



**TAKE NOTICE THAT A REGULAR MEETING  
OF THE CIVIL SERVICE COMMISSION  
OF THE CITY OF PHARR, TEXAS  
WILL BE HELD AT CITY HALL, COMMISSIONERS' ROOM,  
118 S. CAGE BLVD., 2<sup>ND</sup> FLOOR, PHARR, TEXAS  
COMMENCING AT 9:00 AM ON  
TUESDAY, DECEMBER 19, 2023**

If during the course of the meeting, the Civil Service Commission should determine that a closed or executive session of the commission is required, then such closed or executive session or meeting is authorized by Section 551.071 to 551.084 of the Texas Government Code. Notice of closed or executive session will be given after the commencement of the meeting covered by this notice.

Should any final action, decision or vote be required in the opinion of the Civil Service Commission with regard to any item discussed during the closed meeting, then such final action, decision or vote shall be made during the open meeting covered by this notice upon the reconvening of the public meeting pursuant to Section 551.102 Government Code V.T.C.S.

In compliance with Section 551.041 et seq. of the Texas Government Code V.T.C.S. (Open Meetings Act), notice is hereby given that the Civil Service Commission will meet at the time and place indicated to consider and act upon the following:

**1. CALL TO ORDER:**

A) Roll call and possible action on the excusing of any absent member.

**2. PUBLIC TESTIMONY:** *(Ordinance No. O-2019-45). A person intending on addressing the governing body may speak at a scheduled meeting of the governing body following registration with the presiding clerk and prior to the scheduled meeting. A registered speaker may speak only on items on the agenda and may not exceed 1.5 minutes when addressing the board regarding an agenda item. A registered speaker may not donate time to another speaker. A sign-in form for public testimony shall be promulgated by the presiding clerk and be made available at the city clerk's office. A person may sign up for public testimony beginning at the time the agenda is posted for the meeting. A person may not sign up later than one hour before the posted meeting is scheduled to begin. No registered speaker may be allowed to speak regarding an item once the public testimony portion of the agenda has ended.*

**3. REGULAR AGENDA - OPEN SESSION:**

A) Approval of minutes for September, 6, 2023 Regular Called Meeting. **This item supports SG - Sound Governance and Fiscal Sustainability.**

B) Consideration and possible action to approve and update the Pharr Police and Fire Civil Service Rules and Regulations. **This item supports SSC - Safe and Secure Community.** (HR)

**4. ADMINISTRATIVE REPORTS.**

**5. CIVIL SERVICE DIRECTORS REPORTS.**

**6. CIVIL SERVICE COMMENTS.**

**7. CLOSED SESSION:** *In accordance with Chapter 551 of the Texas Gov't. Code, the Civil Service Board of Commissioners hereby gives notice that it may meet in closed session to discuss the items listed on the public portion of the meeting agenda, in accordance with the following below:*

Pursuant to Section 551.071, the Commission may convene in a closed, non-public meeting with its attorney and discuss any matters related to **legal advice on pending or contemplated litigation, settlement offer, and/or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.** The City and its attorney may also discuss such issues with the appropriate staff so as to obtain necessary and relevant information so that such discussion is informative and developed.

Pursuant to Section 551.074, the Commission may convene in a closed, non-public meeting to discuss any matters related to **appointment, employment, evaluation, reassignment, duties and discipline or dismissal of a public officer or employee and to hear any complaints or charges against an officer or employee.** The City and its attorney may also discuss such issues with the appropriate staff including members so as to obtain necessary and relevant information so that such discussion is informative and developed.

Pursuant to Section 551.076, the Commission may convene in a closed, non-public meeting to discuss any matters on the **deployment, or specific occasions for implementation, of security personnel or devices.** The City and its attorney may also discuss such issues with the appropriate staff so as to obtain necessary and relevant information so that such discussion is informative and developed.

Pursuant to Section 551.084, the Commission may convene in a closed, non-public meeting to discuss any matters involving an **investigation and may exclude a witness from hearing during the examination of another witness in the investigation.** The City and its attorney may also discuss such issues with the appropriate staff so as to obtain necessary and relevant information so that such discussion is informative and developed.

**8. RECONVENE** into open session and consider action, if necessary, on any item(s) discussed in closed session.

**9. ADJOURNMENT.**

**NOTICE OF ASSISTANCE AT THE PUBLIC MEETING**

City Hall is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Clerk's Office at 956/402-4100 ext. 1016/1007 or FAX 956/702-5313 or E-mail [hilda.pedraza@pharr-tx.gov](mailto:hilda.pedraza@pharr-tx.gov) or [imelda.barrera@pharr-tx.gov](mailto:imelda.barrera@pharr-tx.gov) for further information. Braille is not available.

I, the undersigned authority, do hereby certify that the above notice of said Regular Meeting of the Civil Service Commission of the City of Pharr was posted on the bulletin board at City Hall and on the City's web page at [www.pharr-tx.gov](http://www.pharr-tx.gov). This Notice was posted on the 15th day of December 2023 at 9:00 a.m. and will remain posted continuously for at least 72 hours preceding the scheduled time of said Meeting, in compliance with Chapter 551 of the Government Code, Vernon's Texas Codes, Annotated (Open Meetings Act).

**WITNESS MY HAND AND SEAL, this 15th day of December 2023**



  
\_\_\_\_\_  
HILDA PEDRAZA, TRMC, CMC  
CITY CLERK



## AGENDA MEMORANDUM



**BOARD:** Civil Service Commission

**AGENDA ITEM #:** 3.A.

**DATE SUBMITTED:** December 13, 2023

**MEETING DATE:** December 19, 2023

**FROM:** Beatriz Fuentes, HR Coordinator

**DEPARTMENT:** HR

**DIRECTOR:** Hilda Pedraza

**Agenda Item:** Approval of minutes for September, 6, 2023 Regular Called Meeting. This item supports **SG - Sound Governance and Fiscal Sustainability.**

**Classification:** Regular

(\* If closed session, City Attorney must review and approve.)

**Issue:** N/A

**Fiscal Consideration:**

**Staff Recommendation:** Approval of minutes as presented.

**Alternatives:**

**Exclude Material from Public Packet?** No

**Reason:**

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### **ROUTING:**

Beatriz Fuentes

Hilda Pedraza

Created/Initiated - 12/13/2023

Final Approval - 12/14/2023

**MINUTES  
CIVIL SERVICE COMMISSION**

The Civil Service Commission met in a Regular Called Meeting on Wednesday, September 6, 2023, at the Commissioners' Room located at 118 South Cage Blvd., 2nd Floor, Pharr, Texas. The following is the record of attendance.

**MEMBERS PRESENT:** Chairperson, Dolores Rodriguez  
Vice-Chairperson, Mario Lizcano  
Board Member, Vittorio Puente

**MEMBERS ABSENT:** None

**STAFF PRESENT:** Jonathan Flores, City Manager  
Hilda Pedraza, Asst. City Manager/CS Director  
Bea Fuentes, HR Coordinator/CS assistant  
Albert Gonzalez, Asst. Fire Chief  
Juan Gonzalez, Police Chief

**ITEM 1 CALL TO ORDER**

**A) ROLL CALL AND POSSIBLE ACTION ON THE EXCUSING OF ANY ABSENT MEMBER**

Chairperson Rodriguez called the meeting to order at 8:30 a.m. Roll call established a quorum.

**ITEM 2 PUBLIC TESTIMONY**

There were no comments from the public.

**ITEM 3 REGULAR AGENDA – OPEN SESSION:**

**A) APPROVAL OF MINUTES FOR JULY 25, 2023, SPECIAL CALLED MEETING. THIS ITEM SUPPORTS SG- SOUND GOVERNANCE AND FISCAL SUSTAINABILITY**

Chairperson Rodriguez introduced the item.

Vice-Chairperson Lizcano moved to approve minutes as submitted. Board Member Puente seconded the motion and when put to a vote, it carried unanimously.

**B) CONSIDERATION AND ACTION, IF ANY, ON APPROVING AND ACCEPTING THE RAW AND FINAL SCORES FROM THE PROMOTIONAL EXAM FOR LIEUTENANT FOR THE FIRE DEPARTMENT ON FRIDAY, AUGUST 25, 2023. THIS ITEM SUPPORTS SSC - SAFE AND SECURE COMMUNITY (HR)**

Chairperson Rodriguez introduced the item.

Hilda Pedraza, Civil Service Director, stated the resulting raw and final scores were submitted for approval. She reported a total of six (6) candidates tested and two passed with a score of 70 or better. She further stated staff recommended approval of the scores as submitted.

Vice-Chairperson Lizcano moved to approve. Board Member Puentes seconded the motion and when put to a vote, it carried unanimously.

**C) CONSIDERATION AND ACTION, IF ANY, ON APPROVING AND ACCEPTING THE ELIGIBILITY LIST CREATED FROM THE PROMOTIONAL EXAM FOR LIEUTENANT FOR THE FIRE DEPARTMENT ON FRIDAY, AUGUST 25, 2023. THIS ITEM SUPPORTS SSC - SAFE AND SECURE COMMUNITY (HR)**

Chairperson Rodriguez introduced the item.

Hilda Pedraza, Civil Service Director, stated the resulting eligibility list had two (2) candidates successfully passing the promotional exam and recommended approval.

Vice-Chairperson Lizcano moved to approve and accept the eligibility list. Board Member Puentes seconded the motion and when put to a vote, it carried unanimously.

**D) CONSIDERATION AND ACTION, IF ANY, ON APPROVING AND ACCEPTING THE RAW AND FINAL SCORES FROM THE ENTRY LEVEL EXAM FOR PEACE OFFICER FOR THE POLICE DEPARTMENT ON SATURDAY, AUGUST 26, 2023. THIS ITEM SUPPORTS SSC - SAFE AND SECURE COMMUNITY (HR)**

Chairperson Rodriguez introduced the item.

Hilda Pedraza, Civil Service Director, stated forty-eight (48) applicants tested for peace officer on August 26, 2023 and stated the resulting raw and final scores were submitted and recommended approval.

Vice-Chairperson Lizcano moved to approve. Board Member Puentes seconded the motion and when put to a vote, it carried unanimously.

**E) CONSIDERATION AND ACTION, IF ANY, ON APPROVING AND ACCEPTING THE ELIGIBILITY LIST FROM THE ENTRY LEVEL EXAM FOR PEACE OFFICER FOR THE POLICE DEPARTMENT ON SATURDAY, AUGUST 26, 2023. THIS ITEM SUPPORTS SSC - SAFE AND SECURE COMMUNITY (HR)**

Chairperson Rodriguez introduced the item.

Hilda Pedraza, Civil Service Director, stated forty-four (44) applicants successfully had passed the written exam with a 70 or better. She further stated the eligibility list submitted ranked the applicants from the highest to the lowest score and recommended approval.

Vice-Chairperson Lizcano moved to approve. Board Member Puente seconded the motion and when put to a vote, it carried unanimously.

#### **ITEM 4. ADMINISTRATIVE REPORTS**

Chairperson Rodriguez introduced the item.

Albert Gonzalez, Asst. Fire Chief, briefly reported three firefighters were hired and stated two went straight on-shift and one was sent to the South Texas College (STC) Fire academy for the next 6 months. Chief Gonzalez further reported the She's My Hero Camp held in August 2023 had been a great success.

Juan Gonzalez, Police Chief, reported Pharr Police Department recently conducted a physical exam for entry level positions and stated 33 out of 44 applicants had passed and staff would be moving forward with already certified officers in the hiring process.

Juan Gonzalez, Police Chief, further reported for the past 2 years the Pharr Police Department had been promoting and encouraging females to this career and stated they currently had 13 female police officers. Chief Gonzalez promoted the Citizens Police Academy and Badge of Youth Academy and stated these programs give the citizens of Pharr the opportunity to see the daily operation of the Police Department. Lastly, he reported the Mental Health Unit would be hosting the 3<sup>rd</sup> Annual Stick by Me event at Pharr Nature Park on September 8, 2023 to bring awareness to suicide prevention.

#### **ITEM 5. CIVIL SERVICE DIRECTOR'S REPORTS**

Chairperson Rodriguez introduced the item.

Hilda Pedraza, Civil Service Director, stated she had no reports at this time.

#### **ITEM 6. CIVIL SERVICE COMMENTS**

Chairperson Rodriguez introduced the item and there were no comments from the Commission.

#### **ITEM 7. CLOSED SESSION**

None

**ITEM 8. RECONVENE INTO REGULAR SESSION, AND CONSIDER ACTION, IF NECESSARY ON ANY ITEM(S) DISCUSSED IN EXECUTIVE SESSION.**

None

**ITEM 9. ADJOURNMENT**

There being no further business to come before, Vice-Chairperson Lizcano **moved** to adjourn. Board Member Puente seconded the motion and when put to a vote, it carried unanimously. Meeting adjourned at 8:41 a.m.

\_\_\_\_\_  
Chairperson Dolores Rodriguez

\_\_\_\_\_  
Vice-Chairperson Mario Lizcano

\_\_\_\_\_  
Board Member Vittorio Puente

APPROVED: \_\_\_\_\_



## AGENDA MEMORANDUM



**BOARD:** Civil Service Commission

**AGENDA ITEM #:** 3.B.

**DATE SUBMITTED:** December 13, 2023

**MEETING DATE:** December 19, 2023

**FROM:** Beatriz Fuentes, HR Coordinator

**DEPARTMENT:** HR

**DIRECTOR:** Hilda Pedraza

**Agenda Item:** Consideration and possible action to approve and update the Pharr Police and Fire Civil Service Rules and Regulations. **This item supports SSC - Safe and Secure Community.**

**Classification:** Regular

(\* If closed session, City Attorney must review and approve.)

**Issue:** This update is to comply with the recent update to 143 Texas Local Government Code eliminating the maximum age limit of 45 years of age for an entry level police officer. Entry level firefighter remains the same with a minimum of 18 years of age and maximum age limit of 36.

**Fiscal Consideration:**

**Staff Recommendation:** Approval to update the Pharr Police and Fire Civil Service Rules and Regulations to reflect the changes made to 143 Texas Local Government Code.

**Alternatives:**

**Exclude Material from Public Packet?** No

**Reason:**

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### **ROUTING:**

Beatriz Fuentes  
Hilda Pedraza  
Ricardo Rodriguez

Created/Initiated - 12/13/2023  
Approved - 12/14/2023  
Final Approval - 12/15/2023



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City of Pharr, Texas  
Fire & Police Civil Service Commission's  
Rules and Regulations

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As Adopted by the Civil Service Commission  
By Official Action Taken on  
November 12, 2012  
~~Last~~ Amended on June 7, 2016  
Last Amended December \_\_, 2023

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Pharr Civil Service Commission Rules

**SECTION I.  
PREAMBLE & PURPOSE**

**RULE 1. INTRODUCTION**

- A. The following Rules and Regulations are hereby adopted by the City of Pharr's Fire Fighters & Police Officers' Civil Service Commission (the "Civil Service Commission" or "Commission") pursuant to the statutory authority provided for by the Texas Legislature in Chapter 143, Texas Local Gov't Code ("TLGC").
- B. It is the intention of the Commission to exercise its rule-making authority to the fullest extent allowed by law, but also within the confines imposed by law. To that end, these Rules shall at all times be interpreted and applied in a manner that keeps the operation of the Civil Service Commission within the authority authorized by law.
- C. The civil service provisions currently codified in Chapters 141, 142, and 143 of the Texas Local Gov't Code, as well as any other statutory provisions not specifically referenced herein, continue to apply and are hereby incorporated by reference to these Rules, even if not specifically mentioned in these Rule.
- D. In addition, the specific provision of any applicable collective bargaining labor agreement which is intended to supersede specific provisions of the civil service statutes, or these Rules shall be interpreted and implemented by the Commission as to the fullest extent required by §174.006, TLGC.

**RULE 2. RULE-MAKING AUTHORITY [§143.008, TLGC]**

- A. The Commission's specific rule-making authority is derived from the delegation of authority contained in §143.008(a-b), TLGC, subject to the restrictions outlined therein.
- B. The Commission also hereby adopts rules that prescribe cause for removal or suspension of a fire fighter or police officer, as per §143.008(c), TLGC and the ground specified in §143.051, TLGC.
- C. The Commission also hereby reserves the authority to adopt any further and additional rules as provided for in Chapter 143, TLGC, such as, for example, a discretionary grant of rule-making authority in connection with the reappointment of an officer after resignation. See §143.0251, TLGC.

**RULE 3. REPEAL AND SUPERCESSION OF PRIOR RULES**

- A. The Civil Service Rules and Regulations previously adopted by this Commission, as amended from time to time, are hereby vacated in their entirety, and are hereby replaced by these updated Rules and Regulations, as specified herein.
- B. The predecessor Rules and Regulations, as amended, shall continue in force and effect only to the extent that they supply the rule of decision to any case or controversy pending before the Commission at the time of the adoption of these Rules.

**SECTION II.  
CIVIL SERVICE COMMISSION**

**RULE 4. HOW CONSTITUTED [§143.006, TLGC]**

- A. The Civil Service Commission shall be constituted in accordance with the requirements of Chapter 143, TLGC, and its members shall be appointed by the City Manager and confirmed by the City's governing body.
- B. Members shall meet the minimum eligibility criteria required by law, as contained in Chapter 143, TLGC.
- C. The incumbent Civil Service Commissioners in place at the adoption of these Rules shall continue in office for their respective terms.
- D. All terms shall be for a period of three (3 years); provided, however, that if the staggering of terms be necessary to continuity of experience on the Commission, the City Manager may, upon a vacancy, adjust appointments to assure that the terms of office remain staggered.
- E. The Commissioners, once named, shall elect a Chair and Vice-Chair amongst themselves. Thereafter, elections for the position of Chair and Vice-Chair shall be held on an annual basis, unless a vacancy occurs, at which time a new election may occur.
- F. Should a vacancy in office occur, the vacancy shall be filled by the City Manager, with the concurrence of the City's governing body to fulfill the term that was vacated.
- G. The Chairperson of the Commission shall serve as the primary point of contact with Director for purposes of facilitating the business of the Commission, including but not limited to administrative matters such the establishment of an agenda, the scheduling of a meeting, and other such administrative matters.

**RULES\_**  
**5.**

**AUTHORITY OF THE COMMISSION [§143.008, TLGC]**

- A. The authority of the Civil Service Commission shall be coextensive with the statutory authority provided by law, and shall specifically encompass the following subject matter areas:
1. The proper conduct of all Commission business meetings;
  2. The proper implementation and oversight of examinations for entry level and promotional eligibility;
  3. The proper implementation and oversight of any appeals of testing and examination scoring
  4. The proper oversight over the qualifications for civil service positions created and authorized by the City's governing body, including fitness for duty;
  5. The proper conduct of and procedures for appeals concerning suspensions without pay, indefinite suspensions, demotions, promotional by-passes; and any other matters over which the Commission is given jurisdiction by law.
  6. Any other matters authorized by law and these Rules as to which the Commission has jurisdiction to take action.

**OFFICE OF THE COMMISSIONERS [§143.006, TLGC]**

**RULE\_6.**

- A. In the discharge of their duties, members of the Civil Service Commission act as a body and not as individuals. An individual Commissioner speaking or acting outside of a duly constituted and posted meeting does not speak for the Commission as a whole.
- B. The general, but not required, order of business hearings shall be handled in accordance with a duly posted agenda posted in compliance with the Texas Open Meetings Act.
- C. Resignation from Office - A member of the Commission may tender his or her resignation in writing at any time to the City Manager, at which time the City Manager may treat the office as vacant and take the necessary and appropriate steps to fill the vacancy.
- D. Forfeiture of Office. If a Civil Service Commission member is absent without excuse for three (3) consecutive meetings (whether regular or special) during a twelve (12) month period without good cause, then the absent Commissioner shall be deemed to have resigned and vacated the position on the Commission.
1. Upon the occurrence of the foregoing condition, the Director, or any of the remaining Commissioners shall thereafter advise the City Manager and the City Manager shall fill the vacancy in the usual manner prescribed by law.

**RULE 7. ADOPTION AND MODIFICATION OF RULES [§143.008, TLGC]**

A. The Commission may, by majority vote, modify and amend these Rules to provide guidelines for the operations of the civil service system and this Commission.

Modification and adoption of these Rules shall be implemented in accordance with the minimum requirements imposed by law, specifically:

B.

1. Adopted Rules shall be adopted by a majority vote of the Commission;
2. Adopted Rules will be reduced to writing;
3. A copy of the Rules shall be provided to the City Manager for the City of Pharr and to the Mayor of the City;
4. A copy of the adopted Rules will be provided to the department heads for the fire and the police department or their equivalent;
5. A copy of the adopted Rules will be posted for a minimum period of seven (7) days in a conspicuous place in the central station of the fire and police department;
6. A copy of the adopted Rules shall be mailed or otherwise delivered to each station of the fire and police department.

C. It shall be the responsibility of the Director to keep copies of all Rules for free distribution to members of the police and fire department who request copies, and for inspection by any interested person.

**RULES 8. RELATIONSHIP TO OTHER RULES**

A. Classification Structure. With respect to the classified ranks to be recognized by the Commission, those ranks established by City's governing body are hereby acknowledged as the rank structure within each respective department.

B. Determinations relating to the number of classified positions to be created and budgeted remain within the exclusive authority of the City's governing body.

1. Vacancies created by the creation and funding of any new positions shall be filled pursuant to civil service law and procedure.

C. With respect to the interpretation, application, or administration of personnel matters, the rights, duties, obligations, of civil service employees shall be determined by reference to the following authorities in the order listed:

1. These Civil Service Rules & Regulations, as applicable;
2. Chapter 143, TLGC, and any applicable interpretations by the courts or by the Attorney General;
3. Any respective departmental rules and regulations, as applicable;

4. An applicable provision of a duly adopted labor agreement and/or a meet and confer agreement, if any, negotiated with the duly recognized bargaining agent for the fire fighters and/or the police law enforcement personnel in the City; and,
  5. The City's civilian Personnel Policy Manual, in the absence of any other controlling authority.
- D. Due regard shall also be given to the City's practices and procedures relating to personnel management decisions.
- E. The Commission reserves the final authority to interpret and apply the applicable rules to the matters before the Commission, subject only to any judicial review authorized by law.

**RULE 9. CIVIL SERVICE DIRECTOR: APPOINTMENT & DUTIES [§143.012, TLGC]**

- A. APPOINTMENT - The Commission shall appoint a director who shall be responsible for implementing these rules and handling the ~~day-to-day~~ day-to-day administration of the civil service system in the City of Pharr.
1. The City's governing body shall determine the salary, if any, to be paid the Director.
- B. DUTIES - The Director or designee shall also act as secretary to the Commission and as chief examiner of tests. The Director's duties include but are not limited to the following subject matter areas:
1. Serves as the Secretary to the Commission.;
  2. Serves as the chief test examiner for the Commission and supervisor of all examinations, including the preparation, scheduling, scoring and security thereof.;
  3. Recruitment and examination of applicants.;
  4. Prepares agenda for Commission meetings.;
  5. Acts as liaison and provides staff support to Commission.;
  6. Determines whether any matter is appropriately brought before Commission in a reasonable and timely fashion.;
  7. Calls, schedules, reschedules, and cancels meetings of the Civil Service Commission.;
  8. Acts as records custodian as provided by Chapter 143, TLGC.;
  9. Acts on behalf of Civil Service Commission for actions and issues not specifically addressed in Chapter 143, TLGC or these rules.;

- 10. Responsibility for preparation of the minutes of each meeting and presentation for approval at a subsequent Commission meeting.;
  - 11. Such other functions as may be deemed reasonably necessary by the Commission in furtherance of the efficient and effective administration of the civil service system of the City.
- C. The Director is hereby specifically delegated the administrative discretion to post such notices as may be necessary announcing the administration of a test for purposes of compliance with §143.024 and/or §143.029, TLGC whenever the Director determines that a new certified list is required or necessary to carry out the functions of the civil service system.

**RULE 10. MEETINGS OF THE COMMISSION [§143.008, TLGC]**

- A. The members of the Commission shall, at a date, hour, and place set by the Commission, hold such meetings as may be required in the proper discharge of their duties.
- B. Quorum - Two members of the Commission constitute a quorum sufficient to conduct business meetings and hearings that fall within the statutory authority of the Commission and these Rules.
- C. Conduct of Business - The Commission may set reasonable rules and procedures for proper and efficient conduct of business. The Chairperson shall be responsible for conducting meetings generally in accordance with Robert's Rules of Order.
- D. The Director of Civil Service may call, schedule, reschedule or cancel meetings of the Civil Service Commission. All agenda items shall be prepared in a manner consistent with the City's practices for preparation of agendas.
- E. The following ~~office holders~~officeholders are authorized to request placement of agenda items on a Commission agenda:
  - 1. The Civil Service Director;
  - 2. Any of the Civil Service Commissioners;
  - 3. The Fire Chief or the Police Chief;
  - 4. The City Manager.
- F. Requests for agenda items by any other person must be directed ~~to,~~and to and sponsored by a person authorized to place items on an agenda.
- G. All meetings of the Commission shall generally be open to the public and to representatives of the press, except to the extent that closed meetings or executive session are either ~~allowed,~~or allowed or mandated under the Texas Open Meetings Act.

- H. Texas Open Meeting Act Compliance. It is the responsibility of the Director to assure that the posting of any duly constituted agenda is in compliance with any applicable law related to open meetings.

**RULE II. APPEALS TO THE COMMISSION [§143.010; §143.053, TLGC]**

- A. The Commission shall exercise its authority to review the actions and decisions related to civil service matters within the authority for such review granted by Chapter 143, TLGC, provided that an appealing person must timely and properly invoked the jurisdiction of the Commission.
- B. An appeal from an action for which an appeal or review is provided for by Chapter 143, TLGC may be perfected by filing a written appeal with the Director.
- C. Any appeal authorized by law and these Rules must be filed within ten (10) days, that is, ~~within 240 hours,~~within 240 hours of the date the action being complained about occurred, as per the requirements of §143.010, TLGC, unless otherwise specifically provided by law or in a collective bargaining labor agreement.
  - 1. It shall be the responsibility of the Director to file-stamp, or otherwise prominently note the exact date and time that an appeal document is tendered to the Director personally or to the Director's office staff.
  - 2. An appeal shall not be considered filed until it is received by the Director.
- D. As per the requirements of §143.010(b), TLGC an appeal document must be in writing and provide the following minimum information:
  - 1. The factual incident or basis for the appeal;
  - 2. A request for a Commission hearing;
  - 3. A statement denying the truth of the charges as made;
  - 4. A statement taking exception to the legal sufficiency of the charge
  - 5. A statement alleging that the recommended action does not fit the offense or alleged offense,
  - 6. Or a combination of these statements, as applicable.
  - 7. If the affected employee elects to appeal to an independent hearing examiner, the affected employee must also submit as part of the appeal notice specified above, a written request stating the person's decision to appeal to an independent third party hearing examiner [See §143.057(b), TLGC).
- E. Any hearing over an appeal taken under these Rules shall be conducted in accordance with the minimum statutory requirements contained in Chapter 143, TLGC and these Rules.

- F. Decisions from appeals shall be reduced to writing, and approved, in accordance with the minimum requirements imposed by law. See §143.010 and §143.011, TLGC.
- G. Appearances before the Commission. An appealing employee may be represented by legal counsel, or by a union or association representative during the course of any proceedings before the ~~Commission~~Commission, provided that the following minimum requirements are met:
  - 1. The employee and the representative must provide in the appeal paperwork the identity of the primary person responsible for handling the appeal, who typically would be a single person, either an attorney of record or a union representative.
  - 2. The employee and the representative must also provide to the Director reliable contact information in the form of current phone numbers and/or email addresses, to facilitate communications with the employee or the representative for purposes of scheduling hearings, transmission of rulings and orders, and other matters related to the administration of the matter at hand.

**SECTION III.  
ENTRY LEVEL RULES & PROCEDURES**

**RULE 12. MINIMUM QUALIFICATIONS FOR ENTRY LEVEL [§143.022 - .023, TLGC]**

- A. As required by statute, specifically §143.023, TLGC, the following minimum qualifications for any examination for an entry level civil service position shall apply and be strictly enforced:
  - 1. Must be a minimum age of eighteen (18) years of age [§143.023(a), TLGC]; provided, however, that the respective department head may set a minimum age requirement **for appointment** to a beginning position higher than age eighteen (18) by departmental directive;
  - 2. Must not be over thirty-six (36) years of age for an entry level fire fighter position [§143.023(b), TLGC];
  - 3. ~~Must not be over forty-five (45) years of age for an entry level police officer position~~[§143.023(c), TLGC];
  - 4.3. Must be able to read and write the English language fluently [§143.023(£), TLGC];
  - 5.4. Prior to any appointment to a ~~beginning positions~~beginning position, the applicant must also be able to satisfy all legal requirements imposed by the applicable state agency, and any future amendments, to wit:

- a. The Texas Commission on Fire Protection for fire fighters; and,
  - b. The Commission on Law Enforcement for police officers.
- B.** In addition to the minimum statutory requirements set forth above, and prior to any appointment to a beginning position, the Commission hereby further adopts the following requirements which are in the best interest of the civil service system. The applicant must:
  - 1. Be of a good moral character [§143.008(b), TLGC]:
    - a. A record of a felony conviction from a state or federal court is sufficient to disqualify the applicant.
    - b. A record of a criminal conviction from a state or federal court involving a crime of moral turpitude is sufficient to disqualify the applicant.
    - c. A record of misdemeanor conviction from a state or federal court may be sufficient to disqualify an applicant.
    - d. A record of any arrests by state or federal authorities, even if such arrest did not result in a conviction may be sufficient to disqualify an applicant.
  - 2. Be physically and mentally fit [§143.008(b), TLGC]
  - 3. Be otherwise competent to discharge the duties of the civil service appointment [§143.008(b), TLGC]
  - 4. Have a high school diploma or a GED equivalent plus twelve hours of college credit from an accredited institution.
- C.** Personal History Statements - Applicants shall be required to provide a personal history statement as part of the application process. The personal history statement shall be completed and returned as part of the application process.
- D.** The department head shall exercise due diligence in conducting the necessary background check to assure that an applicant satisfies minimum standards set by law and by the department to carry out the functions of the respective entry level position.
- E.** An applicant who is disqualified under any of the foregoing provisions does not have a right of appeal to the Commission and the department head's or the City Manager's decision shall be final.

**RULE 13. ENTRANCE LEVEL EXAMINATIONS [§143.024, TLGC]**

- A. Application for entrance level civil service employment shall be made to the Director of Civil Service on the appropriate application forms established by the Director.
- B. The Director may, because of the small number of applicants for any position, or because of any other good and sufficient reason, postpone an examination to a later date.
- C. Examination materials shall be selected with the intention that the examination will fully and fairly test the qualified applicants as to their relative suitability to discharge the duties of the entry level position for which the test is being conducted.
- D. The actual conduct of every examination shall be under the direction of the Director of Civil Service who shall be responsible to the Commission. The Director shall have the authority to designate an assistant to administer tests or examinations.
- E. No individual shall deceive or obstruct any person in respect to his/her right of examination under the provision of these rules and the Texas Local Government Code; or falsely mark, grade or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion. Applicants shall not deceive the Commission for the purpose of improving their chances for appointment or promotion.
- F. Any person found to be cheating on an examination, or otherwise deceiving the Commission for purposes of improving his or her position on the eligibility list, shall be removed from further consideration and dropped from the eligibility list.

**ENTRANCE EXAMINATION PROCEDURES [§143.025, TLGC]**

**RULE 14.**

- A. Check In - All applicants shall check in and provide proof of identity with a valid Driver's License or other governmentally issued picture identification at least 15 minutes prior to the start of the examination. Failure to timely register or appear will result in a candidate's disqualification or exclusion from testing.
- B. Failure to Appear - An applicant who fails to timely appear for the entrance examination shall be deemed to have withdrawn their application from consideration.
- C. Use of Tobacco. Use of tobacco shall be prohibited at all times in the testing area.
- D. Electronic devices and cell phone. Use of cell phones or other electronic devices shall be prohibited at all times in the testing area.

- E. Cancellation of entrance examination - The Director may cancel a scheduled entrance examination for good cause.
- F. Cheating - Any person taking an entrance examination who uses or attempts to use any unfair or deceitful means to answer questions on such an examination shall be informed by the test administrator and the test administrator shall void that person's exam and remove them from the testing site.
  - 1. Talking during the examination period will be treated as cheating. The test administrator shall report the action to the Director of Civil Service or designee for appropriate action.
- G. Test Monitors - The Director of Civil Service may select a reasonable number of persons employed by the City to assist in the administration, proctoring, an/or grading of an entrance examination.

**RULE 15. ENTRY LEVEL ELIGIBILITY LISTS [143.026, TLGC]**

- A. The Director is responsible for tabulating, composing, and ranking the entry level eligibility lists to be presented to the Commission for certification.
- B. Military Service Credit - Military service credit of five (5) points added to a passing test score of 70% or better, will be provided to those persons who provide a 00214 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.
- C. It shall be the responsibility of each person approved to be on an entry level eligibility list to maintain with the Director a current address and any other relevant contact information.
  - 1. Notices mailed by regular U.S. Mail, postage prepaid, to an applicant's last noted physical address on an application shall be considered sufficient for official notification purposes.
- D. Each eligibility list for a beginning position shall be kept in effect for a period of twelve (12) months from the date of the examination, unless earlier exhausted, as per the requirements of§ 143.036(h), TLGC.
- E. There is no right of appeal by any individual entry level applicant with respect to the composition of the entry level eligibility lists submitted by the Director for certification; provided, however, that the Commission retains its independent authority to review and supervise the administrative work of the Director in carrying out the functions of the civil service system.

- F. The names of applicants contained in a certified list shall be forwarded for consideration upon a request by the City Manager and/or the department head, following statutory procedures.
  - 1. If a list certified by the Commission contains applicants who are already certified by either the Texas Commission on Law Enforcement, or by the Texas Fire Protection Commission, as appropriate, it shall be a good and sufficient reason for a non-certified applicant to not be appointed.
  - 2. Any applicant not appointed by reason of the foregoing provision shall not be removed from the list and may be reconsidered in order of position on the list after the appointment or disqualification of all applicants on the list who maintain a TCOLE or TCFP certification.
- G. After the certified list is exhausted, the Director shall be responsible for making the necessary arrangements to solicit new applications, schedule a test, and constitute a new certified list for entry level positions.

**RULE 16. PROBATIONARY PERIOD - ENTRY LEVEL [§143.027, TLGC]**

- A. Existing Certification Applicants. All entry level employees hired with existing fire and/or law enforcement certification, respectively and who are in good standing Texas Commission on Fire Protection or the Texas Commission on Law Enforcement, shall serve a probationary period of one (1) calendar year from the date of hire, respectively, except as otherwise specified in a labor agreement, if any.
- B. Non-Certified Applicants. All entry level employees hired without existing fire and/or law enforcement certification shall serve a probationary period of one and one half (1 ½) calendar years from the date of hire as firefighter or police officer, respectively, except as otherwise specified in a labor agreement, if any.

**CERTIFIED LISTS [§143.036, TLGC]**

**RULE 17.**

- A. The Director shall provide an eligibility list after the examination that shall remain in effect for a period of one (1) calendar year from the date of the examination or until all names on the list have been exhausted, whichever event occurs first, as per the requirements of § 143.036(h), TLGC.

**SECTION IV.  
PROMOTIONAL EXAMINATIONS**

**RULE 18. ELIGIBILITY FOR PROMOTION [§143.030 AND §143.031, TLGC]\_**  
**[AMENDED]**

- A. No entry level fire fighter or an entry level law enforcement officer is eligible for testing or promotion to the next higher rank unless the employee has first satisfied the minimum time in grade requirement required by statute or as otherwise provided for in an applicable provision of a labor agreement.
- B. The minimum time in grade requirement shall be two (2) years of service in the classification immediately below, in base salary, the classification for which a promotional examination is held, not including any probationary period, or as otherwise provided for by statute or an applicable provision of a labor agreement.
- C. Provided, however, that the Commission may nonetheless open an examination to persons in the next lower rank, as per the provisions of §143.030 and §143.031, TLGC, as amended, if there are an inadequate number of applicants to test for the position in the rank immediately below the rank for which a test is being held.

**RULE 19. PROMOTIONAL EXAMINATIONS [§143.028 - §143.032, TLGC]**

- A. Examination materials shall be selected with the intention that the examination will fully and fairly test the qualified applicants as to their relative suitability to discharge the duties of the promotional position for which the test is being conducted.
- B. In the event that fewer than two (2) eligible persons sign up to take a promotional examination, the Civil Service Director, in the interest of expediency, is hereby authorized to open the examination to persons in the eligible rank with less than two ~~years experience~~years' experience in that rank.
- C. If after opening up the test eligibility to persons within a rank with less than two years, and there are still fewer than two (2) persons who sign up for the examination, the Civil Service Director must bring the matter to the Commission to determine whether the examination should be opened up to persons in the next lower rank who have held that rank for at least two (2) years, or below, as per the statutory authorization of §143.030, TLGC.
- D. The Civil Service Director shall not administer any examination if fewer than two
- E. (2) persons actually appear to take that examination.

The Civil Service Director shall also be mindful of those statutory provisions providing special rules relating to military service obligations by civil service personnel. See §143.028; §143.032, TLGC.

**RULE 20. COMPOSITION OF ELIGIBILITY LISTS [§143.033, TLGC]**

- A. The Director is responsible for tabulating, composing, and presenting the promotional lists to the Commission for certification.
- B. In addition to the test grade, the Director shall apply the appropriate seniority points required by law in tabulating and ranking a list for certification.
- C. Unless a specific labor contract provisions provides otherwise, the appropriate application of seniority points for purposes of calculating a passing score as between the fire department and the police department shall be calculated in accordance with the provisions of§ 143.033(c), TLGC, as amended.
- D. In the event of a tie in an examination grade, the tie shall be broken by reference to the following criteria in the order listed:
  - 1. Raw score on the examination itself;
  - 2. Seniority within the rank currently being held;
  - 3. Seniority within the department as a civil service employee;
  - 4. Seniority within the City as an employee of the City.
- E. It is the responsibility of the Director to post the proposed list to be certified by the Commission in a conspicuous place in the central offices of the police and fire department and to document the date and time of such posting.
- F. Certified lists shall be kept in effect for a period of twelve (12) months from the date the examination is given, as per§ 143.036(h), TLGC.

D.G. The Director shall forward a copy of each respective certified list to the department head upon its approval by the Commission.

E.H. As the certified list is exhausted, the Director shall be responsible for consulting with the department head and making the necessary arrangements, if such be necessary, to schedule a test and constitute a new certified list, to fulfill the promotional needs of each respective department.

**RULE 21. REVIEW OF PROMOTIONAL EXAM & LISTS [§143.034, TLGC]**

- A. Review and, if necessary, an appeal of a promotional examination grade, and its effect, if any, on a certified list, shall be handled in accordance with the provisions of §143.034, TLGC.
- B. The five (5) business day period specified in §143.034, TLGC shall run from the date that the Director posts the list that the Director is proposing to place before the Commission for certification.

- C. The Director shall make the examination scoring for a particular candidate available to that candidate for review and inspection, but the Director shall not release any materials to the candidate or any other person absent approval of the Commission.
- D. — Any challenges to examination questions, and the scoring thereof, must be brought within the time period specified herein.

D.

**SECTION V.  
PHYSICAL AND MENTAL FITNESS REQUIRMENTS**

**RULE 22. PHYSICAL REQUIREMENTS AND EXAMINATIONS [§143.022, TLGC] [AMENDED 3-16-2016]**

- A. Applicants must also satisfy the age and physical requirements of the departmental before being eligible for an initial appointment, or for a promotional appointment, as a condition of employment in the position sought.
- B. The department head of each respective department shall prepare its respective criteria for setting the age and physical requirements for applicants for beginning and promotional positions, which shall be submitted to the Commission for review and approval.
- C. Applicants for a beginning and a promotional position shall submit to a physical examination appropriate to the position to be filled.
- D. Applicants for a ~~beginning (entry level) positions~~beginning (entry level) position shall be required to submit to a mental or psychological examination as part of the background check to confirm eligibility for hire.
- E. The examination shall be administered by a physician, psychiatrist, or psychologist, as appropriate, selected by the department head and approved by the Director.
- F. Approvals by the Director shall constitute approval by the Commission.
- G. The costs of any such examinations shall be borne by the department and not by the applicant.

Failure to satisfy the age and physical and mental or psychological requirements shall disqualify the applicant for the position; provided, however, that the applicant may, at his or her own expense, may request that a board of three health care providers to conduct a further examination, for consideration by the department head.

- H. For entry level applicants, there shall be no appeal from a disqualification attributed to a failure or an inability to satisfy the physical and mental fitness requirements for an entry level position established by the department.
- I. Probationary employees must meet and satisfy a physical fitness assessment test approved by this Commission as a condition of satisfying the probationary period. Failure to satisfy the entry level minimum fitness standard shall result in an automatic dismissal from the department with no right of appeal.
- J. Promotional ~~employee~~employees must also meet and satisfy a physical fitness assessment test as a condition of promotion. Failure to satisfy the minimum fitness standard applicable to the rank in question may be used by the department as a valid reason to effectuate a bypass decision under §143.036(f), TLGC. A promotional candidate shall preserve a right of appeal from any bypass decision under §143.057, TLGC.
- K. Each respective department shall also be authorized to implement a physical fitness assessment test on an as needed basis as part of a program to maintain and ~~im~~-prove the minimum physical fitness standards within each respective department. The failure of a civil servant to meet the minimum physical fitness standard approved by the Commission may be used as prima facie evidence of a fitness for duty question pursuant to §143.081, TLGC and the local rules related to such proceedings.

**SECTION VI.  
COMPENSATION**

**RULE23.    GENERALLY [§143.041- 047, TLGC]**

- A. Salary and pay for each classification and rank shall be established by the City's governing body and or through an appropriate labor agreement.
- B. All other pay and benefits identified in the relevant statutory provisions shall be established by the City's governing body and or through an appropriate labor agreement.

**SECTION VII.  
PERFORMANCE & CONDUCT**

**RULE\_24.    ADOPTION OF RULES RELATING TO DISCIPLINE [§143.008; §143.051, TLGC]**

- A. Pursuant to the mandatory requirement contained in §143.00S(c), TLGC, the Commission hereby adopts rules that prescribe cause for removal or suspension of a fire fighter or police officer.
- B. The rules adopted herein which prescribe cause for removal or suspension of a fire fighter or police officer fall within one or more of the following subject matter areas specified by §143.051, TLGC, specifically:
  - 1. Conviction of a felony or other crime involving moral turpitude;
  - 2. Violation of a municipal charter provision;
  - 3. Acts of incompetency;
  - 4. Neglect of duty;
  - 5. Discourtesy to the public or to a fellow employee while the fire fighter or police officer is in the line of duty;
  - 6. Acts showing lack of good moral character;
  - 7. Drinking intoxicants while on duty or intoxication while off duty;
  - 8. Conduct prejudicial to good order;
  - 9. Refusal or neglect to pay just debts;
  - 10. Absence without leave;
  - 11. Shirking duty or cowardice at fires, if applicable; or
  - 12. Violation of any applicable fire/police department rule or special order.
- C. Rules, directive, and special orders of a department head do not require Commission review or approval to be valid and binding since the statute imposes no such obligation.

**RULE 25. CONVICTION OF A FELONY OR OTHER CRIME INVOLVING MORAL TURPITUDE [§143.051(1), TLGC]**

- A. A civil servant's conviction of a felony or other crime involving moral turpitude is grounds for disciplinary action.
- B. For purposes of this rule, any disposition of criminal charges that requires an admission of guilt to the underlying factual allegations shall constitute a conviction. This includes criminal file disposition such as: deferred adjudications, nolo contendere pleas, probations, or any other condition dismissal of criminal charges.

**RULE\_26. VIOLATION OF A MUNICIPAL CHARTER PROVISION [§143.051(2), TLGC]**

- A. A civil servant's violation of any one or more provision of the City Charter is grounds for disciplinary action.

**RULE\_27. ACTS OF INCOMPETENCY [§143.051(3), TLGC]**

- A. A civil servant is expected to fulfill the functions of his or her rank and position competently. Acts of incompetency is grounds for disciplinary action.

**RULE\_28. NEGLIGENCE OF DUTY [§143.051(4), TLGC]**

- A. A civil servant is expected to know and understand the functions of his or her rank and position and shall not neglect the duties of his or her rank and position. A neglect of duty is grounds for disciplinary action.

**RULE\_29. DISCOURTESY TO THE PUBLIC OR TO A FELLOW EMPLOYEE WHILE THE FIRE FIGHTER OR POLICE OFFICER IS IN THE LINE OF DUTY [§143.051(5), TLGC]**

- A. A civil servant is expected to exercise his or her rank and position with courtesy to the public, as well as to fellow employees.
- B. ~~This expectations~~This expectation applies to not only fellow employees, but to supervisory employees, as well as subordinate employees.

**RULE\_30. ACTS SHOWING LACK OF GOOD MORAL CHARACTER [§143.051(6), TLGC]**

- A. A civil servant is expected to refrain from engaging in any actions, whether on- duty, or off-duty, that exhibit or reveal a lack of good moral character on the part of the civil servant. Failure to abide by this standard of conduct and behavior may subject the civil servant to disciplinary action.

**RULE\_31. DRINKING INTOXICANTS WHILE ON DUTY OR INTOXICATION WHILE OFF DUTY [§143.051(7), TLGC]**

- A. A civil servant is expected to refrain from drinking intoxicants while on duty.
- B. A civil servant is also ~~prohibits~~prohibited from reporting to work under the influences of any intoxicants.
- C. A civil servant is also prohibited from being intoxicated off-duty if such intoxication bears negatively on the civil servant's ability to report to work or if it bears negatively on the department.

- D. Failure to abide by this standard of conduct and behavior may subject the civil servant to disciplinary action.

**RULE\_32. CONDUCT PREJUDICIAL TO GOOD ORDER [§143.051(8), TLGC]**

- A. A civil servant is expected to refrain from engaging in any actions, whether on- duty, or off-duty, that would qualify as conduct prejudicial to good order. Failure to abide by this standard of conduct and behavior may subject the civil servant to disciplinary action.

**RULE\_33. REFUSAL OR NEGLECT TO PAY JUST DEBTS [§143.051(9), TLGC]**

- A. A civil servant is expected to refrain from refusing or neglecting to pay just debts. Failure to abide by this standard of conduct and behavior may subject the civil servant to disciplinary action.

**RULE\_34. ABSENCE WITHOUT LEAVE [§143.051(10), TLGC]**

- A. A civil servant is expected to refrain from being absent from duty without leave. Failure to abide by this standard of conduct and behavior may subject the civil servant to disciplinary action.

**RULE\_35. SHIRKING DUTY OR COWARDICE AT FIRES [§143.051(11), TLGC]**

- A. A civil servant is expected to refrain from shirking duty or from showing cowardice at fires, as such duty is defined by the rank and position held by the civil servant.
- B. Shirking duty or showing cowardice in response to a public safety incident that requires a civil servant to carry out his or her duties to protect the public is ~~prohibits~~prohibited. Failure to abide by this standard of conduct and behavior may subject the civil servant to disciplinary action.

**RULE\_36. VIOLATION OF ANY APPLICABLE FIRE OR POLICE DEPARTMENT RULE OR SPECIAL ORDER [§143.051(12), TLGC]**

- A. A civil servant shall not violate any applicable fire or police department rule or special order.
- B. The Commission hereby adopts by reference the rules and regulations of each respective department as its own for ~~purpose~~the purposes of enforcement of such rules and special orders.
- C. A civil servant who violates a rule or special order of his or her respective department may be subject to disciplinary action.

**SECTION VIII.  
DISCIPLINE, DEMOTION AND BYPASS**

**RULE 37.      GENERALLY [§143.010; §143.053, TLGC]**

- A. Appeals to the Civil Service Commission. Disciplinary appeals to the Civil Service Commission shall be scheduled and coordinated by the Director for hearing and decision within thirty (30) days after it received the notice of appeal as per the requirements of §143.053(b), TLGC.
- B. Procedural Requirements. In connection with the filing of an appeal to the Commission as to any action by a department head that is appealable, the appeal paperwork must be personally signed by the affected employee, or by the affected employee's attorney.
- C. Extensions of Deadlines. The appealing employee and the department ~~head,~~head may agree, subject to the Commission's approval, to postpone a hearing for a definite period. A written agreement between the affected employee and the department head (or their representatives) filed with the Director shall serve as the basis for an extension for a definite period and have standing approval of the Commission as per these Rules.

**RULE 38.      DISCIPLINARY APPEALS TO THE COMMISSION [§143.053, TLGC]**

- A. The location and accommodations for all hearings and appeals to be heard by the Civil Service Commission shall be coordinated by or through the Director of Civil Service within the deadlines required by law.
- B. The Director shall be responsible for calling any special meetings that may be necessary to take up pre-hearing issues, motions, requests for discovery, and any other issues preceding an actual hearing on the merits of a disciplinary appeal.

**RULE 39.      THIRD PARTY HEARING EXAMINER PROCEEDINGS [§143.057, TLGC]**

- A. Disciplinary appeals requesting a ~~third-party~~third-party hearing examiner shall be administratively handled and coordinated by the Director within the time frames, and under the procedures set out in Chapter 143, TLGC.
- B. To properly elect an independent 3<sup>rd</sup> party hearing examiner under the statute, the grievant must timely and properly perfect such an appeal in accordance with the requirements of § 143.057, TLGC.  
  
If the parties do not submit a notice of an agreed selection of a hearing examiner within the time period specified in §143.057, TLGC, the Director may assume that
- C. no agreement has been reached between the parties and shall then proceed to

request a list of neutrals from the American Arbitration Association in accordance with the requirements of the statute.

- D. Except for the requirement that a decision on a disciplinary appeal take place within thirty (30) days of timely appeal, the authority of a 3<sup>rd</sup> party independent hearing shall be in lieu of, but otherwise equivalent to, that of the Commission.
- E. In a proceeding before a 3<sup>rd</sup> party hearing examiner, the rules of procedure and the rulings on evidence shall be those established by the hearing examiner directly or those of the organization under which the hearing examiner has been selected.
- F. Hearing Record and Award of ~~Third-Party~~Third-Party Examiner Proceedings. The hearing record and award or decision of a ~~third-party~~third-party hearing examiner shall be filed with the Director and maintained as a part of the Civil Service Commission's records for the affected employee.
  - 1. The underlying evidentiary record of a hearing before a hearing examiner shall be maintained by the department head or legal counsel.

**RULE 40. HEARING PROCEDURES GENERALLY**

- A. The following rules and procedures shall apply to hearings held before the Civil Service Commission.
- B. The following rules shall also apply to hearings conducted by an independent hearing examiner, except as otherwise provided by law and/or the agreement of the parties.
- C. The Texas Rules of Civil Procedure, the Texas Rules of Criminal Procedure, and all other rules of court shall not apply to any civil service proceedings.
- D. A civil service employee who is appealing a matter over which the Civil Service Commission has jurisdiction may represent himself or ~~herself, or herself or~~ may be represented by legal counsel or other appropriate representative.
- E. The Civil Service Commission may, upon proper and timely request by the parties, exercise its full authority provided by statute to issue subpoenas for witnesses and for documents and things.
  - 1. 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 (~~11~~ 0) days prior to the scheduled hearing date in order to be processed in a timely manner.
  - 2. Requests for subpoenas to hearing examiners shall be handled through the procedures applicable to those proceedings.

- F. All parties shall come to the hearing prepared and ready to proceed so as to minimize any disruption of the hearing process.
- G. All disciplinary appeal proceedings shall be public hearings. The Commission may close a hearing at the request of the employee or of the Department Head if the subject matter would invade the privacy of the appellant, or any other employee or would compromise any ongoing investigation. The Commission may also close the meeting for any purpose otherwise authorized by law.
- H. After being called to order but prior to the beginning of testimony or evidence, final consideration shall be made as to any remaining pre-hearing motions, requests or jurisdictional matters as submitted by either party.
- I. The presiding Commissioner, upon the request of a party, may place witnesses under "the Rule" in an evidentiary Commission hearing; provided however, that neither the appealing party or the department head shall not be placed under the Rule.
- J. The party with the burden of proof shall go first in the presentation of evidence and testimony. Thereafter, the responding party shall have the opportunity to respond with his/her own evidence, witnesses or testimony. Thereafter, the party with the burden of proof may come forward with rebuttal evidence or testimony as may be necessary.
- K. Presentations by both parties shall be as brief and as closely related to the issue(s) as much as is possible. To this end, parties shall be encouraged to stipulate to as many uncontested factual or legal issues as possible so as to streamline the hearing to contested issues only.
- L. Throughout the proceedings, Commission members may also ask questions as needed in order to aid their consideration of the testimony or evidence.
- M. The Chairperson shall exercise reasonable control over the questioning of witnesses and the presentation of evidence so as to:
  - 1. Effectively ascertain the truth;
  - 2. Keep such presentations relevant to the issues to be determined;
  - 3. Avoid the needless consumption of time and expense; and
  - 4. Protect the witnesses and employees from harassment or undue embarrassment.
- N. The parties and their respective representatives shall cooperate in keeping all presentations as brief and to the point as possible. The Commission may establish time limits for presentation of each side of the case.

- 0. 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.
- P. Before adjourning, the Commission may adjourn to executive session for deliberation. Thereafter, the Commission shall reconvene in open session and shall, upon motion and second, make its decision. Thereafter, a written order reflecting the decision of the Commission shall be prepared to memorialize the ruling of the Commission and signed by a majority of the Commissioners or by the Director documenting the vote and action of the Commission.

**RULE 41. RULINGS ON EVIDENCE**

- A. Technical rules of courtroom evidence shall not strictly apply or control the conduct of any evidentiary hearing, but may be urged and referred to as guidelines for the introduction of, and objections to, and orderly processing of the proofs evidence in an evidentiary hearing.
- B. The scope of evidence to be considered at a disciplinary hearing shall be limited to matters relevant to the statement of charges as set forth in the department's written statement, the employee's notice of appeal, as well as the employee's previous employment record with the department.
- C. Either party may offer such relevant evidence as he/she may desire to aid in the determination of material disputed issues, subject to considerations of time, duplication of evidence, and the issue in question, as determined by the Commission.
- D. It shall be the responsibility of the Commission Chair, or the presiding commissioner, to make initial rulings relating to objections to and offers of evidence. The Commission Chair may, however, provide for full Commission participation by conferring with the Commission on any particular objection to or offer of evidence, whether testimonial, documentary, or otherwise.
- E. All evidence and testimony shall be presented and received into the record while in open session.

**MEDIATION AND SETTLEMENT**

- RULE 42.** No specific mediation or settlement rules and processes are hereby adopted; but nothing in these Rules precludes or prevents the parties from reaching an agreed resolution of any dispute on appeal by using any dispute resolution process or procedure agreed upon by the parties.
- A.

**SECTION IX.**  
**FITNESS FOR DUTY ISSUES**

**RULE 43. FITNESS FOR DUTY ISSUES [§143.081, TLGC]**

- A. The procedures outlined in §143.081, TLGC shall be followed in connection with any concerns that the department head of either the fire department or the police department may have with respect to an employee's physical or mental fitness to perform the core set of duties required of the rank and position held by the employee.
  
- B. The department head may require, under the authority of these Rules, an employee to submit to the department head a report from the employee's personal physician, psychiatrist, or psychologist, as appropriate, in response to a notice of administrative concern involving a physical or mental fitness for duty issue.
  - 1. A department head may also request that the Commission make the initial determination to order a report based on an application by the department head of the existence of a question as to fitness for duty.
  
- C. If after requiring such a report, there remains a question about the employee's physical or mental fitness for duty on the part of the employee or the department head, the question may be placed before the Commission for further action consistent with the authority given to the Commission under §143.081, TLGC and applicable law.
  
- D. The Commission will not entertain any proceeding brought under this provision while an employee is still on injury on duty leave status as per the provisions of §143.073, TLGC and any applicable court interpretations of this provision.
  - 1. This does not preclude a department head from calling for a fitness for duty report from the employee if the department head has a reason to believe that the employee will not be able to return to full duty status.
  
- E. A civil servant who is determined to be not fit for duty under these provisions may be separated from his or her position for non-disciplinary reasons as being no longer qualified to hold the position.
  - 1. The department head shall file a courtesy copy of any such separation notice with the Director, but there shall be no appeal by the employee to the Commission from any non-disciplinary separations based on fitness for duty evaluations by an appropriate health care provider.

**RULE 44. FITNESS FOR DUTY PROVIDER LISTS**

- A. The Director, working together with the City's Human Resource Department, shall maintain a list of qualified health care providers with expertise in physical, physiological, mental, and psychiatric health care who may be utilized by either

employees or by the Commission, for purposes of securing data and information related to the fitness for duty issues that may come before this Commission.

## **SECTIONX. CIVIL SERVICE PERSONNEL FILES**

### **RULE 45. PERSONNEL FILES [§143.089, TLGC]**

- A. The Director shall maintain a civil service file for each civil service employee in accordance with the requirement of § 143.089(a), TLGC, and any legal opinions or ~~case~~law~~case law~~ interpreting this statutory provision.
- B. A civil service employee is entitled, upon written request to the Director, to view, and request copies of the contents of his or his civil service file maintained under §143.089(a), TLGC by the Director.
- C. Each respective department head may maintain a departmental file for each civil service employee in accordance with the requirement of §143.089(g), TLGC.
  - 1. Departmental personnel files belong to each respective civil service department, and shall be privileged from disclosure in accordance with §143.089(g), TLGC, and any legal opinions or caselaw interpreting the proper scope of confidentiality to be afforded a departmental (g) file.

### **RULE\_46. REQUESTS FOR DISCLOSURE OF FILES [§143.089, TLGC]**

- A. Request for disclosure of the §143.089(a), TLGC file in the form of requests under the Texas Public Information Act (TPIA Requests), court orders, or other such requests, shall be directed to the Civil Service Director, who shall exercise his or her best efforts to advise the affected employee of the request for disclosure.
  - 1. However, TPIA requests for personnel files maintained by the Civil Service Commission shall generally be honored in accordance with existing judicial determinations requiring disclosure.
  - 2. An employee who objects to release or disclosure of his or her personnel file, as maintained by the Civil Service Commission, may participate in any proceeding either before the Attorney General or in a court of law relating to a TPIA request for disclosure.
- ~~B.~~ Request for disclosure of the §143.089(g), TLGC file shall be directed to the respective department head, who shall exercise his or her best efforts to resist disclosure of the departmental (g) file to the extent allowed by law.

1. Access by the employee to his or her own departmental (g) file shall fall within the sole discretion of the department head, who shall set his or her own policy on this issue, and subject to the terms of any applicable provision of a labor agreement on this point.

## **SECTION XI. MISCELLANEOUS**

### **RULE 47. REAPPOINTMENT AFTER RESIGNATION [§143.0251]**

- A. As per the provisions of §143.0251, TLGC the Civil Service Commission may adopt rules to allow a police officer who voluntarily resigns from the department to be reappointed to the department without taking another departmental entrance examination.
- B. Applications for reappointment shall be limited to entry level positions and must be approved by the department head, and the City Manager. Any such applications must be made no later than six (6) months after a voluntary resignation, and there must be an existing entry level vacancy before any application shall be authorized.
- C. Any issues related to whether the resignation was voluntary or under the possibility of a disciplinary proceeding or other such circumstances shall be made initially by the department head, followed by the City Manager. A further appeal may be taken to the Commission under §143.010, TLGC.
- D. Reinstated officers shall be required to serve a probationary period on the same terms as newly appointed officers.
- E. With respect to longevity, seniority, time in grade, and any other service time that may be in issue, a reinstated officer's prior service time will be counted after the new probationary period has been satisfied.

### **RULE 48. EFFICIENCY REPORTS [§143.082, TLGC]**

- A. The Commission does not, at this time, elaborate on its authority to develop rules and procedures for efficiency reports, as per the authorization provided for in §143.082, TLGC. If any such rules and procedures are developed in the future, these will be done in the form of a separate resolution by the Commission on this subject matter.

## SECTION XII. DEFINITIONS

The statutory definitions contained in Chapter 143, TLGC shall control. Otherwise, the following definitions shall apply to the interpretation and application of the foregoing Rules and Regulations.

**AAA** - refers to the American Arbitration Association.

**Chapter 143** - refers to Chapter 143 of the Texas Local Gov't Code.

**Chapter 174** - refers to Chapter 74 of the Texas Local Gov't Code, also known as the Fire and Police Employee Relations Act (FPERA).

**City Manager** - refers to the Chief Executive Officer of the City or his designate.

**Civil Servant** - refers to an employee who meets the definition of a fire or police officer under the civil service statutes.

**City Commission or City Council** - refers to the governing body of the home-rule municipality known as the City of Pharr, Texas.

**Civil Service Commission or Commission** - refers to the Fire & Police Civil Service Commission, as organized under Chapter 143, Texas Local Gov't Code.

**Civil Service Statutes** - refers to Chapters 141, 142, and 143 of the Texas Local Gov't Code, including any interpretations of such statutes by the Attorney General or a court of law.

**Classified Service** - for purposes of the administration of the civil service system under Chapter 143, TLGC as duly adopted by the City shall be determined by reference to the provisions of Chapter 141.033, TLGC, which provides for classification of positions once the municipality achieved a minimum population of 10,000.

**Commission Chair** - shall be the duly elected Chair for the Civil Service Commission, or in his or her absence, the Presiding Commissioner.

**Department** - refers to the fire or police department of the City of Pharr, Texas as appropriate.

**Department Head** - - refers to the ~~highest ranking~~highest-ranking person in charge of the police or fire department, respectively, regardless of title or interim status; also referred to as the Fire Chief or Chief of Police.

**Director** - refers to the statutorily appointed person or office who is responsible for the administration of the Civil Service Commission business or that ~~persons~~person's designated agent or assistant.

**Employee** - a person hired to perform the job of a police officer or fire fighter who has the protections afforded under chapter 143 of the Texas Government Code.

**Fire Fighter** - is hereby defined in accordance with §143.003, TLGC.

**Governing Body** - refers to the City's elected board of officials consisting of the Mayor and the duly elected City Commissioners.

**Police Officer** - is hereby defined in accordance with §143.003, TLGC.

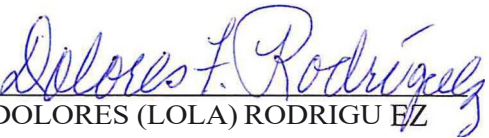
**TLGC**- refers to the Texas Local Gov't Code.

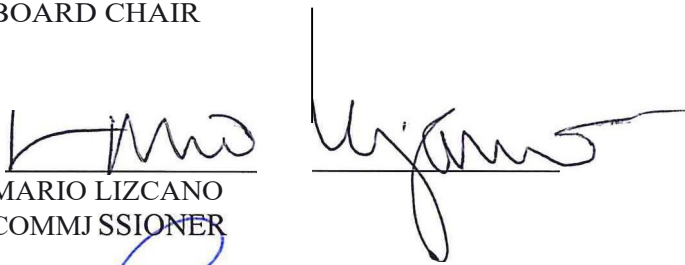
**Vacancy** - refers to the creation of an opening in a duly authorized, duly budgeted civil service position such as: 1) the creation of a new position by the City's governing body; 2) the promotion of an individual out of an existing position into a higher level position; 3) the retirement of an employee from a budgeted position; or 4) the indefinite suspension of a fire department employee at the time of the indefinite suspension is implemented, or, for police department employees, after the exhaustion of all civil service appeals and the termination decision becomes final and non-appealable.

**Writing** - refers to written or published correspondence. Email communications shall not satisfy any writing requirement contained in these Rules.

**-END-**

**APPROVED AND ADOPTED BY THE FIRE & POLICE CIVIL SERVICE COMMISSION FOR THE CITY OF PHARR, TEXAS ON THIS THE 7<sup>th</sup> DAY OF JUNE, 2016.**

By:   
DOLORES (LOLA) RODRIGUEZ  
BOARD CHAIR

By:   
MARIO LIZCANO  
COMMISSIONER

By:   
COMMISSIONER

**ATTESTED BY:**

**By: C. Alicantu**  
ALICANTU  
DIRECTOR FOR THE CITY OF PHARR, TEXAS  
CIVIL SERVICE COMMISSION