

**CITY OF SAN ANGELO**

**CIVIL SERVICE RULES AND REGULATIONS**

**Commission Members**

Keith Hidalgo

Raul Lopez - Chair

Teresa Special- Vice Chair

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## **RULE I: CREATION AND DEFINITION**

### **SECTION 1: Creation of Firefighter's and Police Officer's Civil Service**

There is hereby established in all cities in the State having a population of ten thousand (10,000) or more inhabitants, according to the last preceding Federal Census, and having a paid fire and police department, and Firefighter's and Police Officer's Civil Service.

### **SECTION 2: Definitions**

- A. Allocate - the act of assigning each position to its proper class.
- B. Appointment - the designation of a person by the chief executive to become an employee in a position.
- C. Certify - the act of the director, in supplying the chief executive with names of applicants who are eligible for appointment to the class and positions for which certification is requested.
- D. Chief Executive - the officer of the city having the final authority to make the appointment to the position to be filled, being the Mayor.
- E. Civil Service Law - refers to **Chapter 143, Municipal Civil Service**.
- F. Civil Service Ordinance - ordinance under Title 1, Chapter 25 of the City of San Angelo, which creates and establishes the civil service system for firefighters and police officers, adopted and approved by the governing body of the city and as codified and all documents thereto.
- G. Class - a position or group of positions that involve similar duties and responsibilities and require similar qualifications and which is properly designated by one title indicative of the nature of the work.
- H. Classification Plan - consists of the following:
  - 1. A grouping into classes of positions which are of approximately equal difficulty and responsibility.
  - 2. Class titles, descriptive of the work of the class, which will identify each class.
  - 3. Written class specifications for each class of positions containing a description of the nature of work and of the relative responsibility of the positions in the class, illustrative examples of work performed in the class, requirements in terms of knowledges, abilities and skills necessary for performance of the work and a statement of experience and training desirable for recruitment into the class.
- I. Classified Service - the members of the fire and police department as defined below:
  - 1. Firefighter - one who engages in the fighting and extinguishment of fires. **PROVIDED** that the chief or head of the fire department shall not be included in the classified service.
  - 2. Police Officer - one who engages in the actual enforcement of the laws and the maintenance of public order. **PROVIDED** that the chief or head of the police department shall not be included in the classified service.

- J. Commission - the firefighter's and police officer's civil service commission of the city.
- K. Day - calendar days unless otherwise stated in the section using this term.
- L. Demotion - the transfer of an employee from a position in one class to a position in another class for which the maximum rate of pay is lower or a reduction in pay without such transfer unless such reduction is part of a general plan to reduce salaries for that class of employment.
- M. Department Head - the chief or head of the fire or police department
- N. Director - the director of firefighter's and police officer's Civil Service designated by the firefighter's and police officer's civil service commission to act in the capacity of Secretary to the commission and Director of Civil Service.
- O. Eligible - a person listed on an active eligibility list and who has rights under these rules to be certified.
- P. Eligibility List - the list of candidates for a position who have taken the examination and passed; ranked on the list in the order of the score received.
- Q. Employee - as used in these Rules means a firefighter or police officer as defined under Classified Service.
- R. Longevity - the total number of years, which may be broken, that a firefighter or police officer has served in the San Angelo Civil Service. This total service is for the purpose of pay only.
- S. Men - any gender and does not refer to sex.
- T. Position - a group of current duties and responsibilities assigned or delegated by competent authority requiring the services of an employee.
- U. Promotion - a change from one grade to a higher grade or rank or a change in duties or in title involving a distinct change in duties for which there is required a written promotional examination. Promotion shall always mean an increase in responsibilities.
- V. Public Hearings - The purpose of this law is to provide efficient fire and police departments. Members of civil service boards shall sit as boards of appeal for suspended or aggrieved employees. They shall conduct fair and impartial hearings. In order for a firefighter or police officer to appeal to the commission, he must file within ten (10) days either to deny or take exception to charge made and ask for a hearing. All such hearings shall be public and he shall have the right to be represented by counsel. Hearings may also be requested to settle questions regarding promotional testing. (See Section 46 G or 143.034).
- W. Reinstatement List - a list according to class and department of persons, arranged in the order provided by these Rules, who have previously occupied positions in the classified service and have been laid off from active service in accordance with these Rules and who may be certified for appointment to such positions when vacancies occur.
- X. Seniority - the length of continuous service from the last date of hire. This definition applies to all seniority in this handbook except for longevity pay.
- Y. Vacancy - a position, duly created and not abolished which is not occupied and for the filling of which a valid requisition has been received by the director.

- Z. Veteran - an honorably discharged soldier, sailor, marine, or airman who has served in the armed forces of the United States, as provide by this law. This would include present members of any Armed Forces Reserve component serving honorable.
- AA. Work Day or Working Day– references to work day or working day in these rules and regulations or when undefined in the Texas Civil Service Statutes shall mean eight (8) hours for the police department and twelve (12) hours for the fire department.

## **RULE II: GENERAL PROVISIONS**

### **SECTION 3: Using Official Authority**

No person in the classified service of the city shall use his official authority or influence or coerce the political action of any person or body. No person shall dismiss, or cause to be dismissed, or threaten to dismiss, or make any attempt to procure the dismissal of, or in any manner change the official rank or compensation of any person in such service, because of his political opinions or affiliations, or because of his giving or refusing to give any contribution, money, or thing of value to any party or person for any political purpose.

### **SECTION 4: No Political Questions on Applications**

No question in any examination, or form of application or other proceedings by or under the commission or their examiners shall be so framed as to elicit information concerning, nor any other attempt to be made to ascertain the religious creed or political opinions or affiliations of any applicant, competitor, or eligible person and all disclosures thereof shall be countenanced by the commission and its examiners. No discrimination shall be exercised, threatened, or promised against or in favor of any applicant, competitor or eligible person, because of his political opinions or affiliations.

### **SECTION 5: No Political Recommendations**

No recommendations for any applicant, competitor or eligible person involving the disclosure of his political opinions or affiliations shall be received, filed or considered by the commission or chief executive.

### **SECTION 6: Like Penalties for Like Offenses**

In making removals or reductions, or in imposing penalties for delinquency or misconduct, in the classified service, penalties like in character shall be imposed for like offenses and action thereon shall be taken irrespective of the political opinions or affiliations of the offenders. Provisions hereof relating to department heads shall apply to appointive department heads, and to elective department insofar as the law permits.

### **SECTION 7: Waiving of Rights**

No public officer nor any administrative employee acting for a public officer shall be permitted to require a candidate for employment to sign any document whereby such candidate for employment waives any right or rights accruing to him under Civil Service Law or these rules. No public officer shall require an employee to waive any rights accruing to such employees under this law and rules.

### **SECTION 8: Oath of Office**

Every person hereafter employed in the classified service by the city, before he shall be entitled to enter upon the discharge of his duties, shall take and file an oath or affirmation in the form and language prescribed by the constitution for executive, legislative, and judicial officers, which may be administered by any officer authorized to take, within the state, the acknowledgment of the execution of a deed or real property, or by any

officer in whose office the oath is required to be filed. The oath of every such employee shall be filed with the civil service director. Every employee of the classified service when these rules shall take effect shall take and file such oath within thirty (30) days thereafter. The failure of such employee to take and file such oath shall terminate his employment.

### **RULE III: GENERAL DUTIES OF PUBLIC OFFICERS**

#### **SECTION 9: Cooperation of Municipal Officers**

All municipal officers and their deputies, clerks, subordinates and employee shall afford the commission all reasonable facilities in conducting the inquiries specified in these rules and the Civil Service Ordinance and shall permit inspection by the commission of all books, papers, and documents belonging or in any way appertaining to their respective offices, and shall also produce said books and papers and shall attend and testify when required to do so by the commission.

#### **SECTION 10: Officer to Abide by Provisions of Rules**

It shall be the duty of all officers of the city to conform to and comply with and to aid in all proper ways in carrying into effect the provision of these rules and any modification thereof. No officer or officers having the power of appointment shall select or appoint any person for employment promotion or reinstatement except in accordance with the Rules and Law.

#### **SECTION 11: Office Space**

The city council or governing body of the city shall provide adequate and suitable office space for the conduct of the business of the commission.

### **RULE IV: ORGANIZATION AND POWER OF COMMISSION**

#### **SECTION 12: Appointment to Commission**

The commission shall consist of three members.

- A. Members of the commission shall be appointed by the chief executive of the city, and such appointment shall be confirmed by the city council or legislative body of the city before any such appointment shall be effective. Of the first three (3) commissioners so selected, one (1) shall be appointed for a term of one (1) year, one shall be appointed for a term of two (2) years, and one (1) shall be appointed for a term of three (3) years. Thereafter the term of office of each commissioner shall be for three (3) years or until successor is appointed, confirmed and qualified. Any such vacancies in said commission, caused by death, resignation, or otherwise, or by failure of any appointee to qualify within ten (10) days after appointment, shall be filled in the manner herein above specified and such appointment shall be for the unexpired term of the retiring commissioner of the appointee failing to qualify. There shall be no term limitations for commission members.
- B. All such commissioners shall be of good moral character, (citizens of the United States), resident citizens of the City, shall have resided in the City for a period of more than three (3) years, shall each be over the age of twenty-five (25) years, shall not have held any public office within the preceding three (3) years.
- C. It is provided; however, that in all such cities which have in existence a civil service commission, that said civil service commission shall constitute the firefighter's and police officer's civil service commission of that city, and said commissioners shall administer the civil service of fire fighter and police officer in accordance with this law.



- D. It is further provided that in any such city which has in existence a civil service commission, the appointment of members to such civil service commission shall be made in conformity with provisions of this act, after the expiration of presently existing term or terms of the members comprising such civil service commission and, if necessary, in such cities having staggered terms of membership on such civil service commission the first appointment made under the provisions of this act shall be made for terms of such number for years less than three (3) as will cause a staggered or rotating system of terms to conform with the provision of this act.
- E. Officers. The commission shall, within ten (10) days from the date of qualification of membership and annually thereafter in the month of January, proceed to the election of chairman and vice-chairman. The vice-chairman shall serve as chairman in the absence or incapacity of the chairman.

### **SECTION 13: Removal of Commissioner**

If at a meeting held for that purpose the city council or legislative body of the city finds that a commissioner is guilty of misconduct in office, the city council or legislative body or the city may remove the commissioner. The commissioner may request that the meeting be held as an open hearing in accordance with the Open Meeting Law, Chapter 271, Acts of the 60th legislature, Regular Session, 1967, (Article 6252-17, Vernon Texas Civil Statutes).

### **SECTION 14: Powers of Commission**

Two (2) members of the said commission shall constitute a quorum to transact business. The commission shall make such rules and regulations for the proper conduct of its business as it shall find necessary and expedient, provided that no rules or regulations shall ever be adopted which will permit the appointment or employment of any person without good moral character; or any person unfit mentally or physically; or any person incompetent to discharge the duties of such appointment or employment. Such rules and regulations shall prescribe what shall constitute cause for removal or suspension of firefighters or police officers, but no rule for the removal or suspension of such employees shall be valid unless it involves one or more of the following grounds:

- A. Conviction of a felony or other crime involving moral turpitude;
- B. Violation of the provisions to the charter of said city;
- C. Acts of incompetency;
- D. Neglect of duty;
- E. Discourtesy by said employee to the public or to fellow employees while said employee is in the line of duty;
- F. Acts of said employees showing a lack of good moral character;
- G. Drinking of intoxicants while on duty, or intoxication while off duty;
- H. Whose conduct was prejudicial to good order;
- I. Refusal or neglect to pay just debts;
- J. Absence without leave, neglect of duty, or cowardice at fires;
- K. Violation of any of the rules and regulations of the fire department or police department or of special orders, as applicable.

### **SECTION 15: Investigations and Inspections**

The commission may make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this act, and the rules and regulations prescribed hereunder; and shall ascertain whether this act and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. In the course of such investigation the commission or designated commissioner shall have the power to administer oaths, subpoena and require the attendance of witnesses and the producing by them of books, papers, documents and accounts pertaining to the investigation, and also to cause the deposition of witnesses residing within or without the

state to be taken in the manner prescribed by law for like depositions in civil actions in the court of original and unlimited jurisdiction to civil suits of the United States; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a magistrate in his judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this act and punishable as such.

## **SECTION 16: Minutes and Public Records**

### **A. Minutes**

The minutes of the commission shall record the following matters:

1. All appointments;
2. Temporary promotions and assignments of employees to work other than embraced by their classification;
3. Appeals from dismissal, demotion or suspension with the action of the commission thereon;
4. All leaves of absence;
5. Reinstatements;
6. Replacement of names on and removal of names from an eligibility list;
7. Changes in the classification plan;
8. Reclassification or reallocation of individual employees;
9. Approval of and changes in examination schedules;
10. Appointment of special examiners;
11. Any other action or report directed to be recorded by the commission;

### **B. Public Records**

The commission shall keep records of all hearings or cases that come before it. Commission decisions shall be signed by the concurring commissioners. All rules, opinions, directives, decisions and orders issued by the commission shall be written and are public records that shall be retained on file by the commission.

### **C. Official Signature**

The minutes of the commission shall be signed by the chairman or in his absence or incapacity, the vice chairman, together with the secretary of the commission.

## **SECTION 17: Director of Civil Service**

- A. There is hereby created the office of Director of Firefighter's and Police Officer's Civil Service, which shall be filled by the appointment of the commission. The person appointed must meet the same requirements as hereinabove provided for members of the commission, except that the director is not required to meet the three (3) year local residency requirement. Said director may be either a member of the commission, another employee of said city or some other person. The legislative body of such city shall determine what salary, if any, shall be paid to such director. Said director shall at all times, be subject to removal by the commission. He shall serve as secretary to the commission, and shall perform all such work incidental to the Firefighter's and Police Officer's Civil Service as may be required of him by the commission.
- B. In those cities which have a duty and legally constituted director of civil service, by whatever name he may be called, said director shall be the director of the Firefighter's and Police Officer's Civil Service, but he shall administer civil service pertaining to firefighters and police officers in accordance with this law.

## **RULE V: MEETINGS**

### **SECTION 18: Regular Meetings**

The commission shall meet as needed at city hall, at a time specified by the commission.  
(revised at Civil Service Meeting 1/26/06).

### **SECTION 19: Special Meetings**

Special meetings may be called by the secretary of the commission at the request of the chairman or at the written request of any two commissioners.

### **SECTION 20: Open Meetings**

Both the regular and special meetings of the commission shall be open to the public and to representatives of the press.

### **SECTION 21: Closed Meetings**

The commission may hold meetings closed to the public in cases involving the appointment, employment, evaluation, reassignment and duties of an employee in the classified service or to hear complaints or charges against such employee. The employee may request a public meeting.

### **SECTION 22: Notice of Meetings**

Notice of all meetings of the commission shall be posted by the secretary on a bulletin board to be located at a place convenient to the public in city hall.

Notice of said meetings shall also be sent to the members of the commission, the fire and police department, the news media and posted on said bulletin board for at least 72 hours preceding the day of the meeting. In case of emergency or urgent public necessity, which shall be expressed in the notice, it shall be sufficient if notice is posted and distributed as above provided two hours before the meeting is convened (revised at Civil Service Meeting 10/02/89).

### **SECTION 23: Order of Business**

In all matters of procedure not controlled by the provisions of the Civil Service Statutes, the order of business and conduct of meetings shall be in conformity with Robert's Rules of Order.

### **SECTION 24: Regulations**

The commission may, by majority vote, make rules of procedure from time to time for the administration of these rules.

## **RULE VI: CLASSIFICATION**

### **SECTION 25: Classification of Firefighters and Police Officers**

The commission shall provide for the classification of all firefighters and police officers. Such classification shall be provided by ordinance of the city council or legislative body. The city council or legislative body shall, upon recommendation of the civil service commission, prescribe by ordinance the number of positions of each classification. The city annual budget is such an ordinance. No classification now in existence or that may be hereafter created shall ever be filled except by examination held in accordance with the provisions of this law. **\*Exception - See Chapter 143.014\*** All persons in each classification shall be paid the same salary and in addition thereto be paid any longevity, seniority pay, educational incentive pay or certification that he

may be entitled to. This shall not prevent the head of such department from designating some person from the next lower classification to fill a position in a higher classification temporarily, but any such person so designated by the head of the department shall be paid the base salary of such higher position plus his own longevity pay during the time he performs the duties thereof. The temporary performance of the duties of any such position by a person who has not been promoted in accordance with the provisions of this shall never be construed to promote such persons. All vacancies shall be filled by permanent appointment from eligibility lists furnished by the commission within sixty (60) days after such vacancy occurs.

In a police department, the total number of persons appointed to the classification immediately below that of department head may not exceed the total number of persons, plus one, serving in that classification.

In a fire department, in a municipality having fewer than 300 certified fire fighters, the department head may appoint not more than one person to the classification immediately below that of the department head.

## **RULE VII: ELIGIBILITY FOR BEGINNING POSITIONS**

### **SECTION 26: Filing Applications**

A person shall be considered for appointment to a vacancy in the classified service who has filed an application therefore with the director in the manner specified in these Rules and upon the form furnished by said director and whose application has not been rejected by the director for cause in accordance with the provisions of these rules. The applicant shall be required to make application on proper application form furnished by the director in his own handwriting or an electronic form and certify to the correctness of the facts (revised at Civil Service Meeting 1/27/17).

### **SECTION 27: Age Requirements**

1. A person may not take an entrance examination for a beginning position in the fire department unless the person is at least eighteen (18) years of age.
2. An applicant may not be certified as eligible for a beginning position with a police department unless the applicant meets all legal requirements necessary to become eligible for future licensing by the Commission on Law Enforcement Officer Standards and Education (revised at Civil Service Meeting 1/26/06).
3. An applicant may not be certified as eligible for a beginning position with the fire department unless the applicant meets all legal requirements necessary to become eligible for future certification by the commission on Fire Protection Personnel Standards and Education.
4. An applicant may not be certified as eligible for a beginning position with a police department unless the applicant meets all legal requirements necessary to become eligible for future licenses by the Commission on Law Enforcement Officer Standards and Education.
5. No person shall be certified as eligible for a beginning position with a fire department who has reached his thirty-sixth (36) birthday.
6. A person who is 45 years of age or older may not be certified for a beginning position in a police department (revised at Civil Service Meeting 1/26/06).

### **SECTION 28: Character and Fitness**

Applicants must furnish evidence of good moral character, temperate habits, sound health and physical ability to perform the duties of the position.

### **SECTION 29: Discrimination**

The age and physical requirements for employment in the classified service shall be set by the commission in accordance with the provisions of this law and shall be the same for all applicants except that physical requirements for females shall be set so that the same percentage of the female population is eligible for employment as the percentage of the male population is eligible.

### **SECTION 30: Education**

Applicants must have graduated from high school or have an education equivalent (GED TEST) to that represented by graduation from a standard high school. All applicants must be able to intelligently read and write the English language.

### **SECTION 31: Residence**

Applicants for positions in the classified service do not have to be a resident of this city. Employees in the classified service must be residents of the city unless they are permitted to reside outside the city boundary by permission of the head of the department.

### **SECTION 32: Cause for Rejection**

The following are declared to be cause for rejection of any applicant. The applicant:

- A. is not a citizen of the United States;
- B. is found to lack any of the minimum qualifications set forth in the classification plan of Civil Service Rules and Regulations or the State Law;
- C. is physically or mentally unfit of the performance of the duties of the position to which he seeks appointment;
- D. is of bad character;
- E. has been convicted of a felony or any crime involving moral turpitude;
- F. has made any false statements in any material fact or practiced or attempted to practice any deception or fraud in his application or examination;
- G. is addicted to habitual use of intoxicating beverages or drugs to excess;
- H. has been dismissed from the public service for delinquency or misconduct;
- I. does not meet all of the requirements contained in the City Ordinance "Classified Service";
- J. does not have an acceptable credit rating following a new credit report;
- K. has left the San Angelo Civil Service twice for any reason;
- L. has a driving record which is unacceptable to the insurance company covering the city.

### **SECTION 33: Rejected Applications**

Whenever an application is rejected, notice of such rejection shall be mailed promptly to the applicant by the director.

### **SECTION 34: Refusal to Examine**

The civil service director may refuse to examine any person who has any of the following defects: insanity, tuberculosis, paralysis, epilepsy, blindness, total deafness, loss of speech, loss of both arms or both legs, loss of arm or leg, badly crippled or deformed arms, feet or legs, heart disease, locomotorataxia, cancer, Bright's disease, syphilis, diabetes. Applicants with dyslexia will not be excluded from testing but no accommodations will be provided for the exam.

## **RULE VIII: APPLICATIONS**

### **SECTION 35: Notice of Examination - Entrance and Promotional**

Whenever a vacancy occurs in the classified service, for which there is no eligibility list and to which the chief of the department intends to make an appointment, the commission shall cause to be published and posted an official notice inviting the filing of applications for any entrance examination and for any promotional examination. The entrance examination will be posted at least ten (10) days and the promotional examination will be posted at least thirty (30) days in advance of examination date.

### **SECTION 36: Publishing of Notice for Entrance Examinations**

News of the pending examination shall be released to the media by the director.

### **SECTION 37: Posting of the Notice**

Notice of examination shall be posted by the commission on a bulletin board in the main lobby of city hall, in the office of the commission in plain view, and fire or police department. In cases of examinations for promotions, copies of such notice shall be furnished in quantities sufficient for posting in the various stations or subdepartments in which the position is to be filled.

### **SECTION 38: Contents of Notice of Examination**

Contents of examination notice shall show position to be filled or for which examination is to be held with date, time and place thereof. Additional information may or may not be included in the Notice of Examination to assist applicants in determining if they are qualified to apply.

### **SECTION 39: Preparation of Application Forms**

The director shall develop and prepare application forms for the position and distribute them without charge on request of persons wishing to make application. The director shall receive applications filed not later than five\* (5) days preceding the date set for the examination. It shall be the duty of the director, after examining the applications, to reject any application that does not meet the minimum requirements (revised at Civil Service Meeting 01/30/96).

### **SECTION 40: Contents of Application Form for Entrance Examination**

All applicants for entrance examination shall state:

- A. Position applied for;
- B. Applicant's full name and address;
- C. Residence in this city or other city;
- D. Residence for the previous two (2) years;
- E. Age, giving date of birth;
- F. Business experience or employment and education which fit the position;
- G. If in the military or naval service of the United States, branch of the armed forces of the United States in which served and date of discharge from the service with honorable discharge. The applicant shall furnish a photo or true copy of discharge or certificate of service;
- H. Applicants for original position shall furnish recent photograph, photo or true copy of birth certificate and high school diploma or equivalent. If a high school diploma is not available during the application process, it must be submitted prior to receiving a conditional job offer (revised at Civil Service Meeting 3/26/21).

#### **SECTION 41: Contents of Application for Promotion Examination**

All applications shall state:

- A. Position applied for;
- B. Applicants full name and address;
- C. A statement that applicant has spent at least two (2) years in the position next down to the one applied;
- D. Applicant's age, giving date of birth;
- E. Present position with the city;
- F. Date of original employment;
- G. Date of re-employment, if applicable;
- H. A statement that applicant is physically capable of performing the duties of the position.

#### **SECTION 42: Standing Applications**

There shall be no standing applications on any promotional exam. Applications for promotional exams will be accepted only after proper notice has been posted. Applications for entrance examination will be accepted at any time for positions of rookie firefighter or police officer and the director will notify qualified applicants promptly when new exams are to be given.

#### **SECTION 43: Applications not Returned**

Applications once filed remain the property of the commission and are not returned under any circumstances.

### **RULE IX: EXAMINATION FOR BEGINNING POSITIONS**

#### **SECTION 44: Examination**

All eligibility lists for applicants for original positions in the Fire and Police departments shall be created only as a result of open, competitive and free examinations for persons making proper application and meeting the requirements as herein prescribed, and no permanent appointments shall ever be made for any position in such departments except as a result of such examination.

#### **SECTION 45: Content of Examination**

Examinations for entrance into the service and for promotion within the service shall consist of one or more of the following parts as considered appropriate for the various classifications of positions:

- A. **Written Test** - The written examination shall be based on the applicant's knowledge of and qualification for firefighter's work in the fire department or for police work in the police department as shown by competitive examination in the presence of all applications for such position and shall provide for thorough inquiry into applicant's general education and mental ability. Weighing on a basis of one hundred percent (100%) for perfection, seventy percent (70%) shall be the score for passing the written test for entrance positions.
- B. **Veteran Preference** - An applicant who has served in the armed forces of the United States and who received an honorable discharge or is serving in one of the reserve components and has a letter from his unit commander indicating he is in good standing shall receive five (5) points in addition to his competitive grade, provided his grade on the written test is at least seventy percent (70%).
- C. **Polygraph Examination** - A polygraph examination will be administered to all civil service applicants to verify application and background information (revised at Civil Service Meeting 1/27/17).

- D. Oral Interview - This part, when required, shall include a personal interview with applicants for positions where ability to deal with others, to meet the public or other personal qualifications are to be determined. Oral interview will be given at least three (3) officers of the appropriate department appointed by the chief of the department. The civil service director will also serve as an interviewer. In the police department, the Texas Commission on Law Enforcement Officer Standards and Education procedures will be followed and an applicant will either pass or fail.
- E. Performance Tests - This part, when required, shall include such tests of performance as will determine the ability and skill of the applicants to perform the work involved.
- F. Physical and Health Test - Appropriate physical examinations shall be required of all applicants for beginning positions and the examinations shall be given by a physician appointed by the commission and paid by such city; and in the event of rejection by such physician, the applicant may call for further examination by a board of three (3) physicians appointed by the commission, but at the expense of the applicant, and whose findings shall be final. The age and physical requirements shall be set by the commission in accordance with provisions of this law and shall be the same for all applicants. Minimum physical qualifications are listed in Rule XXIX of these Rules and Regulations.
- G. Adaptability and Aptitude Tests - This part, when required, shall include tests designed to determine general adaptability or to ascertain special traits and aptitudes.
- H. Training and Experience - This part shall always be required and shall consist of questions on education and experience contained in application form and of such supplementary data as may be furnished for certification and proof of statements made in the application, or it may consist of questions on training and experience asked at the time the written tests are given. The director may, at his discretion, investigate the truth of the applicant's statements as to training and experience and govern his rating accordingly.
- I. Psychological Certification - All applicants for beginning positions shall undergo a psychological and an emotional health examination by a licensed psychologist or a licensed physician appointed by the commission and paid by the city. The psychologist or physician shall declare in writing that the applicant is in satisfactory psychological and emotional health, and in the event of rejection by such psychologist or physician, the applicant may call for further examination by a board of three (3) licensed physicians appointed by the commission, but at the expense of the applicant and whose findings shall be final (revised at Civil Service Meeting 3/4/22).

#### **SECTION 46: Promotions - Filling Vacancies**

The commission shall make rules and regulations governing promotions and shall hold promotional examinations to provide eligibility lists for each classification in the fire and police departments, which examinations shall be held substantially under the following requirements:

- A. Eligibility for Police Department Promotional
  - 1. All promotional examinations shall be open to all police officers who have held a continuous position for two (2) years or more immediately prior to the examination in the classification immediately below, in salary, the classification for which the examination is to be held.
  - 2. In police departments that have adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, all promotional examinations shall be open to a police officer who has held a continuous position for two (2) years or more immediately prior to the examination at the next lower pay grade, if it exists, in the classification for which the promotional examination is being held.



- 3 . When there is not a sufficient number of members in the next lower position with two (2) years service in that position to provide an adequate number of persons to take the examination, the commission shall open the examination to members in that position with less than two (2) years service.
- 4 . If there is still an insufficient number, the commission may extend the examination to the members in the second lower position, in salary, to the position for which the examination is to be held.
- 5 . No police officer shall be eligible for promotion unless he has served in that department for at least two (2) years at any time prior to the day of such promotional examination in the next lower position or other positions specified by the commission, and no person with less than four (4) years actual service in such department shall be eligible for promotion to the rank of captain or its equivalent.
- 6 . The police departments requirement of two (2) years service immediately preceding the date of promotional examination does not apply to persons recalled to active military duty for a period not to exceed twenty-four (24) months. Such persons shall be entitled to have time spent on active military duty considered as duty in the department concerned.
- 7 . However, any person whose absence for active military duty exceeds twelve (12) months, shall be required to serve ninety (90) days upon returning to the department before he shall become eligible to participate in a promotional examination, such period of time to be considered essential for bringing him up to date on equipment and techniques.

**B. Eligibility for Fire Department Promotional**

1. All promotional examinations shall be open to all firefighters who have held a continuous position for two (2) years or more in the classification immediately below, in salary, the classification for which the examination is being held.
- 2 . In fire departments that have adopted a classification plan that classified positions on the basis of similarity in duties and responsibilities, all promotional examinations shall be open to a firefighter who has held a continuous position for two (2) years or more at the next lower pay grade, if it exists, in the class for which the promotional examination is being offered. However, if a firefighter had previously terminated his employment with the department and was subsequently re-employed by the same department, the firefighter must again meet the two (2) year service requirement for eligibility to take a promotional examination.
- 3 . In determining if a firefighter has met the two (2) year service requirement, a fire department may not consider service in another fire department. This section may not be construed to prohibit lateral crossover between classes.
- 4 . If there are not enough members in the next lower position with two (2) years service in that position to provide an adequate number of persons to take the examination, the commission may open the examination to members in that position with less than two (2) years service.
- 5 . If there is still an insufficient number, the commission may extend the examination to members in the second lower position, in salary, to the position for which the examination is to be held with two (2) years service in that position.
- 6 . No firefighter shall be eligible for promotion unless he has served in that department for at least two (2) years at any time prior to the day of such promotional examination in the next lower position or other positions specified by the commission, and no person with less than

four (4) years actual service in such department shall be eligible for promotion to the rank of Captain or its equivalent.

7. The fire departments requirement of two (2) years service immediately preceding the date of promotional examination does not apply to persons recalled to active military duty for a period not to exceed twenty-four (24) months. Such persons shall be entitled to have time spent on active military duty considered as duty in the department concerned.
8. However, any person whose absence for active military duty exceeds twelve (12) months, shall be required to serve ninety (90) days upon returning to the department before he shall become eligible to participate in a promotional examination, such period of time to be considered essential for bringing him up to date on equipment and techniques.

C. Seniority Points

Each firefighter shall be given one (1) point for each year of seniority in his department whether interrupted or uninterrupted, but never to exceed ten (10) points.

Each police officer shall be given one (1) point for each year of seniority as a classified police officer in his department whether interrupted or uninterrupted, but never to exceed ten (10) points.

D. Contents and Methods of Written Examination

All firefighter and police candidates shall be given an identical examination in the presence of each other; the promotional examination shall be entirely in writing and no part of which shall be by oral interview.

All said questions shall be prepared and composed in such a manner that the grading of the examination papers can be promptly completed immediately after the holding of the examination.

The examination shall be prepared so as to test the knowledge of the applicants concerning information and facts; all said questions shall be based upon material which is a reasonably current publication and has been made reasonably available to all members of the fire or police department involved; all said questions shall be based upon the duties of the position sought and upon any study courses given by such departmental schools of instruction;

All promotional examination questions must be taken from sources that are listed in a notice that is posted by the commission at least ninety (90) days before the date of the examination. Firefighters or police officers may suggest source materials for promotional examinations. The thirty (30) day notice required by this act may include the name of each source used and the number of questions taken from each source. The commission may include the chapter of each source.

When one of the applicants taking an examination for promotion has completed his examination, the grading of such examination shall begin and all of the examination papers shall be graded as they are completed at the place where the examination is given and in the presence of any candidates who wish to remain during the grading.

E. To achieve the best possible promotional examination, the department being tested and the director will coordinate their efforts in the following manner:

1. They will establish the categories to be covered in the exam and how many questions will be asked from each category.
2. The training officer or someone designated by the chief of the department being tested will

supply the director with three (3) questions with their correct answers for each question to be placed on the exam as established in procedure #1. These questions will be available to the director five (5) working days prior to the exam. The head of the fire and police departments along with the civil service director may choose outside testing service (revised at Civil Service Meeting 4/90).

3. The director will select the questions to be administered and shall put the examination into its proper form for presentation on the scheduled date.
4. In the event that the questions submitted are not in line with the type of promotional examination to be given or the correct subject matter, the director may request additional questions to be submitted in groups of three (3) as outlined above.
5. Three (3) participants are required to make a promotional exam competitive (revised at Civil Service Meeting 4/6/22).

The director is responsible for the preparation and security of all promotional examinations. The fairness of the competitive promotional examination is the responsibility of the commission, the director and any municipal employee involved in the preparation or administration of the examination. A person who knowingly or intentionally reveals any part of a promotional examination to an unauthorized person or a person who knowingly or intentionally receives from an authorized or unauthorized person any part of a promotional examination for unfair personal gain or advantages, commits a misdemeanor and shall be fined not less than one thousand dollars (\$1,000.00) or imprisoned for not more than one (1) year in the county jail or both.

F. Credit for Seniority

The grade which shall be placed on the eligibility list for each candidate shall be computed by adding such candidate's points for seniority to his grade on such written examination. Grades on such written examination shall be based upon a maximum grade of one hundred (100) points and shall be determined entirely by the correctness of each applicant's answer to such questions.

G. Grade for Eligibility

All test participants receiving a grade of seventy (70) points or more shall be determined to have passed an examination. If a tie score occurs, the commission shall determine the method to be used to break the tie (revised at Civil Service Meeting 01/30/96).

H. Appeal of Promotional Examination

Each candidate shall have the opportunity to examine the source material, the examination and answers thereto with the grading thereof and if dissatisfied shall, within five (5) business days, appeal the same to the commission for review in accordance with the provisions of the act. A business day is defined as Monday through Friday, excluding holidays. If an applicant requests, the applicant is entitled to see his promotional examination, answers and source material as provided by this subdivision, but may not remove the examination or copy any questions used in the examination.

I. Eligibility for Department Head

No person shall be eligible for appointment as chief or head of the fire department of any city coming under the provisions of this act who is not eligible for certification by the commission on Fire Protection Personnel Standards and Education at the intermediate level or its equivalent as determined by that commission and who has not served at least five (5) years as a fully paid firefighter.

No person may be eligible for appointment as chief or head of the police department who is not eligible for certification by the Commission on Law Enforcement Officer Standards and Education at the intermediate level or its equivalent as determined by that commission and who has not served as a bona fide law enforcement officer for at least five (5) years.

J. New Classification

In the event any new classification is established either by name or by increase of salary, the same shall be filled by competitive examination in accordance with the Rules and Regulations and State Law.

K. Physical

Appropriate physical examinations shall be required before a candidate is considered for promotional positions and the examinations shall be given by a physician appointed by the commission and paid by such city; and in the event of rejection by such physician, the candidate may call for further examination by a board of three (3) physicians, appointed by the commission, but at the expense of the candidate, and whose findings shall be final. The age and physical requirements shall be set by the commission and shall be the same for all candidates.

**SECTION 47: Advancement in Compensation**

None of the provisions of these Rules shall prohibit an advancement in compensation granted to employees in the classified service as a result of the approved city budget. All persons in each classification shall be paid the same salary and in addition thereto be paid any longevity, educational incentive or certification pay that may be entitled.

A. The following requirements must be met by police officers to receive longevity, educational incentive and/or certification pay.

1. Longevity - Meet the requirements set forth in Section 141.032 of Texas Firemen's and Policemen's Civil Service Law

2 . Educational Incentive Pay (revised - City Ordinance 12/94)

Compensation shall be based on the number of points acquired by each officer without regard to certificates or degrees. Points shall be awarded as follows:

- a. One semester hour or unit in an accredited college or university shall equal one (1) point.
- b. Twenty classroom hours of in-service training in a program approved by TCLEOSE shall equal one (1) point.

3 . Each police officer will receive a specified amount of money approved by the city council for each point, but only to a maximum of 250 points, to be paid semi-monthly. The number of points a police officer has accumulated will be totaled as of each October 1st and will be the basis for paying the incentive pay for the following year.

4 . The chief of police shall establish procedures that will provide each police officer with the opportunity to acquire in-service training and to insure each officer obtains a minimum of forty (40) hours of in-service training, in programs approved by TCLEOSE, each two (2) years.

- 5 . Certification must meet the requirements set by the Texas Commission on Law Enforcement Standards and Education for Intermediate, Instructor and/or Advanced Law Enforcement Officer certificates.
- B. The following requirements must be set by firefighters to receive longevity, educational incentive and/or certification pay:
- 1 . Longevity - Meet the requirements set forth in Section 141.032 of Texas Fireman's and Policemen's Civil Service Law
  2. Educational Incentive (revised - City Ordinance 12/94)

Compensation shall be based on the number of points acquired by each firefighter without regard to certificates. Points shall be awarded as follows:

- a. One semester hour or unit in an accredited college or university shall equal one (1) point.
  - b. Twenty classroom hours of in-service training in a program approved by TCFPPSE shall equal one (1) point.
3. Each fire fighter will receive a specified amount of money approved by the city council for each point, but only to a maximum of 250 points, to be paid semi-monthly. The number of points a fire fighter has accumulated will be totaled as of each October 1st and will be the basis for paying the incentive pay for the following year.
  4. The fire chief shall establish procedures that will provide each fire fighter with the opportunity to acquire in-service training in programs approved by TCFPPCE.
  5. Certification must meet the requirements set by the Texas Commission on Fire Protection Personnel Standards and Education for advanced fire certificates.

**SECTION 48: Postponement or Cancellation of Examination** (revised at Civil Service Meeting 4/6/22)

The commission may, because of the small number of applicants for any position cancel an examination, or because of any other good and sufficient reason, postpone an examination to a later date. Posting of notice for any exam must allow for ten (10) days notice. Any examination may be cancelled by the commission should its holding become unnecessary because of a change in the personnel requirements of the classified service.

1. The Civil Service Director is authorized to act on behalf of the commission, with regard to postponing, cancelling, and/or scheduling an examination.
2. If an examination is cancelled due to not having the minimum number of applicants for a promotional examination, the examination will be open to those in that position with less than two (2) years service. If there is still an insufficient number, the commission shall extend the examination to members in the next lower position, in salary, to the position for which the examination is to be held with two (2) years service in that position.
3. Absence from attending an examination due to directed quarantine or isolation related to a pandemic will allow for postponement of that examination, when absence creates a deficit below the required minimum number of examinees.
4. Any examination postponement or cancellation, except under reason number 3 above, must be reviewed by the commission within 14 days of the examination date at a Civil Service Commission meeting at the request of any disagreeing applicant(s). Such

disagreement must be submitted in writing to the Civil Service Director within 72 hours of the examination date and time.

5. The study material for any cancelled examination may change at the discretion of the Chief.
6. If the study material changes for a particular promotional examination due to cancellation, a notice with sources listed must be posted at least ninety (90) days before the date of the examination.

#### **SECTION 49: Correction of Error**

On formal appeal submitted by the competitor within five (5) days after date of notice of his standing, the commission may correct any manifest error or mistake of making or rating appearing in such paper or record, such correction in any case to be without prejudice to the status of any person previously appointed as a result of such examination. Such appeal shall be considered as opening all the competitor's papers for review, whether resulting in a higher or lower average standing.

This provision shall not be held to prevent the commission from correcting any time during the life of any eligibility list an obvious clerical error.

#### **SECTION 50: Letters of Recommendation**

No letters of recommendation or endorsements, other than those required by the Rules, shall be considered in rating any competitor, unless called for in connection with the examination.

#### **SECTION 51: Examination Papers to be Shown**

The examination papers of a competitor will be exhibited only to the competitor or his duly authorized representative or to the chief executive to whom his name is certified.

#### **SECTION 52: Commission may Publish Pamphlet**

The commission may publish a pamphlet containing papers to illustrate to candidates the methods of examination and containing such other information as in the opinion of the commission will be useful to candidates in making applications and preparing for the competition.

#### **SECTION 53: Falsification**

No person shall deceive or obstruct any person in respect to his right of examination under the provisions of these Rules and the Civil Service Law or falsely mark, grade, estimate or report upon the examination or standing of any person examined hereunder, or aid in so doing, or furnish to any person, except in answer to inquiries of the commission, any special information for the purpose of either improving or injuring the rating of any such person for appointment or employment. No candidate shall deceive the commission for the purpose of improving his chances for appointment.

### **RULE X. ELIGIBILITY LISTS**

#### **SECTION 54: Vacancy Causing an Exam**

The commission shall proceed to hold examinations to create eligibility lists within ninety (90) days after a vacancy in any classification occurs, or new positions are created, unless an eligibility list is in existence. If an eligibility list exists, the commission shall certify within ten (10) days after notification of the vacancy to the head of the department the name of persons eligible to fill all promotional positions. The certified names

must come from the eligibility list which exists on the date the vacancy occurs.

In the event any new classification is established either by name or by increase of salary, the same shall be filled by competitive examination in accordance with this law.

### **SECTION 55: Preparation of Lists**

Not more than four (4) weeks after the conclusion of the examination, the director shall prepare the names of all candidates who have successfully passed the examination, listed in order from the highest score to the lowest score. This list shall then become the eligibility register for the position for which the examination was given and all appointments to said position shall be made from this eligibility list for a period of one (1) year. At the expiration of the one (1) year period from the date the examination was given, a new examination may be given and a new eligibility list prepared.

### **SECTION 56: Identical Grades for Promotional Examinations**

Whenever two (2) competitors or more shall attain the same grade, the tie shall be broken by the following method.

For Driver or Sergeant promotional, the following would be applicable:

The tie will be broken by time in current classification and if necessary, by placement on the roster for original date of hire.

For Captain, Lieutenant, Battalion Chief, and Fire Assistant Chief promotional, the following would be applicable:

The tie would be broken by time in current classification if the tie is between candidates in the same classification. If a promotional exam must accept candidates from multiple classifications in order to meet the minimum participant requirement to hold the promotional exam, the tie would be broken by taking into consideration time in rank from previous and current classifications.

(revised at Civil Service Meeting 3/26/21).

### **SECTION 57: Posting Results**

In promotional examinations, the commission shall post the individual raw test scores on the bulletin boards of the director, city hall lobby, police department or fire station and sub-stations within twenty-four (24) hours after the examination and such posting of results will constitute notice to applicants of his grades and standing.

### **SECTION 58: Removal from List**

A candidate's name may be removed from an eligibility list whenever he becomes dispossessed of any qualifications of and possessed by him at the time his name was placed on the list, and it may also be removed for any of the causes stated in Section 32 or Rule VII.

If a person's name appears on two or more lists and he is appointed to a position in the classified service, his name shall be removed from the remaining lists on which it appears.

### **SECTION 59: By-Passed**

The name of each person on the eligibility lists shall be submitted to the head of the department three (3) times; and if passed over three (3) times with written reasons filed thereafter and not set aside by the

commission, he shall thereafter be dropped from the eligibility list.

### **SECTION 60: Lists Expire**

All eligibility lists shall remain in existence for one (1) year unless exhausted and at the expiration of one (1) year they shall expire and a new examination may be given.

### **SECTION 61: Change of Address**

Each person on an eligibility list shall file with the commission written notice of any change of address and failure to do so may cause his name to be removed from the list. Notices sent to a person's last known address shall be considered sufficient notification.

## **RULE XI: CERTIFICATION AND APPOINTMENT**

### **SECTION 62: Requisition**

When a vacancy occurs in the fire or police department, the fire chief or head of the fire department or the police chief or head of the police department shall request in writing from the commission the names of suitable persons from the eligibility list, and the director shall certify to the chief executive of said city, the names of three (3) persons having the highest grade on the eligibility list, and the said chief executive shall thereupon make an appointment from said three (3) names. The appointment shall be of the person with the highest grade except if there is a valid reason why such appointment should be given to the one making the second or third highest grade. Whenever such appointment is made of one not holding the highest grade, such reasons shall be reduced to writing and filed with the commission, and there shall be set forth plainly and clearly good and sufficient reasons why said appointment was not made to the person holding the highest grade in the event that one holding the third highest grade shall receive the appointment. In the event the person holding the highest grade is not certified for the appointment, he shall be furnished with a copy of the reasons therefore as filed with the commission, and in the event the one having the third highest grade is appointed a copy of such reasons shall also be furnished to the one holding the second highest grade. This section shall be limited by the other provisions hereof relating to promotions.

### **SECTION 63: Certification of Employees**

Whenever a person is certified and appointed in the said fire or police department, the director shall forward a record of the person so certified and appointed to the fire chief or head of the department or police chief or head of the department, forward a similar copy to the chief executive, and retain a copy in the civil services files. The record shall show:

- A. the date notice of examination was posted,
- B. date on which person certified took examination to be placed on eligibility list,
- C. name of person or persons conducting examination,
- D. relative position of person or persons conducting examination, relative position of person on eligibility list,
- E. date when person certified took physical examination,
- F. name of physician making examination with information as to whether or not applicant was accepted or rejected,
- G. date on which request for filling such vacancy was made,
- H. date on which applicant was notified to report for duty and date on which their pay is to start.

If the director intentionally fails to comply with any provision of this section, it shall be the duty of the commission to remove him from office. The failure; however, of the director of civil service to comply with any of the provision of this section shall in no way impair the civil service standing of any employee.



### **SECTION 63.1: Reappointment after resignation**

Any officer in good standing who voluntarily resigns from the department may be reappointed to the department, at the discretion of the Chief of Police, without taking another entrance exam if the following criterion is met:

1. The returning officer voluntarily resigned within the past two years in good standing; or
2. The returning officer voluntarily resigned within the past five years and within the first two years of resignation becomes a San Angelo Police Department reserve peace officer and continuously maintains that position in good standing; and
3. The returning officer maintained a Texas peace officer license.

The officer will return with seniority accrued prior to leaving the department however any rank attained prior to resignation will be forfeited. A returning officer must be back with the department for two years before being eligible to test for promotion. The returning officer will return at the pay step, or nearest the pay step, they occupied when they resigned (approved at Civil Service Meeting 1/26/06).

### **SECTION 64: Notice to be Sent to Applicant**

A notice for the certification of a person's names for appointment shall be sent to such person at his last known address.

### **SECTION 65: Failure to Respond to Offer of Appointment**

The failure of an eligible person to report to the department head within five (5) business days after notice of certification was mailed shall be considered sufficient cause for removal of his name from the eligibility list. Upon receipt of written notice from a department head that a certified person has failed to report or has declined appointment or upon receipt of written declination of appointment from an eligible person, certification shall be made of the name of the person next in order on the list.

### **SECTION 66: Name of Declining Person to be Stricken from List**

The name of the person declining appointment shall be stricken from the eligibility list unless declination is for temporary inability, physical or otherwise or other reasons satisfactory to the civil service commission.

### **SECTION 67: Peace Officer Training and Certification**

Peace Officer Training and Certification will be in accordance with the Texas Commission on Law Enforcement Standards and Education (TCLEOSE) rules which are in effect under Chapter 143.083.

### **SECTION 68: Temporary Appointments**

When a city cannot obtain qualified personnel in the fire and police departments because of the maximum age limits provided for in these Rules and in Chapter 143.023 and the city commission finds that this condition constitutes an emergency, the city may then employ persons whose age exceeds the maximum age limit provided in the rules and in Chapter 143.023. Those persons shall be designated as temporary employees. They shall not be eligible for pension benefits, nor for promotion or appointment when a permanent member is available for said promotion or appointment, nor shall they become eligible to become full-fledged civil service employees. Temporary employees shall be terminated before any permanent member is terminated under Chapter 143.083 (approved at Civil Service Meeting 1/26/06).

### **SECTION 69: Length of Temporary Appointment**

No temporary employee may serve more than ninety (90) days and if he is to be appointed as a permanent employee, he must qualify on all points set forth in Chapter 143 regarding rookie firefighter and police officer.

## **RULE XII: PROBATION**

### **SECTION 70: Probation Period**

All original appointments shall be for a probationary period of eighteen months for the Fire Department and twelve months for the Police Department of actual service and no appointment shall be deemed final until the appointee has satisfactorily served his probationary period; provided that this provision shall not apply to reinstatements made under the provisions of Rule XVI and XVII of these rules (revised at Civil Service Meeting 1/26/06, revised at Civil Service Meeting 4/6/22).

An employee who is on probation may not be prohibited from joining or required to join an employee organization. Joining or not joining an employee organization is not grounds for retention or nonretention of an employee who is serving a probationary period.

### **SECTION 71: Probationary and Full-Fledged Firefighters and Police Officers**

During such probationary period, it shall be the duty of the fire chief or head of the fire department or police chief or the head of the department to discharge all firefighters or police officers whose appointments were not regular, or not made in compliance with the provisions of State Law or of the rules and regulations of the commission, or is found incompetent or unqualified to perform the duties of the position to which he was appointed and to eliminate from the payroll any such probationary employee. When firefighters or police officers; however, have served the full probationary period having been appointed in substantial compliance of the law and not otherwise, they shall automatically become full-fledged civil service employees and shall have full civil service protection.

All offices and positions in the fire department or police department shall be established by ordinance of the city council or governing body, provided; however, that the failure of a city council or governing body to establish a position by ordinance shall not result in the loss of civil service benefits under this act by any period appointed to such position in substantial compliance with the provisions of Section 9, 10, 11 of this act or entitled to civil service status under Section 24 of this act.

## **RULE XII: DEMOTIONS**

### **SECTION 72: Demotions**

Whenever the head of the fire department or police department may desire the involuntary demotion to a lower rank of an officer or employee under his supervision or jurisdiction, that department head may recommend in writing to the commission that such employee be so demoted, giving his reasons, therefore, and requesting that the commission make such order of demotion, furnishing a true copy of such recommendation immediately, in person, to the employee to be affected by such demotion. Said commission shall have the authority to refuse grant said request for demotion. If, however, said commission feels that probable cause exists for said demotion, they shall give such employee ten (10) days advance written notice to appear before them at a time and place specified in said written notice to the employee and said employee shall have the right to a full and complete public hearing upon such proposed demotion. The commission shall not demote any employee without such hearing. A voluntary demotion in which the officer accepting the demotion has, in writing, accepted the terms of the demotion is not subject to this section.

## **RULE XIV: CIVIL SERVICE RIGHTS OF DEPARTMENT HEADS**

### **SECTION 73: Civil Service Rights of Department Head**

When the services of the chief or head of the fire or police department are terminated as such and he is removed as department head, he shall be reinstated in the department and placed in a position no lower than the rank he held at the time of appointment, and he shall retain all rights of seniority in the department; provided, that should such department head be charged with an offense in violation of civil service rules, and be dismissed from the public service, or be discharged from his position, he shall have the same rights and privileges of a hearing before the commission, and in the same manner and under the same conditions as may be classified employees and if the commission should find such charges to be untrue or unfounded, said employee shall thereupon immediately be restored to the department as above provided, and said employee shall enjoy all the rights and privileges thereunder according to seniority and shall be paid his full salary for the time of suspension.

## **RULE XV: REPORTS OF DEPARTMENT HEADS**

### **SECTION 74: Reports of Department Head**

Department heads shall immediately report to the commission any and all changes in the status of their departmental personnel. Such reports shall include appointments, whether temporary, part-time or regular, regardless of whether by original entrance, reinstatement, or promotion; removals from service, whether dismissals, layoff, suspensions, absences or leave of absence of any nature, or vacation, return to service, whether reinstatements, return from absence or leave of absence or vacation; changes in departmental organization, such as creation, abolishment, or combining of offices or positions and salary changes, whether increases or reductions. All actions so reported shall be in accordance with procedures of the commission. This shall not apply to exchange of time between personnel by permission of the head of the department where such exchange is not in excess of 24 hours.

## **RULE XVI: DISCIPLINARY SUSPENSION**

### **SECTION 75: Suspension**

- A. Chief or head of the fire or police department may suspend an officer or employee under his supervision or jurisdiction for the violation of a civil service rule for a reasonable period not to exceed fifteen (15) calendar days, or for an indefinite period. An indefinite suspension is equivalent to permanent dismissal from the department.
- B. If offered by the chief or head of the department, the officer or employee may agree in writing to voluntarily accept, with no right of appeal, a suspension of not less than sixteen (16) or more than ninety (90) calendar days for violation of civil service rules. The officer or employee must accept the offer not later than the fifth (5th) working day after the offer is made.
- C. If the chief or head of a department suspends a person, the chief or head shall, not later than the 120th hour after the hours of suspension, file a written statement with the commission giving the reasons for the suspension, and shall immediately furnish a copy of the statement to the suspended officer or employee. The chief or department head shall deliver the copy, in person, to the suspended officer or employee. The order of suspension shall inform the officer or employee that if he wishes to appeal, he must file a written appeal with the commission not later than the tenth (10th) day after the date on which the officer or employee receives a copy of the statement.
- D. If the officer or employee refuses an offer of suspension of not less than sixteen (16) or more than ninety (90) calendar days and wishes to appeal to the commission, the officer or employee must file a written appeal with the commission not later than the fifteenth (15th) day after the date the officer or

employee receives the statement. Unless the suspended officer or employee and the commission mutually agree to postpone the hearing for a definite period of time, the commission shall hold a hearing and render a decision in writing not later than the thirtieth (30th) day after the date of which it receives the notice of appeal.

- E. The decision of the commission shall state whether or not the suspended officer or employee is permanently dismissed, or temporarily suspended from the fire or police department, or restored to his former position or status in the classified service in the department. If the commission finds that the period of disciplinary suspension should be reduced, it may order a reduction in the period of suspension. If the suspended officer or employee is restored to the position or class of service from which he was suspended, the officer or employee shall receive full compensation at the rate of pay provided for the position or class of service from which he was suspended for the actual time lost as a result of the suspension.
- F. All hearings of the commission, in case of a suspension, are public. The commission may deliberate the decision in closed session, but may not consider evidence that was not presented at the hearing. The commission shall vote in open session. The commission shall point out the civil service rule alleged to have been violated by the suspended officer or employee and shall contain the alleged acts of the officer or employee that the department head contends are in violation of the civil service rules. It is not sufficient for the department head merely to refer to the provision of the rules alleged to have been violated. If the department head does not specifically point out the act or acts complained of on the part of the officer or employee, the commission shall promptly reinstate the officer or employee.
- G. In a civil service hearing conducted under this subsection, the department head is restricted to his original written statement and changes which may not be amended. In the original statement and charges and in any hearing conducted under this subsection, the department head may not complain of an act or acts that occurred earlier than the 180th day immediately preceding the date on which the department head suspends the officer or employee.
- H. An officer or employee may not be suspended or dismissed by the commission except for violation of the civil service rules, and after a finding by the commission of the truth of specific charges against the officer or employee.

#### **SECTION 76: Notice to Commission**

In every such case of suspension, the department head shall file with the commission within one hundred twenty (120) hours, a written statement of action. The commission shall, upon appeal from the suspended officer or employee, hold a public hearing. If the department head does not file such statement with the commission within the time provided above, the suspension shall be void and the employee shall be entitled to his full salary.

#### **SECTION 77: Hearing Examiners**

- A. In a city in this state that has adopted this act, the letter of disciplinary action issued to an employee shall state, in addition to other notice requirements prescribed by this act, that in an appeal of an indefinite suspension, a suspension, a promotional passover or a recommended demotion, the appealing employee may elect to appeal to an independent third party hearing examiner instead of the commission. The letter must also state that if the employee elects to appeal to a hearing examiner, the employee waives all rights of appeal to a district court except as provided by Subsection (F) of this section. To exercise this choice, the appealing employee must submit to the director a written request as part of the original notice of appeal required under Section 91 of this act, stating his decision to appeal to an independent third party hearing examiner.

- B. The decision of the hearing examiner is final and binding on all parties. If the employee decides to appeal to an independent third party hearing examiner, the employee automatically waives all rights to appeal to district court.
- C. If the appealing employee chooses to appeal to a hearing examiner, the employee and the chief or their designees shall first attempt to mutually agree on the selection of an impartial hearing examiner. If an agreement is not reached on the selection of the hearing examiner on or before the tenth (10) day after the date the appeal is filed, the director shall immediately request a list of seven (7) qualified neutral arbitrators from the American Arbitration Association or Federal Mediation and Conciliation Service, or their successor in function. The employee and the chief of their designees may mutually agree on one (1) of the seven (7) neutral arbitrators on the list. If they do not agree within five (5) business days after receipt of the list, each party or his designee shall alternate striking a name from the list and the name remaining shall be the hearing examiner. The parties or their designees shall mutually agree on a date for the hearing.
- D. The appeal hearing shall commence as soon as the hearing examiner selected can be scheduled. If the hearing examiner cannot commence the hearing within forty-five (45) calendar days after the date of selection, the employee may within two (2) days of learning of that fact, call for the selection of a new hearing examiner using the same procedure as provided by Subsection (C) of this section. In all hearings conducted under this section, the hearing examiner shall have the same duties, powers and authority as the commission, including the right to issue subpoenas. In a hearing held under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure, the hearing examiner shall render a decision on the appeal within ten (10) days after the conclusion of the hearing. In appeals not involving an expedited hearing procedure, the hearing examiner shall make a reasonable effort to render a decision on an appeal within thirty (30) days after the conclusion of the hearing or the filing of the briefs. The inability of the hearing examiner to meet the time requirement does not affect the validity of the disciplinary action or the hearing examiner's final decision or affect the jurisdiction of the hearing examiner.
- E. All fees and expenses of the hearing examiner are shared equally by the appealing officer or employee and by the department. The costs of witnesses for either side shall be paid by the party who calls the witnesses.
- F. A state district court may hear appeals of an award of a hearing examiner only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion or other unlawful means. An appeal must be brought in the state district court having jurisdiction in the municipality in which the department is located.

#### **SECTION 78: Powers of the Commission**

The commission shall have the power to investigate and to determine whether there is just cause to such disciplinary suspension. The commission shall have the power to reverse the decision of the department head and to instruct him immediately to restore such employee to his position. In the event such department head refuses to obey the order of the commission, the employee shall be entitled to his full salary just as though he had been regularly reinstated.

#### **SECTION 79: Refusal to Reinstate**

In the event the department head willfully refuses to obey the orders of reinstatement of the commission and such refusal persists for a period of ten (10) days, it shall be the duty of the chief executive to discharge such department head from his employment with the city.

## **SECTION 80: Notice of Suspension by Department Head**

When the department head enters an order for the suspension of an employee in the classified service, he shall file a copy of the written statements, referred to in Section 75, with the suspended employee stating the reasons for the suspension immediately. The employee shall have the right to answer and appeal as provided by these rules.

## **RULE XVII: INDEFINITE SUSPENSION AND REMOVAL**

### **SECTION 81: Suspension Prior to Discharge**

When it is the intention of the department head to discharge an employee in the classified service, he shall first enter an order for suspension without pay. The period of suspension shall extend until the time allowed for an answer to the charges has lapsed.

### **SECTION 82: Grounds for Removal**

The following are declared to be grounds for removal of an employee from the classified service of the city and no rule or regulation passed by the commission for the removal or suspension of an employee in the classified service shall be valid unless it involves one or more of the following grounds:

- A. Conviction of a felony or other crime involving moral turpitude;
- B. Violations of the provisions of the charter of the city;
- C. Acts of incompetency;
- D. Neglect of duty;
- E. Discourtesy by said employee to the public or to fellow employees while said employee is in the line of duty;
- F. Acts of said employee showing a lack of good moral character;
- G. Use of intoxicants while on duty or intoxication while off duty;
- H. Whose conduct was prejudicial to good order;
- I. Refusal or neglect to pay just debts;
- J. Absence without leave;
- K. Neglect of duty, cowardice, violation of any of the rules and regulations of the fire department or police department or of special orders, as applicable.

### **SECTION 83: Procedures after Criminal Indictment**

If a firefighter or police officer is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the procedures prescribed by the section apply.

- A. The head of the department may temporarily suspend the firefighter or police officer with or without pay. The head of the department shall notify the firefighter or police officer in writing that he is being temporarily suspended with or without pay for a period not to exceed thirty (30) days after the date of final disposition of the specified felony or misdemeanor complaint, and that the temporary suspension is not intended to reflect an opinion on the merits of the indictment or complaint.
- B. If the action directly related to the felony indictment or misdemeanor complaint occurred or was discovered on or after the 180th day before the date of the indictment or complaint, the head of the department may, not later than the thirtieth (30th) day after the date of final disposition of the felony charge or misdemeanor complaint, bring a civil service charge against the firefighter or police officer.
- C. Conviction of a felony is cause for dismissal and conviction of a Class A or B misdemeanor may be cause for disciplinary action or indefinite suspension.

- D. Acquittal or dismissal of an indictment or a misdemeanor complaint does not mean that a firefighter or police officer has not violated civil service rules or regulations and does not negate the charges that may have been or may be brought against him by the department head.
- E. A firefighter or police officer indicted for a felony or officially charged with the commission of a Class A or B misdemeanor who has also been charged by the department head with civil service violations directly related to the indictment or misdemeanor complaint may delay with civil service hearing for a period of not more than thirty (30) days after final disposition of the indictment or complaint.
- F. If the head of the department temporarily suspends a firefighter or police officer who has been indicted for a felony or officially charged with a Class A or B misdemeanor, and the firefighter or police officer is not found guilty of the indictment or complaint in the court of competent jurisdiction, the firefighter or police officer may appeal to the commission or to a hearing examiner for recovery of back pay. The commission or hearing examiner may award all or part of the back pay or reject the appeal.
- G. The department head may order an indefinite suspension based on an act or acts classified as a felony or a Class A or B misdemeanor after the 180th day period after discovery of the act or acts by the department if delay is considered necessary by the department head to protect a criminal investigation of the employee's conduct. If the department head intends to order an indefinite suspension after the 180th day period, the department head must file a statement describing the criminal investigation and the objectives with the Attorney General not later than the 180th day after the date on which the act complained of occurred.

#### **SECTION 84: Notice of Suspension Requirements**

Department heads shall have the power to suspend indefinitely any officer or employee under their supervision or jurisdiction for the violation of civil service rules. In every such case of indefinite suspension, the department head shall within one hundred twenty (120) hours thereafter, file a written statement with the commission, giving the reasons for such suspension, and immediately furnish a copy thereof to the officer or employee affected by such act said copy to be delivered in person to such suspended officer or employee by said department head.

#### **SECTION 85: Contents of Written Statement**

The written statement to be filed by the department head with the commission, shall not only point out the civil service rule alleged to have been violated by the suspended employee, but shall contain the alleged acts of the employee which the department head contends are in violation of the civil service rules. It shall not be sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated and in case the department does not specifically point out the act or acts complained of on the part of such employee, it shall be the duty of the commission promptly to reinstate him. Said order of suspension shall inform the employee that he has ten (10) days after receipt of a copy thereof, within which to file a written appeal with the commission.

#### **SECTION 86: Right of Appeal by Employee**

Such suspended employee shall have the right of appeal and inquiry to the commission. If dissatisfied with the decision of the commission as a result of such inquiry, the suspended employee shall have further right of appeal as provided under Rule XIX of these rules.

#### **SECTION 87: Decision of Commission on Appeals**

The commission shall hold a hearing and render a decision in writing within thirty (30) days after it receives a

notice of appeal from the suspended employee. The decision shall state whether the member is to be permanently or only temporarily suspended from the department. In the event that such suspended employee is restored to his position or class of service from which he was suspended, such employee shall receive full compensation at the rate of pay provided for the position or class of service from which he was suspended, for the actual time lost as a result of such suspension. If the commission does not render a decision within thirty (30) days from the date of inquiry, then the suspension shall remain in force until a decision is rendered.

#### **SECTION 88: Refusal of Department Head to Reinstate Employee**

- A. In the event the commission orders that such suspended employee be restored to this position as above provided, it shall be the duty of the department head immediately to reinstate him as ordered and in the event the department head fails to do so, the employee shall be entitled to his salary just as though he had been regularly reinstated.
- B. In the event such department head willfully refuses to obey the orders of reinstatement of the commission, and such refusal persists for a period of ten (10) days, it shall be the duty of the chief executive to discharge such department head from his employment with the city; unless he is elected to his position.
- C. The commission may punish for contempt any department head who willfully refuses to obey any lawful order of reinstatement of the commission, and such commission shall have the same authority to punish for contempt as has the Justice of the Peace.

#### **SECTION 89: General Provision**

In any Civil Service hearing hereunder the department head is hereby restricted to his original written statement and charges, which shall not be amended, and no act or acts may be complained of by said department head which did not happen or occur within six (6) months immediately preceding the date of suspension by the department head. No employee shall be suspended or dismissed by the commission except for violation of the civil service rules and except upon a finding by the commission of the truth of the specific charges against such employee.

### **RULE XVIII: RESIGNATION**

#### **SECTION 90: Resignation**

Any employee who resigns from the classified service while not in good standing shall not be eligible to apply for future employment with the city.

### **RULE XIX: APPEAL PROCEDURE**

#### **SECTION 91: Procedure before Commission**

In order for a firefighter or police officer to appeal to the commission from any action for which an appeal or review is provided under the terms of this act, it shall only be necessary for him to file within ten (10) days with the commission an appeal setting forth the basis of his appeal.

The appeal shall be:

1. a statement denying the truth of the charge as made,
2. a statement taking exception to the legal sufficiency of such charges,
3. a statement alleging that the recommended action does not fit the offense or alleged offense,
4. or any combination of the statements,
5. and in addition, a request for a hearing by the commission.



In all hearings, appeals and reviews of every kind and character, wherein the commission in performing an adjudicatory function, the employee shall have the right to be represented by counsel or any person of his choice. The employee may request the commission to subpoena any books, records, documents, papers, accounts or witnesses that the employee considers pertinent to his case. The request to have materials subpoenaed must be made at least ten (10) days before the date of the hearing. If the commission does not subpoena the requested material, at least three (3) days prior to hearing date, it shall make a written report to the employee stating the reason it will not subpoena the requested material, and this report shall be read into the public records of the commission hearing. The witnesses may be placed under the rule.

All such proceeding shall be public. The commission shall consider only evidence submitted at the hearing. The commission shall have the authority to issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material. The commission shall maintain a permanent public record of all proceedings with copies available at cost.

## **RULE XX: APPEAL TO DISTRICT COURT**

### **SECTION 92: Appeal to District Court**

In the event any firefighter or police officer is dissatisfied with any decision of the commission, he may within ten (10) days after the rendition of such final decision sent to the officer by certified mail or is personally received by the officer by certified mail or personally received by the officer or by the officer's designee, file a petition in the district court, asking that the decision be set aside, and such case shall be tried de novo. The court in such actions may grant such legal or equitable relief as may be appropriate to effectuate the purposes of this act, including reinstatement or promotion with back pay where an order of suspension, dismissal or demotion is set aside. The court may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party. If the court finds for the firefighter or police officer, the court shall order the city to pay lost wages to the firefighter or police officer.

## **RULE XXI: REINSTATEMENT LIST**

### **SECTION 93: Reduction of Force**

- A. In the event that any position in the fire department or police department is vacated or abolished by ordinance of the city council or legislative body, the employee holding such position shall be demoted to the position next below the rank of the position so vacated or abolished; provided that when any position or positions of equal rank may be abolished or vacated, the employee or employees with the least seniority in the said rank shall be the one or ones demoted.
- B. In the event that it thereby becomes necessary to demote an employee or employees to the position next below the rank of the position so vacated or abolished, such employee or employees as are involuntarily demoted without charges having been filed against them for violation of civil service rules shall be placed on a position reinstatement list in order of their seniority. If any such position so vacated or abolished is filled or recreated within one (1) year, the position reinstatement list will be used to determine who will be promoted to such position. Promotions from the position reinstatement list shall be in the order of seniority.
- C. Whenever the head of the fire department or police department may desire the demotion to a lower rank of an officer or employee under his supervision or jurisdiction, such department head may recommend in writing to the commission that such employee be so demoted, giving his reasons therefore, and requesting that the commission make such recommendation immediately, in person, to the employee to be affected by such demotion. Said commission shall have the authority to refuse to grant said request for demotion. If, however, said commission feels that probable cause exists for said demotion, they shall give such employee ten (10) days advance written notice to appear before

them at a time and place specified in said written notice to the employee, and said employee shall have the right to a full and complete public hearing upon such proposed demotion. The commission shall not demote any employee without such hearing.

- D. In the event positions in the lowest classification are abolished or vacated, and it thereby becomes necessary to dismiss employees from the department, the employee with the least seniority shall be dismissed, but such employees as are involuntarily separated from the department without charges having been filed against them for violation of civil service rules, shall be placed on reinstatement list in order of their seniority. The reinstatement list shall be exhausted before appointments are made from the regular eligibility list.

Appointments from the reinstatement list shall be in the order of seniority. Those who shall have been on any such reinstatement list for a period of three (3) years shall be dropped from such list, but shall be reinstated upon request from the commission.

#### **SECTION 94: Uncompensated Duty**

In this section, **uncompensated duty** means day(s) or police work without pay and addition to regular or normal work days.

- A. The head of the police department may assign any officer or employee under his jurisdiction or supervision to uncompensated duty. The chief or department head may not impose uncompensated duty unless the officer or employee agrees. The duty may be in place of or in combination with a period of disciplinary suspension; the total number of uncompensated duty days may not exceed fifteen (15). If the officer or employee agrees to accept uncompensated duty, the chief or department head shall give the officer or employee a written statement that specifies the date or dates on which the officer or employee will perform uncompensated duty.
- B. An officer or employee may not earn or accrue any wage, salary or benefit arising from length of service while the officer or employee is suspended or performing uncompensated duty. A disciplinary suspension does not constitute a break in a continuous position or service in the department for the purpose of determining eligibility for a promotional examination. The days on which an officer or employee performs assigned uncompensated duty may not be taken into consideration in determining eligibility for a promotional examination. Except as provided by this subsection, an officer or employee performing assigned uncompensated duty retains all rights and privileges of his position in the police department and of his employment by the city.

#### **RULE XXII: VACATION AND LEAVE OF ABSENCE**

##### **SECTION 95: Vacation**

All firefighters and police officers in the classified service shall earn a minimum of fifteen (15) working days vacation with pay in each year.

In computing the length of time during which a firefighter or police officer may be absent from work for the vacation provided by this section, only those calendar days during which the member would be required to work if he were not on vacation shall be counted as vacation days. Vacation leave may not be accumulated from year to year, except as approved by the governing body of the city. The department head shall designate the time at which an employee will be allowed to take his vacation. Beginning firefighters and police officers will begin with zero (0) vacation days.

Accrued vacation leave may be transferred for employees moving from a non-civil service to a civil service position (revised at Civil Service Meeting 3/26/21).

**SECTION 96: Leave of Absence with Pay**

- A. Attendance of permanent employees at conventions, conferences, short training courses, and meetings of like nature, if approved by the chief executive, may be given leave of absence with pay.
- B. In case of death in the immediate family, the department head may grant as much as three (3) days of absence taken by an employee in the classified service. Immediate family shall include father, mother, sister, brother, wife or child and other relatives if the latter are actually members of the employee's household.
- C. Employees who leave to serve as members of the uniformed armed services of the United States are to be given pay for whatever time they may have accumulated as vacation time prior to their leaving, but shall not accumulate leave with pay during absences which extend for periods of longer than one month.
- D. Employees who are members of the armed forces reserves will be granted a leave of absence with pay not exceeding fifteen (15) scheduled work day periods, not to count against regular vacation leave.

**SECTION 97: Leave of Absence without Pay**

- A. The department head may grant any regular employee in his department leave of absence without pay for a period not to extend seven (7) days. Leave of absence of an employee in the classified service for a period beyond the seven (7) days granted by the department head shall be requested on a form provided for that purpose and shall be presented to the department head for his recommendation. The request shall state the entire additional time desired and the reasons therefore. The chief executive shall have sole authority to grant such request and his ruling shall be final. No employee shall be given a leave to take a position outside the civil service for more than sixty (60) days in any calendar year, unless it clearly appears that the public interest is to be served by such leave.
- B. No firefighter or police officer shall be refused reasonable leave of absence without pay for the purpose of attending any fire or police school, convention, or meeting, the purpose of which is to secure a more efficient department and better working conditions or the personnel thereof, nor shall any rule ever be adopted affecting their constitutional right to appear before or petition the legislature.

**SECTION 98: Military Leave of Absence**

- A. The civil service commission on written application of a member of the fire or police department shall grant military leave of absence without pay to such member to enable him to enter military service of the United States in any of its branches. Such leave of absence may not exceed the compulsory military service or the basic minimum enlistment period for the branch of service.
- B. The commission shall grant a leave of absence to a member of the fire or police department for initial training or annual duty in military reserves or the national guard. The civil service commission shall grant such leave retroactively back to the commencement of the Korean War.
- C. Any such member receiving military leave of absence hereunder shall be entitled to be returned to the position in the department held by him at the time of leave of absence is granted upon the termination of his active military service provided he receives an honorable discharge and remains physically and mentally fit to discharge the duties of that position; and further provided he makes application for reinstatement within ninety (90) days after his discharge. Upon being returned to said position, such member shall receive full seniority credit for the time spent in the military service.

- D. During the absence from the department of any such member to whom military leave of absence shall have been granted by the civil service commission, the position in the department held by such member shall be filled in accordance with the other provisions of the Firefighters and Police Officer's Civil Service Act subject to the person filling such position being replaced by the member to whom military leave of absence has been granted upon his return to active duty with the department.
- E. Any person so replaced and remaining with the department and by reason of such replacement being returned to a position lower in grade or compensation shall have a preferential right for subsequent appointment or promotion to the same or similar position of that from which he has been replaced over any eligibility list for such position, provided he remains physically and mentally fit to discharge the duties of such position.

### **SECTION 99: Holiday Time**

Holidays worked shall be accrued and used on a shift for a shift basis rather than days or hours worked.

### **RULE XXIII: SICK AND INJURY LEAVES AND ABSENCES**

#### **SECTION 99: Sick Leave**

Permanent and temporary employees in the classified service shall be allowed a total of sick leave with fully pay computed upon a basis of one and one-fourth (1 1/4) full working days allowed for each full month employed in a calendar year, so as to total fifteen (15) working days to an employee's credit each twelve (12) months. Beginning firefighters and police officers will begin with zero (0) sick leave days.

Accrued sick leave may be transferred for employees moving from a non-civil service to a civil service position (revised at Civil Service Meeting 3/26/21).

#### **SECTION 100: Sick Leave Cumulative**

- A. Employee shall be allowed to accumulate fifteen (15) working days of sick leave with pay in one (1) calendar year.
- B. Sick leave pay may be accumulated without limit and may be used while an employee is unable to work because of any bona fide illness.
- C. In the event that a firefighter or police officer for any reason leaves the classified service, he shall receive, in a lump sum payment, the full amount of his salary for the period of his accumulated sick leave. \*No more than ninety (90) days of accrued sick leave will be paid (See Personnel Policies, Section 99 IIB). The lump-sum payment provided in this section is calculated as follows: the employee is compensated for the accumulated time at the highest permanent classification of pay for which the employee was eligible during the last six (6) months of employment would have been paid if the sick leave had been taken, but excluding additional holidays and any sick leave or vacation time which the employee might have accrued during the ninety (90) working days. (\*City Council approved and amended 01/08/91)
- D. If an active firefighter or police officer dies as a result of a line of duty injury or line of duty illness, the entire amount of his accumulated sick leave shall be paid as provided in this section. Provided, that in order to facilitate the settlement of the accounts of deceased employees due such employee at the time of his death shall be paid to the person or persons surviving at the date of death, in the following order of precedence and such payments shall be a bar to recovery by any other person of

amounts so paid. Beneficiaries will be set out in Chapter 143.045d.

**SECTION 101: Injury Leave**

All employees in the classified service shall be entitled to injury leave of absence, with full pay, for any injury received while in the line of duty. The length of such leave shall not exceed one year. The civil service director shall determine the length of injury leave to be allowed and shall have the right to demand the necessary medical information to make such determination.

**SECTION 102: Extension of Injury Leave**

At the expiration of said one year period, the city commission or governing body may extend such injury leave, at full or reduced pay, provided that where there is a firefighter's or police officer's pension fund, that if said injured employee's salary should be reduced below sixty percent (60%) of his regular monthly salary, said employee shall have the option of being retired on pension until able to return to duty.

If there are no pension benefits available to an employee who is temporarily disabled by a line of duty injury or illness and the year at full pay and any extensions which may have been granted by the employer have expired, the employee may use accumulated sick leave, vacation time and other accrued benefits before being placed on a leave of absence.

**SECTION 103: Temporary Disability**

If an employee is temporarily disabled due to a medical condition not related to the employee's line of duty, the employee may use all sick leave, vacation time, and any other time the employee may have accumulated before being placed on a leave of absence. After recovery from the medical condition causing the temporary disability, a firefighter or police officer shall be reinstated at the same rank and with the same seniority the person had before going on a temporary leave. Another firefighter or police officer may voluntarily do the work of an injured or ill firefighter or police officer until the firefighter or police officer returns to duty.

**SECTION 104: Records of Absence to be Maintained**

All sick and other leaves of absence with and without pay, shall be fully and carefully recorded on an appropriate record which shall be open to the inspection of representatives of the commission. A clerk or other responsible employee of each department shall be charged with maintaining a careful attendance record on which tardiness shall also be noted.

Absences, irregular attendance of any kind, and tardiness shall be taken into consideration in marking the efficiency ratings of employees and when persistently indulged in, shall justify the dismissal of an employee. The department head shall immediately report any absence as are required by Rule XV, Section 74 of these Rules.

**RULE XXIV: ROSTER**

**SECTION 105: Roster**

A file, to be known as the official roster shall be kept in the office of the commission which shall contain the name of every person employed or performing duties in the classified service. This file shall show the respecting employee's following facts: the name and address of employee, the title of the office of employment, the date and character of each appointment and every subsequent change in status and such other information as the commission may direct shall be placed in such files.

## **RULE XXV: RECORDS AND REPORTS**

### **SECTION 106: Records and Reports**

All proceedings of the commission, the classification and compensation plans and rosters of employees in the classified service and all eligible to appointment to such service shall be public records, and during normal business hours, shall be open to public inspection. Any records falling under the exceptions listed in Section 3 of Article 6252-17a, V.A.C.S., shall not be considered public.

## **RULE XXVI: RESTRICTIONS REGARDING OUTSIDE WORK**

### **SECTION 107: Dual Employment**

Unless specifically approved by the head of the department, no full-time employee in the classified service shall have any other employment or pursue any gainful occupation except that involved in his position in the city service. Approval once given may be withdrawn without stating any reasons.

## **RULE XXVII: POLITICAL ACTIVITIES**

### **SECTION 108: Political Campaigning**

Employees in the fire department or police department shall not be permitted to take an active part in any political campaign for an elective position of the city if they are in uniform or on active duty. The term active part means making political speeches, passing out cards, or other political literature, writing letters, signing petitions, actively and openly soliciting votes and making public derogatory remarks about candidates for such elective positions.

Firefighters and police officers are not required to contribute to any political fund or render any political service to any person or party whatsoever; and no person shall be removed, reduced in classification or salary, or otherwise prejudiced by refusing to do so; and any official of the city who attempts the same shall be guilty of violating the provision of these Rules and the Civil Service Law. Provided, however, that the rights of employees to engage in political activities except as stated in these Rules and the Civil Service Law, shall not be further restricted.

## **RULE XXVIII: FIREFIGHTERS OR POLICE OFFICERS PROHIBITED FROM STRIKING**

### **SECTION 109: No Strike**

It shall be unlawful for any firefighter or police officer, coming under the provisions of these Rules and the State Law, to engage in any strike against the agency of the government by which they are employed. Penalties for violation of this **No Strike** clause are set out in Chapter 143.087.

### **SECTION 110: Special Requirements**

A candidate who does not pass the physical examination will be dropped from the roster.

### **SECTION 111: Medical Requirements for Firefighters and Police Officers (approved at Civil Service Meeting 4.4.08)**

The Police Chief and the Fire Chief shall be responsible for developing physical assessment examinations in accordance with guidelines established by the respective State Commissions, in compliance with all applicable employment laws, and with the approval of the Civil Service Director.

Candidates for original appointment and promotion in the classified service must meet the following medical requirements:

Physical Fitness

The candidate is physically capable of performing the essential functions of the job assignment and is free from any condition which would adversely affect their ability to perform the essential function of the job.

Vision

Candidates must possess normal maximum uncorrected visual acuity of 20/200 and correctable or corrected to 20/30 in each eye and binocularly.

Color blindness

Candidates must distinguish primary colors and will be tested using the Ishihara's test for color blindness. The candidate will be disqualified for mild to moderate red and/or green deficiency or if moderate to severe deficiency in any colors other than red or green.

Hearing

Candidates must meet normal hearing threshold in each ear as prescribed by ANSI (American National Standards Institute) through the utilization of a Pure Tone Average four-tier calculation method or through demonstrated corrected or uncorrected hearing levels within the required normal hearing threshold in each ear as prescribed by ANSI (revised at Civil Service Meeting 12/19/19).

Blood Pressure – Candidates blood pressure must be within normal range.

**SECTION 112: Instruction of Examining Physicians**

The necessity for the selection of such men and women only are as sound in all respects and are in every way physically qualified for the position is self-evident. The foregoing qualifications are important, but medical examiners should put such other questions or test, bearing upon each case, as they may think necessary, proper and the whole examination should be thorough, exact and circumstantial. The medical examiners may also test the strength, activity and physical capacity of all applicants who come up to the standard required to the medical examination by suitable examination into the strength of back, chest, arms and legs.

**SECTION 113: Decision on Physical**

When a question arises as to whether a fireman or policeman is sufficiently physically fit to continue his duties, the employee shall submit a report from his personal physician to the commission. If the commission, the head of the department, or the employee questions the report, the commission shall appoint a physician to examine the employee and to submit a report to the commission, to the head of the department, and to the employee. If the appointed physician's report disagrees with the report of the employee's personal physician, the commission shall appoint a board of three (3) physicians to examine the employee. Their findings as to the employee's fitness for duty shall determine the issue. The cost of the services of the employee's personal physician shall be paid by the employee. All other costs shall be paid by the city.

### **RULE XXX: SAVING CLAUSE**

#### **SECTION 114: Invalid Parts**

The provisions of these Rules are declared to severable and if any rule, section, sentence, clause, phrase or work of these rules shall for any reason be held to be invalid or unconstitutional such decision shall not affect the validity of the remaining rules, sections, sentences, clauses, phrases or words of these Rules; but they shall remain in effect, it being the legislative intent that these Rules shall stand notwithstanding the invalidity of any part.

### **RULE XXI: AMENDMENTS**

#### **SECTION 115: Limitation on Changes**

Any change in these Rules may be proposed and tentatively adopted at any regular or special meeting of the commission, but no change shall be finally adopted until at a regular or special meeting open to the public, and held not sooner than seven (7) days after the date on which the proposal was first considered, and except by a majority vote of the member elect. A written notice of the meeting sent to each member in advance of such final consideration shall include a copy of any change previously proposed, and to be considered at such meeting.

#### **SECTION 116: Publishing of Rules**

Whenever the commission shall have adopted any such rules or regulations by a majority vote, and shall have caused same to be reduced to writing, typewriting or printing such rules and such regulations shall thereupon be deemed to be sufficiently published and promulgated and shall be valid and binding upon the commission doing or causing to be done the following:

- A. By mailing a copy of such rules and regulations to the chief executive, the chief of the fire or police department.
- B. By posting all such rules and regulations at a conspicuous place for a period of seven (7) days in the central fire and police stations.
- C. By mailing a copy of all such rules and regulations to each branch fire or police station.

The director of civil service shall keep on hand copies of said rules and regulations for free distribution to members of the fire and police departments, requesting same, and the said rules and regulations shall be kept available for inspection by any interested citizen.

No additional publication by way of insertion in a newspaper shall be required.