

CITY OF CLEBURNE
FIREFIGHTERS' AND POLICE OFFICERS'
CIVIL SERVICE COMMISSION
RULES AND REGULATIONS

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CIVIL SERVICE COMMISSION
CLEBURNE CITY HALL
10 N. ROBINSON / P.O. BOX 677
CLEBURNE, TEXAS 76031

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CITY OF CLEBURNE FIREFIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE RULES AND REGULATIONS

INTRODUCTION
AND REPEAL OF PRIOR RULES

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

These Rules are promulgated in compliance with Chapter 143 of the Local Government Code, which is incorporated herein for all purposes. It is intended that these Rules shall complement said statute and not conflict with the statute in any manner. No set of Rules can be so precise as to provide for every employment situation; therefore, it is intended that the Civil Service Commission administer these Rules in the best interest of the Fire and Police Departments.

The following Rules represent a revision of the original City of Cleburne Civil Service Rules as well as those subsequently issued. These Rules completely repeal and replace all earlier Rules approved by the City of Cleburne City Council. These Rules are promulgated in accordance with the provisions of Civil Service Law (Local Government Code, Section 143.008).

**CITY OF CLEBURNE
FIREFIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION
RULES AND REGULATIONS**

SUBCHAPTER A. GENERAL PROVISIONS

Section 001 PURPOSE

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

The scope and construction of the Rules hereinafter set forth shall be interpreted and applied within the spirit and intent of Chapter 143. It is the intent of these Rules to cover situations not mentioned in Chapter 143 or which are ambiguous in Chapter 143. All situations that are not expressly covered by Chapter 143 or these Rules shall be resolved in accordance with the City Charter and Ordinances, City of Cleburne Human Resources Handbook, or the residual discretionary authority vested in a Department Head. These Rules shall apply to all of the classified, non-probationary employees covered under Chapter 143.

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

- (1) The proper conduct of Commission business meetings;
- (2) The standards for appointment and the procedures for appointment and certification;
- (3) The proper conduct of examinations for entry level and promotional eligibility;
- (4) The proper conduct of appeals of testing and examination scoring;
- (5) The prescribed cause or causes for the removal or suspension of a civil service employee;
- (6) The procedures for the hearing of disciplinary appeals concerning suspensions without pay, indefinite suspensions, promotional passovers; recommended demotions, including hearings conducted by third party hearing examiners; or written promotional examinations; and
- (7) Such other matters reasonably related to the selection, promotion and discipline of civil service employees, not otherwise vested in the discretion or managerial authority of the City Council, City Manager, Director of Civil Service, or Department Heads.

Section 002 MUNICIPALITIES COVERED BY CHAPTER
See Section 143.002 of Chapter 143

Section 003 DEFINITIONS See Section 143.003, Chapter 143
[Subject to additions, deletions or modifications as additional rules are adopted.]

- (1) **ACCREDITED COLLEGE OR UNIVERSITY** - Accreditation for college semester hours or degrees shall be from one of the six regional associations of colleges and schools as follows:
 - (a.) Middle States Commission on Higher Education (MSCHE)
 - (b.) New England Association of Schools and Colleges Commission on Institutions of Higher Education (NEASC-CIHE)
 - (c.) North Central Association of Colleges and Schools The Higher Learning Commission (NCA-HLC)
 - (d.) Western Association of Schools and Colleges Senior College and University Commission (WASC-ACSCU)
 - (e.) Southern Association of Colleges and Schools Commission on Colleges (SACS)
 - (f.) Western Association of Colleges and Schools Accrediting Commission for Community and Junior Colleges (WASC-ACCJC)
- (2) **APPOINTMENT** - The designation of a person by the City Manager to become an employee in a classified civil service position.
- (3) **BUSINESS DAY** - Any day City Hall is customarily open for normal business. "Business Day" does not refer to the employee's workday or holidays observed by the City.
- (4) **CHIEF EXECUTIVE** - The City Manager of the City of Cleburne.
- (5) **CHAPTER 143** - The portion of the Texas Local Government Code containing the civil service provisions.
- (6) **CIVIL SERVICE RULE** - Shall be defined to include a rule, regulation, general order, standard operating procedure or special order applicable to civil service employees, whether from Chapter 143, the City's Human Resources Employee Handbook, these Rules and Regulations, or the appropriate Department's rules and regulations, as they may exist from time to time.
- (7) **CLASSIFICATION** - A position or group of positions that involve similar duties and responsibilities and require similar qualifications.
- (8) **COMMISSION** - The Cleburne Firefighters' and Police Officers' Civil Service Commission.
- (9) **CONVICTION OR CONVICTED** - A person is convicted if he/she has pled guilty, no

contest (Nolo contendere), or been found guilty in a trial, regardless of whether:

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

- (10) **DAY** - Calendar day, unless otherwise specified.
- (11) **DEMOTION** - The transfer of an employee from a position in one classification to a position in another classification for which the maximum rate of pay is lower.
- (12) **DEPARTMENT** - The Cleburne Fire Department or Cleburne Police Department
- (13) **DEPARTMENT HEAD** - The Fire or Police Chief of the City of Cleburne, or that person's equivalent regardless of name or title used.
- (14) **DIRECTOR** - The Director of Civil Service as designated by the City of Cleburne Civil Service Commission to act in the capacity of Secretary to the Commission and Director of Civil Service, and includes his/her designee.
- (15) **ELIGIBILITY LIST** - A list of applicants for a classified civil service position who have taken the written examination and passed and are ranked on the eligibility list in order of the score received, including tiebreakers. Applicant shall successfully pass additional steps in the selection process conducted by the respective Department prior to any offer of employment being extended.
- (16) **MILITARY SERVICE CREDIT** - The points added to the passing score of an entrance examination taken by a qualified veteran.
- (17) **RAW SCORE** - The numerical grade, based upon the questions correctly answered, on a written examination.
- (18) **SENIORITY** - For the purpose of breaking a tie on a promotional examination, years of service as a full-time firefighter or peace officer within the City of Cleburne Fire Rescue or Police Department, whether interrupted or uninterrupted. Seniority points shall be awarded only for whole years of service. Under the provisions of USERRA, military service shall not be considered a break in service under these Rules.
- (19) **TEMPORARY DISQUALIFICATION** - An applicant temporarily deemed disqualified will be disqualified until the next testing period following the resolution of their disqualification unless otherwise specified.
- (20) **TCOLE** - the Texas Commission on Law Enforcement is an agency of this state that has

statutory authority under Chapter 1701 of the Texas Occupations Code for establishing minimum standards relating to competence and reliability, including education, training, physical, mental, and moral standards, for licensing as a peace officer.

- (21) **TLGC** – the Texas Local Government Code.
- (22) **VETERAN** - A person who has served a minimum of 180 days of active duty in the armed forces of the United States of America and who has received a DD-214 that reflects an honorable discharge. A person who receives a discharge other than honorable is not a veteran for the purpose of this section.
- (23) **WORKING DAY** - A working day is defined as follows:
 - (a.) In the case of each police officer or firefighter working a 2080 hour schedule per year, a "working day" shall be considered eight (8) hours, regardless of the type of shift worked.
 - (b.) In the case of each firefighter working a 2920 hour/fire suppression schedule per year, a "working day" shall be considered twelve (12) hours, regardless of the type of shift worked.

Section 004 **ELECTION TO ADOPT OR REPEAL CHAPTER**
See Section 143.004, Chapter 143

Section 005 **STATUS OF EMPLOYEES IF CHAPTER ADOPTED**
See Section 143.005, Chapter 143

Section 006 **IMPLEMENTATION: COMMISSION**
See Section 143.006, Chapter 143

Section 007 **REMOVAL OF COMMISSION MEMBER**
See Section 143.007, Chapter 143

A member of the Commission may tender his/her resignation in writing at any time to the City Manager. A Commission member may be removed from office by the City Council for misconduct in office or otherwise in accordance with Chapter 143 of the Texas Local Government Code.

If a Commission member is absent for three (3) meetings during a twelve (12) month period without good and reasonable cause, to be determined by the remaining two Commission members, the absent member may be automatically deemed to have submitted a resignation. If accepted by the City Manager, the position shall be deemed vacant without further action. Upon the occurrence of any of these events, a request shall be made by the Director to the City Manager for a replacement of such member.

Section 008 **ADOPTION AND PUBLICATION OF RULES**
See Section 143.008, Chapter 143

- (1) The Rules of the Commission currently in effect are only those contained herein. These Rules have been approved by the Commission and shall remain in effect until officially

amended, revised or repealed by the Commission.

- (2) Amendments to these Rules may be made at any meeting of the Commission and such amendments shall become effective on the date of compliance with the posting and notice requirements of Chapter 143 and of these Rules. All Rules and Amendments shall be printed and made reasonably available for access by all civil service employees.
- (3) Where there is a conflict between these Rules and other rules pertaining to civil service employees of the City, then these Rules shall take precedence. If any section, subsection, paragraph, sentence, clause, phrase or word contained in these Rules shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portion of these Rules.
- (4) These Rules are enacted by the Commission pursuant to the statutorily delegated authority of Chapter 143. These Rules were not acted upon in any official manner by the City Council. Therefore, these Rules do not constitute any form of "policy" or any other official act of the City Council.
- (5) All other Departmental Rules and Orders, Human Resources Rules and Regulations adopted by the City of Cleburne (Human Resources Employee Handbook) and which are not in conflict with Chapter 143 or these Rules and Regulations shall also be applicable to Civil Service Employees.

Section 009 COMMISSION INVESTIGATIONS

See Section 143.009, Chapter 143.

After any investigation made by the Commission pursuant to Section 143.009 of Chapter 143, the Commission shall issue its ruling, if any, in writing. Such ruling shall be binding upon both the Department and the employee.

Section 010 COMMISSION APPEAL PROCEDURE

See Section 143.010, Chapter 143

- (1) **ORIGINAL NOTICE OF APPEAL** - -The employee's notice of appeal shall be filed in writing with the Director within ten (10) day/240 hours after receiving the Notice of disciplinary action from the Department Head. An employee may withdraw his/her request for an appeal at any time, and thereby terminate the appeals process.

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

- (2) **FAILURE TO TIMELY FILE AN APPEAL OR SET FORTH BASIS FOR APPEAL**
- -There shall be no right to an appeal hearing in a situation where an employee either (i) fails to file a notice of appeal of a disciplinary action with the Director within the ten (10) day/240 hour period allowed in Chapter 143; (ii) fails to properly state the basis of appeal; (iii) fails to sign the appeal; or (iv) fails to ask for a hearing. Failure to meet all the

procedural requirements shall result in the appeal not being valid. If the appeal is untimely or does not otherwise meet all the requirements stated above, the Director shall notify the employee that the appeal is void and shall not be considered by the Commission or by a third party hearing examiner.

(3) **MATTERS NOT SUBJECT TO APPEAL**

- (a) Employee dissatisfaction resulting from a transfer or reassignment of duties is not appealable to the Commission.
- (b) Employee dissatisfaction resulting from a discretionary policy decision and policy matters are not appealable.
- (c) Grievances against other employees or supervisors.
- (d) Voluntary resignations and retirements.
- (e) Voluntary acceptance of discipline in which a written document evidences intent to finally resolve the issue and which includes a statement that the employee has waived all right to appeal the disciplinary action.
- (f) Failure to meet stated requirements of position, e.g., loss of license or certification, or required driver's license.
- (g) Verbal counselings, written reprimands, off duty employment requests and approvals.

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

A request for subpoena to compel the attendance of a witness shall be coordinated through the Director. A request for a subpoena shall be submitted at least ten (10) days prior to the scheduled hearing date in order to be processed in a timely manner. The Director shall issue a subpoena on behalf of the Commission.

- (5) **SUBSTANTIAL EVIDENCE** - - The Commission shall base its decisions on "substantial evidence," which is defined as evidence that a reasoning mind would accept as sufficient to support a particular conclusion, and consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance.

Under the substantial evidence rule, as applied in administrative proceedings, evidence is competent and may be considered, regardless of its source and nature, if it is the kind of evidence that "a reasonable mind might accept as adequate to support a conclusion."

- (6) In all hearings, appeals and reviews, the Commission is performing an adjudicatory function.

Section 011 DECISIONS AND RECORDS

See Section 143.011, Chapter 143

- (1) All records of the Civil Service Commission shall be deemed public information and shall be governed by the Texas Public Information Act, Section 143.089 of the TLGC and Section 143.089 of these Rules and Regulations.
- (2) The Commission or the Director shall have the power to correct, amend or revoke any eligibility list, paper or record in which a clerical or procedural error has been made.

Section 012 DIRECTOR

See Section 143.012, Chapter 143

The Director shall administer these Rules and Regulations and perform work incidental to the Civil Service System as required by the Commission. All communications or requests to the Commission shall be made in writing to the Director, who shall determine if the Commission has jurisdiction over the matter. The Director shall also act as Secretary to the Commission. The Director's duties include, but are not limited to:

- (1) Supervising all examinations or appointing Test Monitors, to prepare, schedule, score and ensure the security of test materials and preparation of eligibility list;
- (2) Coordinating the recruitment and examination of applicants, including certifying names from the eligibility list to the Chief;
- (3) Assisting in the classification of Fire and Police Department positions;
- (4) Assisting the Chairperson in setting the agenda for the Commission meetings;
- (5) Acting as liaison and providing staff support to the Commission;
- (6) Determining whether the Commission has jurisdiction over any matter, and if so, bring it before the Commission in a reasonable and timely fashion;
- (7) Calling, posting agendas, scheduling, rescheduling, attending and cancelling meetings of the Commission;
- (8) Acting as records custodian as provided by Chapter 143;

- (9) Maintaining the personnel files of all employees in the civil service as required by Section 143.089(a).
- (10) Acting on behalf of the Commission for actions and issues not specifically addressed in Chapter 143 or these Rules;
- (11) Establishing and monitoring procedures for the discipline and termination of civil service employees;
- (12) When a specific Rule does not address a particular question or issue, interpreting the Rules based on circumstances, facts and issues, and taking appropriate action;
- (13) Recommending to the Commission changes in these Rules;
- (14) Performing such other functions as may be deemed reasonably necessary in regard to the efficient and effective administration of the civil service system of the City;
- (15) Keeping minutes of all Commission meetings and obtaining signatures of Commission members after approval of minutes, and upon all Orders entered by the Commission;
- (16) Maintaining the Record of Certification and Appointment as required by Section 143.037;
- (17) Maintaining a seniority roster for the Police and Fire Departments by date of hire and seniority rank by date of promotion.

The Director of Civil Service may delegate any and/or all duties to other staff as necessary.

Section 013 APPOINTMENT AND REMOVAL OF DEPARTMENT HEAD

See Section 143.013, Chapter 143

Any person appointed Chief or Head of the Fire or Police Department who had not previously held any classified civil service position within the Cleburne Fire or Police Department shall, upon removal as Head of the Department, be only eligible to serve in a non-civil service position at the pleasure of the municipality's chief executive.

Section 014 APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED IMMEDIATELY BELOW DEPARTMENT HEAD See Section 143.014, Chapter 143

A person appointed to the classification of Assistant Police Chief or Assistant Fire Chief may be removed from the position at the exclusive discretion of the Police Chief or Fire Chief, and shall have no right to appeal such removal to the civil service commission or a hearing examiner. .

The commission finds that the Cleburne Police Department had three persons serving in the classification immediately below that of department head on January 1, 1983.

Section 015 APPEAL OF COMMISSION DECISION TO DISTRICT COURT

See Section 143.015, Chapter 143

Section 016 **PENALTY FOR VIOLATION OF CHAPTER**
See Section 143.016, Chapter 143

Section 017 **COMMISSION PROCEDURES**
See Section 143.017, Chapter 143

- (1) **MEETINGS** - - Meetings of the Civil Service Commission will be scheduled by the Civil Service Director as needed to conduct the business of the Commission. Meetings may be scheduled, rescheduled, postponed or cancelled as deemed necessary. The Commission shall conduct its meeting in such place as designated in the "Notice of Meeting." The Commission shall conduct all meetings in compliance with the provisions of Section 551.001 et seq. of the Government Code (Open Meetings Act).

A meeting shall be called by the Director, at the request of the Chairperson, or at the written request of any two (2) Commissioners. Notice of meeting of the Commission shall be given by the Director to the members of the Commission at least seventy-two (72) hours preceding the day of the meeting, except in case of emergency or urgent public necessity, in which case two (2) hours notice shall be given in accordance with the provisions of the Government Code. The Notice shall be posted at the Director's office, City website and in all other locations where notices of other city public meetings are held. The Director shall also give the same notice to the Police and Fire Chiefs and shall see that Notices of the meetings are posted in the Police and Fire Department Buildings.

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

- (2) **COMMITTEE OF THE WHOLE** - - In the discharge of their duties, members of the Commission act as a body and not as individuals. An individual Commission member shall not speak for the Commission unless specially authorized in advance to do so by action of the Commission.
- (3) **AGENDA** - -The Director shall assist the Chairperson in preparing an agenda for a Commission meeting. If a Commission member wants an item placed on an agenda, he/she shall submit a written request to the Director for consideration by the Chairperson. No one except the Director or the Chairperson may place items on the agenda.
- (4) **QUORUM** - - Two members of the Commission constitute a quorum sufficient to conduct business meetings and hearings.
- (5) **CONDUCT OF REGULAR BUSINESS MEETINGS** - - The Commission shall set reasonable rules and procedures for proper and efficient conduct of business. The

Chairperson shall conduct meetings in an orderly and timely fashion.

The normal order of business at non-disciplinary or non-appeal hearings shall be generally:

- (a) Call to Order
- (b) Approval of Minutes of Previous Meetings
- (c) Action Items
- (d) Miscellaneous Matters from the Director
- (e) New Business - Commission members may suggest items for future agendas
- (f) Adjourn

The Chairperson may alter the order of business at his/her discretion.

- (7) **MINUTES** - - The Director shall prepare the minutes of each meeting. The minutes of the Commission shall include the following:

- (a) The time and place of each meeting of the Commission;
- (b) The name of each member present;
- (c) The official vote by each Commission member;
- (d) Adoption of minutes of previous meeting;
- (e) Appeals and the action taken on the appeals;
- (f) Rules and procedures adopted by the Commission; and
- (g) Any other significant actions taken or reports received by the Commission;
- (h) Other matters that are deemed appropriate for the record.

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

- (8) **ORDERS** - - The Director shall prepare Orders, as appropriate, and obtain signatures of members on such Orders.

(Sections 018 - 020 reserved for expansion)

SUBCHAPTER B. CLASSIFICATION AND APPOINTMENT

Section 021 CLASSIFICATION; EXAMINATION REQUIREMENT

See Section 143.021, Chapter 143

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

- (2) The title and number of all authorized positions in each of the classifications in the Fire and Police Departments shall be only those as prescribed by ordinances enacted by the City Council
- (3) The Department Head (Chief) of the Fire or Police Department shall have the discretion to make assignments of duty within the classifications in the respective departments. Duty assignments shall not be subject to review by the Commission. Changes in duty assignment, work hours and/or schedule shall always be at the discretion of the Department Head or his/her designee.

Section 022 PHYSICAL REQUIREMENTS AND EXAMINATION
See Section 143.022, Chapter 143

- (1) **GENERAL REQUIREMENTS** - - Each applicant for entry-level positions shall be required to submit to such physical and mental tests as determined by the Commission to be reasonably necessary and proper to determine the physical and mental ability of the applicant to perform the essential functions required for the position sought. An applicant who is not capable of performing the essential job functions with or without reasonable accommodation, or that would otherwise endanger citizens or other employees while performing such duties shall not be appointed.
- (2) **PROMOTIONAL REQUIREMENTS** - - Any candidate for promotion shall successfully complete an appropriate medical examination and drug test, as determined by the Commission. With the approval of the Department Head, an official Department examination taken within six (6) months from date of appointment may be used to satisfy this requirement, or the Department Head may order the candidate to undergo a medical examination and drug test prior to promotion.

If the candidate fails to pass the medical examination, his name is placed back on the eligibility list, and the Chief shall appoint another person from the eligibility list. It is the intent of the Commission that the results of the promotional physical examination shall be considered only for the purpose of promotion.

Section 023 ELIGIBILITY FOR BEGINNING POSITION
See Section 143.023, Chapter 143

(1) **MINIMUM ELIGIBILITY REQUIREMENTS FOR FIREFIGHTERS AND POLICE OFFICERS**

An applicant for Firefighter or Police Officer shall meet the following qualifications in order to be considered for an entry-level position:

- (a) Makes application in the manner prescribed in the Notice of Examination, and files the application with the Director within the time limits prescribed in the notice of examination.
- (b) Achieve a minimum passing score of seventy (70) percent on the written examination:

This minimum passing grade must be achieved before any veteran's points are added to the applicant's final grade.

- (c) Pass a background investigation, including submitting fingerprints for a criminal record check and a polygraph examination.
- (d) Applicants convicted of a felony under State, Federal or military law will not be considered for employment. The applicant will not be considered for employment while charges are pending for any offense.
- (e) Pass oral interviews conducted under the direction of the Fire or Police Chief.
- (f) Be a graduate of an accredited high school or have an equivalency certificate. Applicants shall be required to furnish official transcripts or other competent evidence of completion of the aforementioned academic requirements.
- (g) Applicants shall be a citizen of the United States and be able to read, write and fluently speak English.
- (h) Be of good moral character.

(2) **ADDITIONAL MINIMUM ELIGIBILITY REQUIREMENTS FOR FIREFIGHTERS**

An applicant for Firefighter shall meet all of the following criteria in order to be considered for an entry level position.

- (a) A person is not eligible to take an entrance examination for a beginning position in the Fire Department unless the person is at least 18 years of age as of date of test.
- (b) A person shall not be certified as eligible for a beginning position in a Fire Department if the person is 36 years of age or older.
- (c) Applicants who initially qualify to submit an application for an entrance examination, and whose name is subsequently placed on an eligibility list, shall have their names stricken from the list if they have exceeded the maximum age limit, as described in Section (b) above, prior to appointment or the expiration of the eligibility list, whichever occurs first.
- (d) Preferably possess certification as a basic Firefighter, or become certifiable at time of appointment, as established by the Texas Commission on Fire Protection. At or before the time of entrance examination, applicant shall provide either (1) evidence of certification issued by the Texas Commission on Fire Protection, or (2) evidence of current enrollment in a basic recruit fire training academy approved by the Texas Commission of Fire Protection.

- (e) Preferably possess certification as a (1) Paramedic (more preferable) or (2) an EMT by the Texas Department of State Health Services at time of appointment. At or before the time of entrance examination, applicant shall provide either (1) a Paramedic or EMT Certificate issued by the Texas Department of State Health Services, or (2) evidence of current enrollment in a Paramedic (more preferable) or EMT course approved by the Texas Department of State Health Services.
- (f) Possess a valid Texas Class B driver's license or be able to obtain one within ninety (90) days of employment that is not in jeopardy of suspension or revocation.
- (g) Successfully complete a post-job offer psychological examination and medical examination to determine their ability to perform the essential functions of the job, that includes passing a visual acuity test and physician certification that the applicant is not dependent on and does not use illegal drugs or misuse legal drugs. The expense of the tests shall be paid by the City of Cleburne.
- (h) Successfully complete the physical ability assessment, as determined by the Fire Department, demonstrating the Applicant is physically capable of performing the essential functions for the position of firefighter with or without accommodation. See Appendix A for firefighter physical ability assessment components.
- (i) Applicants for beginning positions in the Fire Department have no appeal rights except for physical and/or psychological examinations as provided for in Section 143.022 of the Texas Local Government Code.
 - (1) An applicant's appeal of a physical or psychological examination shall be filed to the Director within 240 hours (10 calendar days) after the rejection notice date.
 - a. The appellant shall comply with all provisions provided by the Director in regards to completing any additional assessments as allowed under Section 143.022.
 - b. The Director shall work with assessors and applicant to complete testing and provide a decision at the earliest possible dates.
 - c. The board of three assessors shall notify the Director of the panel decision, and the Director shall notify the applicant. A commission meeting is not required.
- (j) To the extent the employment standards for beginning firefighters as provided in the Civil Service Local Rules exceed the requirements of Chapter 143 and other applicable State laws, any of such entry level employment requirements not prescribed by State laws may be waived by the Fire Chief with the concurrence of

the Civil Service Director and consent of the City Manager when such waiver would be in the best interest of the Fire Department and provided further that such waiver of requirements shall not substantially lower the high standards sought by the City.

- (k) Effective January 1, 2020, applicants applying for beginning positions in the Fire Department shall have a minimum of 20 college credit hours from an accredited college or university, or possess certification as a basic Firefighter, as established by the Texas Commission on Fire Protection, or possess certification as a Paramedic by the National Registry or Texas Department of State Health Services at the time of the application. Before the time of entrance examination, the applicant shall provide either (1) evidence of certification issued by the Texas Commission on Fire Protection or, (2) a Paramedic Certificate issued by the National Registry or Texas Department of State Health Services.

(3) ADDITIONAL MINIMUM ELIGIBILITY REQUIREMENTS FOR POLICE OFFICERS

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

- (a) A person may not take an entrance examination for a beginning position in the police department unless the person is at least 18 years of age on the date of the entrance examination.
- (b) A person who is 45 years of age or older may not be certified for a beginning position in the police department. Applicants who initially qualify to submit an application for an entrance examination, and whose name is subsequently placed on an eligibility list, shall have their names stricken from the list if they have exceeded the maximum age limit, prior to appointment and/or the expiration of the eligibility list, whichever occurs first.
- (c) Preferably possess certification as a Texas peace officer on the date of the entrance examination. Applicant shall provide evidence of certification by the Texas Commission on Law Enforcement (TCOLE) on or before date of hire. If applicant does not possess peace officer certification, he/she must meet all legal requirements necessary to become certified by TCOLE.
- (d) Have a valid Texas or out of state driver's license that is not in jeopardy of suspension or revocation on the date of hire.
- (e) Applicants for beginning positions in the police department shall, on their date of hire, have any of the following:

- (i.) An associate's degree; or
 - (ii.) 60 semester hours of credit from an accredited college or university; or
 - (iii.) An honorable discharge from the armed forces of the United States after at least 24 months of active service.
- (f) In lieu of the above listed college education or military experience, applicants who are at least 21 years of age may have any of the following:
- (i.) Current Texas peace officer license; or
 - (ii.) Current enrollment in a bachelor's or associate's degree program at an accredited college or university; or
 - (iii.) Current enrollment in a Texas basic peace officer course; or
 - (iv.) At least 24 months of full-time employment.
- (g) All education and/or experience must be verifiable. Applicants shall be required to furnish official transcripts or other competent evidence of eligibility to the police department's background investigator.
- (h) Is not prohibited by state or federal law from possessing firearms or ammunition.
- (i) Successfully complete (1) a post-job offer psychological examination conducted by a licensed psychologist or psychiatrist, if required by TCOLE Regulations; and (2) medical examination and physician certification that the candidate is not dependent on and does not use illegal drugs or misuse legal drugs and includes passing a visual acuity test with the standard established as 20/100 or better in each eye with both eyes correctable, with eyeglasses, to at least 20/20 binocular vision with contact lenses, and the ability to distinguish between basic color groups; and physician certification that the applicant is not dependent on and does not use illegal drugs or misuse legal drugs.
- (j) Successfully complete the physical ability assessment, as determined by the police department, demonstrating the applicant is physically capable of performing the essential functions for the position of police officer with or without accommodation. See Appendix for police officer physical ability assessment components.
- (k) Applicants must pass a typing test with a minimum of 30 wpm.
- (l) Applicants for beginning positions in the police department have no appeal rights except for physical and/or psychological examinations as provided for in Section

143.022.

- (i.) An applicant's appeal of a physical or psychological examination shall be filed to the Director within 240 hours (10 calendar days) after the rejection notice date.
 - (ii.) The appellant shall comply with all provisions provided by the Director in regards to completing any additional assessments as allowed under Section 143.022.
 - (iii.) The Director shall work with assessors and applicant to complete testing and provide a decision at the earliest possible dates.
 - (iv.) The board of three assessors shall notify the Director of the panel decision, and the Director shall notify the applicant. A commission meeting is not required.
- (m) To the extent the employment standards for beginning police officers as provided in the Civil Service Classification Plan exceed the requirements of Chapter 143 and other applicable State laws, any of such entry level employment requirements not prescribed by State laws may be waived by the Chief of Police with the concurrence of the Civil Service Director and consent of the City Manager when such waiver would be in the best interest of the police department and provided further that such waiver of requirements shall not substantially lower the high standards sought by the City.

Section 024 ENTRANCE EXAMINATION NOTICE

See Section 143.024, Chapter 143

- (1) The Director shall cause to be posted in plain view on a bulletin board in the lobby of City Hall and also in the office of the Civil Service Director the appropriate notices to timely announce upcoming entry level examinations, as well as the deadlines for accepting and processing applications. Posting of the examination date will be made at least twenty-one (21) calendar days (3 weeks) prior to the examination. The last day for acceptance of applications shall be no later than fourteen (14) days (2 weeks) prior to the examination date.
- (2) An applicant shall complete a City of Cleburne Application for Employment and other forms, as prepared by the Director and/or Fire or Police Departments, and submit the form(s) to the Director, in order to take an entrance examination. The Director shall notify any applicant who is obviously disqualified for appointment, e.g., exceeding maximum age limit. Failure to pre-register in the manner and within the time limit prescribed in the "Notice of Entrance Examination," and/or failure to file the application or other supporting documents with the Director by the specified deadline, shall render an applicant ineligible to take the examination.

- (3) The Director may, because of the small number of candidates, or because of any other good and sufficient reasons, such as death in the immediate family, public emergency, unavailability of test site, etc., postpone an examination to a later date.
- (4) The actual conduct of every examination shall be under the direction of the Director of Civil Service who shall be responsible to the Civil Service Commission. The Director shall have the authority to designate an assistant to administer tests or examinations. Exams shall be conducted on an "as needed basis."

Section 025 ENTRANCE EXAMINATIONS
See Section 143.025, Chapter 143

- (1) **EXAMINATIONS** - - The actual conduct of every examination shall be under the direction of the Director, who shall be responsible to the Commission. The Director shall have the authority to develop procedures for administering the entrance examination and designate a Test Administrator, who shall be responsible for administering the examination. The Director may also select one or more persons as Test Monitor to assist in the administering, proctoring and grading of an entrance examination. An examination shall be conducted on an "as needed" basis. Written examinations shall be purchased from an outside vendor, as determined by the Director.

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

An applicant for an entry-level position shall achieve a passing score of at least 70% on the written examination, in order to be placed on the Eligibility List.

- (2) **ENTRANCE EXAMINATION ADMINISTRATION PROCEDURES**

- (a) Test Monitors - The Director shall appoint a test administrator and select a reasonable number of persons employed by the City to assist in the administration, proctoring, and grading of entrance examinations. No City of Cleburne Employee or Reserve Officer may proctor a test while a member of their immediate family is a candidate for the specific test being administered.
- (b) Tobacco shall be prohibited at all times in the testing area.
- (c) The identity of examinees in all competitive written examinations for the purpose of establishing eligibility list shall be concealed. The Director shall make the necessary provisions in connection with the conduct of such examinations for such concealment.

- (d) Check In – An applicant shall be checked in and provide proof of identity with a valid Driver's License. No applicant shall be admitted once test instructions start. No applicant shall be readmitted to the testing area after withdrawing or leaving the examination room, without consent of the Test Administrator.
 - (e) Military Service Credit – An applicant, who desires to have military service credit of five (5) points added to a passing test score of 70% or better, shall provide an original DD-214 showing a minimum of 180 total days of active military service at the time of application and by the specified application deadline. Any discharge other than honorable discharge is not creditable for the purpose of this section. Applicants must be discharged from the service in order to receive credit.
 - (f) Failure to Appear - The application of an applicant who fails to appear for the entrance examination shall be voided and shall be disposed of by the Director. A new application form shall be required for subsequent tests.
 - (g) Cancellation or postponement of entrance examination - The Commission or Director may cancel or postpone a scheduled entrance examination for sufficient cause.
 - (h) Dishonesty - An examinee taking an entrance examination who uses or attempts to use any dishonest means to answer a question on such an examination shall have his/her examination confiscated and voided by the Test Administrator. The examinee will be removed from the testing site. The Test Administrator shall report the action to the Director, who shall report it to the Commission.
 - (i) Inappropriate Behavior - Any applicant may be removed from the testing process for inappropriate behavior during any phase of the application or testing process. A report shall be submitted to the Commission of any such action.
 - (j) Upon request, accommodations shall be provided to an applicant in accordance with the Americans with Disabilities Act. An applicant who needs special arrangements shall submit a request in writing to the Director at a time to be determined by the Director.
 - (k) Guns will not be allowed in the possession of a candidate during the tests.
- (3) **TIE-BREAKERS** - Whenever two (2) or more competitors for an entry-level position attain the same grade, the tie shall be broken in the order listed below prior to the posting of the Eligibility List:

POLICE AND FIRE DEPARTMENT:

- (a) **Highest Test Score** - - If a tie exists, the persons shall be ranked in the order according to which person had the highest examination raw score prior to the addition of Veteran's points.

- (b) **Higher Certification**
 - (1) **Police Department** - If a tie still exists, the persons shall be ranked in the order according to which person has the higher certification level as a peace officer through TCOLE.
 - (2) **Fire Department** - If a tie still exists, the persons shall be ranked in the order according to which person has the higher certification level as a firefighter through Texas Commission on Fire Protection, and emergency medical certification from Texas Department of State Health Services.
 - (c) **Master's Degree** — If a tie still exists, the persons shall be ranked in the order according to which person possesses a Master's degree.
 - (d) **Bachelor's Degree** – If no person possesses a Master's Degree, and a tie still exists, the persons shall be ranked in the order according to which person possesses a Bachelor's degree.
 - (e) **Associate's Degree** — If no person possesses a Bachelor's degree, and if a tie still exists, the persons shall be ranked in the order according to which person possesses an Associate's degree.
 - (f) **By Lot**— If a tie still exists, the persons shall be ranked in the order by lot as determined by the Director.
- (4) **ELIGIBILITY LIST** - - An Eligibility List shall be in effect for one (1) year, unless the Commission establishes an expiration date of no less than six (6) months and no more than twelve (12) months at the time an exam is posted, or the list is exhausted prior to expiration.
- (a) Each person on an Eligibility List shall notify the Director of any change in address. A notice sent to a person's last known address shall be considered sufficient notification.
 - (b) **Establishing the Entrance Eligibility List** –The eligibility list shall be comprised of the total final grades on the written examination, beginning with the highest grade. Grades below 70 on the written examination are not placed on the eligibility list.
 - (c) **Applicant Interviews**
 - (1) Interview Board - Applicants will be interviewed by an Interview Board appointed by the Chief of the Department. The Civil Service Director may be included in the oral interview process, at their discretion, after consultation with the Chief of the Department. The interview board shall make a recommendation to the Chief of the Department as to the suitability of applicants for employment. Applicants interviewed as part of a group of

applicants participating together in the appointment process shall be asked the same interview questions by the same interview board; however, questions may be asked to follow up on responses given to such questions, so long as the follow up questions are constructed to elicit information directly related to the criteria for determining suitability for employment.

- (2) **Chief Interview** - The Chief of the Department shall interview applicants recommended by the Interview Board to resolve questions and determine eligibility. The Chief of the Department will make a final determination of suitability to the Civil Service Director and Commission after considering all of the factors in the testing and interview process. An applicant deemed unsuitable as a result of the Interview Board or Chief interview will be documented completely.
- (3) The name of any person on the eligibility list, who has been offered appointment by the City Manager and declines the appointment, may be stricken from the eligibility list.
- (d) An applicant may withdraw from consideration for employment by filing a written request with the Director, who shall acknowledge such request in writing.
- (e) The Commission or the Director shall have the power to order a re-examination of applicants and the power to correct, amend or remove any eligibility list, in which an error has been made, and the power to remove an applicant's name from the eligibility list if the applicant has become ineligible for appointment in the Fire or Police Department. The reason for such actions shall be recorded in the Commission minutes of the meeting at which such action is taken.

(5) **CHILD OF DECEASED FIREFIGHTER**

- (a) Each applicant who is a natural born or adopted child of a firefighter who died in the line of duty, upon receiving a passing grade on the entrance examination, will be automatically ranked at the top of that eligibility list, subject to meeting all entry-level hiring requirements.
- (b) The deceased firefighter/parent must have been employed by a municipality covered by Chapter 143, Texas Local Government Code.
- (c) The applicant must provide at the time they apply to take the written entrance examination:
 - (i) the name of the deceased firefighter/ parent on his or her application;
 - (ii) birth certificate or adoption certificate;
 - (iii) letter from parent's employing City confirming line-of-duty death; and
 - (iv) any other information the Director may need to verify eligibility.

The Director will be responsible for verifying the information relating to the line of duty death prior to placing that applicant at the top of the eligibility list.

Section 0251 REAPPOINTMENT OF POLICE OFFICERS

See Section 143.0251, Chapter 143

A police officer who voluntarily resigns from the City of Cleburne Police Department, after successfully completing their probationary period with this department, may be reappointed at any time to the classified position that the police officer held on the date of resignation without taking another departmental entrance examination.

- (1) The former officer shall submit a written request to the Police Chief, who makes the final recommendation to the City Manager for reappointment. A candidate for reappointment shall not be considered unless recommended by the Police Chief. A candidate for reappointment may not appeal his/her rejection by the Police Chief.
- (2) Prior to recommending reappointment of a former police officer to the department, the Police Chief may review past performance records of the officer, conduct a background investigation, require appropriate alcohol and drug tests, and require any other portion of the employment process he/she deems appropriate.
- (3) Upon receiving a conditional offer of reappointment, the police officer shall pass a drug test. The police officer shall also successfully complete a post-job offer psychological examination and medical examination if required by TCOLE regulations. The expense of the tests shall be paid by the City of Cleburne.
- (4) Candidates for reappointment must meet all legal requirements to become certified by TCOLE.
- (5) A candidate for reappointment may be appointed regardless of the existence of an eligibility list. A candidate for reappointment has priority over candidates on an eligibility list.
- (6) Reinstated officers may be required to attend any training determined necessary, up to and including the entire basic training class, as deemed appropriate by the Police Chief to bring the officer up to required current standards and training expected of all other officers.
- (7) Any candidate reappointed to the police department shall serve a one (1) year probationary period. During the probationary period, the reappointed officer is not a Chapter 143 Civil Service status employee, but rather is employed "at will" and shall be subject to discharge at the discretion of the Police Chief with no right to appeal to the Civil Service Commission or Third Party Hearing Examiner. Any candidate reinstated shall not be credited with any accrued sick leave or vacation. The reappointed employee will start over with their accruals and longevity pays with their rehire date.
- (8) For reinstated officers, their departmental and City seniority starts over based on their rehire date.

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

Section 026 PROCEDURE FOR FILLING BEGINNING POSITIONS
See Section 143.026, Chapter 143

(1) PREFERENCE TO CERTIFIED APPLICANTS

In making appointments from an eligibility list, the Department Head, at his discretion may give preference to applicants who already possess the required state certification(s). This may result in non-certified applicant(s) being passed over to reach certified applicants on the eligibility list.

(2) REMOVAL OF CANDIDATE FROM ELIGIBILITY LIST

The name of any suitable person who has been offered appointment by the City Manager and declines the appointment may be stricken from the eligibility list.

(3) PROCESS FOR REJECTION FOR FIREFIGHTERS AND POLICE OFFICERS

Applicants who pass the written exam with a score of 70 or above will be considered eligible, and veteran points will be added as applicable, per Chapter 143 of the Texas Local Government Code.

- (a) The Department will process applicants in rank order from the eligibility list (following determination of tie-breakers if necessary, per §143.025 (3) eligibility list provided by the Civil Service Director.
- (b) The Department Head shall make a written request for the Director to certify to the City Manager the names of three eligible applicants having the highest grade on the eligibility list, who have been deemed to meet all hiring requirements. The Chief shall provide to the City Manager a written explanation when passing over a candidate on the eligibility list. The City Manager, if approving the reason(s), shall file the explanation with the Commission and send a copy to the applicant.
- (c) Recommendations regarding hiring of an applicant, during any phase of processing will be reviewed through the chain of command in the Department.
- (d) The Department will notify the Civil Service Director or designee of the Department's recommendations concerning hiring of an applicant, outlining the reason(s) and providing appropriate documentation.
- (e) The City Manager shall make a conditional offer of employment to the suitable applicant having the highest grade, unless there is a valid reason why another applicant on the eligibility list should be appointed. In determining "valid reason," the City Manager may consider giving preference to eligible applicants on the

eligibility list who are certified or certifiable by the State of Texas as a Firefighter, Paramedic, EMT, Peace Officer, or who have prior experience.

- (f) The conditional offer of employment shall be subject to the successful completion of the medical and psychological or psychiatric evaluations. If the applicant does not pass the medical, psychological or psychiatric evaluation, the applicant may pursue appeal pursuant to Local Government Code Section 143.022.
- (g) Nothing in TLGC, Chapter 143 provides for an appeal to an applicant to the Civil Service Commission in connection with the hiring process. Nothing in these Rules should be interpreted to accord such an appeal to applicants.

(4) CAUSES FOR DISQUALIFICATION FOR POLICE OFFICER AND FIREFIGHTER APPLICANTS

- (a) The applicant has failed to comply with any of the minimum requirements or qualifications for a beginning position as established by Chapter 143 or the City of Cleburne Local Civil Service Rules. Disqualification is temporary, until candidate can meet the standards.
- (b) The applicant has failed to meet statutory licensing requirements of the state of Texas and the rules of the Texas Commission on Law Enforcement (TCOLE). Disqualification is temporary until candidate can meet the standards. (Police Only)
- (c) Has failed to meet all legal requirements necessary for future licensing and certification as required by the Texas Commission on Law Enforcement (TCOLE). Disqualification is temporary until candidate can meet the standards. (Police Only)
- (d) Applicant driver's license has been suspended within the last 2 years. Disqualification is temporary until candidate can meet standards.
- (e) Applicants have made any false statements in any material fact; withheld information, practiced or attempted to practice any deception or fraud in his/her application, examination or appointment. Depending on the variables involved, disqualification may either be permanent or temporary.
- (f) Is not a citizen of the United States of America. Temporary disqualification until citizenship is obtained in compliance with state and federal laws.
- (g) The applicant has failed to demonstrate their ability to read, write, and fluently speak the English language. Temporary disqualification until the deficiency is corrected.
- (h) Inability to successfully complete the physical ability assessment, as determined by the Department. Disqualification is temporary until candidate can meet standards.

- (i) The applicant failed to successfully pass a typing test with 30 wpm. Disqualification is temporary until candidate can meet standards. (Police Only)
- (j) The applicant fails to complete or satisfactorily meet the employment process requirements of the Police Department or Fire Department, including but not limited to: missed appointments, failure to return necessary paperwork, failure to notify the department of changes in address or telephone numbers, or who otherwise failed to complete the proper application process. Applicants may submit a new application for the next examination.
- (k) Conviction of conduct that constitutes a Class B Misdemeanor (e.g., First Offense DWI) under state or federal law, to include the Uniform Code of Military Justice (UCMJ) or equivalent UCMJ violation, shall result in a 10-year disqualification.

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

Conviction of any family violence offense shall result in permanent disqualification.

Conviction of conduct that constitutes a Class A Misdemeanor or Felony under state or federal law, to include the Uniform Code of Military Justice (UCMJ) or equivalent UCMJ violation, shall result in permanent disqualification.

Applicants shall not be considered for employment while charges are pending for any criminal offense for which conviction would be a bar to licensure.

- (l) Applicants who fail to complete or obtain satisfactory results of the Interview Board process shall be temporarily disqualified. Reasons for failing the interview Board include, but are not limited to, the following:
 - (i.) failure to verbally communicate effectively and appropriately;
 - (ii.) failure to demonstrate an understanding of the roles and responsibilities of the position sought;
 - (iii.) failure to present the maturity expected of the position sought;
or
 - (iv.) failure to accurately and precisely respond to the questions of the interviewers.
- (m) Applicants who fail to pass the written examination or the physical ability exam. Applicants may submit a new application for the next scheduled examination.

- (n) Applicants who fail to pass the typing test may submit a new application for the next scheduled examination. (Police Only.)
- (o) Applicants who have traffic or driving violations exceeding three (3) events (moving violations or preventable accidents) in the preceding thirty-six (36) months, or a reckless driving conviction in the preceding sixty (60) months will be temporarily disqualified.

Fewer, but more severe, violations which tend to indicate driving habits that are not compatible with the operation of emergency vehicles and present potential liabilities to the City of Cleburne will be temporarily disqualified. Reapplications will be permitted when the candidate can meet the above standards.

- (p) Applicants who have used illicit substances shall be disqualified as indicated by the following guidelines:
 - (i.) Applicants who are found or have admitted to use of marijuana within the last two (2) years may be considered on a case by case basis with consideration given to circumstances and recency;
 - (ii.) Applicants who are found or have admitted to use of methamphetamines, speed, crank, crack (or any other form of cocaine), within the last five (5) years;
 - (iii.) Applicants who are found or have admitted to use of steroids or any other controlled substances without a prescription within the last five (5) years may be considered on a case by case basis with consideration given to circumstances and recency;
 - (iv.) Applicants who are found or have admitted to the use of methamphetamines, speed, crank, crack (or any other form of cocaine) on more than three occasions are permanently disqualified;
 - (v.) Applicants who have ever intentionally used heroin or any heroin based substances, opium, PCP, or LSD are permanently disqualified;
 - (vi.) Applicants who have ever sold or distributed marijuana or any other controlled substance may be considered on a case by case basis with consideration given to circumstances and recency;
 - (vii.) Applicants who are found or who admit to abuse of legally obtained prescription medications, or illegal use of prescription medication of another person may be considered on a case by case basis with consideration given to circumstances and recency.

- (viii.) Applicants who receive positive test results for alcohol, marijuana, or any controlled substance on the City of Cleburne pre-employment drug and/or alcohol tests are permanently disqualified.
 - (ix.) Applicants who receive positive test results for alcohol, marijuana, or any controlled substance from another organization other than the City of Cleburne pre-employment drug and/or alcohol test within the last (5) five years will be disqualified.
- (q) Applicants who do not obtain satisfactory results on the following steps in the hiring process are disqualified for a period of two years from the date of notification letter that the applicant is no longer under consideration:
- (i) Background investigation
 - (ii) Polygraph examination
 - (iii) Interview with the Chief
- (r) Has been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Said dismissal or termination may be considered on a case-by-case basis.
- (s) Has demonstrated a failure to pay just debts. Candidates may be considered on a case-by-case basis due to the number of variables involved. Factors which will be considered include type and number of debts, reasons for bad credit, extenuating circumstances, and the potential for the credit-related problems impacting the applicant's judgment and integrity. Temporary disqualification until resolution of bad credit and/or credit related issues.
- (t) Exercised poor judgment skills within the preceding five years. The applicant has demonstrated either immaturity or poor judgment in the applicant's decision making process. Examples of such conduct would include, but is not limited to: attendance at parties or social functions at which controlled substances or dangerous drugs are consumed, and such activity is known or should have been known by the applicant; silent acceptance of known illegal conduct by others in his presence; workplace behavior/decisions that adversely affect the business or associates, with little or no objectively justifiable need for such behavior. Temporary disqualification until the applicant can demonstrate that the applicant's judgment skills have improved.
- (u) An applicant may not be certified for a beginning position with the Cleburne Police Department if he or she has been rejected as a witness by a criminal prosecutor for Brady violations and/ or being placed on a Brady list or disclosure list under the Michael Morton Act and /or art. 39.14 of the Code of Criminal Procedure. Disqualification is permanent.

(5) CANDIDATE'S ACCEPTANCE

A candidate's offer will be withdrawn if he does not notify the Chief, within seven (7) calendar days, of acceptance of the job offer.

(6) DECLINING APPOINTMENT

An applicant may decline an appointment in writing to the Chief on account of a temporary inability, physical or otherwise, to accept it. If the Chief accepts the temporary declination, the candidate remains on the eligibility list and may be considered for future vacancies.

Section 027 PROBATIONARY PERIOD

See Section 143.027, Chapter 143

- A. All Firefighter and Police Officer Trainees shall serve a probationary period of one year, beginning on the date of employment with the department as a firefighter, police officer or academy trainee.
- B. The probationary period will be extended by not more than an additional six months more than the original one year for those probationary firefighters and police officers who are required to attend a basic training academy for initial certification by the Texas Commission on Fire Protection or the Texas Commission on Law Enforcement.
- C. The head of the Department shall have full rights of discharge during the probationary period without the necessity of following the provisions of the Civil Service Rules pertaining to indefinite suspension or discharge. Firefighters and Police Officers discharged during the probationary period have no rights of appeal to the Commission. During the probationary period, employees shall not be afforded any rights under these Rules.

Section 028 ELIGIBILITY FOR PROMOTION

See Section 143.028, Chapter 143

- (1) The length of service for determining the eligibility for taking a promotional examination shall include the probationary period in the Cleburne Fire Department.
- (2) A firefighter's prior service, whether part-time or full-time, with the City of Cleburne or any other city, does not count toward meeting the two (2) year requirement established in 143.030(b) and (e). A firefighter, who is rehired, is not given credit for prior service to determine eligibility to take a promotional examination.

- (3) The two year eligibility requirement to take a promotional examination shall be based upon the date of examination.
- (4) The firefighter shall successfully obtain the required college credit hours and/or degree from an Accredited College or University. The college degree/college credit hours obtained after your beginning date with the Department shall be related to the fire service or management field.
- (5) **Fire promotional candidates** shall successfully obtain the required college credit hours and/or degree from an Accredited College or University. The college degree/college credit hours obtained after the firefighter's beginning date with the Department shall be related to the fire service field or management field. This section pertains to eligibility for promotion, not appointments made under Section 014.
 - a. Effective January 1, 2020, to be eligible to promote, the following is added to the minimum eligibility requirements for fire department promotions:
 - i. Engineer – have successfully obtained 40 college credit hours by the promotional date.
 - ii. Lieutenant – have successfully obtained an Associates or Bachelor's degree in any field by the promotional date.
 - iii. Battalion Chief – have successfully obtained an Associates or Bachelor's degree in any field by the promotional date.
 - iv. Assistant Fire Chief – have successfully obtained Associates or Bachelor's degree in any field by the promotional date.
 - b. Effective January 1, 2021, to be eligible to promote, the following is added to the minimum eligibility requirements for fire department promotions:
 - i. Engineer – have successfully obtained 60 college credit hours by the promotional date
 - ii. Lieutenant – have successfully obtained an Associate's Degree or Bachelor's Degree in Fire Sciences or related field by the promotional date.
 - iii. Battalion Chief – have successfully obtained an Associate's Degree or Bachelor's Degree in Fire Sciences or related field by the promotional date.
 - iv. Assistant Fire Chief – have successfully obtained an Associate's Degree or Bachelor's Degree in Fire Sciences or related field by the promotional date.
 - c. College credit hours and/or degrees must be from an accredited college or university as defined by Section 003.

- d. Promotional candidates who fail to obtain the required education will be bypassed pursuant to Section 036.
- (6) The length of service for determining the eligibility for taking a promotional examination shall include the probationary period in the Cleburne Police Department.
- (7)
- (8) **Police promotional candidates** shall successfully obtain the required college credit hours and/or degree from an accredited college or university by the promotional date.. This section pertains to eligibility for promotion, not appointments made under Section 014.

To be eligible to promote, the following is added to the minimum eligibility requirements for the police department promotions:

- a. Bachelor's degree (any field); or
- b. Associate's degree in criminal justice or related field; or
- c. Proficiency certificates are issued by the Texas Commission on Law Enforcement (TCOLE) in accordance with Section 1701.402 of the Texas Occupations Code to recognize proficiency based on law enforcement training, education, and experience. In lieu of a degree, police promotional candidates may possess a:
 - i. TCOLE Intermediate Peace Officer proficiency certificate and 30 college credit hours; or
 - ii. TCOLE Advanced Peace Officer proficiency certificate and 15 college credit hours; or
 - iii. TCOLE Master Peace Officer proficiency certificate
- d. College credit hours and/or degrees must be from an accredited college or university as defined by Section 003.
- e. Promotional candidates who fail to obtain the required education will be bypassed pursuant to Section 036.
- f. An alternate promotional system adopted pursuant to Section 035 that includes an assessment of law enforcement training, education, and experience, may be substituted for the required education.

Section 029 PROMOTIONAL EXAMINATION NOTICE
See Section 143.029, Chapter 143

(1) **CONTENTS OF NOTICE**

The notice of promotional examination shall contain the following:

- (a) Position to be filed;
- (b) Date, time and place of examination;
- (c) Qualifications required to take the examination; and
- (d) Dates during which registration for test will be conducted and books provided.

(2) SCHEDULING OF EXAMINATIONS

Promotional examinations shall not be scheduled unless there is a vacancy in the classification or unless a retirement or resignation has been announced or a vacancy is reasonably certain to occur.

Section 030 ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION

See Section 143.030, Chapter 143

Section 031 ELIGIBILITY FOR POLICE DEPARTMENT PROMOTIONAL EXAMINATION

See Section 143.031, Chapter 143

Section 032 PROMOTIONAL EXAMINATION PROCEDURE

See Section 143.032, Chapter 143

(1) EXAMINATIONS

- (a) An examination shall be of such nature that it will test the relative capacity and fitness of the person examined to discharge the duties of the particular position to which he/she seeks appointment.
- (b) The actual conduct of every examination shall be under the direction of the Director who shall be responsible to the Commission. The Director shall have the authority to designate a Test Administrator, who shall be responsible for administering the examination. The Director may also select one or more persons as Test Monitor to assist in the administering, proctoring and grading of an entrance examination. An examination shall be conducted on an "as needed" basis. Written exams shall be purchased from an outside vendor, as determined by the Director.
- (c) The Commission or Director may, because of the small number of eligible promotional candidates for any position, or because of any other good and sufficient reasons, such as death in the immediate family, public emergency, unavailability of test site, etc., postpone an examination to a later date. Any examination may be canceled by the Commission should its holding become unnecessary because of a change in the personnel requirements in the classified service.

- (d) To provide for a competitive promotional examination so as to better serve the public, at least three (3) qualified candidates in the next lower position with two years' service shall sit for an examination. If there are not three (3) candidates in the next lower position, the Commission shall follow the procedures relating to eligibility for promotional examinations outlined in Section 143.030(d) and 143.031(c) until at least three (3) qualified candidates sit for the examination. When more than one vacancy exists at the time an examination is to be given, the Director shall determine whether the number of examinees who have filed Notices of Intent to Test is competitive. If necessary, the Director shall make a recommendation to the Commission to open the examination to additional employees, as outlined in Section 143.030(d) and 143.031(c).
 - (e) No person shall deceive or obstruct any person in respect of his/her right of examination under the provision of these rules and the Civil Service Act; or falsely mark, grade or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion. No promotional candidate shall deceive the Commission for the purpose of improving his/her chance for appointment or promotion.
- (2) **NOTICE OF INTENT TO TEST** - - An employee shall complete a Notice of Intent to Test, as prescribed by the Director, in order to take a promotional examination. Failure to make application in the manner prescribed in the "Notice of Promotional Examination" and failure to file the application with the Director within the time limits prescribed in the "Notice of Promotional Examination" shall render the employee ineligible to take the examination.
- (3) **PROMOTIONAL EXAMINATION ADMINISTRATION PROCEDURES**
- (a) Tobacco shall be prohibited at all times in the testing area.
 - (b) Check In – An examinee shall be checked in and provide proof of identity with a valid Driver's License. No examinee shall be admitted after the posted time.
 - (c) At the beginning of the promotional examination, roll shall be taken from the Notice of Intent forms.
 - (d) At the posted examination time, all examinees shall be provided a copy of the test and instructed to read the instructions with the test administrator.
 - (e) Instructions will be given as to time and location where examination materials and answer sheets may be reviewed following the examination.
 - (f) All examinations shall be given in the presence of all other persons taking the examination, except as provided in §143.032(4).
 - (g) Cancellation or postponement of promotional examination - The Commission or Director may cancel or postpone a scheduled promotional examination for

sufficient cause.

- (h) Dishonesty- An examinee taking a promotional examination who uses or attempts to use any dishonest means to answer a question on such an examination shall have his/her examination confiscated and voided by the Test Administrator. The examinee will be removed from the testing site. The Test Administrator shall report the action to the Director, who shall report it to the Department Head and to the Commission.
- (i) Upon request, accommodations shall be provided to an applicant in accordance with the Americans with Disabilities Act. An examinee who needs special arrangements shall submit a request in writing to the Director at a time to be determined by the Director.

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

(4) PROMOTIONAL EXAMINATION PROCEDURES FOR PERSONNEL ON ACTIVE MILITARY DUTY

- (a) Fire and Police promotional candidates, who are eligible to take a promotional examination, and who are serving on active military duty, outside the State of Texas or more than 50 miles from Cleburne City Hall, are eligible to take a separate promotional examination. An examination, that is or is not identical to the examination administered to other eligible candidates, may be administered outside the presence of other candidates.
- (b) Employees who are called to active military duty shall be required to sign an affidavit prior to being deployed stating whether or not they intend to take any promotional examination administered during their active duty.
- (c) If the employee signifies intent to take promotional exams, he/she shall provide the Civil Service Director with a valid e-mail address, fax number or contact method during active duty, and shall notify the Director of any changes in his/her contact information in order to be notified of scheduled exams.
- (d) The Director is authorized to coordinate all testing under this subsection and may exercise discretion necessary to ensure the secrecy of the examination and to assure proper administrative procedures are followed.

- (e) Before the 90th day before the date a promotional examination is held, a notice listing the sources from which the examination questions will be taken will be sent to each military promotional candidate. The notice will be sent to the person's last known address, including his last known e-mail address.
- (f) It shall be the military promotional candidate's responsibility to secure the necessary source material.
- (g) The employee shall make arrangements with a *military exam coordinator*, his/her JAG (military attorney), or if unavailable, the commanding officer - to proctor the promotional exam and shall provide the name of that individual and contact information along with a valid fax number, if available, to the Civil Service Director/designee. Once designated, the same person shall be used throughout the examination process as noted herein.
- (h) Before the 30th day before the date a promotional examination is held, a notice of the examination will be sent to each military promotional candidate at this last known address, including his last known e-mail address. The employee shall fax or e-mail confirmation to take the test within 10 days of receipt of the Notice of Exam. If military operations prevents an employee from meeting this deadline, the employee shall submit written confirmation as soon as possible, to take the test along with a statement from his/her commanding officer verifying military operations prevented a response during the 10-day period.
- (i) It shall be the military promotional candidate's responsibility to work with the Director to schedule the administration of the examination.
- (j) Test packets containing the written examination, answer sheet, an affidavit and test instructions shall be provided to the military exam coordinator at least twenty-four (24) hours prior to the scheduled exam date. If possible, the written examination for the active duty personnel should be administered on, or as close to, the same day and time as the scheduled exam at the City.
- (k) All exam materials (exam, answer sheet and answer key) shall be returned to the Director immediately following the scoring of the exam.
- (l) At no time will the administration of a promotional examination being given to a promotional candidate serving on active military duty unnecessarily interfere with ongoing military efforts.
- (m) If the candidate serving on military duty takes and passes a promotional examination, the candidate's name shall be included on the promotional eligibility list created nearest in time to the time at which the candidate on active military duty took the examination.

- (n) Candidates serving on military duty, who take the promotional examination outside of Cleburne, shall be eligible to file an appeal of the examination as provided in §143.034. The Director shall coordinate all matters related to the review of the examination and the filing of the appeal, and may extend the time limit for appeal upon a showing of exigent circumstances.
- (o) Promotional candidates on active military duty must notify the Director at least 25 days in advance of the examination of their desire to have the examination administered off-site.
- (p) All employees covered by Chapter 143, who are called to active military duty, must notify the Director of their mailing address and/or their e-mail addresses. The Director shall use his or her best efforts to inform the employees serving active military duty of upcoming promotional examinations.
- (q) All candidates for a promotional examination should execute an affidavit averring to the fact that they have not shared or discussed the test materials with a candidate serving on military duty.

Section 033 PROMOTIONAL EXAMINATION GRADES

See Section 143.033, Chapter 143

- (1) **GRADING OF EXAMINATION** - - The requirement for “grading at the examination location” is met if the grading location is in the same building, if examinees who have finished are permitted to accompany the person who takes examination answer sheets to the grading location, and if examinees are allowed to observe as the sheets are graded.
- (2) **SENIORITY POINTS** - - Each police officer is entitled to receive one point for each year of seniority as a classified police officer in that department, with a maximum of 10 points. Each firefighter is entitled to receive one point for each year of seniority in that department, with a maximum of 10 points. The grade for police officer or fire fighter shall be computed by adding the applicant’s points for seniority to the applicant’s grade on the written examination, but for a fire fighter applicant only if the applicant scores a passing grade of 70 on the written examination. Each full years of service equals one point. Seniority points shall be awarded only for whole years of service, and shall not be awarded for years of part-time employment.
- (3) **TIE-BREAKERS** - - Whenever two (2) or more competitors for promotion attain the same grade, including seniority points, the tie shall be broken in the order listed below:
 - (a) **Highest Test Score** – If a tie exists, the candidates shall be ranked in the order according to which candidate had the highest examination raw score prior to the addition of seniority points and after the Commission’s determination of appeals, if any.
 - (b) **Seniority in Rank** – If a tie still exists, the candidates shall be ranked in the order according to which candidate has the most recent continuous seniority in the position immediately below and above the position for which the examination was

given.

(c) **Certification** - If a tie still exists, the candidates shall be ranked in order to which candidate has the highest certification level, if any.

- i. Police Certifications Considered
 - (a) Intermediate Peace Officer
 - (b) Advanced Peace Officer
 - (c) Master Peace Officer

- ii. Fire Certifications Considered
 - (a) Intermediate Firefighter
 - (b) Advanced Firefighter
 - (c) Master Firefighter

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

(4) **VERIFYING EXAMINATION SCORES** - - After the grading of all tests and prior to the posting of the eligibility list, the Director shall verify the calculation of each examinee's grade. If the Director discovers a clerical error prior to the posting of the eligibility list, the Director shall correct the clerical error and notify the affected examinee of the error.

(5) **POSTING OF RESULTS** - - The preliminary results of such examination for promotion shall be posted on a bulletin board located in the lobby of City Hall, in the office of the Civil Service Director, and in the lobbies of the Police or Fire Administration Building within twenty four (24) hours after the examination.

Section 034 REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION

See Section 143.034, Chapter 143

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

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

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

- (4) Prior to the Commission meeting, at which test appeals will be considered, each Commissioner shall receive a copy of each written appeal submitted, the appealed question(s) and answer(s), the correct answer(s) and the appropriate source reference sheet(s). If possible the responses of the test writer would also be appropriate. The appeal information shall not reveal the name of the appellant, prior to the regularly scheduled Commission meeting. The Director will provide copies of the test writer's responses to appealed questions (if possible) to interested persons at the Commission meeting at which the appeal is heard. Comments, discussion, and questions shall be limited to the question(s) being appealed.
- (5) During the Commission's appeal hearing, the following rules will apply:
- (a) The appealed questions will be considered in numerical order.
 - (b) If there are multiple appellants on a question, the Chair will call them forward for comments in alphabetical order. The Chair will first ask each appellant if he or she still wishes to appeal. The appellant will then be allowed to make a brief presentation of the reasons for his or her appeal. An appellant may designate a representative to present his or her comments.
 - (c) After all appellants on a question have been given the opportunity to address a question; the Chair will allow other persons who took the examination an opportunity speak regarding the questions.
 - (d) The Chair will set and enforce a limit on the time for each person to speak on each question. The Commission may vote to alter the time limit set by the Chair.
 - (e) After comments by or on behalf of persons who took the examination, the Director and the head of the department for which the examination was conducted may submit comments to the Commission.
 - (f) The Commission may ask questions of an appellant or anyone else who addresses the Commission.
- (6) After receiving comments on a question, the Commission will discuss and make a determination of the question. A promotional examination question appealed to the Commission shall be sustained, overruled, or eliminated by a Ruling issued by the Commission. Each Ruling shall be made by a majority vote of the Commission, as follows:
- (a) **Sustain the answer key** (test scores shall remain as reported)
- A Ruling which rejects the appeal presented to the Commission shall require the Director to accept the answer as given on the answer key, while grading the promotional examinations of all eligible candidates.

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

A Ruling which sustains the appeal of a promotional examination question shall require the Director to accept a different answer or accept two or three answers, as directed in the Ruling, while grading the promotional examination of all eligible candidates.

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

A Ruling which rejects the test question related to the appeal of a promotional examination question shall require the Director to disregard the question and its answer while grading the promotional examination of all eligible candidates.

- (d) **Formula for calculating scores after appeals:**

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

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

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

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

- (7) After all questions have been considered, the Director of Civil Service will re-score all answer sheets and establish an amended eligibility list. The amended eligibility list shall have the same effective date as the original list. Seniority points will be added after the re-scoring. The Director will post the amended eligibility list within 24 hours of the Commission meeting.
- (8) Occupying the top position on a promotional eligibility list does not create an absolute right to be promoted. It creates only an expectancy of being promoted, subject to the creation of a vacancy in the classified position during the one year existence of the eligibility list.

Section 035 **ALTERNATE PROMOTIONAL SYSTEM IN POLICE DEPT.**
See Section 143.035, Chapter 143

Section 036 **PROCEDURE FOR MAKING PROMOTIONAL**
APPOINTMENTS

See Section 143.036, Chapter 143

- (1) When the term "Commission" is used in § 143.036 of the Local Government Code, the Director may perform the duties specified.
- (2) If a person voluntarily declines a promotional appointment for an available vacancy/vacancies, the person's name shall be returned to its place on the eligibility list

and shall be resubmitted to the department head if another vacancy occurs. A person's name shall be removed from the eligibility list if they voluntarily decline a promotional appointment two times for the same eligibility list.

(A) If a promotional eligibility list:

1. is exhausted prior to filling all available vacancies; and,
2. was created by an examination open to persons with at least two years' service in the position immediately below the classification for which the examination was held; then,

the Commission may open an examination to persons with less than two years' service in the position immediately below the classification for which the examination is to be held.

B) If a promotional eligibility list:

1. is exhausted prior to filling all available vacancies; and,
2. was created by an examination open to persons with less than two years' service in the position immediately below the classification for which the examination was held; then,

the Commission may open an examination to persons with at least two years' service in the second lower position below the classification for which the examination is to be held.

- (3) Failure of a promotional candidate to obtain the required educational requirements constitutes a "valid reason" for bypassing that promotional candidate.
- (4) Prior to appointment, all promotional candidates shall be subject to a background check consisting of criminal history and driving records and shall be subject to a drug screen.

Section 037 RECORD OF CERTIFICATION AND APPOINTMENT

See Section 143.037, Chapter 143

Section 038 TEMPORARY DUTIES IN HIGHER CLASSIFICATION

See Section 143.038, Chapter 143

- (1) A person who has been designated by the Police or Fire Chief to temporarily perform in a higher classification shall be paid at the base rate of the higher position, but shall continue to receive longevity, stability, education pay, and certification pay, if applicable, based on the employee's own regular pay rate.
- (2) The temporary performance of the duties in a higher classification by a person who has not been promoted in accordance with the provisions of Chapter 143, shall never be construed to promote such person. Except for Assistant Chiefs appointed pursuant to § 143.014, all vacancies shall be filled from an eligibility list in accordance with Chapter 143 and the Cleburne Local Civil Service Rules.

(Sections 039-040 reserved for expansion)

SUBCHAPTER C. COMPENSATION

Section 041 SALARY

See Section 143.041, Chapter 143

Section 042 ASSIGNMENT PAY

See Section 143.042, Chapter 143

Section 043 FIELD TRAINING OFFICER ASSIGNMENT PAY

See Section 143.043, Chapter 143

Section 044 CERTIFICATION AND EDUCATIONAL INCENTIVE PAY

See Section 143.044, Chapter 143

Section 045 ACCUMULATION AND PAYMENT OF SICK LEAVE

See Section 143.045, Chapter, 143

- (1) **PAYMENT OF LEAVE UPON SUSPENSION** - - An employee who is temporarily suspended or indefinitely suspended shall exhaust all appeal rights before the City is obligated to pay any accumulated civil service sick leave as prescribed under Chapter 143. The City shall not authorize a withdrawal from the Texas Municipal Retirement System (TMRS) unless the employee submits a written resignation and terminates employment with the City.

Section 046 VACATIONS

See Section 143.046, Chapter 143

- (1) **PAYMENT OF VACATION UPON SUSPENSION** - - An employee who is temporarily suspended or indefinitely suspended shall exhaust all appeal rights before the City is obligated to pay any accumulated vacation pay as prescribed under Chapter 143.

Section 047 SHIFT DIFFERENTIAL PAY

See Section 143.047, Chapter 143

(Sections 048-050 reserved for expansion)

SUBCHAPTER D. DISCIPLINARY ACTIONS

Section 051 CAUSE FOR REMOVAL OR SUSPENSION

See Section 143.051, Chapter 143

PURPOSE - These rules shall apply to and govern all disciplinary actions and appeals of the Firefighters and Police Officers pursuant to Chapter 143 of the Texas Local Government Code. The following are declared to be grounds for dismissal or suspension of any employee from the classified service in the City of Cleburne:

- (1) Indictment, deferred adjudication or other deferred disposition, or conviction of a felony, State Class A or B misdemeanor, federal misdemeanor, or other crime involving moral turpitude;
- (2) Acts of incompetency;
- (3) Neglect of duty;
- (4) Discourtesy by said employee to the public or to fellow employees;
- (5) Acts of said employee showing a lack of good moral character;
- (6) Ingesting of intoxicants while on duty or intoxication while off duty;
- (7) Conduct prejudicial to good order;
- (8) Neglect or refusal to pay just debts;
- (9) Absence without leave, including unauthorized absence from work for a period of two (2) consecutive work shifts or more, which shall be considered a resignation;
- (10) Shirking duties or cowardice at fires;
- (11) Failure to follow all requirements and limitations established by a medical professional, including limitations on activities while off duty due to illness or work-related injury; or
- (12) Violation of the rules and regulations of the Cleburne Fire Department's Standard Operating Guidelines or General Orders, Special Orders or Direct Orders and Mandates of the Cleburne Police Department; or of Special Orders as applicable; or of these Rules and Regulations; or of any of the City Personnel Policies; or of the City Charter or any other City Ordinance or Policy applicable to Police and Fire Department employees;
- (13) For disciplinary action purposes, a determination of what constitutes cause is generally made by deciding what a reasonable person, who is mindful of the responsibilities and needs of their department, and of the standards of justice and fair dealing prevalent in the City of Cleburne, should have done (or should not have done) under similar circumstances.
- (14) A Civil Service employee may be disciplined by the Department Head by an order in writing submitted in compliance with Chapter 143 stating at least the following:
 - (a) the specific rule violation under Chapter 143, the Local Rules, the City of Cleburne Human Resource Policies and Procedures, or

other applicable rule, directive, general or special order of the department;

- (b) a description of the operative factual events giving rise to the alleged violation;
- (c) the disciplinary action to be imposed;
- (d) the effective dates;
- (e) the rights of the employee to appeal the disciplinary action; and
- (f) such other matters deemed relevant to the action or as required by law.

Section 052 DISCIPLINARY SUSPENSIONS

See Section 143.052, Chapter 143

- (1) **“CAUSE” FOR SUSPENSION** - - For a suspension, a determination of what constitutes “cause” is generally made by comparison to what a reasonable person, who is mindful of the habits and customs of his/her Department, who is also mindful of the responsibilities and needs of his/her Department and who is also mindful of the standards of justice and fair dealing prevalent in the City, should have done (or should have not done) under similar circumstances. The term “cause” shall also mean “employee misconduct” and shall necessarily include any act or omission that violates: (a) an applicable provision of Chapter 143 or (b) an applicable rule or regulation duly adopted by the Civil Service Commission of Cleburne, or the Cleburne Police or Fire Department.

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

- (2) **WORKING OFF SUSPENDED TME** - - A classified employee in the Cleburne Police or Fire Department who is suspended less than 40 hours in the Police Department or less than 72 hours in the Fire Department may, upon the employee’s request and at the respective Department Head’s discretion, forfeit vacation designated by the Department Head for a period equal to the time of the suspension. The employee shall be required to work on the forfeited vacation days. The provisions of this Section shall apply solely to a suspension which is agreed to by the employee and no appeal to the Commission or to a Hearing Examiner may be instituted on a suspension where the employee has agreed to the suspended time.

The employee shall have his/her vacation leave accumulated balance deducted in an amount equal to the suspension to qualify for this provision. In order to request Working Off Suspended Time, the suspended employee shall make a written request to the

respective Department Head either prior to a formal suspension being issued or within 120 hours after receiving the Notice of Suspension. Failure to make a written request to the Department Head within the allotted time shall result in an employee not being eligible for the provisions of this Section.

Section 053 APPEAL OF DISCIPLINARY SUSPENSION

See Section 143.053, Chapter 143

- (1) **SCOPE OF MATTERS SUBJECT TO APPEAL** - -The following disciplinary matters are subject to appeal only to the Cleburne Civil Service Commission and may not be appealed through the City's grievance procedure:
- (a) Indefinite suspension;
 - (b) Temporary suspension;
 - (c) Demotion; and/or
 - (d) Promotional passover.

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

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

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

An employee who has been terminated from his/her position for failure to maintain the minimum qualifications of employment does not have the right to utilize the disciplinary appeal process, in this Section, because that circumstance is a non-disciplinary termination.

An employee may voluntarily enter a written agreement with the Fire Chief or Police Chief that expressly evidences his/her intent finally to resolve the issue(s) of any type of disciplinary action imposed. The agreement shall also include a statement that the employee waives all rights to appeal.

- (2) If the appeal is timely and valid, the Director will arrange to have the matter placed on the Commission's agenda, or obtain a panel of Independent Third Party Hearing Examiners, as provided under Section 143.057.

(3) **OPTIONS FOR DISCIPLINARY HEARINGS**

- (a) At any time after filing the original notice of appeal, but before either party has incurred third party hearing examiner expenses, an employee may withdraw the original request for the independent third party hearing examiner and submit the appeal to a hearing before the Commission. The election must be made in writing and filed with the

Director's office. However, this election may not be used to manipulate the thirty (30) day hearing deadline imposed on Commission decisions by Chapter 143.

(b) At any time after filing of the notice of appeal, the parties may mutually agree to withdraw the appeal from an independent third party hearing examiner and submit the appeal to a hearing before the Commission. The mutual agreement must be made in writing and filed with the Director's office.

(4) **DIRECTOR TO COORDINATE ALL MATTERS** - - The location and accommodations for a hearing or appeal shall be arranged by the Director. All subsequent matters raised by the appealing employee or the Department ("the parties") regarding attendance, scheduling, requests for subpoenas, request for continuance, etc., and shall be coordinated through the Director. All such information shall be provided to the Director who shall then provide copies of same to the opposing party or representative and also coordinate the appropriate response or action to be taken. In a hearing coordinated by an outside agency, that agency shall also provide coordination services between the parties and the Hearing Examiner in conjunction with the Director.

(5) **EXPENSE AND COSTS**

(a) If appealed to a Hearing Examiner, the Hearing Examiner's fees and expenses are shared equally by the employee and the Department. The cost of a witness is paid by the party who calls the witness.

(b) The appropriate amount, as well as payment of all costs and expenses, may be determined and collected by the Director. An employee may receive an estimate of anticipated costs upon written request to the Director. All costs charged by the court reporter shall be split equally between the parties.

(c) When applicable, the State law governing the doctrine of "mitigation of damages" shall be applied in computing reimbursements or an offset from an award of back pay. The Commission or hearing examiner shall permit introduction of evidence on mitigation of back pay by either the employee or the Department Head.

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

(7) **EMPLOYEE AND DEPARTMENT REPRESENTATIVES**

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

- (b) An employee or Department representative shall use his/her best efforts to conclude all proceedings smoothly, expeditiously, and as fairly as possible to all concerned.
- (c) The function of the representative shall be to articulate the best interests of the employee or the Department represented and to make his/her presentations pertinent to the issue(s) being considered. Dissatisfaction with a representative shall not constitute grounds for modification of the final ruling.
- (d) A representative or an employee who represents him/herself shall become familiar with and follow these Rules and Regulations at all times during the disciplinary appeal process.
- (e) A problem or concern regarding the manner in which the opposing party or his/her representative is handling a particular disciplinary appeal should be brought to the attention of the Director. The difficulty shall be expeditiously addressed.

(8) LIMITED DISCOVERY

- (a) The Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, and all other Rules of Procedure, whether civil or criminal, regarding what is commonly known as “discovery” shall not apply to any civil service proceedings. Mediation and arbitration rules and processes do not apply to any civil service hearings.
- (b) Items from Departmental policies, rules and regulations manuals may be photocopied. Items such as Accident Review Board recommendations, time and attendance records, duty status forms and other such documents may also be provided so long as they are relevant to the employee and the disciplinary action under appeal.
- (c) An employee and his/her representative may obtain copies of documents contained in the employee’s official civil service file, maintained under Section 143.089(a), after the employee has signed the appropriate release form(s).
- (d) Before requesting a subpoena duces tecum for the production of documentary material, a party shall first make a request for the materials directly to the other party and provide a reasonable time for a response. If the request is refused or otherwise not produced, then a request may be made to the Commission to issue the subpoena duces tecum. Requests for subpoenas shall be completed at least ten (10) calendar days prior to the scheduled hearing date in order to be processed in time.
- (e) All requests for subpoenas to compel the attendance of a witness shall be coordinated through the Director’s Office. Requests for subpoenas shall be completed at least ten (10) calendar days prior to the scheduled hearing date in order to be processed in time. The Director may have subpoenas issued on behalf of the Commission.

An Officer or Firefighter will not be paid for attending or appearing as a witness in his or her own appeal hearing, with or without a subpoena. The appealing Officer or

Firefighter may request that his/her schedule be flexed out, or he/she may use accrued paid time off. A request for time off for a Police Officer or Firefighter to attend his/her own appeal hearing will not be unreasonably denied by the respective Department Head.

(f) The parties will exchange exhibit lists and the identity of all potential witnesses to the other party at least three (3) calendar days prior to the beginning of the scheduled hearing.

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

(a) City's opening statement

(b) Employee's opening statement

(c) The City's (Department's) case:

(i) Direct testimony of witness

(ii) Cross-examination of witness

(iii) Redirect

(iv) Additional questions, if any, by Commission

(d) Employee's response:

(i) Direct testimony of witness

(ii) Cross-examination of witness

(iii) Redirect

(iv) Additional questions, if any, by Commission

(e) Rebuttal by the City, if any:

(i) Direct testimony of witness

(ii) Cross-examination of witness

(iii) Redirect

(iv) Additional questions, if any, by Commission

(f) City's closing argument

(g) Employee's closing argument

(h) City's rebuttal

(i) Deliberation by the Commission in Executive Session

(j) Decision and vote in open session

(10) **HEARING PROCEDURES**

- (a) All disciplinary appeal proceedings shall be public hearings.
- (b) At the scheduled time and place, the hearing shall be called to order.
- (c) Each party shall come to the hearing prepared and ready to proceed so as to minimize any disruption of the hearing process. Each party shall bring at least six (6) copies of all documents or exhibits to be considered by the Commission at the hearing.
- (d) A record of the public proceedings, capable of clear and accurate reproduction or transcription, shall be made and maintained by the Director.
- (e) After being called to order, but prior to the beginning of testimony or evidence, consideration shall be made as to any pre-hearing motions, requests or jurisdictional matters as submitted by either party. The parties shall also seek to obtain as many stipulations as possible as to non-contested or non-material matters. The Commission may “carry” such pre-hearing motions until the hearing is completed and all factual evidence has been presented before making its final ruling thereto.
- (f) Unless waived by the parties, the hearing shall then proceed with the reading into the record the statement of charges and specifications, as well as factual summary of the operative events as filed with the Commission by the Department Head and which forms the basis of the disciplinary action imposed on the employee.
- (g) Upon request by either party, the hearing process shall utilize what is commonly known as “the Rule” concerning oral testimony, meaning that a person who shall be expected to testify at the hearing, other than the parties and their representatives, shall not be allowed to observe or listen to any of the proceedings except when he/she is actually testifying as a witness. “The Rule” may be used to ensure one witness’ testimony is not influenced by another’s testimony. While under “the Rule,” a potential witness shall not discuss any aspect of the appeal or hearing except with the attorneys or the representatives involved. Invoking “the Rule” is not mandatory and may be waived in whole or in part by agreement between the parties.
- (h) The hearing shall then proceed to develop the evidence and testimony as to those contested matters.
- (i) The City shall make the first presentation of evidence and testimony. Thereafter, the employee shall have the opportunity to respond with his/her own evidence, witnesses or testimony. Thereafter, the City may come forward with rebuttal evidence or testimony as may be necessary. Presentations by both parties shall be as brief and as closely related to the issue(s) as much as is possible. Throughout the proceedings, a Commission member may also ask questions as needed in order to aid his/her consideration of the testimony or evidence.

- (j) A witness may be sworn and his/her testimony taken under oath or affirmation. A witness is subject to reasonable and relevant cross-examination by the opposing party.
- (k) The Chairperson shall exercise reasonable control over the questioning of a witness and the presentation of evidence so as to:
 - (i) effectively ascertain the truth;
 - (ii) keep such presentations relevant to the issues to be determined; and
 - (iii) avoid the needless consumption of time and expense.
 - (iv) Protect the witness from harassment or undue embarrassment.
- (l) A party and his/her representative shall cooperate in keeping all presentations as brief and to the point as possible. Long drawn-out sessions shall be discouraged. The Commission may establish equal time limits for presentation of each side of the case.
- (m) A hearing shall remain business-like and focus upon resolution of factual matters. A hearing shall not be a time for accusations, threats, speeches or arguments. The Commission shall have the discretion to adjourn any meeting that deteriorates into a "shouting match" or where fruitful dialogue ceases.
- (n) The Commission shall have the discretion to control the length of time of any particular session as well as the amount of time provided for recesses, breaks, lunch hours, etc.
- (o) Before adjourning, the Commission may adjourn to Executive Session to deliberate. Thereafter, the Commission shall reconvene in open session and shall, upon motion and second, vote upon its decision. Thereafter, a written Order containing the Decision shall be prepared and signed by the Commissioners prior to adjourning the hearing.

(11) RULES OF EVIDENCE

- (a) Technical rules of evidence shall not apply nor control the conduct of any hearing. The Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, and all other Rules of Procedure, whether civil or criminal, shall not apply nor govern any aspect of any civil service proceeding.
- (b) The scope of evidence to be considered at a disciplinary hearing shall be generally limited to matters material and probative to the statement of charges as set forth in the Department's written statement, the employee's notice of appeal as well as the employee's previous employment record with the Department.
- (c) Either party may offer such material and probative evidence as he/she may desire

to aid in the determination of disputed issues.

- (d) It shall be the province of the Commission to determine:
 - (i) The admissibility or inadmissibility of any particular evidence or testimony;
 - (ii) The relevance or value, of any evidence or testimony;
 - (iii) The credibility, or lack thereof, of any particular evidence or testimony;
 - (iv) The weight to be given to any particular evidence or testimony.
- (e) Subject to limited exceptions for compelling reasons shown by a party, the Commission shall refuse to hear or consider any testimony or item of evidence after the hearing has been closed. An example of a “compelling reason” would be where a party has deliberately withheld previously known and duly requested evidence from the other party until the hearing has been closed, and such evidence should have been previously produced as per these Rules.
- (f) The Commission may receive and consider the evidence of a witness by affidavit and assign same such weight as it deems proper after consideration of objections, if any, made to its admission.
- (g) On-site inspections are discouraged and shall be conducted only if the evidence to be considered cannot be otherwise presented via stipulations, photographs, videotapes, maps, diagrams, etc.
- (h) All evidence and testimony shall be presented and received into the record while in open session.

(12) ISSUES TO BE DETERMINED IN DISCIPLINARY APPEALS

- (a) Generally, the determinative issues to be considered and determined by the disciplinary action appeal process shall be:
 - (i) Did cause exist to support the imposing of some form of disciplinary action as to the employee?
 - (ii) Was the degree of disciplinary action imposed by the Department reasonable under the circumstances? and
 - (iii) Has the hearing process developed matters that justify or compel modification of the Department Head’s disciplinary action?
- (b) The Department Head shall establish the violation(s) by a substantial evidence standard.
- (c) It shall be recognized that prior to imposing any form of discipline, the Department Head may use lesser forms of disciplinary or corrective action. However, the failure to utilize progressive discipline shall not in itself be grounds to overturn or otherwise modify a Department Head’s decision to proceed directly to the appropriate level of discipline if the employee’s misconduct warrants such disciplinary action, including indefinite suspension. Progressive discipline need not

always apply and the seriousness of a single offense may negate a previously unblemished record.

- (d) The hearing shall provide the employee a reasonable opportunity to produce objective evidence and/or testimony to develop:
 - (i) That the employee did not commit the misconduct as alleged, i.e., “the allegations are not true”; or
 - (ii) That even if the employee committed the acts as alleged, that such activity does not constitute actionable misconduct; or
 - (iii) That even if the employee committed actionable misconduct, that the degree of discipline imposed is too harsh or severe, i.e. the disciplinary action imposed was “unreasonable, arbitrary or capricious”; or
 - (iv) A combination of any of these matters would justify or compel modification of the Department Head’s action.
- (e) An employee’s mere disagreement or difference in opinion in regard to the Department Head’s actions or reasoning shall not constitute grounds to overturn nor modify the disciplinary action.
- (f) If the Commission determines one valid charge of misconduct is supported by evidence sufficient to establish its truth, the Commission shall sustain that charge even if the evidence at the hearing does not support other charges in the letter of disciplinary action.

(13) FINDINGS AND ORDERS OF THE COMMISSION

- (a) On the basis of the evidence and testimony presented at the hearing, the Commission shall vote and issue a decision on the matter via a written Order finding the truth of the specific charge(s) against the employee, or a written Order finding that the specific charge(s) against the employee is not true.
- (b) The Commission’s decision may be made by the majority vote of two of the three Commissioners present. If only two Commissioners are present, the final decision shall be made unanimously.
- (c) In the event that the charge(s) of misconduct against the employee is found to be “not true,” then the final Order shall be promptly to restore the employee to the employee’s proper position or status without penalty.
- (d) In the event that the charge(s) of misconduct against the employee is found to be “true,” then the final Order shall clearly state whether the employee is:
 - (i) Permanently dismissed from the Fire or Police Department; or

- (ii) Temporarily suspended from the respective Department and shall then set forth the definite time period and conditions of suspension which shall be imposed;
 - (iii) Demoted (See Section 143.054)
- (e) The final Order on a disciplinary appeal shall also include such other matters as to resolve the issues under consideration, particularly:
- (i) The employee's resulting employment status;
 - (ii) Back pay and other employment benefits; and/or
 - (iii) Mitigation of damages.
- (f) If modifying the disciplinary action of the Department, the Order shall clearly explain in writing the factors and rationale for doing so. If affirming the disciplinary action of the Department, it shall be presumed to be for the same reasons and facts as presented by the Department unless otherwise indicated.
- (g) The Commission may consider evidence of facts or events during the disciplinary appeal process that are outside the scope of the Department's statement of charges or the employee's notice of appeal to the extent permitted by law.
- (h) A copy of the Department's disciplinary action, a copy of the employee's request for appeal, the record of the proceedings, a copy of the exhibits submitted together with a copy of the final Order shall be filed in the Commission record. The Commission may cite these records as reference material in subsequent determinations.

Section 054 DEMOTIONS
See Section 143.054, Chapter 143

- (1) **PROBABLE CAUSE** - - The Commission's consideration of whether there is probable cause to support the Department Head's recommendation for demotion does not require an evidentiary hearing. If the Commission determines that probable cause exists for a recommended demotion, the Commission's letter to the employee shall include the Hearing Examiner option under Chapter 143.
- (2) **APPEAL OF PROBABLE CAUSE FINDING** - - After the Commission has determined that probable cause exists for a requested demotion and has provided the employee with a written Notice as per Chapter 143, the procedures for appeal of the demotion shall be conducted according to the same hearing procedures as set forth above for all other disciplinary actions, or as expressly provided otherwise in Chapter 143.

Section 055 UNCOMPENSATED DUTY OF POLICE OFFICERS
See Section 143.055, Chapter 143

**Section 056 PROCEDURES AFTER FELONY INDICTMENT
OR MISDEMEANOR COMPLAINT**

See Section 143.056, Chapter 143

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

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

Section 057 HEARING EXAMINERS

See Section 143.057, Chapter 143

- (1) Only a disciplinary action concerning an indefinite suspension, a suspension, a promotional passover or a recommended demotion is appealable to a Hearing Examiner.
- (2) The Director shall coordinate with the parties and the agency sponsoring the Hearing Examiner as to all matters regarding scheduling, place of hearing, accommodations, etc.
- (3) The rule-making power and authority of the Commission is in no way conferred upon and/or delegated to any Hearing Examiner, either by implication or otherwise.
- (4) In a disciplinary appeal conducted under Chapter 143, the Hearing Examiner shall have the "same duties and powers" as would the Commission, including the right to issue subpoenas to compel the attendance of a witness.
- (5) A disciplinary proceeding conducted by a Hearing Examiner instead of the Commission shall not be conducted or resolved via arbitration or arbitration processes. An employee's election of appeal to a Hearing Examiner shall not constitute a right or an agreement to submit the appeal to arbitration or arbitration processes.
- (6) The Hearing Examiner is to conduct a hearing fairly, objectively and impartially under the provisions of Chapter 143 and these Rules and Regulations. The Hearing Examiner is to render a fair and just decision based solely on the evidence presented in the hearing. The scope of evidence to be considered at the hearing shall be generally limited to matters closely relevant to the charges of misconduct as set forth in the Department's written statement and the employee's notice of appeal as filed with the Commission, as well as the employee's previous work record with the Department.
- (7) All hearings conducted by a Hearing Examiner shall also be recorded so as to be capable of clear and accurate reproduction or transcription.

- (8) If a situation arises pertaining to the administration process of selecting a Hearing Examiner, or meeting notices, or request for rescheduling, refusal, conflict or interest, etc., and the situation is not provided for Chapter 143 or in these Rules and Regulations, then the parties and the Director shall attempt to mutually resolve the situation by agreement. If the matter is not one capable of being reasonably resolved by agreement, the Director may refer the matter to the administrative processes of the entity sponsoring the Hearing Examiner to resolve the situation within its own processes.
- (9) If a Hearing Examiner has been initially selected but is thereafter objected to or is asked to be excused by a party, both parties may mutually agree to excuse the Hearing Examiner and thereafter request a new list of qualified and neutral Hearing Examiners and start the selection process over again. If no such agreement can be reached, then both parties shall prepare a written statement including their requests and reasoning therefore which shall be submitted to the Director. The Director shall then transmit it to the entity sponsoring the Hearing Examiner, which shall then resolve the dispute according to its own administrative processes. The response shall either excuse the Hearing Examiner and thereafter provide a new list, or it shall provide a written statement of reasons why the Hearing Examiner was not excused.
- (10) In all cases, the employee filing the appeal shall strike the first name from the list of possible hearing examiners.

(Sections 058-070 reserved for expansion)

SUBCHAPTER E. LEAVES

Section 071 LEAVES OF ABSENCE; RESTRICTION PROHIBITED

See Section 143.071, Chapter 143

Section 072 MILITARY LEAVE OF ABSENCE

See Section 143.072, Chapter 143

Section 073 LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE

See Section 143.073, Chapter 143

- (1) "Temporary leave" under this section shall not exceed one (1) year.
- (2) "Full pay" status is defined as the employee's regular rate of pay for his normally scheduled work time, less the amount of tax savings the employee will have as a result of the non-taxability of workers compensation benefits. However, it is the police officer or fire fighter's obligation to make arrangements with the City to ensure his/her TMRS obligations are met.
- (3) In assigning light duty to employees, the Fire and Police Chiefs may assign employees to duties outside the Police and Fire Departments, with the concurrence of the City Manager.

- (4) Employees who are out on injury leave must provide, on a bi-monthly basis, the DWC Form 73 and the applicable City Form to the Department Head or his designee, in order to continue to obtain benefits, and may be ordered to appear before the Commission in the event of a failure to comply with this requirement.
- (5) Employees on injury or illness leave for more than the number of days established in Police Department General Orders and Fire Department Rules and Regulations, must notify their Chief, or his designee, of their status on a weekly basis.
- (6) The Fire and Police Chiefs may order home checks to be made on any employee off work under this subsection, and may order any employee to provide a doctor's letter verifying any claimed illness or non-work injury.
- (7) Police Officers and Firefighters shall use illness or injury leave to recuperate and not be involved in other employment, self-employment or activities that may hinder recuperation.

Section 074 REAPPOINTMENT AFTER RECOVERY FROM DISABILITY
 See Section 143.074, Chapter 143

Section 075 MILITARY LEAVE TIME ACCOUNTS
 See Section 143.075, Chapter 143

- (1) A firefighters or police officer who:
 - (a) is a member of the Texas National Guard or the armed forces reserves of the United States;
 - (b) was called to active federal military duty while serving as a firefighter or police officer for the municipality;
 - (c) has served on active duty for a period of 3 continuous months or longer;

and
 May request to use donated military time as needed. Hours will be distributed equally per pay period and in accordance with City policy.

(Sections 076 - 080 reserved for expansion)

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

Section 081 DETERMINATION OF PHYSICAL OR MENTAL FITNESS
 See Section 143.081, Chapter 143

- (1) **FITNESS STANDARD** - - Each employee shall continually remain in such physical and mental condition as to be capable of rendering safe and efficient service to the City and performance of the duties and essential functions assigned to the employee.
- (2) **RELEASE OF EXAMINATION RESULTS** - - Each employee shall be required to submit to a psychological or physical examination where there exists some reasonable basis

to believe that the employee's mental or physical fitness for duty is an issue, An employee ordered to submit to a fitness for duty evaluation, must execute a written consent to the release of the results to the Commission and the Chief of the Department. Determination of the employee's mental and/or physical fitness for duty shall not be subject to Commission or Hearing Examiner's review. The findings of the medical panel as outlined in Chapter 143 shall be determinative and final.

- (3) **FAILURE TO FOLLOW FITNESS REGIMEN** - - Employees who fail to follow the regimen prescribed by their physician for recuperation may be ordered to undergo a fitness for duty evaluation, and may be ordered to appear before the Commission to explain any such failure(s).
- (4) **SICK LEAVE ABUSE** - - The Fire and Police Chiefs shall report to the Commission any employee whom they believe is abusing sick or injury leave, and the Commission may require the attendance of the employee at any meeting convened to discuss a fitness for duty evaluation ordered under this section.

Section 082 EFFICIENCY REPORTS

See Section 143.082, Chapter 143

Section 083 EMERGENCY APPOINTMENT OF TEMPORARY FIRE FIGHTERS AND POLICE OFFICERS

See Section 143.083, Chapter 143

Section 084 CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIREFIGHTERS AND POLICE OFFICERS

See Section 143.084, Chapter 143

Section 085 FORCE REDUCTION AND REINSTATEMENT LIST

See Section 143.085, Chapter 143

Section 086 POLITICAL ACTIVITIES

See Section 143.086, Chapter 143

Section 087 STRIKE PROHIBITION

See Section 143.087, Chapter 143

Section 088 UNLAWFUL RESIGNATION OR RETIREMENT

See Section 143.088, Chapter 143

Section 089 PERMANENT PERSONNEL FILE

See Section 143.089, Chapter 143

- (1) Access to records of employees in the classified service, employment applications, background investigation records and reports, examinations and answer sheets shall be

governed by Chapter 143 of the Texas Local Government Code and the Texas Government Code and appropriate federal statutes.

- (2) When a hearing is to be conducted by the Commission or a hearing examiner under §143.052 or §143.054, or a promotional passover under §143.036, the Chief may submit confidential material from the Departmental Personnel file *in camera* for the Commission's consideration. If the Commission decides to admit the confidential documents as evidence, the Commission shall admit them under seal with instructions they are not to be released to any third party. The Commission shall require the parties to execute a protective order to this effect and make such order a part of the official record of the hearing. This rule applies equally to hearings conducted under §143.057 by hearing examiners.

Section 090
Reserved for Expansion

Section 091 VOLUNTARY RESIGNATIONS

- (1) **ACCEPTANCE** - - When a Police Officer or Firefighter submits a voluntary resignation, the resignation letter shall be immediately delivered to the City Manager, or his designee, for acceptance. The resignation is effective immediately upon acceptance by the City Manager or his designee. Acceptance may be indicated by, among other actions, authorizing the payment of accrued leave and/or salary
- (2) **FILING** - - Once the City Manager has accepted the voluntary resignation, it shall be filed with the Director. If the employee is eligible for re-hire, he or she may be re-hired only in accordance with the provisions of the Civil Service Act and these Rules and Regulations.

Section 092 TRANSFERS BETWEEN DEPARTMENTS

Transfers of civil service employees between the Fire and Police Departments shall not be permitted, unless the transferring employee has undergone all of the testing requirements specified in Chapter 143 and these Rules and Regulations and is then appointed from an eligibility list for the applicable department.

Appendix

FIREFIGHTER APPLICANT PHYSICAL ABILITY ASSESSMENT

Applicants for the position of Probationary Firefighters will be required to successfully complete the Physical Ability Assessment in order to be placed on the eligibility list.

- (1) The Physical Ability Assessment shall be comprised of a series of activities. It shall be a continuously timed event, with a time limit of five minutes and thirty seconds to complete the exercise. The applicant will be required to:

- (a) Perform a simulated hose drag for a distance of 125 feet.
 - (b) Carry one 50 ft. section of 3" hose up to the third floor of the drill tower.
 - (c) Using a rope, hoist one 50 ft. section of 3" hose from the ground floor to the third floor of the drill tower.
 - (d) Carry one 50 ft. section of 3" hose down from the third floor of the drill tower.
 - (e) Simulate axe use by driving the Kaiser sled a distance of three feet using an eight-pound dead-blow sledge hammer.
 - (f) Using the fireman's drag walking backwards, move a 170 pound dummy a distance of 76 feet.
 - (g) Lift and carry a 16 foot straight ladder through the burn house without striking the walls or doors with the ladder.
- (2) Participants will be allowed to wear athletic shoes and kneepads in place of structural firefighting pants and boots. Item (a) will require the participant to wear a structural firefighting coat, helmet, and self contained breathing apparatus (SCBA) without the mask.
- (3) An applicant failing to pass the physical ability assessment shall be deemed unsuitable for employment and not proceed further in the selection process.

POLICE OFFICER APPLICANT PHYSICAL ABILITY ASSESSMENT

Applicants for the position of Probationary Police Officers will be required to successfully complete the Department's Physical Ability Assessment in order to be placed on the eligibility list.

- (1) The minimum standard for all applicants is passing the physical ability assessment the Department baseline percentile according to their age and gender as reflected in the The Cleburne Police Department Fall 2018 Physical Readiness Testing Report.
- (2) The Department's physical ability assessment consists of rowing 2000 meters on a Concept 2 Rower with a damper setting of 5. The VO2 2000m Row Test is a scientifically accepted measure of cardiorespiratory fitness, which translates to an officer's physical readiness in the field during times of stress or altercation that require large, sustained energy consumption. VO2max is a measure of the body's capacity for aerobic work and, thus, can be a predictor of a person's potential for endurance.

Applicants can determine their target time by entering gender, weight, and age range in the VO2 Max calculator available on the Cleburne Police Department website.

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(3) The minimum standard for each applicant is based on age and gender. Using the percentage results for the test battery found in Cleburne Police Department Fall 2018 Physical Readiness Testing Report and 2000 meter row calculator.

(4) Applicants must meet a minimum of 25% score for each test for the age and gender to be considered for employment.

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(5) Participants will be allowed to wear athletic shoes

(6) An applicant failing to pass the physical ability assessment shall be deemed unsuitable for employment and not proceed further in the selection process.

ORDER OF ADOPTION

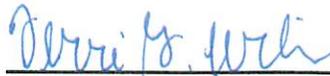
BE IT HEREBY KNOWN, that on this date, the Civil Service Commission of the City of Cleburne, Texas, met in open session for the purpose of consideration and adoption of the City of Cleburne Firefighters' and Police Officers' Civil Service Commission Rules and Regulations. Upon proper motion having been made and seconded, the Commission proceeded to officially adopt the Rules and Regulations for Civil Service employees as set forth on the attached pages.

Therefore, it is the ORDER of this Commission that the Rules and Regulations as set forth be and are hereby adopted as the official Rules and Regulations for Cleburne Civil Service Employees.

It is the further ORDERED of this Commission that the Director of Civil Service shall immediately cause these Rules and Regulations to be officially recorded and thereafter published in accordance with Chapter 143 of the Texas Local Government Code.

It is the further ORDERED of this Commission that the Rules and Regulations as adopted shall become fully effective on February 18, 2020 and as soon as all the conditions contained in §143.008(e) have been met.

Signed this 18 day of February 2020



Terri Wilson, CHAIRPERSON



M.C. Davis, VICE-CHAIRPERSON

COMMISSIONER

ATTEST:



Civil Service Director