilation of the eligibility list, the remaining steps in the process are listed hereafter as (B) Physical Ability Test, (D) Background Investigation, (E) Oral Interview Board, (F) Medical Examination, and (G) Additional Examinations. The Director shall retain the right to determine the number of applicants who will continue through such process, based upon the City's staffing needs.

Physical Ability Test

All applicants shall be required to take a physical ability test approved by the Director to evaluate each applicant's overall agility and stamina.

Any applicant failing to pass the physical ability test, as recorded by the instructor, shall be rejected.

Background Investigation

The Fire Chief shall appoint an investigator to conduct background investigations on applicants for beginning positions in the fire department.

The investigator shall verify the applicant's statements on his/her written application and in the oral interview, and any other such verification of facts or character of the applicant as the Commission, the Director, or the Fire Chief may request.

Fingerprints may be required of all applicants accepted for beginning positions.

Oral Interview Board

An oral interview shall be required for fire department applicants occupying positions on the entrance eligibility list.

The interview board shall consist of five (5) city employees who shall be appointed by the Fire Chief. The City's Director of Human Resources or his/her designee shall serve as an ex-officio member. The Fire Chief shall designate one member of the department to serve as chairperson of the interview board. At the Fire Chiefs discretion, the chairperson may or may not be one of the five (5) voting members of the interview board. Only one (1) substitution of a board member shall be permitted, and then only under special circumstances with approval from the Director. The board members shall continue to serve until the final selection of applicants, at which time the board shall disband.

The purpose of the interview is to determine if the applicant possesses necessary qualifications to satisfactorily perform all required duties of a fire fighter.

The reason or reasons for the recommendation for rejection of an applicant shall be stated fully, be clearly signed by each member of the oral interview board, and submitted to the Fire Chief.

Medical Examination

Appropriate post-job-offer medical examinations shall be required of all applicants for beginning positions.

The examinations shall be given by a physician or other authorized medical professional approved by the Director and paid for by the city.

In the event of rejection by such physician, the applicant may call for further examination by a board of three (3) physicians approved by the Director, but at the expense of the applicant, and the findings of such board shall be final.
The physician shall certify to the Director whether or not the applicant is physically fit for the service.

Additional Examinations

Applicants for original civil service positions may be required to take a psychological or psychiatric examination conducted by a psychologist or psychiatrist, and/or a polygraph examination conducted by a qualified polygraph examiner.

Such examiners shall be approved by the Director and paid for by the City. The examiner shall submit a written report of the results of the examination to the Director with the recommendation that the applicant be accepted or rejected, and this report is final.

143.026 PROCEDURE FOR FILLING BEGINNING POSITIONS

Cedar Park:
See Section 143.026, Chapter 143

Georgetown:
Reserved.

Round Rock:
See Section 143.026, Chapter 143

When a vacancy occurs in a beginning position in the fire department, the Fire Chief shall request in writing from the Commission the names of suitable persons from the eligibility list. The Director shall certify to the City's chief executive officer the names of the three (3) persons having the highest grades on the eligibility list.

From the three (3) names certified, the City's chief executive officer shall appoint the person having the highest grade unless there is a valid reason why the person having the second or third highest grade should be appointed.

As to a paramedic position in the fire department, the following shall constitute a "valid reason" and a "good and sufficient reason" in accordance with subsections (B) and (C) herein why a person having the next highest grade should be appointed over the person having the highest grade: if the person having a higher grade does not hold an EMT paramedic designation, then the person holding the next highest grade who does have such EMT paramedic designation may be appointed.

If the City's chief executive officer does not appoint the person having the highest grade, the City's chief executive officer shall clearly set forth in writing the good and sufficient reason why the person having the highest grade was not appointed.

The reason required by Subsection (C) shall be filed with the Commission and a copy provided to the person having the highest grade. If the City's chief executive officer appoints a person having the next highest grade, a copy of the report shall also be furnished to the person(s) having the higher grade.

143.027 Probationary Period

Cedar Park:
See Section 143.027, Chapter 143

Georgetown:
27. PROBATIONARY PERIOD
A person appointed to an entry level position in the Fire or Police Department who is not previously certified by the Texas Commission on Fire Protection or the Texas Commission on Law Enforcement 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 Fire or Police 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.

Round Rock:
See Section 143.027, Chapter 143

Probationary employees shall have no rights under Chapter 143 or under these Rules.

The Department Head of the Fire Department may, at his/her discretion, extend the probationary period of a person who is appointed to a beginning position in the Fire Department from the mandatory twelve (12) months up to a maximum of eighteen (18) months from the date of appointment. Such extension shall only be permitted if the appointee is required to attend a basic training academy necessary for initial certification by the Texas Commission on Fire Protection. The decision of the Department Head of the Fire Department to extend the probationary period is not subject to appeal under Chapter 143.

143.028 Eligibility for Promotion

Cedar Park/ Round Rock:
See Section 143.028, Chapter 143

Georgetown:
Reserved

143.029 Promotional Examination Notice

Cedar Park:
See Section 143.029, Chapter 143

Georgetown:
Reserved

Round Rock:
See Section 143.029, Chapter 143

The Director shall post notices that list the sources from which the examination questions will be taken. A valid source list of promotional materials as agreed upon by the Fire Chief and the Association Executive Board will remain in effect for two (2) years from the day of the posting. If there are edition changes during the two (2) years, the Fire Chief and the Association Executive board can agree to update the material, bypassing 143.029(a).

The Director may post notices for each rank to be tested, or may post a combined notice for all ranks.

143.030 ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION

Cedar Park:
See Section 143.030, Chapter 143

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

Round Rock:
See Section 143.030, Chapter 143

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

A fire fighter's prior service with the City does not count toward meeting the two (2) year requirement established in Section 143.030. A fire fighter who has been rehired shall not be given credit for prior service to determine eligibility to take a promotional examination.

College Hour requirements for Promotion

Driver applicant -_must have fifteen (15) hours from an accredited college or university. By October 2025, must have thirty (30) hours from an accredited college or university. Fire Certification credit up to twelve (12) hours will be accepted if the state exam has been passed and successful completion of a minimum of three (3) semester credit hours toward a Fire Protection Technology Associate degree plan.

Lieutenant applicant - must have thirty (30) hours from an accredited college or university. By October 2025, must have forty-five (45) hours from an accredited college or university. The education requirement will be sixty (60) hours for Lieutenant by October 2028.

Captain applicant - must have forty-five (45) hours. By October 2025, must have sixty (60) hours towards a Bachelor's degree from an accredited college or university. The education requirement will be seventy-five (75) hours for Captain by October 2028.

Battalion Chief applicant - must have sixty hours (60) towards a Bachelor's degree from an accredited college or university by October 2023. By October 2025, must have seventy-five (75) hours towards a Bachelor's degree from an accredited college or university. The education requirement will be a Bachelor's Degree for Battalion Chief by October 2028.

143.031 NOT APPLICABLE

143.032 PROMOTIONAL EXAMINATION PROCEDURE

Cedar Park

- **Examinations**: Tests the relative capacity and fitness for the position. The Director oversees exams and can appoint a Test Administrator and Test Monitors. Exams can be postponed for valid reasons.
- **Eligibility**: At least three candidates from the next lower position with two years' service. If not, procedures in Sections 143.030(d) and 143.031(c) apply.
- **Prohibited Conduct**: Includes deceit, falsification, aiding, or special information sharing to affect examination results.
- **Notice of Intent to Test**: Required for eligibility.
- **Administration**: Prohibits smoking, requires valid ID for check-in, and outlines actions for dishonesty and accommodations for disabilities.

Georgetown

- **Examinations**: Tests relative capacity to discharge duties. Director oversees and can designate an administrator.
- **Eligibility**: At least two candidates from the next lower position with two years' service. If not, procedures in Sections 143.030(d) and 143.031(c) apply.
- **Prohibited Conduct**: Includes deceit, obstruction, falsification, and special information sharing.
- **Notice of Intent to Test**: Required for eligibility.
- **Administration**: Prohibits smoking, requires valid ID, voids applications for no-shows, allows exam cancellation for cause, outlines cheating consequences, and permits test monitors.

Round Rock

- **Examinations**: Tests capacity and fitness for the position. The Director oversees exams and can appoint an assistant.
- **Eligibility**: At least three candidates from the next lower position with two years' service. If not, additional procedures are outlined, including opening exams to persons with less than two years' service or from second lower positions.
- **Prohibited Conduct**: Includes deceit, obstruction, falsification, and special information sharing.
- **Notice of Intent to Test**: Required for eligibility.
- **Administration**: Prohibits smoking, requires valid ID, outlines exam postponement, and states additional requirements like medical exams and certifications.

Key Differences

1. Number of Candidates Required:
   - Cedar Park: Minimum of three candidates.
   - Georgetown: Minimum of two candidates.
   - Round Rock: Minimum of three candidates.

2. Postponement Reasons:
   - Cedar Park: Includes specific examples like death in the immediate family or public emergency.
   - Georgetown: General "sufficient cause."

- Round Rock: Specific reasons like death in the immediate family or unavailability of the test site.

3. Military Provisions:
   - Georgetown and Round Rock have specific provisions for candidates on active military duty, detailing separate exams and procedures to maintain fairness and confidentiality.
   - Cedar Park does not specify procedures for military personnel in the provided section.

4. Cheating and Dishonesty:
   - Cedar Park: Confiscates and voids exams, and reports dishonesty.
   - Georgetown: Voids exams and reports dishonesty, with additional disciplinary action possible.
   - Round Rock: Similar to Georgetown but specifies the examination of non-deployed vs. deployed personnel.

5. Additional Requirements (Round Rock):
   - Medical exams and certifications (TCFP Fire Officer III/IV) are required within a specific time frame post-promotion.

Cedar Park:
See Section 143.032, Chapter 143

1. EXAMINATIONS-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 he/she seeks appointment.

   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.

   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.

   To provide for a competitive promotional examination so as to better serve the public, at least three (3) qualified candidates in the next lower position with two 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) and 143.031(c) until at least three (3) qualified candidates sit for the examination. When more than one 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 shall make a recommendation to the Commission to open the examination to additional employees, as outlined in Section 143.030(d) and 143.031(c).

2. PROHIBITED CONDUCT - No person shall:
   a. deceive or obstruct any person in respect of his/her right of examination under the provision of these rules and the Civil Service Act;
   b. falsely mark, grade or report the examination or standing of any person examined hereunder;
   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; or
   d. shall deceive the Commission for the purpose of improving his/her chance for appointment or promotion.

3. 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.

4. PROMOTIONAL EXAMINATION ADMINISTRATION PROCEDURES
   a. Smoking shall be prohibited at all times in the testing area.

b. 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.
c. Cancellation or postponement of promotional examination - The Commission or Director may cancel or postpone a scheduled promotional examination for sufficient cause.
d. 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 his/her 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.
e. 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.

Georgetown:
32. PROMOTIONAL EXAMINATION PROCEDURE
All examinations shall be structured to test a candidate's relative capacity to discharge the duties of the particular position.

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 designee to administer tests and/or examinations.

No individual shall deceive or obstruct any person in respect of his/her right of examination under the provision of these rules and the Civil Service Statue; or falsely mark, grade or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion.

No promotional candidate shall deceive the Commission for the purpose of improving his/her chances for appointment or promotion. Any person acting in this manner will be disqualified from further consideration for the position sought, and the Department Head may take additional disciplinary action.

Employees shall complete an official "Notice of lntent to Test" form for each promotional examination, as prescribed by the Director, in order to take a promotional examination. Failure to submit a completed form in the manner prescribed in the Position Opportunity Announcement, and failure to file the form with the Director within the time limits prescribed will render the employee ineligible to take the examination.

To provide for a competitive promotional examination so as to better serve the public, at least two (2) qualified candidates in the next lower position with two years' of service shall sit for an examination. If there are not two (2) candidates in the next lower position, the Commission shall follow the procedures relating to eligibility for promotional examinations outlined in Section 143.030(d) and 143.031(c) until at least two (2) qualified candidates sit for the examination. When more than one 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 shall make a recommendation to the

Commission to open the examination to additional employees, as outlined in Section 143.030(d) and 143.03 l(c).

The Director may, for good and sufficient reasons, postpone an examination to a later date.

Promotional Examination Administration procedures:

1. Smoking shall be prohibited at all times in the testing area.

2. Check In - Candidates shall be checked in and shall provide a valid driver's license as proof of identity. No candidate shall be admitted once test instructions start.

3. Failure to Appear - The applications of persons who fail to appear for the examination shall be voided and shall be disposed of by the Director.

4. Cancellation of Examination- The Director may cancel a scheduled examination for sufficient cause.

5. Cheating - Any candidate taking an examination who uses or attempts to use any unfair or deceitful means to answer questions on such examination shall be informed by the test administrator and the test administrator shall void that person's exam.

6. The examiner shall report the action to the Director or designee. Any person acting in this manner will be disqualified from further consideration for the position sought, and the Department Head may take disciplinary action.

7. Test Monitors - The Director or designee may select a reasonable number of persons employed by the City of Georgetown or an agency of the State of Texas to assist in the administration, proctoring and grading of an examination.

032A. PROMOTIONAL EXAMINATION PROCEDURES FOR PERSONNEL ON ACTIVE MILITARY DUTY

1. For Fire and Police promotional candidates who are serving on active military duty, outside the State of Texas or more than 200 miles from Georgetown 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. The Director is authorized to coordinate all testing under this subsection and may exercise discretion necessary to ensure the secrecy of the examination and to assure proper administrative procedures are followed.

3. 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.

4. 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.

5. Promotional candidates must notify the Director at least 25 days in advance of the examination of their desire to have the examination administered off-site.

6. 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 his or her best efforts to inform the employees serving active military duty of upcoming promotional examinations.

Round Rock:
See Section 143.032, Chapter 143

All examinations shall be of such nature so as to test the relative capacity and fitness of the person examined to discharge the duties of the particular position to which he/she seeks appointment.

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 an assistant to administer tests or examinations.

No person shall deceive or obstruct any person in respect of his/her right of examination under the provision of these rules and the Civil Service Act; or falsely mark, grade or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion. No promotional candidate shall deceive the Commission for purposes of improving his/her chances for appointment or promotion.

Employees shall complete an Official Application for Promotional Examination, 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/or failure to file the application with the Director within the time limits prescribed in the "Notice of Promotional Examination" will render the employee ineligible to take the examination.

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 reason (i.e. death in immediate family, public emergency, unavailability of test site), postpone an examination to a later date.

Each promotional examination is open to each qualified firefighter candidate who has continuously held for at least two (2) years a position in the classification that is immediately below the classification for which the examination is to be held: and has met the requirements of the Round Rock Fire Department policy 4003 (Relief & Acting Position Requirements); and currently holding the relief position for the previous six (6) months. This requirement becomes effective January 1, 2019.

To provide for competitive promotional examinations at least three (3) qualified candidates must sit for an examination. If there are not three (3) candidates in the next lower position with two

(2) years' service in that position and have met the requirements of department policy 4003, the Chief may open the examination to persons in that position with less than two (2) years' service that have not met the requirements of department policy 4003. If there is still an insufficient number, the Commission may open the examination to persons with at least two (2) years' experience in the second lower position to the position for which the examination is to be held as long as the applicant has met the requirements of department policy 4003 for that classification.

The Director shall establish a promotional eligibility list from those persons passing the promotional examination.

Medical examinations taken not earlier than twelve (12) months preceding date of promotion will be required prior to promotion.

Certification by the TCFP as a Fire Officer III/IV will be attended and completed before the end of one (1) year in grade as a Battalion Chief.

Promotional examination procedures for certain personnel on active military duty:

Promotional candidates who are serving on active military duty outside the state of Texas or on active military duty more than two hundred (200) miles from the Round Rock City Hall are eligible to take a separate promotional examination. Such an examination may or may not be identical to the examination administered to other eligible candidates, and such an examination may be administered outside the presence of other candidates.

The Director is authorized to coordinate all testing hereunder, and may exercise the discretion necessary to ensure the secrecy of the examination and to ensure that proper administrative procedures are followed.

At no time shall the administration of such a promotional examination unnecessarily interfere with ongoing military efforts.

If an eligible candidate serving on active military duty takes and passes such 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 took the examination.

Eligible candidates serving on active military duty who take such a promotional examination outside of the City shall be eligible to file an appeal of the examination as provided in Section 143.034. 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.

Eligible promotional candidates must notify the Director at least twenty-five (25) days in advance of the examination of the candidate's desire to have the examination administered off-site.

Any employee covered by Chapter 143 civil service who is called to active military duty must notify the Director of his/her mailing address and email address. The Director shall use his/her best

reasonable effort to inform any such employee who is on active military duty of upcoming promotional examinations.

Promotional examination procedures for deployed military personnel:

In this Section 143.032, "deployed person" means a civil service employee of the Round Rock Fire 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 USARA; and "state regulations" means Chapter 143, Section 143.072 and Section 143.075.

When a person in the Fire Department is ordered to active military duty and deployed, all federal and state regulations shall apply.

Deployed persons are responsible for providing a regular mailing address and email address if available to the Civil Service Director for the duration of their deployment. The Civil Service Director is not responsible to seek out contact information for deployed persons.

Deployed persons are to remain aware of the likelihood of promotional examinations being given during their deployment.

Civil Service processes govern all promotional examinations for deployed and non-deployed persons alike.

When the Civil Service Director posts study resource lists for promotional examinations, the Civil Service Director shall forward a copy of the study resource list to all deployed persons eligible to take the promotional examination to the email or regular mail address provided by the deployed person.

If requested by the deployed person, the Civil Service Director shall ship all resource material listed on the promotional examination resource study list to the deployed person to the regular mailing address provided by the deployed person at no cost to the deployed person. The deployed person is responsible for returning all resource material sent to the deployed person by the City to the City in good condition within six weeks after the examination is given.

When the Civil Service Director posts notice for promotional examinations, the Civil Service Director shall forward a copy of the posting to all deployed persons eligible to take the promotional examination to the email or regular mailing address provided by the deployed person.

The process for signing up for Civil Service promotional examinations shall follow the same process for deployed and non-deployed persons.

When a deployed person is eligible for promotional examination, and desires to take the promotional examination, the deployed person must notify the Civil Service Director of the desire to sit for the examination by email or regular mail within the sign-up period allowed for non-deployed persons to sign up to take the promotional examination.

Included with the notification to the Civil Service Director of the desire to sit for the promotional examination, the deployed person must enclose the name and address of the deployed person's commanding officer.

The Civil Service Director shall obtain a promotional examination for the deployed person that is equal in length and taken from the posted study resource lists but with different questions than the questions to be included in the promotional examination given to non-deployed persons.

The Civil Service Director shall notify the deployed person's commanding officer by email or regular mail of the impending arrival of the promotional examination accompanied by a copy of this SOP and specific instructions on how to administer the examination to the deployed person and how to preserve the integrity of the promotional examination process.

To the extent possible, the promotional examination should be administered to the deployed person by the commanding officer at or about the same time and on the same date as it is being administered to non-deployed persons.

The deployed person's commanding officer must return the test, answer sheet, and all sheets of scratch paper utilized during the examination by the deployed person to the Civil Service Director in the envelope provided by the Civil Service Director.

Upon receiving the examination packet from the deployed person's commanding officer, the Civil Service Director shall score the examination in the same manner as the examinations were scored for non-deployed persons.

The Civil Service Director shall place the grade of the deployed person on the list of scores in the same manner as the scores for non-deployed persons.

The Civil Service Director shall forward a copy of the raw grades and the final grades that are posted within the City to the deployed person by email or regular mail to the address provided by the deployed person.

143.033 PROMOTIONAL EXAMINATION GRADES

Tie-Breakers:

Cedar Park	Georgetown	Round Rock
• Highest test score • Time in rank • Seniority in the department • Total years of experience as a certified FF • Total City Service • Earliest Date/Time of Application for promotion • By Lot	• Highest test score • Time in rank • Seniority in the department • Total years as certified FF • Total City service • By Lot	• Highest written test score • Seniority in the department • Earliest date of appointment to present rank. • Earliest date of appointment to previous ranks, from highest to lowest • Highest position on entry level test eligibility list. •

Cedar Park:
See Section 143.033, Chapter 143

1. SENIORITY POINTS-Up to ten (10) seniority points shall be added to the score of an examinee who receives a grade of at least 70 percent on the written examination, based upon whole years of service as a certified fire fighter in the Fire Department or police officer in the Police Department. Each full year of service equals one point. Seniority points shall be awarded only for whole years of service.

2. 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:
   a. 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.

   b. Time in Rank- If a tie still exists, the candidates shall be ranked in the order according to which candidate has the most recent continuous seniority in the position immediately below the position for which the examination was given.

   c. Seniority in the Department - If a tie still exists, the candidates shall be ranked in the order according to which candidate has the most seniority with the respective Department in a certified position, whether interrupted or uninterrupted.

   d. Total Years of Experience as a Certified Fire Fighter or Police Officer- If a tie still exists, the candidates shall be ranked in the order according to which candidate has the (i) most years of experience as a full-time, paid fire fighter for a position in a Fire Department; or (ii) most years of experience as an active, full-time, paid peace officer for a position in a Police Department.

   e. Total City Service - If a tie still exists, the candidates shall be ranked in order according to which candidate has the most total service time with the City, including time in a non-classified position.

   f. Earliest Date of Initial Application - If a tie still exists, the candidates shall be ranked in order according to the earliest stamped date and time of initial application for the promotion.

   g. By Lot - If a tie still exists, the candidates shall be ranked by lot as determined by the Director.

Georgetown:
PROMOTIONAL EXAMINATION GRADES
Whenever two (2) or more candidates obtain identical total final scores, the following procedures will be used to break the tie and determine placement on the final eligibility list for promotion:
   a. Highest Test Score - If two (2) or more candidates tie on total final scores, the persons shall be ranked in the order according to which person had the highest examination raw score prior to the addition of seniority points and after the Commission's determination of appeals, if any.

b. Seniority Rank - If a tie still exists, the candidates shall be ranked in the order according to which candidate has the most seniority in the position immediately below the position for which the examination was given.

c. Seniority in Department - If a tie still exists, the candidate shall be ranked in the order according to which candidate has the most seniority with the respective Department in a certified position, whether interrupted or uninterrupted.

d. Total Years as a Certified Fire Fighter or Police Officer - If a tie still exists, the candidates shall be ranked in the order according to which candidate has the (i) most years of experience as a full-time, paid fire fighter for a position in a Fire Department; or (ii) most years of experience as an active, full- time, paid peace officer for a position in a Police Department.

e. Total City Service - If a tie still exists, the candidates shall be ranked in order according to which candidate has the most total service time with the City, including time in a non-classified, permanent position.

f. By Lot - If a tie still exists, the candidates shall be ranked by lot as determined by the Director.

Round Rock:
Section 143.033 PROMOTIONAL EXAMINATION GRADES
See Section 143.033, Chapter 143
All test participants receiving a grade of seventy (70) points or more shall be determined to have passed an examination. Candidates shall have their seniority points provided for in Chapter 143 added after the assessment center and written exam scores are finalized for a raw score. The seniority points will be added to the raw score and shall detennine the final score of each candidate. Seniority points will be defined as follows: each firefighter is entitled to receive 1 point for each year of seniority up to ten (10) years of service with the Round Rock Fire Department. Each firefighter with over ten (10) years of service is entitled to an additional ½ point for each year of seniority with the Round Rock Fire Department, with no maximum.

When two (2) or more applicants have equal total grades or scores (including seniority points) and a tie exists on the eligibility list for promotion, the following shall be used, in the order listed, until the tie is broken:

Highest written test score;

Longest period of continuous employment in the department; Earliest date of appointment to present rank;

Earliest appointment to previous ranks, from highest to lowest; Highest position on entry-level eligibility list.

A promotional eligibility list shall be established with names listed in order from highest score to lowest score. All eligibility lists shall remain in existence for two (2) years and one (1) day from date of certification,

unless exhausted. The Fire Chief shall notify the Director of the necessity to replace an exhausted eligibility list.

Assessment Centers
To participate in the assessment center, a candidate shall have received a grade of seventy (70) on the written examination. An assessment center will be conducted for the following ranks: Driver, Lieutenant, Captain and Battalion Chief. These assessment centers shall be used on every promotional test and remain in effect until changed by the Fire Chief in consultation with the Association Executive Board. The Director will be consulted on the assessment center and manage the process in conjunction with the Fire Department.

The Director is authorized to establish rules for grading examinations.

143.034 REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION

All pretty similar, Georgetown has a provision for members who appeal and are on military deployment.

Cedar Park:
See Section 143.034, Chapter 143
Beginning on the first business day after promotional examination grades are posted, a promotional candidate may review the examination booklet, his/her answer sheet, the answer key, and the source material for the examination in the presence of a monitor(s) designated by the Director. At such time that a promotional candidate submits a written appeal to 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 shall be given to the appellant.

The period of review of test materials begins the first business day after promotional examination grades are posted and is limited to five business days during which an appeal may be filed.

The Commission shall receive a copy of each appeal submitted, the appealed question(s), and the appropriate source reference sheet(s). The appeal information shall not reveal the name of the appellant, prior to the regularly scheduled Commission meeting.

A promotional examination question appealed to the Commission shall be sustained, overruled, or eliminated by a Ruling issued by the Commission.

a. Sustain the answer key (test scores shall remain as reported)
   A Ruling which sustains the answer key shall require the Director to accept the answer as given on the answer key, while grading the promotional examinations of all eligible candidates.

b. Overrule the answer key {the Commission shall designate another answer(s) to be accepted)
   A Ruling which overrules the answer key shall require the Director to accept two or more answers, as directed in the Ruling, while grading the promotional examination of all eligible candidates.

c. Eliminate the test question (the test question shall not be included)
   A Ruling which eliminates the appealed test question shall require the Director to disregard the question and its answer while grading the promotional examination of all eligible candidates.

Formula for calculating scores after appeals:

The formula for calculating the promotional test scores shall be as follows:

(100) / (total number of test questions used) = point value of each question
(# of total test questions)-(# of wrong questions)= # of correct questions
(# of correct questions) x (value of each question)= score

Georgetown:

34. REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION

Upon completion of grading, each promotional candidate by himself or herself may review his/her examination and answers, the examination grading, and the source material for the examination in the presence of a monitor(s) designated by the Director. Any appeal must be filed within five (5) business days after the examination is graded. At such time that a promotional candidate submits a written appeal to 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 appellant.

The period of review of test materials begins after promotional examination grades are posted and is limited to five (5) business days during which an appeal must be filed. The Civil Service Commission shall receive a copy of each appeal submitted, the appealed question(s), and the appropriate source reference sheet(s). The appeal information shall not reveal the name of the appellant, prior to the regularly scheduled Civil Service Commission meeting.

Promotional examination questions appealed to the Civil Service Commission will be sustained, overruled, or eliminated by a ruling issued by the Civil Service Commission.

a. Sustain the answer key (test scores will remain as reported)
   A ruling which rejects the appeal presented to the commission will require the Director or designee to accept the answer as given on the answer key, while grading the promotional examinations of all eligible candidates.

b. Overrule the answer key (the Commission will designate another answer(s) to be accepted)
   A ruling which sustains the appeal of a promotional examination question will require the Director or designee to accept two or more answers, as directed in the ruling, while grading the promotional examination of all eligible candidates.

c. Eliminate the test question (the test question will not be included)
   A ruling, which rejects the test question, related to the appeal of a promotional examination question will require the Director or designee to disregard the question and its answer while grading the promotional examination of all eligible candidates.

Formula for calculating scores after appeals:

The formula for calculating the promotional test scores will be as follows:
(100) / (total number of test questions used) = point value of each question
(# of total test questions) - (# of wrong questions) - (# of unanswered questions)=# of correct questions

(# of correct questions) x (point value of each question) = score

034A PROMOTIONAL EXAMINATION APPEAL PROCEDURES FOR PERSONNEL ON ACTIVE MILITARY DUTY

Candidates serving on military duty, who take the promotional examination outside of Georgetown, shall be eligible to file an appeal of the examination as provided in Chapter 143.034. 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.

Round Rock:

See Section 143.034, Chapter 143
The Director is authorized to establish rules for the review of examinations.

Upon completion of grading, each promotional candidate by himself/herself may review his/her examination and answers, the examination grading, and the source material for the examination in the presence of the Director or a monitor(s) designated by the Director.

The period of review of test materials begins after promotional examination grades are posted and is limited to the time prior to the date when an appeal may be filed.

If any candidate appeals a question(s) on a promotional examination under this rule, the Director shall prepare a written notice of the hearing and notify all parties concerned as to the time, date, and place of the hearing. The appeal information shall not reveal the name of the appellant(s) prior to the appeal hearing before the Commission. The Director shall prepare a package of information for each test question being appealed, to include:
The question number;

The question and its answer choices from the examination; The correct answer on the scoring key;

The correct answer, if different from the scoring key;
A copy of the source material;
The appellant(s) written reason(s) for appeal;
The Director's statements, if any;
The Fire Chief's statements, if any;
Other material deemed relevant by the Director.

During the appeal hearing, the following rules will apply:

Appealed questions will be considered in numerical order;

Each appellant will be given an opportunity to present reasons for the appeal. The appellant may designate someone else to present comments. The Commission may limit the time for each appellant to speak, and the Commission may require non-duplication of information presented.

After each appellant has spoken on the question, the Commission may ask questions of the appellant or anyone else that may have information pertinent to the question.

The chairperson shall allow others an opportunity to speak on the question offering differing opinions. The chairperson may limit the time for each speaker and may require non-duplication of information presented.

The Commission may go into executive session at any time during the appeal hearing in order to deliberate, but not vote.

The Commission will make a decision on each question presented. The Commission's options on each appealed question are to:

Let the question stand as it was originally graded;

Change the answer from the way it was originally graded to another answer choice; Allow more than one correct answer; or

Delete the question from the examination.

The formula for calculating the promotional test scores after appeal is as follows:
(100) / (total number of test questions used) = point value of each question
(# of total test questions) - (# of wrong questions) = # of correct questions
(# of correct questions) x (value of each question)= score

The Commission will consider all questions being appealed.

The Commission will indicate its decision for each question on a form provided by the Director. Each Commission member who agrees with that decision will sign the form. A majority of the Commission agreeing on a decision will determine the final decision on that question.

If necessary, the Director will re-score all answer sheets as directed by the Commission and create and post a new eligibility list. The amended eligibility list will have the same effective date as the original eligibility list.

143.035—*Not Applicable*

143.036 PROCEDURE FOR MAKING PROMOTIONAL APPOINTMENTS

Cedar Park:
See Section 143.036, Chapter 143

When the term "Commission" is used in Section 143.036 of the Local Government Code, the Director may perform the duties specified.

Georgetown: Reserved.

Round Rock:
See Section 143.036, Chapter 143

Persons accepting a promotion in the Round Rock fire department shall be medically and physically capable to perform the essential functions of the job and shall demonstrate a driving record which meets current City liability insurance requirements.

The Director and/or the Fire Chief may establish other reasonable, valid criteria for promotion to the particular position.

When the term "Commission" is used in Section 143.036, the Director may perform the duties specified.

Promotional procedures for deployed military personnel:

In this Section 143.036, "deployed person" means a civil service employee of the Round Rock Fire 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 USARA; and "state regulations" means Chapter 143, Section 143.072 and Section 143.075.

When a person in the Fire Department is ordered to active military duty and deployed, all federal and state regulations shall apply.

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 department head may:

- promote the deployed person per Section 143.036 (Procedure for Making Promotional Appointments);

- not promote the deployed person for a valid reason per Section 143.036(f)(g);

- 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 (Temporary Duties in Higher Classification); or

- 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.

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.

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.

143.037 RECORD OF CERTIFICATION AND APPOINTMENT

Cedar Park:
See Section 143.037, Chapter 143

Georgetown: Reserved.

Round Rock:
See Section 143.037, Chapter 143

143.038 TEMPORARY DUTIES IN HIGHER CERTIFICATION

Cedar Park:
See Section 143.038, Chapter 143

The Department Head may prescribe methods for selecting and making a temporary appointment to a higher classification when there is a vacancy. "Vacancy" does not mean temporary absence.

Georgetown:
The Department Head may prescribe methods for selecting and making assignments to temporarily fill a position in the next higher classification.

Round Rock:
See Section 143.038, Chapter 143

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.

SUBCHAPTER C. COMPENSATION

143.041 SALARY

Cedar Park:
See Section 143.041, Chapter 143

Georgetown: Reserved.

Round Rock:
See Section 143.041, Chapter 143

143.042 ASSIGNMENT PAY

Cedar Park:
See Section 143.042, Chapter 143

Georgetown: Reserved.

Round Rock:
See Section 143.042, Chapter 143

143.043 FIELD TRAINING OFFICER

Cedar Park:
See Section 143.043, Chapter 143

Georgetown: Reserved.

Round Rock:
See Section 143.043, Chapter 143

143.044 CERTIFICATION, EDUCATIONAL INCENTIVE, AND FITNESS INCENTIVE PAY

Cedar Park:
See Section 143.044, Chapter 143

Georgetown: Reserved.

Round Rock:
See Section 143.044, Chapter 143

143.045 ACCUMULATION AND PAYMENT OF SICK LEAVE

Cedar Park:
See Section 143.045, Chapter, 143

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.

Georgetown:
An employee who is temporarily suspended or indefinitely suspended must exhaust all appeal rights before the City is obligated to pay any accumulated sick leave as prescribed under Chapter 143. The City will not authorize withdrawals from the Texas Municipal Retirement System (TMRS) unless the employee submits a written resignation and terminates employment with the City of Georgetown.

All police officers and fire fighters in the classified service shall accrue 120 hours per year of sick leave and shall not be paid more than 720 hours of sick leave upon termination of employment.
For those members of the Fire Department who are scheduled to work 56 hours a week on an annual basis, payments shall not be based upon more than 1,080 hours of accumulated sick leave.

Round Rock:
See Section 143.045, Chapter, 143 Civil Service Sick Leave

The City of Round Rock Human Resources Policies and Procedures Manual, Chapter 5, Section 12. Sick Leave establishes and specifies sick leave accrual and usage for civil service employees.

Sick Leave Payment Upon Suspension

A fire fighter who is temporarily suspended or indefinitely suspended must exhaust all appeal rights before the City is obligated to pay any accumulated sick leave as prescribed under Chapter 143.

Specifically, a 12-hour work day shall be used in calculating the ninety (90) days set forth in Chapter 143. The City shall not authorize withdrawals from the Texas Municipal Retirement System (TMRS) or Fire Pension System unless the fire fighter submits a written resignation and terminates employment with the City of Round Rock.

143.046 VACATIONS.

Cedar Park:
See Section 143.046, Chapter 143

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.

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

Round Rock:
See Section 143.046, Chapter 143

143.047 SHIFT DIFFERENTIAL PAY

Cedar Park:
See Section 143.047, Chapter 143

Georgetown: Reserved.

Round Rock:
See Section 143.047, Chapter 143

SUBCHAPTER D. DISCIPLINARY ACTIONS

143.051 CAUSE FOR REMOVAL OR SUSPENSION

Rules are essentially the same, except for

- *Georgetown & Round Rock include insubordination.*
- *Georgetown includes refusal to pay city taxes*

Cedar Park:
See Section 143.051, Chapter 143

The following are declared to be grounds for dismissal or suspension of any employee from the classified service in the City of Cedar Park:

(1) Filing of an indictment or information for, 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 Cedar Park;

(3) Acts of incompetency;

(4) Neglect of duty;

(5) Discourtesy by said employee to the public or to fellow employees;

(6) Acts of said employee showing a lack of good moral character;

(7) Drinking of intoxicants while on duty or intoxication while off duty;

(8) Conduct prejudicial to good order;

(9) Neglect to pay just debts;

(10) Absence without leave;

(11) Shirking duties or cowardice; or

Violation of any of the rules and regulations of the Fire Department or General Orders of the Police Department; or of special orders as applicable; or of these Rules and Regulations; or of any of the policies in the City Human Resources Policy Manual; or of any other City Ordinance or Policy applicable to Police and Fire Department employees.

Georgetown:
The following are declared to be grounds for removal or suspension of any employee from the civil service in the City of Georgetown:

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 Georgetown;

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;

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 City taxes;

11. Refusal or neglect to pay other just debts;

12. Absence without leave;

13. Shirking of duties;

14. Cowardice;

15. Violation of any of the rules and regulations of the Police or Fire Department; of special orders, as applicable; of these rules and regulations; or of any of the City Personnel policies and regulations; or of any other City Ordinance or Policy applicable to Police and Fire Department employees.

Round Rock:
See Section 143.051, Chapter 143

Each of the following are declared to be grounds for removal or suspension of any employee from the classified service in the City of Round Rock:

Indictment, deferred adjudication, or conviction of a felony, Class A or Class B misdemeanor, or other crime involving moral turpitude or violation of laws/ordinances of the United States, State of Texas or City of Round Rock;

Violation of the provisions of the Charter of the City of Round Rock;

Acts of incompetency;

Neglect of duty;

Discourtesy by said employee to the public or to fellow employees while the fire fighter is in the line of duty;

Acts of said employee showing a lack of good moral character;

Drinking of intoxicants while on duty; or intoxication while off duty;

Conduct prejudicial to good order;

Refusal or neglect to pay just debts;

Absence without leave;

Shirking duties;

Cowardice at fires;

Insubordination; or

Violation of any of the rules and regulations of the fire department; or of special orders as applicable; or of these rules and regulations; or of any of the "City of Round Rock Human Resources Policies and Procedures."

143.052 DISCIPLINARY SUSPENSIONS

Employee may be suspended for violation of:

Cedar Park	***Georgetown***	***Round Rock***
An applicable provision of Chapter 143, Texas Local Government Code; An applicable rule or regulation duly adopted by the Commission; Fire Department rules and regulations or Police Department General Orders; The City's Human Resources Policy Manual; or Or any other City Ordinance or Policy applicable to Police or Fire Department employees.	An applicable provision of Chapter 143, Texas Local Government Code; An applicable rule or regulation duly adopted by the Civil Service Commission of Georgetown; Fire Department Standard Operating Guidelines or Police Department General Orders; The City of Georgetown Personnel Policies; or Any other City Ordinance or Policy applicable to Police and Fire Department employees.	An applicable provision of Chapter 143; or An applicable rule or regulation duly adopted by the Commission. A department head may proceed with appropriate disciplinary action arising from any particular factual event(s) and/or misconduct which would constitute "cause" when the employee's misconduct is related to those matters set forth in Chapter 143, these rules, departmental rules and regulations, or the "City of Round Rock Human Resources Policies and Procedures."

Determination of Cause:

Cedar Park	***Georgetown***	***Round Rock***
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 his/her Department, who is also mindful of the responsibilities and needs of his/her 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.		For disciplinary action purposes, a determination of what constitutes "just cause" is generally made by comparison to what a reasonable person, who is mindful of the habits and customs of his/her department, and who is also mindful of the responsibilities and needs of his/her department, should have done (or should have not done) under similar circumstances. The term "cause" shall also mean "employee misconduct" and will necessarily include any act or omission that violates: *see violations listed in above section*.

Progressive Discipline:

Cedar Park & Georgetown:	***Round Rock***
Prior to imposing a suspension, the Department Head may use lesser forms of disciplinary or corrective action. However, nothing herein shall prohibit the Department Head from proceeding directly to the appropriate level of discipline without using progressive discipline, if in the opinion of the Department Head, the employee's misconduct warrants more severe disciplinary action.	Prior to imposing any particular level of disciplinary action, the department head may use lesser forms of disciplinary or corrective action. However, nothing herein shall prohibit the department head from proceeding directly to the appropriate level of discipline without using progressive discipline if, in the opinion of the department head, the employee's misconduct warrants more severe discipline.

Working off suspended time:

Cedar Park	***Georgetown***
A classified employee in the Police or Fire Department who is suspended less than 40 hours in the Police or Fire Department or less than 60 hours in the Fire Department for shift work employees may, upon the employee's request and at the respective Department Head's discretion, forfeit vacation designated by the Department Head for a period equal to the time of the suspension. The employee shall be required to work on the forfeited vacation days. 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. The employee shall have his/her 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 Department Head within ten (10) days after receiving the Notice of Suspension. Failure to make a written request to the Department Head within the allotted time shall result in an employee not being eligible for the provisions of this Section.	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. A classified employee who is suspended for fifteen (15) calendar days or less may, upon the employee's request and at the respective Department Head's discretion, forfeit vacation designated by the Department Head for a period equal to the time of the suspension. The employee shall be required to work on the forfeited vacation days. The employee shall have his/her 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 Department Head within 240 hours after receiving the Notice of Suspension. Failure to make a written request to the Department Head within the allotted time shall result in an employee not being eligible for the provisions of this Section.

Round Rock also includes language specific to demotion and promotional passover appeal, and for filing of charges against an employee.

Cedar Park:

See Section 143.052, Chapter 143

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;
   c. Fire Department rules and regulations or Police Department General Orders;
   d. The City's Human Resources Policy Manual; or
   e. Or any other City Ordinance or Policy applicable to Police or Fire Department employees.

   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 his/her Department, who is also mindful of the responsibilities and needs of his/her 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.

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

2. WORKING OFF SUSPENDED TIME - A classified employee in the Police or Fire Department who is suspended less than 40 hours in the Police or Fire Department or less than 60 hours in the Fire Department for shift work employees may, upon the employee's request and at the respective Department Head's discretion, forfeit vacation designated by the Department Head for a period equal to the time of the suspension. The employee shall be required to work on the forfeited vacation days. 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.

   The employee shall have his/her 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 Department Head within ten (10) days after receiving the Notice of Suspension. Failure to make a written request to the Department Head within the allotted time shall result in an employee not being eligible for the provisions of this Section.

Georgetown:

A. GENERAL PROVISIONS

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 Civil Service Commission of Georgetown;

c. Fire Department Standard Operating Guidelines or Police Department General Orders;
d. The City of Georgetown Personnel Policies; or
e. Any other City Ordinance or Policy applicable to Police and Fire Department employees.

2. Prior to imposing a suspension, the Department Head may use lesser forms of disciplinary or corrective action. However, nothing herein shall prohibit the Department Head from proceeding directly to the appropriate level of discipline without using progressive discipline, if in the opinion of the Department Head, the employee's misconduct warrants more severe disciplinary action.

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 classified employee who is suspended for fifteen (15) calendar days or less may, upon the employee's request and at the respective Department Head's discretion, forfeit vacation designated by the Department Head 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 his/her 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 Department Head within 240 hours after receiving the Notice of Suspension. Failure to make a written request to the Department Head within the allotted time shall result in an employee not being eligible for the provisions of this Section.

Round Rock:
See Section 143.052, Chapter 143

General Provisions

These rules shall apply to and govern all disciplinary actions and appeals of the City of Round Rock Fire Fighters' Civil Service pursuant to Chapter 143.

All disciplinary actions and appeals concerning civil service employees will be made in compliance with Chapter 143, these rules and regulations, the "City of Round Rock Human Resources Policies and Procedures," as well as the rules and regulations of the employee's department.

The term "cause" shall also mean "employee misconduct" and will necessarily include any act or omission that violates:

An applicable provision of Chapter 143; or

An applicable rule or regulation duly adopted by the Commission.

A department head may proceed with appropriate disciplinary action arising from any particular factual event(s) and/or misconduct which would constitute "cause" when the employee's misconduct is related to those matters set forth in Chapter 143, these rules, departmental rules and regulations, or the "City of Round Rock Human Resources Policies and Procedures."

For disciplinary action purposes, a determination of what constitutes "just cause" is generally made by comparison to what a reasonable person, who is mindful of the habits and customs of his/her department, and who is also mindful of the responsibilities and needs of his/her department, should have done (or should have not done) under similar circumstances.

After the Commission has determined that probable cause does exist for a requested demotion and has provided the employee with written notice as per Chapter 143, thereafter 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. An employee may elect the hearing examiner provisions of Section 143.057 only if the demotion is considered disciplinary in nature.

After an employee has been passed over for promotion as per Chapter 143, thereafter the promotional passover appeal will be conducted according to the hearing procedures as provided in Chapter 143. An employee may elect the hearing examiner provisions of Section 143.057 only if the promotional passover is considered disciplinary in nature.

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

Filing of Charges

The Director or his/her designee shall file-stamp all disciplinary actions filed by the department head, showing the date and time of receipt.

143.053 APPEAL OF DISCIPLINARY SUSPENSION.

Cedar Park and Georgetown are very close to being the same. Georgetown's Rules are listed below with some highlighted areas where it differs from Cedar Park. I have included portions of Cedar Park's rules where they are substantially different from Georgetown.

Round Rock's rules only cover the format of appeal hearings.

Georgetown:

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 as to demotions under§ 143.014); 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. 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.

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 his/her position thereby forfeits all rights to the disciplinary appeal processes.

5. An employee may voluntarily enter a written agreement that expressly evidences his/her 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. The appropriate amount as well as payment of all costs and expenses may be determined and collected by the Director. Generally, the employee will be required to pay for one-half the costs of the hearing examiner and any other fees assessed by the American Arbitration Association (AAA) or other outside agency. An employee may receive an estimate of anticipated costs upon written request to the Director.

2. When applicable, the State law governing the doctrine of "mitigation of damages" will be applied in computing reimbursements or the offset for an award of back pay.

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 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 Chapter143. The thirty (30) day Commission Decision deadline will be enforced unless the appealing party and Commission can agree on new dates.

Cedar Park's rule states:

FAILURE TO ATTEND SCHEDULED HEARING-The Commission or Hearing Examiner shall treat the appealing employee's failure to attend a scheduled appeal hearing or to file a timely request for a continuance as a request to withdraw the appeal. Any request for a continuance must be filed with the Director or the Hearing Examiner at least three (3) business days before the date of the hearing.

D. 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 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 and regulations 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.

E. EXCHANGE OF DOCUMENTATION AND IDENTITY OF WITNESSES

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 departmental files after the employee has signed the appropriate release form(s).

   Items 4&5 are not listed in CP's.

4. Before requesting a subpoena duces tecum for the production of documentation material, a party shall first make a request for the materials 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 made to the Commission to issue the subpoena duces tecum. 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.

5. All requests for subpoenas to compel the attendance of a witness 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.

F. 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
   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.

G. HEARING PROCEDURES

1. At the scheduled time and place, the hearing shall be called to order.

2. 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.

3. A record of the proceedings, capable of clear and accurate reproduction or transcription, shall be made and maintained by the Director.

4. 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.

5. 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 Department Head and which forms the basis of the disciplinary action imposed on the employee.

   CP has item 9 regarding invoking the rule listed here

6. The hearing shall then proceed to develop the evidence and testimony as to those contested matters.

7. The Department shall go first in the presentation of evidence and testimony. Thereafter, the employee shall have the opportunity to respond with his/her 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.

8. 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.

9. 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.

10. 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.

    CP states: The Commission may establish equal time limits for presentation of each side of the case.

11. 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.

12. 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.

13. 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.

14. 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.

H. 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 he/she 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; 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.

I. ISSUES TO BE DETERMINED IN DISCIPLINARY APPEALS

Cedar Park's rules start with:
Generally, the determinative issues to be considered and determined by the disciplinary action appeal process shall be:

- Did cause exist to support the imposing of some form of disciplinary action as to the employee?
- Was the degree of disciplinary action imposed by the Department reasonable under the circumstances? And
- Has the hearing process developed matters that justify or compel modification of the Department Head's disciplinary action?

1. The Department Head must establish the violation(s) by a preponderance of evidence standard.

2. It shall be recognized that prior to imposing any form of discipline, the Department Head may use lesser forms of disciplinary or corrective action. However, the failure to utilize "progressive discipline" shall not in itself be grounds to overturn or otherwise modify a Department Head'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.

3. The hearing shall provide the employee every 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 department head's action.

4. An employee's mere disagreement or difference in opinion in regard to the Department's actions or reasoning shall not constitute grounds to overturn nor modify the disciplinary action.

5. If the hearing establishes one valid charge of misconduct supported by evidence sufficient to establish its truth, that charge shall be sustained even if the evidence at the hearing does not support other charges in the letter of disciplinary action.

J. 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.
    c. *Demoted (See Section 13.054) or*
    d. *Restored to the former position or status*.

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 of the three Commissioners present. If only two 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.

Round Rock:

See Section 143.053, Chapter 143
The Commission hereby adopts the procedure set out in this section for hearing appeals of disciplinary suspensions. The format for the hearing shall generally be as follows:

Opening statement, City (department head).
Opening statement, fire fighter.
Presentation of City's (department head's) case.
Direct testimony of witnesses.
Cross-examination of witnesses.
Follow-up questions by Commission.
Response by fire fighter.
Direct testimony of witnesses.
Cross-examination of witnesses.
Follow-up questions by Commission.
Rebuttal by City (department head), if any.
Direct testimony of witnesses.
Cross-examination of witnesses.
Follow-up questions by Commission.
Final statement by City (department head).

Final statement by fire fighter.
Closing final statement by City (department head).
Deliberation by Commission in executive session.
Commission publicly votes on the appeal.

All Commission members voting shall immediately sign a memorializing the Commission's decision.

143.054 DEMOTIONS

Cedar Park:
See Section 143.054, Chapter 143

The Commission's consideration of whether there is probable cause to support the Department Head'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.

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.

Georgetown:
The Commission's consideration of a Department Head's recommendation for demotion does not require an evidentiary hearing. If the Commission determines that probable cause exists for a recommended demotion, the Director's notification of hearing to the employee will include the hearing examiner option under Chapter 143.

After the Commission has determined that probable cause does exist for a requested demotion and has provided the employee with written notice of hearing 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.

Round Rock:
See Section 143.054, Chapter 143

143.056 PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT

Cedar Park:
See Section 143.056, Chapter 143

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

Georgetown:
Conviction or deferred adjudication of a felony shall result in the employee being terminated from his or her position. No hearing before the Civil Service Commission or Independent Hearing Examiner will be provided.

Round Rock:
See Section 143.056, Chapter 143

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

143.057 HEARING EXAMINERS.

Cedar Park's and Georgetown's are very similar. I have highlighted in yellow sections that are in Georgetown's that are not in Cedar Park's.

I have included only the sections from Round Rock's that are not already included in Georgetown's.

Georgetown:

APPEALS TO INDEPENDENT THIRD PARTY HEARING
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.

1. 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 and Regulations:
   b. A copy of Chapter 143; and
   c. A copy of the applicable City Policy and Procedure, Police or Fire Department Rules and Regulations alleged to have been violated.

2. 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.

   The Hearing Examiner is to conduct a hearing fairly, objectively and impartially under the provisions of Chapter 143 and these Rules and Regulations. 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 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 department.

6. 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.

7. 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.

8. 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 and Regulations, 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.

9. 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.

Round Rock:
See Section 143.057, Chapter 143

The time limit for appeal to a Hearing Examiner will be the same as for appeal to the Commission.

In appeals to a Hearing Examiner, formal "rules of evidence" will not be observed.

Hearing Examiners shall base their decisions on "substantial evidence."

All hearings conducted by a Hearing Examiner will be conducted within Round Rock's city limits. Hearing Examiners shall have the same authority to uphold the suspension, reduce the suspension, or overturn the suspension as does the Commission.

Unless expressly authorized by Section 143.057, Hearing Examiners will observe the procedures as described in Section 143.010.

SUBCHAPTER E. LEAVES

143.071 LEAVES OF ABSENCE; RESTRICTION PROHIBITED.

Cedar Park/Round Rock:
See Section 143.071, Chapter 143

Georgetown: Reserved

143.072 MILITARY LEAVE OF ABSENCE.

Cedar Park/Round Rock:
See Section 143.072, Chapter 143

Georgetown: Reserved

143.073 LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE.

Cedar Park:
See Section 143.073, Chapter 143
"Temporary leave" under this section shall not exceed one (1) year.

Georgetown: Reserved

Round Rock:
See Section 143.073, Chapter 143

143.074 REAPPOINTMENT AFTER RECOVERY FROM DISABILITY.

Cedar Park/Round Rock:
See Section 143.074, Chapter 143

Georgetown: Reserved

143.075 MILITARY LEAVE TIME ACCOUNTS.

Cedar Park/Round Rock:
See Section 143.075, Chapter 143

Georgetown: Reserved

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

143.081 DETERMINATION OF PHYSICAL AND MENTAL FITNESS

Cedar Park:
See Section 143.081, Chapter 143

Each employee shall continually remain in such physical and mental condition as to be capable of rendering safe and efficient service to the City and performance of the duties and essential functions assigned to the employee.

Each employee shall be required to submit to a psychological or physical examination where there exists some reasonable basis to believe that the employee's mental or physical fitness for duty is an issue. Determination of the employee's mental and/or physical fitness for duty shall not be subject to Commission or Hearing Examiner's review. The findings of the medical panel as outlined in Chapter 143 shall be determinative and final.

Georgetown:
All employees must continually remain in such physical and mental condition as to be capable of rendering safe and efficient service to the City and performance of the duties and essential functions of the appropriate Department.

All employees shall be required to submit to a psychological or physical examination where there exists some reasonable basis to believe that the individual's mental or physical fitness for duty is an issue. Determination of the employees' mental and/or physical fitness for duty shall not be subject to Commission or Hearing Examiner's review. The findings of the medical panel as outlined in Chapter 143 shall be determinative and final.

Round Rock:
See Section 143.081, Chapter 143

Each employee shall continually remain in such physical and mental condition as to be capable of rendering safe and efficient service to the City and performance of the duties and essential functions assigned to the employee.

Each employee shall be required to submit to a psychological or physical examination where there exists some reasonable basis to believe that the employee's mental or physical fitness for duty is an issue. For purposes of this Section 143.081, a question arises as to sufficient physical or mental fitness to continue duties if the person self-refers for medical or psychological assistance, or if the person is so referred by the department head. The employee must submit to such mandatory psychological or physical examination as soon as is reasonably practical, but not later than ten (10) business days from referral. A business day, as used herein, is defined as follows: Any day (other than Saturday, Sunday, and legal holidays as specified by the City of Round Rock) on which the business of the City is conducted.

Determination of the employee's mental and/or physical fitness for duty shall not be subject to the Commission or Hearing Examiner's review. The decision of the three- member panel, as provided for in Section 143.081(d), is final and binding; and no further appeal to the Commission or to a Hearing Examiner shall be permitted if the employee is terminated from his/her position based on the panel's report.

If a question arises as to whether a fire fighter is sufficiently physically or mentally fit to continue the persons' duties, the fire fighter shall submit to the Commission a report from the person's personal physician, psychiatrist, or psychologist, as appropriate.

If the Commission, the Fire Chief, or the fire fighter questions the report, the Commission shall appoint a physician, psychiatrist, or psychologist, as appropriate, to examine the fire fighter and to submit a report to the Commission, the Fire Chief, and the person. For purposes of this subsection (E), such second examination shall be conducted as soon as is reasonably practical, but not later than ten (10) business days from referral.

If the report of the appointed physician, psychiatrist, or psychologist, as appropriate, disagrees with the report of the fire fighter's personal physician, psychiatrist, or psychologist, as appropriate, the Commission shall appoint a three-member board composed of a physician, a psychiatrist, and a psychologist, or any combination, as appropriate, to examine the fire fighter. The board's findings as to the person's fitness for duty shall determine the issue.

The fire fighter shall pay the cost of the services of the person's personal physician, psychiatrist, or psychologist, as appropriate. The City shall pay all other costs.

143.082 EFFICIENCY REPORTS.

Cedar Park/Round Rock
See Section 143.082, Chapter 143

Georgetown:
The Department will participate in the established procedures and rules for performance evaluations in conjunction with City Personnel Policy.

143.083 EMERGENCY APPOINTMENT OF TEMPORARY FIRE FIGHTERS.

Cedar Park/Round Rock
See Section 143.083, Chapter 143

Georgetown: Reserved.

143.084 CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIRE FIGHTERS.

Cedar Park/Round Rock
See Section 143.084, Chapter 143

Georgetown: Reserved.

143.085 FORCE REDUCTION AND REINSTATEMENT LIST.

Cedar Park:
See Section 143.085, Chapter 143

Georgetown: Reserved.

Round Rock:
See Section 143.085, Chapter 143

Whenever the Fire Department reorganizes the number of positions in a particular rank which results in a position(s) being eliminated in one classification, and when a promotional eligibility list for the position being eliminated exists at the time of the reorganization, the Director shall notate in the "a" file of an affected employee(s) the following information:

Promotion of the top person(s) on the eligibility list to the abolished position(s) as of 7:00 a.m. on the effective date; and

Demotion of the same person(s) promoted to the abolished position(s) at 7:01 a.m. on the same date.
The Director shall create a Reinstatement List in accordance with the requirements of this section.

143.086 POLITICAL ACTIVITIES.

Cedar Park/Round Rock
See Section 143.086, Chapter 143

Georgetown: Reserved.

143.087 STRIKE PROHIBITED.

Cedar Park/Round Rock
See Section 143.087, Chapter 143

Georgetown: Reserved.

143.088 UNLAWFUL RESIGNATION OR RETIREMENT.

Cedar Park/Round Rock
See Section 143.088, Chapter 143

Georgetown: Reserved.

143.089 PERSONNEL FILE.

Cedar Park:
See Section 143.089, Chapter 143

Access to records of employees in the classified service, employment applications, background investigation records and reports, examinations and answer sheets shall be governed by Chapter 143 of the Texas Local Government Code and the Texas Government Code and appropriate federal statutes.

Georgetown: Reserved.

Round Rock:
See Section 143.089, Chapter 143

Access to records of employees in the classified service, employment applications, background investigation records and reports, examinations and answer sheets shall be governed by Chapter 143 of the Texas Local Government Code and the Texas Government Code and appropriate federal statutes.

Ordinance No. G-10-01-14-7Al, codified in Chapter 1, Section 1.1002.1(7) of the Code of Ordinances of the City of Round Rock, provides for the following:

Access to Subsection 143.089(g) File:

Access to a fire fighter's otherwise confidential subsection (g) file is an inherent right, in their official capacities, of the City Council, the City Manager, and the Director of Fire Fighters' Civil Service.

In addition to those persons listed in subsection (a) above, access to a fire fighter's otherwise confidential subsection (g) file shall be specifically granted to the Department Head of the Fire Department, the City Attorney, and outside attorneys retained by the City.