



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; orAny 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 Statute; 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:

$(100) / (\text{total number of test questions used}) = \text{point value of each question}$

$(\# \text{ of total test questions}) - (\# \text{ of wrong questions}) - (\# \text{ of unanswered questions}) = \# \text{ of correct questions}$

$(\# \text{ of correct questions}) \times (\text{point value of each question}) = \text{score}$

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 CLASSIFICATION**
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)**