ARLINGTON FIRE DEPARTMENT
CIVIL SERVICE COMMISSION
LOCAL RULES

Updated July 2019

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INTRODUCTION
AND REPEAL OF PRIOR RULES

The purpose of Chapter 143 of the Texas Local Government Code is to secure an efficient Fire Department composed of capable personnel, free from political influence.

The Arlington Fire Department Civil Service Commission Local Rules (hereinafter referred to as "these Rules" or "Rules") are promulgated in compliance with Chapter 143 of the Texas Local Government Code, which is incorporated herein for all purposes. It is intended that these Rules shall complement said statute and not conflict with the statute in any manner. No set of rules can be so precise as to provide for every employment situation; therefore, it is intended that the Civil Service Commission (hereinafter referred to as "the Commission") administer these Rules in the best interest of the Arlington Fire Department and the City of Arlington.

The following Rules, as may be amended from time to time, are the Arlington Fire Department Civil Service Commission Local Rules. These Rules are promulgated in accordance with the provisions of Civil Service Law (Texas Local Government Code, Section 143.008).

If any part, segment, section, word, phrase, subchapter, or other portion of these Rules shall be declared to be unenforceable, vague, unconstitutional, or contrary to public policy, then the remainder of these Rules shall be continued in full force and effect as if the offending portions of these Rules were never included herein.

ARLINGTON FIRE DEPARTMENT
CIVIL SERVICE COMMISSION LOCAL RULES

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SECTION 1. PURPOSE

See Texas Local Government Code § 143.001.

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

The scope and construction of the Rules hereinafter set forth shall be interpreted and applied within the spirit and intent of Chapter 143. It is the intent of these Rules to cover situations not mentioned in Chapter 143 or which are ambiguous in Chapter 143. All situations that are not expressly covered by Chapter 143 or these Rules shall be resolved in accordance with the City Charter and Ordinances, City of Arlington Personnel Policies, Arlington Fire Department Standard Operating Procedures ("SOPs") and directives, and/or the residual discretionary authority vested in a Department Head and the Chief Executive. These Rules shall apply to all the classified, non–probationary employees covered under Chapter 143.

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

A. The proper conduct of Commission business meetings;

B. The standards for appointment and the procedures for appointment and certification;

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

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

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

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

G. Such other matters reasonably related to the selection, promotion, and discipline of civil service employees not otherwise vested in the discretion or managerial authority of the City Council, Chief Executive, Director, or the Department Head; and

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

SECTION 2. MUNICIPALITIES COVERED BY CHAPTER

See Texas Local Government Code § 143.002.

SECTION 3. DEFINITIONS

See Texas Local Government Code § 143.003.

The words and phrases used in these Rules shall have the meaning assigned to such words as may be used by reasonable people in the conduct of their own affairs, except as provided hereinafter.

Any word or phrase that is defined in Chapter 143 shall be defined in the same manner for the purpose of interpreting these Rules.

Whenever a dispute arises about the meaning of a word, group of words, or a phrase, the construction given to such word, group of words, or a phrase shall be determined by reference to the latest available edition of Webster's Dictionary, unless the Courts of the State of Texas shall have determined the meaning of the disputed word, group of words, or phrase, in which event such construction of the word, group of words, or phrase shall control.

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

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

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

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

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

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

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

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

I. **CLASSIFICATION** – A position or group of positions that involve similar duties and responsibilities and require similar qualifications. The classifications are identified by two (2) separate job division categories: Firefighters and Fire Prevention Inspectors.

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

K. **CONVICTION OR CONVICTED** – A person is convicted if he/she has pled guilty, no contest (nolo contendere), or been found guilty in a trial, regardless of whether:

1. The sentence is subsequently probated and the person is discharged from probation;

2. The defendant has received an unadjudicated or deferred adjudication probation, pre-trial diversion or similar deferred disposition, for a criminal offense;

3. The case has been made the subject of an expunction order; or

4. The person is pardoned, unless the pardon is expressly granted for subsequent proof of innocence.

L. **DAY** – Calendar day, unless otherwise specified.

M. **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.

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

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

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

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

R. **ELIGIBILITY LIST** – A list of applicants for a classified civil service position who have taken the written examination and passed and are ranked on the eligibility list in order of the score received, including tiebreakers. Applicant shall successfully pass additional steps in the selection process conducted by the Department prior to any offer of employment being extended.

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

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

U. **SENIORITY** – For the purpose of breaking a tie on a promotional examination, years of service as a full-time Firefighter or Fire Prevention Inspector within the City of Arlington Fire Department. Seniority points shall be awarded only for continuous whole years of service. Under the provisions of USERRA, military service shall not be considered a break in service under these Rules.

V. **TEMPORARY DISQUALIFICATION** – An applicant temporarily deemed disqualified will be disqualified until the next testing period subject to the resolution of their disqualification, unless otherwise specified.

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

X. **VETERAN** – A person who has served a minimum of one hundred and eighty (180) days of active duty in the armed forces of the United States of America and who has received a DD-214 that reflects an honorable discharge. A person who receives a discharge other than honorable is not a veteran for the purpose of this section.

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

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

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

SECTION 4. ELECTION TO ADOPT OR REPEAL CHAPTER

See Texas Local Government Code § 143.004.

SECTION 5. STATUS OF EMPLOYEES IF CHAPTER ADOPTED

See Texas Local Government Code § 143.005.

SECTION 6. IMPLEMENTATION AND COMMISSION CONDUCT

See Texas Local Government Code § 143.006.

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

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

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

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

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

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

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

Commission meetings will typically proceed in the following order:

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

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

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

SECTION 7. REMOVAL OF COMMISSION MEMBER

See Texas Local Government Code § 143.007.

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

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

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

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

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

SECTION 8. ADOPTION AND PUBLICATION OF RULES

See Texas Local Government Code § 143.008.

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

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

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

C. These Rules are enacted by the Commission pursuant to the statutorily delegated authority of Chapter 143. These Rules were not acted upon in any official manner by the City Council therefore these Rules do not constitute any form of "policy" or any other official act of the City Council.

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

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

SECTION 9. COMMISSION INVESTIGATIONS

See Texas Local Government Code § 143.009.

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

SECTION 10. COMMISSION APPEAL PROCEDURE

See Texas Local Government Code § 143.010.

The Commission has no jurisdiction to hear issues related to the following:

A. Employee dissatisfaction resulting from a transfer or reassignment of duties;

B. Employee dissatisfaction resulting from a discretionary policy decision or policy matters;

C. Grievances against other employees or supervisors;

D. Voluntary resignations or retirements;

E. Voluntary acceptance of disciplines in which a written document evidences intent to finally resolve the issue which includes a statement that the employee has waived all rights to appeal the disciplinary action;

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

The Commission has jurisdiction to hear the following types of issues:

A. Appeal of Promotional Examination Questions;

B. Appeal of Promotional Bypasses;

C. Demotion Determinations; and

D. Appeal of Temporary or Indefinite Suspensions.

Notice of Appeal: The employee's notice of appeal must be filed in writing with the Director within ten (10) calendar days after the date the action being appealed occurred. If an employee withdraws the appeal request any time thereafter, the proceedings shall terminate. The employee's notice of appeal shall conform to Tex. Local Gov't Code Sections 143.010 and 143.057.
At any time after filing the notice of appeal to a Hearing Examiner, but prior to either party incurring an expense related to a Hearing Examiner, the employee may withdraw their request and submit the appeal to a hearing before the Commission. The election must be made in writing and submitted to the Director. This does not alter any of the 30-day hearing deadlines imposed by Chapter 143 on the Commission decisions.

SECTION 11. DECISIONS AND RECORDS

See Texas Local Government Code § 143.011.

A. All records of the Civil Service Commission shall be deemed public information, unless otherwise excepted by law, and shall be governed by Texas Government Code Chapter 552 (the Texas Public Information Act), Tex. Local Gov't Code Section 143.089, and any other applicable laws and regulations.

B. The Commission or the Director shall have the power to correct or amend any eligibility list, paper or record in which a clerical or procedural error has been made.

SECTION 12. DIRECTOR

See Texas Local Government Code § 143.012.

The Director shall administer these Rules and perform work incidental to the Civil Service System as required by the Commission. All communications or requests to the Commission shall be made in writing to the Director, who shall determine if the Commission has jurisdiction over the matter. The Director shall also act as Secretary to the Commission. The Commission may designate one (1) or more person(s) as deputy secretaries of the Commission.

If for any reason the appointed Director separates from employment with the City, a new Director will be appointed by the Commission.

The Director may delegate any and/or all responsibilities to other City staff as necessary. The Director's duties include, but are not limited to:

A. Supervising all examinations or appointing Test Monitors to prepare, schedule, score, and ensure the security of test materials, and preparation of eligibility lists;

B. Coordinating the recruitment and examination of applicants, including certifying names from the eligibility list to the Department Head;

C. Assisting in the classification of Fire Department positions;

D. Setting the agenda for the Commission meetings;

E. Acting as liaison and providing staff support to the Commission;

F. Determining whether the Commission has jurisdiction over any matter and, if so, bring it before the Commission in a reasonable and timely fashion;

G. Calling, posting agendas, scheduling, rescheduling, attending, and cancelling meetings of the Commission;

H. Post promotional examination notice;

I. Acting as records custodian as provided by Tex. Local Gov't Code Section 143.011;

J. Maintaining the personnel files of all employees in the civil service as required by Tex. Local Gov't Code Section 143.089(a);

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

L. When a specific Rule does not address a particular question or issue, interpreting the Rules based on circumstances, facts, and issues, and taking appropriate action;

M. Presenting to the Commission changes in these Rules;

N. Performing such other functions as may be deemed reasonably necessary in regard to the efficient and effective administration of the civil service system of the City;

O. Preparing and keeping minutes of all Commission meetings, and obtaining appropriate signatures on approved minutes and on all decisions entered by the Commission;

P. Maintaining the Record of Certification and Appointment as required by Tex. Local Gov't Code Section 143.037;

Q. Maintaining a seniority roster for the Fire Department by date of hire and seniority rank by date of promotion;

R. Coordinating Commission investigations; and

S. Approving active duty and reserve military leave for purposes of Chapter 143.

SECTION 13. APPOINTMENT AND REMOVAL OF DEPARTMENT HEAD

See Texas Local Government Code § 143.013.

SECTION 14. APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED IMMEDIATELY BELOW DEPARTMENT HEAD

See Texas Local Government Code § 143.014.

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

SECTION 15. APPEAL OF COMMISSION DECISION TO DISTRICT COURT

See Texas Local Government Code § 143.015.

SECTION 16. PENALTY FOR VIOLATION OF CHAPTER

See Texas Local Government Code § 143.016.

(Sections 17–20 reserved for expansion.)

SECTION 21. CLASSIFICATION; EXAMINATION REQUIREMENT

See Texas Local Government Code § 143.021.
See City of Arlington Ordinance No. 17-064, No. 18-079, and any future amendments.

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

A. **CLASSIFICATIONS**

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

   a. Firefighter
   b. Fire Apparatus Operator
   c. Fire Lieutenant
   d. Fire Captain
   e. Fire Battalion Chief (position to be eliminated through attrition)

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

   a. Fire Prevention Inspector
   b. Fire Prevention Specialist
   c. Fire Prevention Investigator
   d. Fire Prevention Deputy Fire Marshal

3. Management Classifications

   a. Fire Deputy Chief
   b. Fire Prevention Deputy Fire Chief/Fire Marshal

4. Appointed/Management Classification

   a. Assistant Fire Chief

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

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

SECTION 22. PHYSICAL REQUIREMENTS AND EXAMINATION

See Texas Local Government Code § 143.022.

A. **GENERAL REQUIREMENTS** – Each applicant for entry-level positions shall be required to submit to such physical and mental tests as determined by the Commission to be reasonably necessary and proper to determine the physical and mental ability of the applicant to perform the essential functions required for the position sought. An applicant who is not capable of performing the essential job functions with or without reasonable accommodation, or that would otherwise endanger citizens or other employees while performing such duties, shall not be appointed.

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

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

B. **ENTRY-LEVEL APPEALS** – If an applicant is not appointed due to failure to successfully pass the medical or psychological examination, the applicant may appeal to the Commission.

An applicant's appeal of a physical or psychological examination shall be filed to the Director within two hundred and forty (240) hours (ten (10) calendar days) after the rejection notice date.

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

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

The board of three (3) assessors shall notify the Director of the panel decision, and the Director shall notify the applicant. A Commission meeting is not required.

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

SECTION 23. ELIGIBILITY FOR BEGINNING POSITION

See Texas Local Government Code § 143.023.

A. MINIMUM ELIGIBILITY REQUIREMENTS

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

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

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

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

4. Be of good moral character.

5. A person is not eligible to take an entrance examination for a beginning position in the Fire Department unless the person is at least eighteen (18) years of age but not thirty-six (36) years of age or older as of date of test. Applicant must obtain the age of nineteen (19) years before they are eligible for employment with the Arlington Fire Department and must have not exceeded the maximum age limit prior to appointment or the expiration of the eligibility list, whichever occurs first.

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

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

8. Additional consideration may be given for candidates with existing certifications: Preferably possess certification as a (1) Paramedic (more preferable) or (2) an Advanced EMT or EMT-I by the Texas Department of State Health Services at time of appointment. At or before the time of the entrance examination, applicant shall provide either (1) a Paramedic or Advanced EMT or EMT-I Certificate issued by the Texas Department of State Health Services, or (2) evidence of current enrollment in a Paramedic (more preferable) or Advanced EMT or EMT-I course approved by the Texas Department of State Health Services.

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

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

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

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

13. To the extent the employment standards for beginning Firefighters or Fire Prevention Inspectors as provided in these Rules exceed the requirements of Chapter 143 and other applicable state laws, any of such entry-level employment requirements not prescribed by state laws may be waived by the Department Head with the concurrence of the Director and consent of the Chief Executive when such waiver would be in the best interest of the Fire Department and provided further that such waiver of requirements shall not substantially lower the high standards sought by the City.

SECTION 24. ENTRANCE EXAMINATION NOTICE

See Texas Local Government Code § 143.024.

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

B. An applicant shall complete a City of Arlington Application for Employment and other forms, as prepared by the Director and/or Fire Department, and submit the form(s) to the Director, in order to take an entrance examination. The Director shall notify any applicant who is obviously disqualified for appointment, e.g., exceeding maximum age limit. Failure to pre–register in the manner and within the time limit prescribed in the "Notice of Entrance Examination," and/or failure to file the application or other supporting documents with the Director by the specified deadline, shall render an applicant ineligible to take the examination.

C. The Director may, because of the small number of candidates, or because of any other good and sufficient reasons, such as death in the immediate family, public emergency, unavailability of test site, etc., postpone an examination to a later date.

SECTION 25. ENTRANCE EXAMINATIONS

See Texas Local Government Code § 143.025.

A. EXAMINATIONS

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

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

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

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

B. ENTRANCE EXAMINATION ADMINISTRATION PROCEDURES

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

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

2. Check In – An applicant shall be checked in and provide proof of identity with a valid Driver's License or valid government issued photo identification card. 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.

3. Military Service Credit – An applicant who desires to have military service credit of five (5) points added to a passing test score of seventy percent (70%) or better shall provide a copy of their DD-214, and their Honorable Discharge Certificate if available and applicable, showing a minimum of one hundred and eighty (180) total days served in the military at the time of application or by the specified application deadline. 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.

4. Failure to Appear – The application of an applicant who fails to appear for the entrance examination shall be voided and shall be disposed of by the Director. A new application form shall be required for subsequent tests.

5. 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.

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

7. 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.

8. Upon request, accommodations shall be provided to an applicant in accordance with the Americans with Disabilities Act. An applicant who needs special arrangements shall submit a request in writing to the Director no later than forty-eight (48) hours before the date of examination.

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

10. 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.

11. Applicants will not be allowed to review the entrance examination before the examination is administered or after the applicant completes the examination.

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

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

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

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

C. FIRE DEPARTMENT TIE-BREAKERS

Whenever two (2) or more competitors for an entry-level position attain the same grade, the tie shall be broken in the order listed below prior to the posting of the eligibility list:

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

2. Higher Certification –

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

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

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

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

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

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

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

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

1. Each person on an eligibility list shall notify the Director of any change in address. A notice sent to a person's last known address shall be considered sufficient notification.

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

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

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

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

SECTION 251. NOT APPLICABLE

See Texas Local Government Code § 143.0251.

SECTION 26. PROCEDURE FOR FILLING BEGINNING POSITIONS

See Texas Local Government Code § 143.026.

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

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

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

A. Eligibility List and Request for Certified List

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

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

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

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

B. Additional Requirements for Employment

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

information. These items are all required, but their order may be varied to suit the circumstances.

1. Physical Fitness and Ability Test

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

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

2. Oral Interview

The applicants who have passed the physical fitness and ability test, background checks, and polygraph test are requested to report for the oral interview process. At the interview, the applicant is presented to an Interview Board. The Interview Board is comprised of members of the Department selected by the Department Head or his/her designee, and at least one (1) member from one of the lowest two (2) classifications in the Fire Department.

Each Interview Board member is issued an evaluation form and asked to provide their written opinion of the suitability of the applicant. The applicant is closely questioned on any areas that the Personal History Statement indicated as problematic. For example, the applicant will be required to satisfactorily complete the oral interview process, including but not limited to, completing any personal or automated interview process, verbally communicating effectively and appropriately, demonstrating an understanding of the roles and responsibilities of an Arlington Firefighter or Fire Prevention Inspector, present the maturity expected of an Arlington Firefighter or Fire Prevention Inspector or Emergency Medical Technician, precisely responding to the questions of the interviewers, and demonstrating his/her knowledge of the essential skills, knowledge, and abilities expected of a certified Firefighter, Fire Prevention Inspector, or Emergency Medical Technician. The evaluation forms and attendant files are delivered to the Department Head at the conclusion of all the interviews.

3. Background Check

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

4. Polygraph Test

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

5. Suitability Memorandum

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

6. Certified Eligibility List

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

7. Conditional Offer of Employment

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

8. Drug Screen and Alcohol Test

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

9. Psychological Evaluation

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

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

10. Medical Examination

Applicants must be declared physically sound and medically free from defect which may adversely affect the performance of the duties of a Firefighter or Fire Prevention Inspector. To this end, applicants must be certified by a licensed physician appointed by the Commission or its designee in accordance with Chapter 143 to meet or exceed the physical requirements in (accordance with NFPA 1582) as established by the Commission for the position for which application has been made. Firefighter and Fire Prevention Inspector applicants must achieve a minimum fitness rating of 3 (Good) or better by the Fire Department Physician.

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

11. Revocation of Conditional Offer

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

C. PREFERENCE TO CERTIFIED APPLICANTS

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

D. CANDIDATE'S ACCEPTANCE

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

E. REMOVAL OF CANDIDATE FROM ELIGIBILITY LIST

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

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

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

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

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

    c. Applicant has not attained the age of nineteen (19) years at the time the position is offered to the applicant;

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

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

    f. Applicant has failed to provide proof of discharge for military services;

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

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

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

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

k. Applicant was unsuccessful on the written examination;

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

m. Applicant has unsuccessfully completed a polygraph test;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

   a. Applicant is thirty-six (36) years old or greater at the time of appointment;

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

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

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

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

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

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

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

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

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

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

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

m. Applicant has a prohibited relationship: Employment of related persons by the Fire Department is not allowed. The provisions of this section apply to persons from outside the City workforce who are applying for employment with the Fire Department. Restrictions on persons who are already employed by the Fire Department, and who become related to another person who is employed by the City, are specified in the City of Arlington Personnel Policies.

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

ii. **Relative.** The following relatives are prohibited from being hired:

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

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

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

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

iv. Additional Prohibitions.

(1) Elected Officials' Relatives. No person who is related within the second degree by marriage (spouse and spouse's children, parents, brothers, sisters, grandparents, and grandchildren) or within the third degree by blood (parents, children, brothers, sisters, grandparents, grandchildren, great-grandparents, great- grandchildren, aunts, uncles, nieces, and nephews) to the Mayor or any member of the City Council may be offered or accept employment with the City.

(2) Executives. No person who is a relative (as defined above) of a council-appointed employee, a Deputy City Manager, or a Department Head may be offered or accept employment with the City.

(3) Condition of Conflict. No person who is a relative (as defined above) may be offered or accept employment where the employment would constitute a condition of conflict.

SECTION 27. PROBATIONARY PERIOD

See Texas Local Government Code § 143.027.

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

A. All pre-certified Firefighter/EMT-I or Fire Prevention Inspector trainees shall serve a probationary period of twelve (12) months, beginning on the date of employment with the Department.

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

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

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

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

SECTION 28. ELIGIBILITY FOR PROMOTION

See Texas Local Government Code § 143.028.

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

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

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

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

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

SECTION 29. PROMOTIONAL EXAMINATION NOTICE

See Texas Local Government Code § 143.029.

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

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

2. Withdrawn fire promotional examination sources.

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

CONTENTS OF NOTICE

The notice of promotional examination shall contain the following:

1. Position to be filled;

2. Date, time, and place of examination;

3. Qualifications required to take the examination; and

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

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

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

SECTION 30. ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION

See Texas Local Government Code § 143.030.

SECTION 31. NOT APPLICABLE

See Texas Local Government Code § 143.031.

SECTION 32. PROMOTIONAL EXAMINATION PROCEDURE

See Texas Local Government Code § 143.032.

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

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

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

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

1. Examinations

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

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

c. To provide for a competitive promotional examination so as to better serve the public, at least three (3) qualified candidates in the Fire Suppression Division, or at least two (2) in the Fire Prevention Division (depending on the test) in the next lower position with two (2) years' service shall sit for an examination. If there are not the appropriate number of candidates in the next lower position, the Commission shall follow the procedures relating to eligibility for promotional examinations outlined in Tex. Local Gov't Code Section 143.030(d) until the appropriate number of qualified candidates sit for the examination. When more than one (1) vacancy exists at the time an examination is to be given, the Director shall determine whether the number of examinees who have filed Notices of Intent to Test is competitive. If necessary, the Director shall open the examination to additional employees, as outlined in Tex. Local Gov't Code Section 143.030(d).

d. No person shall deceive or obstruct any person in respect of his/her right of examination under the provision of these Rules and the Civil Service Act;

or falsely mark, grade, or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion. No promotional candidate shall deceive the Commission for the purpose of improving his/her chance for appointment or promotion.

2. Notice of Intent to Test – An employee shall complete a Notice of Intent to Test, as prescribed by the Director, in order to take a promotional examination. Failure to make application in the manner prescribed in the "Notice of Promotional Examination" and failure to file the application with the Director within the time limits prescribed in the "Notice of Promotional Examination" shall render the employee ineligible to take the examination.

3. Promotional Examination Administration Procedures

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

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

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

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

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

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

   g. Dishonesty – An examinee taking a promotional examination who uses or attempts to use any dishonest means to answer a question on such an examination shall have his/her examination confiscated and voided by the Test Administrator. The examinee will be removed from the testing site. The Test Administrator shall report the action to the Director, who shall report it to the Department Head and to the Commission.

   h. Upon request, accommodations shall be provided to an applicant in accordance with the Americans with Disabilities Act. An examinee who needs special arrangements shall submit a request in writing to the Director within forty-eight (48) hours prior to testing date.

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

E. PROMOTIONAL EXAMINATION PROCEDURES FOR PERSONNEL ON ACTIVE MILITARY DUTY

1. Fire promotional candidates, who are eligible to take a promotional examination, and who are serving on active military duty, outside the State of Texas or more than fifty (50) miles from Arlington City Hall, are eligible to take a separate promotional examination. An examination, that is or is not identical to the examination administered to other eligible candidates, may be administered outside the presence of other candidates.

2. Employees who are called to active military duty shall be required to notify in writing the Director prior to being deployed stating whether or not they intend to take any promotional examination administered during their active duty.

3. If the employee signifies intent to take promotional exams, he/she shall provide the Director with a valid e-mail address, fax number, or contact method during active duty, and shall notify the Director of any changes in his/her contact information in order to be notified of scheduled exams.

4. The Director is authorized to coordinate all testing under this subsection and may exercise discretion necessary to ensure the confidentiality of the examination and to assure proper administrative procedures are followed.

5. Before the 90th day before the date a promotional examination is held, a notice listing the sources from which the examination questions will be taken will be sent to each military promotional candidate. The notice will be sent to the person's last known address, including his/her last known e-mail address.

6. It shall be the military promotional candidate's responsibility to secure the necessary source material.

7. The employee shall make arrangements with a military exam coordinator, his/her JAG (military attorney), or if unavailable, the commanding officer – to proctor the promotional exam and shall provide the name of that individual and contact information along with a valid fax number, if available, to the Director. Once designated, the same person shall be used throughout the examination process as noted herein.

8. Before the 30th day before the date a promotional examination is held, a notice of the examination will be sent to each military promotional candidate at their last known address, including his/her last known e-mail address. The employee shall fax or e-mail confirmation to take the test within ten (10) days of receipt of the Notice of Exam. If military operations prevent an employee from meeting this deadline to confirm intent to take the test, the employee shall submit written confirmation as soon as possible, along with a statement from his/her commanding officer verifying military operations prevented a response during the 10-day period. If a military promotional candidate plans to take the exam offsite, then that information must be included in the confirmation within time period prescribed.

9. It shall be the military promotional candidate's responsibility to work with the Director to schedule the administration of the examination.

10. Test packets containing the written examination, answer sheet, an affidavit, and test instructions shall be provided to the military exam coordinator at least twenty-four (24) hours prior to the scheduled exam date. If possible, the written examination for the active duty personnel should be administered on, or as close to, the same day and time as the scheduled exam at the City.

11. All exam materials (exam, answer sheet, and answer key) shall be returned to the Director immediately following the scoring of the exam.

12. At no time will the administration of a promotional examination being given to a promotional candidate serving on active military duty unnecessarily interfere with ongoing military efforts.

13. If the candidate serving on military duty takes and passes a promotional examination, the candidate's name shall be included on the promotional eligibility list created nearest in time to the time at which the candidate on active military duty took the examination.

14. Candidates serving on military duty, who take the promotional examination outside of Arlington, shall be eligible to file an appeal of the examination as provided in Tex. Local Gov't Code Section 143.034. The Director shall coordinate all matters related to the review of the examination and the filing of the appeal, and may extend the time limit for appeal upon a showing of exigent circumstances.

15. All employees covered by Chapter 143 who are called to active military duty must notify the Director of their mailing address and/or their e–mail addresses. The Director shall use his/her best efforts to inform the employees serving active military duty of upcoming promotional examinations.

16. All candidates for a promotional examination should execute an affidavit averring to the fact that they have not shared or discussed the test materials with a candidate serving on military duty.

SECTION 33. PROMOTIONAL EXAMINATION GRADES

See Texas Local Government Code § 143.033.

A. **GRADING OF EXAMINATION** – The requirement for "grading at the examination location" is met if the grading location is in the same building, if examinees who have finished are permitted to accompany the person who takes examination answer sheets to the grading location, and if examinees are allowed to observe as the sheets are graded.

B. **SENIORITY POINTS** – Each applicant is entitled to receive one (1) point for each full year of continuous service in the Arlington Fire Department, with a maximum of ten (10) points. The grade for the applicant shall be computed by adding the applicant's points for seniority to the applicant's grade on the written examination, but for an applicant only if the applicant scores a passing grade of seventy percent (70%) on the written examination. Each full year of service equals one (1) point. Seniority points shall be awarded only for continuous whole years of service, and shall not be awarded for years of part-time employment.

C. **TIE–BREAKERS** – Whenever two (2) or more candidates for promotion attain the same grade, including seniority points, the tie shall be broken in the order listed below:

1. Highest Test Score – If a tie exists, the candidates shall be ranked in the order according to which candidate had the highest examination raw score prior to the addition of seniority points and after the Commission's determination of appeals, if any.

2. Seniority in Rank – If a tie still exists, the candidates shall be ranked in the order according to the earlier hire date in their most recent continuous service in the position immediately below the position for which the examination was given.

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

   a. Fire Certifications Considered for Fire Prevention Classification

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

   b. Fire Certifications Considered for Fire Suppression Classification

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

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

5. Bachelor's Degree – If no person possesses a Master's degree, and if a tie still exists, the persons shall be ranked according to which person possess a Bachelor's degree.

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

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

D. **VERIFYING EXAMINATION SCORES** – After the grading of all tests and prior to the posting of the eligibility list, the Director shall 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.

E. **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 Director, and in the entrance lobby of the Fire Administration office within twenty-four (24) hours after the examination.

SECTION 34. REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION

See Texas Local Government Code § 143.034.

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

A copy of the appealed question(s) along with the respective answer(s) from the answer key and the title and page number from the reference materials will be given to the appealing candidate at the time of the Commission meeting. The packet of appealed question(s) will need to remain in the Civil Service meeting room at all times.

B. The period of review of test materials begins the first business day after promotional examination raw scores are posted and is limited to five (5) business days during which an appeal may be filed. No electronic devices, personal papers, books, notebooks or briefcases may be brought in during this visit.

1. Appeals must be made in writing and include a reasoned statement explaining the examinee's belief as to which (if any) answer or answers should be accepted as correct. Support for an appeal may include factors such as:

   a. Another answer choice being an equally valid answer to the question and coming from the same source.

   b. A typographical, copying, or other error significantly altering the meaning of the question or answer in such a way as to render the approved answer invalid.

2. Factors that do not support an appeal include, but are not limited to, typographical errors or omissions that are disclosed to the examinees and are verbally corrected during the examination.

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

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

D. Prior to the Commission meeting, at which test appeals will be considered, each Commissioner shall receive a copy of each written appeal submitted, the appealed question(s) and answer(s), the correct answer(s), and the appropriate source reference sheet(s). If possible, the responses of the test writer would also be appropriate. The appeal information shall not reveal the name of the appellant prior to the regularly scheduled Commission meeting. The Director will provide copies of the test writer's responses to appealed questions (if possible) to interested persons at the Commission meeting at which the appeal is heard. Comments, discussion, and questions shall be limited to the question(s) being appealed.

E. During the Commission's appeal hearing, the following rules will apply:

1. The appealed questions will be considered in numerical order.

2. If there are multiple appellants on a question, the Chair will call them forward for comments in alphabetical order. The Chair will first ask each appellant if he/she still wishes to appeal. The appellant will then be allowed to make a brief presentation of the reasons for his or her appeal.

3. After all appellants on a question have been given the opportunity to address a question, the Chair will allow other persons who took the examination an opportunity to speak regarding the questions.

4. The Chair will set and enforce a three (3) minute limit on the time for an appellant to speak on each question. The Commission may vote to alter the time limit set by the Chair. Persons other than the appellant who wish to speak will also be limited to three (3) minutes.

5. Only one (1) appellant will be allowed to speak at a time and only one (1) speaking turn will be allowed per person. Groups of two (2) or more individuals with the same position must choose a representative for the group. This rule does not limit the ability of the Commissioners to ask questions of the appellant or others participating in the discussion. The appellant will have a maximum of one (1) minute to rebut arguments against their appeal.

6. After comments by the appellants who took the examination, the Director and the Department Head for which the examination was conducted may submit comments to the Commission.

7. The Commission may ask questions of an appellant or anyone else who addresses the Commission.

F. After receiving comments on a question, the Commission will discuss and make a determination of the question. A promotional examination question appealed to the Commission shall be sustained, overruled, or eliminated by a Ruling issued by the Commission. Each Ruling shall be made by a majority vote of the Commission, as follows:

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

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

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

   A Ruling which sustains the appeal of a promotional examination question shall require the Director to accept a different answer or accept two (2) or more answers, as directed in the Ruling, while grading the promotional examination of all eligible candidates.

3. **Eliminate the test question** (the test question shall not be included)

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

G. After all questions have been considered, the Director will re-score all answer sheets and establish an amended eligibility list. Seniority points, for those having score of seventy percent (70%) or better, will be added after the re-scoring. The amended eligibility list shall have the same effective date as the original list. The Director will post the amended eligibility list within twenty-four (24) hours of the Commission meeting.

H. Occupying the top position on a promotional eligibility list does not create an absolute right to be promoted. It creates only an expectancy of being promoted, subject to the creation of a vacancy in the classified position during the one (1) year existence of the eligibility list and subject to these Rules.

SECTION 35. NOT APPLICABLE

See Texas Local Government Code § 143.035.

SECTION 36. PROCEDURE FOR MAKING PROMOTIONAL APPOINTMENTS

See Texas Local Government Code § 143.036.

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

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

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

A. Failure to obtain the required educational requirements:

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

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

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

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

5. Beginning January 1, 2022, applicants should have 50 hours of college for the rank of Fire Investigator/ Bomb Technician FP3. If the applicant has TCFP Advanced Fire/Arson Investigator Certification, 40 college hours should be required.

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

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

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

B. Failure to pass a background check consisting of driving records and criminal history to comply with Criminal Justice Information Standards (CJIS)

C. Failure to pass a drug screen and/or alcohol testing.

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

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

F. The Firefighter or Fire Prevention Inspector classification promotional candidate should 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 candidate's beginning date with the Department shall be related to the fire service or management field.

TRANSCRIPTS

Official transcripts must be forwarded by candidates to Fire Administration to provide proof of acceptable course completion. In the case of a questionable course, members are required to provide written justification for the job-relatedness of the course.

ACCEPTABLE AREAS OF STUDY

The following are acceptable areas of study subject for approval:

- Fire Protection Technology
- Law Enforcement/Criminal Justice
- Management/Supervision
- Business Administration
- Accounting
- Data Processing/Computer Science
- Mathematics
- Science (Chemistry/Physics/Biology)
- Education
- Economics
- Communications
- English/Speech
- Law

- Spanish, or any foreign language that represents a minimum of 5% of the City's residents
- Government/Political Science
- Nursing and other approved medical-related subject areas
- Engineering
- Public Administration
- Emergency Management

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

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

Apparatus Operator	Basic Certification
Lieutenant	Intermediate Certification
Captain	Advanced Certification
Deputy Fire Chief	Advanced Certification (Master required January 1, 2022)
Fire Prevention Specialist	TCFP Basic Inspector Certification
Fire Investigator/ Bomb Technician	TCFP Intermediate Inspector Certification; TCFP Arson Investigator; TCOLE Basic Peace Officer; Must obtain within one (1) year of promotion, as allowed by the FBI, Hazardous Devices Certification
Deputy Fire Marshal	TCFP Advanced Inspector Certification; TCOLE Intermediate Peace Officer; Hazardous Devices Technician Certification
Deputy Fire Chief/Fire Marshal	TCFP Master Inspector Certification; TCFP Master Arson Investigator; TCOLE Advance Peace Officer; Hazardous Devices Technician Certification

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

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

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

L. For the rank of Deputy Fire Chief: Failure to hold state certification as a Hazardous Materials Technician prior to the start of the petitioning process; and failure to have a "Good" or better on the most recent physical assessment.

M. For the rank of Fire Prevention Specialist: Failure to have a "Good" or better on the most recent physical assessment.

N. For the rank of Fire Investigator/Bomb Technician: Failure to complete successfully the FBI Hazardous Devices School within eighteen (18) months of promotion to the rank of Fire Investigator/Bomb Technician; and failure to have a "Good" or better on the most recent physical assessment.

O. For the rank of Deputy Fire Marshal: Failure to hold a Hazardous Devices Technician certification; and failure to have a "Good" or better on most recent physical assessment.

P. For the rank of Deputy Chief/Fire Marshal: Failure to hold a Hazardous Devices Technician certification; failure to attend the FBI Bomb Squad Commanders course; and failure to have a "Good" or better on most recent physical assessment.

SECTION 37. RECORD OF CERTIFICATION AND APPOINTMENT

See Texas Local Government Code § 143.037.

SECTION 38. TEMPORARY DUTIES IN HIGHER CLASSIFICATION

See Texas Local Government Code § 143.038.

(Sections 39–40 reserved for expansion.)

SECTION 41. SALARY

See Texas Local Government Code § 143.041.
See City of Arlington Personnel Policy.
See City of Arlington Ordinance No. 17-065 and any future amendments.

SECTION 42. ASSIGNMENT PAY

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

SECTION 43. FIELD TRAINING OFFICER ASSIGNMENT PAY – NOT APPLICABLE

See Texas Local Government Code § 143.043.

SECTION 44. CERTIFICATION AND EDUCATIONAL INCENTIVE PAY

See Texas Local Government Code § 143.044.
See City of Arlington Fire Department Standard Operating Procedures.
See City of Arlington Ordinance No. 17-065 and any future amendments.

SECTION 45. ACCUMULATION AND PAYMENT OF SICK LEAVE

See Texas Local Government Code § 143.045.
See City of Arlington Personnel Policy.
See City of Arlington Fire Department Standard Operating Procedures.
See City of Arlington Ordinance No. 17-067 and any future amendments.

SECTION 46. VACATIONS

See Texas Local Government Code § 143.046.
See City of Arlington Personnel Policy.
See City of Arlington Fire Department Standard Operating Procedures.
See City of Arlington Ordinance No. 17-066 and any future amendments.

SECTION 47. SHIFT DIFFERENTIAL PAY

See Texas Local Government Code § 143.047.

(Sections 48–50 reserved for expansion.)

SECTION 51. CAUSE FOR REMOVAL OR SUSPENSION

See Texas Local Government Code § 143.051.

PURPOSE – These Rules shall apply to and govern all disciplinary actions and appeals of Fire Department employees subject to Chapter 143. The following are declared to be grounds for dismissal or suspension of any employee from the classified service in the City of Arlington:

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

2. Violations of an Arlington Charter provision;

3. Acts of incompetency;

4. Neglect of duty;

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

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

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

8. Conduct prejudicial to good order;

9. Neglect or refusal to pay just debts;

10. Absence without leave;

11. Shirking duties;

12. Cowardice at fires;

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

SECTION 52. DISCIPLINARY SUSPENSIONS

See Texas Local Government Code § 143.052.

A. **"CAUSE" FOR SUSPENSION** – For a suspension, a determination of what constitutes "cause" is generally made by comparison to what a reasonable person, who is mindful of the habits and customs of his/her Department, who is also mindful of the responsibilities and needs of his/her Department, and who is also mindful of the standards of justice and fair dealing prevalent in the City, should have done (or should have not done) under similar circumstances. The term "cause" shall also mean "employee misconduct" and shall necessarily include any act or omission that violates: (a) an applicable provision of Chapter 143, or (b) an applicable rule or regulation duly adopted by the Commission, or (c) the Arlington Fire Department's Orders, Directives and Standard Operating Procedures or (d) the City of Arlington Personnel Policies.

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

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

The employee shall have his/her vacation leave accumulated balance deducted in an amount equal to the suspension to qualify for this provision. In order to request working off suspended time, the suspended employee shall make a written request to the Department Head within ten (10) days after receiving the Notice of Suspension. Failure to make a written request to the Department Head within the allotted time shall result in an employee not being eligible for the provisions of this Section.

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

SECTION 53. APPEAL OF DISCIPLINARY SUSPENSION

See Texas Local Government Code § 143.053.

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

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

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

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

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

C. **OPTIONS FOR DISCIPLINARY HEARINGS**

1. At any time after filing the original notice of appeal, but before either party has incurred third-party Hearing Examiner expenses, an employee may withdraw the original request for a Hearing Examiner and submit the appeal to a hearing before the Commission. The election must be made in writing and filed with the Director's office. However, this election may not be used to alter the 30-day hearing deadline imposed on Commission decision by Chapter 143.

2. At any time after filing of the notice of appeal, the parties may mutually agree to withdraw the appeal from a Hearing Examiner and submit the appeal to a hearing before the Commission. The mutual agreement must be made in writing and filed with the Director's office.

D. **DIRECTOR TO COORDINATE ALL MATTERS** – The location and accommodations for a hearing or appeal shall be arranged by the Director. All subsequent matters raised by the appealing employee or the Department ("the parties") regarding attendance, scheduling, requests for subpoenas, request for continuance, etc., shall be coordinated through the Director or the Director's designee. All such information shall be provided to the Director who shall then provide copies of same to the opposing party or representative and also coordinate the appropriate response or action to be taken. In a hearing coordinated

by an outside agency, that agency shall also provide coordination services between the parties and the Hearing Examiner in conjunction with the Director.

E. **EXPENSE AND COSTS**

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

2. The appropriate amount, as well as payment of all costs and expenses, may be determined and collected by the Director. An employee may receive an estimate of anticipated costs upon written request to the Director. All costs charged by the court reporter shall be split equally between the parties. Any costs of the Commission or a third-party Hearing Examiner to reset and/or continue a hearing under these Rules, regardless of whom requested the reset and/or continuance, shall be split equally between the parties.

3. When applicable, the state law governing the doctrine of "mitigation of damages" shall be applied in computing reimbursements or an offset from an award of back pay. The Commission or Hearing Examiner shall permit introduction of evidence on mitigation of back pay by either the employee or the Department Head.

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

G. **EMPLOYEE AND DEPARTMENT REPRESENTATIVES**

1. The hearing process shall recognize the right of the employee, as well as the Department, to be represented throughout the appeal. However, only one (1) representative shall be allowed to speak or otherwise present evidence on behalf of either party throughout the questioning of a particular witness.

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

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

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

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

H. LIMITED DISCOVERY

1. The Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, and all other Rules of Procedure, whether civil or criminal, regarding what is commonly known as "discovery" shall not apply to any civil service proceedings. Mediation and arbitration rules and processes do not apply to any civil service hearings. Items from Departmental policies, rules, and regulations manuals may be photocopied.

   Items such as Accident Review Board recommendations, time and attendance records, duty status forms, and other such documents may also be provided so long as they are relevant to the employee and the disciplinary action under appeal.

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

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

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

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

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

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

1. City's opening statement

2. Employee's opening statement

3. The City's (Department's) case:

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

4. Employee's response:

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

5. Rebuttal by the City, if any:

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

6. City's closing argument

7. Employee's closing argument

8. City's rebuttal

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

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

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

J. HEARING PROCEDURES

1. All disciplinary appeal proceedings shall be public hearings. The Commission or Hearing Examiner may place limitations on photographers, media personnel, and audience when necessary to avoid distraction or violation of the sequestration rule.

2. At the scheduled time and place, the hearing shall be called to order.

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

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

5. After being called to order, but prior to the beginning of testimony or evidence, consideration shall be made as to any pre-hearing motions, requests, or jurisdictional matters as submitted by either party. The parties shall also seek to obtain as many stipulations as possible as to non-contested or non-material matters. The Commission may "carry" such pre-hearing motions until the hearing is completed and all factual evidence has been presented before making its final ruling thereto.

6. Upon request by either party, the hearing process shall utilize what is commonly known as "the Rule" concerning oral testimony, meaning that a person who shall be expected to testify at the hearing, other than the parties and their representatives, shall not be allowed to observe or listen to any of the proceedings except when he/she is actually testifying as a witness. "The Rule" may be used to ensure one witness' testimony is not influenced by another's testimony. While under "the Rule," a potential witness shall not discuss any aspect of the appeal or hearing except with the attorneys or the representatives involved. Invoking "the Rule" is not mandatory and may be waived in whole or in part by agreement between the parties.

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

8. The City shall make the first presentation of evidence and testimony. Thereafter, the employee shall have the opportunity to respond with his/her own evidence, witnesses, or testimony. Thereafter, the City may come forward with rebuttal evidence or testimony as may be necessary. Presentations by both parties shall be as brief and as closely related to the issue(s) as much as is possible. Throughout the proceedings, a Commission member or Hearing Examiner may also ask questions as needed in order to aid his/her consideration of the testimony or evidence.

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

10. The Chairperson, or the Hearing Examiner, shall exercise reasonable control over the questioning of a witness and the presentation of evidence so as to:

    a. effectively ascertain the truth;
    b. keep such presentations relevant to the issues to be determined;
    c. avoid the needless consumption of time and expense; and
    d. protect the witness from harassment or undue embarrassment.

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

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

13. The Commission, or the Hearing Examiner, shall have the discretion to control the length of time of any particular session as well as the amount of time provided for recesses, breaks, lunch hours, etc.

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

K. RULES OF EVIDENCE

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

2. The scope of evidence to be considered at a disciplinary hearing shall be generally limited to matters material and probative to the statement of charges as set forth in the Department's written statement, the employee's notice of appeal, as well as the employee's previous employment record with the Department.

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

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

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

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

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

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

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

L. ISSUES TO BE DETERMINED IN DISCIPLINARY APPEALS

1. Generally, the determinative issues to be considered and determined by the disciplinary action appeal process shall be:

   a. Did cause exist to support the imposing of some form of disciplinary action as to the employee?

   b. Was the degree of disciplinary action imposed by the Department reasonable under the circumstances? and

   c. Has the hearing process developed matters that justify or compel modification of the Department Head's disciplinary action?

2. The Department Head shall establish the violation(s) by a preponderance of the evidence standard.

3. It shall be recognized that prior to imposing any form of discipline, the Department Head may use lesser forms of disciplinary or corrective action, or progressive discipline.

   However, the failure to utilize progressive discipline shall not in itself be grounds to overturn or otherwise modify a Department Head's decision to proceed directly to the appropriate level of discipline if the employee's misconduct warrants such disciplinary action, including indefinite suspension. Progressive discipline need not always apply and the seriousness of a single offense may negate a previously unblemished record.

4. The hearing shall provide the employee a reasonable opportunity to produce objective evidence and/or testimony to develop:

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

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

   c. That even if the employee committed actionable misconduct, that the degree of discipline imposed is too harsh or severe, i.e. the disciplinary action imposed was "unreasonable, arbitrary or capricious"; or

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

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

6. If the Commission determines one valid charge of misconduct is supported by evidence sufficient to establish its truth, the Commission shall sustain that charge even if the evidence at the hearing does not support other charges in the letter of disciplinary action.

M. FINDINGS AND ORDERS OF THE COMMISSION

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

2. The Commission's decision may be made by the majority vote of two (2) of the three (3) Commissioners present. If only two (2) Commissioners are present, the final decision shall be made unanimously.

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

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

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

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

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

6. If modifying the disciplinary action of the Department, the Order shall clearly explain in writing the factors and rationale for doing so. If affirming the disciplinary action of the Department, it shall be presumed to be for the same reasons and facts as presented by the Department unless otherwise indicated.

7. The Commission may consider evidence of facts or events during the disciplinary appeal process that are outside the scope of the Department's statement of charges or the employee's notice of appeal to the extent permitted by law.

8. A copy of the Department's disciplinary action, a copy of the employee's request for appeal, the record of the proceedings, and a copy of the exhibits submitted together with a copy of the final Order shall be filed in the Commission record. The Commission may cite these records as reference material in subsequent determinations.

SECTION 54. DEMOTIONS

See Texas Local Government Code § 143.054.

A. **PROBABLE CAUSE MEETING** – The Commission's consideration of whether there is probable cause to support the Department Head's recommendation for demotion does not require an evidentiary hearing.

B. **APPEAL OF PROBABLE CAUSE FINDING** – If the Commission determines that probable cause exists for a recommended demotion, the Commission shall give the employee a written notice either to appear before to Commission for a public hearing at a specified time and place or appeal the determination to a third-party Hearing Examiner. The Commission shall give the notice to the employee before the 10th day before the date the hearing will be held. The procedures for appeal of the demotion shall be conducted according to the same hearing procedures as set forth above for all other disciplinary actions, or as expressly provided otherwise in Chapter 143.

SECTION 55. NOT APPLICABLE

See Texas Local Government Code § 143.055.

SECTION 56. PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT

See Texas Local Government Code § 143.056.

Conviction, deferred adjudication, or other agreement founded on a pleading of "Guilty" or "No Contest" of a felony shall result in the employee being terminated from his/her position.

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

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

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

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

SECTION 57. HEARING EXAMINERS

See Texas Local Government Code § 143.057.

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

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

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

D. In a disciplinary appeal conducted under Chapter 143, the Hearing Examiner shall have the "same duties and powers" as would the Commission, including the right to issue subpoenas to compel the attendance of a witness.

E. A disciplinary proceeding conducted by a Hearing Examiner instead of the Commission shall not be conducted or resolved via arbitration or arbitration processes. An employee's election of appeal to a Hearing Examiner shall not constitute a right or an agreement to submit the appeal to arbitration or arbitration processes.

F. The Hearing Examiner is to conduct a hearing fairly, objectively, and impartially under the provisions of Chapter 143 and these Rules. The Hearing Examiner is to render a fair and just decision based solely on the evidence presented in the hearing. The scope of evidence to be considered at the hearing shall be generally limited to matters closely relevant to the charges of misconduct as set forth in the Department's written statement and the employee's notice of appeal as filed with the Commission, as well as the employee's previous work record with the Department.

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

H. If a situation arises pertaining to the administration process of selecting a Hearing Examiner, or meeting notices, or request for rescheduling, refusal, conflict of interest, etc., and the situation is not provided for in Chapter 143 or in these Rules, then the parties and the Director shall attempt to mutually resolve the situation by agreement. If the matter is not one capable of being reasonably resolved by agreement, the Director may refer the matter to the administrative processes of the entity sponsoring the Hearing Examiner to resolve the situation within its own processes.

I. If a Hearing Examiner has been initially selected but is thereafter objected to or is asked to be excused by a party, both parties may mutually agree to excuse the Hearing Examiner and thereafter request a new list of qualified and neutral Hearing Examiners and start the selection process over again. If no such agreement can be reached, then both parties shall prepare a written statement including their requests and reasoning therefore which shall be submitted to the Director. The Director shall then transmit it to the entity sponsoring the Hearing Examiner, which shall then resolve the dispute according to its own administrative processes. The response shall either excuse the Hearing Examiner and thereafter provide a new list, or it shall provide a written statement of reasons why the Hearing Examiner was not excused.

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

K. ESSENTIAL ELEMENTS

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

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

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

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

e. Hearing Examiners are limited to the scope of Department Head options when hearing disciplinary appeals. Hearing Examiners may: (1) uphold, reduce, or overturn a temporary suspension; (2) uphold an indefinite suspension; (3) reinstate an indefinitely suspended employee and provide for a reduced suspension; or (4) overturn the indefinite suspension entirely. If the appeal concerns a temporary or indefinite suspension, the Hearing Examiner has no authority to order an involuntary demotion of an employee.

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

(Sections 58–70 reserved for expansion.)

SECTION 71. LEAVES OF ABSENCE; RESTRICTION PROHIBITED

See Texas Local Government Code § 143.071.

SECTION 72. MILITARY LEAVE OF ABSENCE

See Texas Local Government Code § 143.072.

This section is not intended to create any rights beyond those created by the Uniformed Services Employment and Reemployment Rights Act (USERRA) 38 USC 4301, the Texas Government Code, and Texas Local Government Code Section 143.072. The following definitions apply:

"Military Reinstatement List" means a list of persons, broken down by civil service classification, and arranged in the order provided by these rules, who have been demoted to the next lowest position in grade or compensation due to the reinstatement of an employee from a military leave of absence.

"Military Service" means US Marine Corps, US Navy, US Army, US Air Force, and US Coast Guard.

"Reservist" means a member of the US Marine Corps Reserve, US Navy Reserve, US Army Reserve, US Air Force Reserve, US Coast Guard Reserve, Army National Guard and Air National Guard (collectively, the "Reserves").

A. Military Leave of Absence for Newly Enlisting Members

1. A Civil Service member may newly enlist or enter into the United States military service. The Civil Service member shall follow the procedure set forth in Texas Local Government Code Section 143.072 in order to obtain an unpaid military leave of absence. The Director of Civil Service, on behalf of the Commission, shall grant the Military Leave of Absence upon receipt of a copy of the member's military orders and upon receipt of a form approved by the Civil Service Office and signed by the eligible member; or, if the eligible member is unavailable, then signed by the member's department Chief. The Director shall report the same to the Civil Service Commission at the next scheduled meeting. Such Military Leave of Absence may not exceed the period of compulsory military service or the basic minimum enlistment period.

2. As a benefit provided solely by the City of Arlington, a newly enlisting member may be eligible for annual paid leave and military supplemental pay under the City of Arlington Personnel Policy. Newly enlisting members will not be eligible for Military Leave Time Account donations under Section 75 of these local rules. Any time required over the maximum allowed compensated military leave must be taken without pay.

3. After the granting of a Military Leave of Absence and the start thereof, the Director of Civil Service shall treat the position as vacated and shall initiate the normal procedure for filling a vacancy.

4. Members will be subject to the reinstatement rules provided herein and may also be placed on a Military Reinstatement List as follows:

a. If the reinstatement of a member who received a Military Leave of Absence causes a surplus in the rank to which the member was reinstated, then the member who has the least seniority in the position shall be returned to the position immediately below the position to which the returning member was reinstated.

b. If a member is returned to a lower position in grade or compensation under this Rule without charges being filed against the member for violation of civil service rules, the member shall be placed on a Military Reinstatement List in order of seniority.

c. Appointment from the Military Reinstatement List shall be made in order of seniority on the list. If more than one member is placed on the list on the same day, the tie breaking criteria cited in Local Rule 33 shall be utilized to determine the final ranking on the list.

d. A member who is not on the reinstatement list may not be appointed to a position to which the list applies until the list is exhausted. A Military Reinstatement List has no expiration date.

e. If there is no lower position in grade/rank, then the person most recently hired must be laid off but must be placed on a Military Reinstatement List, giving him or her a preferential right to the next subsequent vacancy.

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

B. Leave of Absence for Members of the Reserves

1. The Director of Civil Service must grant a Reservist Leave of Absence for members to engage in initial training or annual duty in the military reserves or National Guard. The Director must report the Reservist Leave of Absence to the Civil Service Commission at the next scheduled meeting.

2. A member on a Reservist Leave of Absence for greater than three continuous months may be eligible for Military Leave Time Account donations as detailed in Section 75 herein in addition to the annual paid leave and supplemental military pay in the City's Personnel Policy.

3. After the granting of a Reservist Leave of Absence and the start thereof, the position the reservist held will be treated as a temporary assignment and not a vacancy. In accordance with Section 143.038 of the Tex. Loc. Gov't Code, the duties that are temporarily performed in a higher classification by an employee who has not been promoted as prescribed by Chapter 143 shall not be construed as a promotion and members performing those duties shall not have any preferential right to the next vacancy.

4. Texas Local Government Code Section 143.028(c) applies only to Reservist Leaves of Absence.

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

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

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

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

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

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

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

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

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

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

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

2. It is a member's responsibility to keep their certifications, required by Section 36.G of these Rules and state law, current during deployment.

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

4. The member is responsible for ensuring the City has current contact information for the employee throughout deployment, unless the nature of his/her assignment prohibits such information from being provided to the department.

5. Members should consult the Human Resources Department for assistance in determining the impact of their active military service on their pension plans and health insurance benefits.

6. A member who has not completed the Civil Service probationary period when he or she enters the uniformed service will upon his or her return, resume the Civil Service probationary period at the point the Civil Service probationary period was interrupted by military service.

SECTION 73. LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE

See Texas Local Government Code § 143.073.

The purpose of this section is to provide guidelines for Civil Service salary continuation under illness or injury leaves of absence for classified employees. Notwithstanding the leave provisions and accommodations authorized by these rules and the City's Personnel Policy, the Department Head may at any time invoke the fitness for duty process authorized by Section 143.081 of the Texas Local Government Code if the employee is unable to perform their essential job functions ("Fitness for Duty Evaluation").

A. Definitions

"Full Pay" during a Line of Duty Illness or Injury Leave is defined as the classified employee's regular rate of pay for his/her normally scheduled work time, less the amount of any deductions authorized by the Texas Workers' Compensation Act and related regulations.

"Illness or Injury Leave" is leave that is provided to eligible classified employees who are unable to work due to a compensable illness or injury. Transitional Assignment Duty is not considered Illness or Injury Leave.

"Line of Duty Illness or Injury Leave" is Illness or Injury Leave granted to a classified employee who has suffered a compensable illness or injury as a direct or proximate result of the person's line of duty, which is in the course and scope of his/her employment as determined by the Civil Service Director, and is unable to work. This may include an illness or injury suffered during an employee's regular duty hours, authorized overtime, or authorized special events.

"Reassignment" may be available if the classified employee can only work with restrictions on a permanent basis, and the employee may be accommodated through permanent reassignment to a non-classified position for which the employee is qualified.

"Temporary Leave" is unpaid leave provided at the discretion of the Department Head, in consultation with HR, after the classified employee has exhausted his/her Illness or Injury Leave and any extensions granted, and/or the employee has exhausted all Leave Benefits as described herein.

"Transitional Duty Assignment" may be available when the classified employee suffers a temporary illness or injury but can return to work with restrictions or limitations.

"Unpaid" leave does not consider the employee as being on active service with the City, and the employee neither receives pay nor the employer's contribution amounts for health care insurance or other benefits. Paid leave does not accrue during unpaid leave.

"Work Days" will be converted to shift equivalents for persons regularly assigned to other than the regular City 8-hour work day.

B. Illness or Injury Leave Requirements

To the extent the City's Personnel Policy Manual does not conflict with these Local Rules, any requirements contained therein are incorporated into this Section.

1. Procedure. The classified employee eligible for Line of Duty Illness and Injury Leave must report the injury within 24 hours after the injury occurs. The employee must complete the Worker's Compensation Injury Packet using the procedures outlined in the City Personnel Policy Manual. The form must state that the employee is unable to return to full duty or limited duty with restrictions in order to obtain such leave; otherwise, the employee must qualify for Transitional Duty Assignment.

2. Worker's Compensation. Denial of Worker's Compensation benefits will cause the employee's illness or injury to be considered "Off-duty" unless otherwise compensable under the Civil Service Act. Use of Leave Benefits may be authorized without regard to Maximum Medical Improvement.

3. Salary Continuation (Phase I). A classified employee on Line of Duty Illness or Injury Leave shall receive Full Pay and shall retain the same level of health care insurance benefits as the employee received while on active duty for a period commensurate with the nature of the illness or injury, not to exceed 2080 hours for the 40-hour work week or 2912-hours for the 24-hour shift employee ("one-year period") as of the end of the employee's last shift. This time does not have to be continuous, but such leave must be in accordance with the rules and regulations of the Fire Department and Chapter 143. The benefits period starts from the date of injury and may be used intermittently.

4. Extended Salary Continuation (Phase II). If the one-year period was required for the illness or injury sustained by the employee, the Arlington City Council may, upon expiration of the one-year period, extend the Line of Duty Illness or Injury Leave, commensurate with the illness or injury, at Full or reduced pay upon recommendation of the Department Head. At least 30 days prior to the end of the one-year period, the employee must submit a request to the Department Head asking for such an extension, and it is in the Department Head's discretion, in consultation with HR, whether to forward the request for approval or denial to the City Council.

5. TMRS Disability. For classified employees on Line of Duty Illness or Injury Leave who have eligible benefits through the Texas Municipal Retirement System (TMRS) and who either do not receive Extended Salary Continuation or suffer a reduction of salary below 60 percent of their monthly salary, the employee may be eligible to obtain disability retirement benefits under TMRS. However, if the employee is deemed "recovered" by TMRS regulations, then he or she is eligible for reappointment in accordance with the reappointment rules in Local Rule 74.

6. Use of Leave Benefits (Phase III). Accumulated sick leave, holiday time, vacation time, any applicable catastrophic leave donations, and/or frozen leave banks (in an FMLA qualifying event) may be used prior to being placed in Temporary Leave status in the following situations:

   a. Employees, on Line of Duty Illness or Injury Leave, who exhaust the one-year period and who do not receive Extended Salary Continuation outlined in Subsection (4);
   b. Employees, on Line of Duty Illness or Injury Leave, who do not have eligible benefits through TMRS outlined in Subsection (5); and
   c. Employees who are on Off-duty Illness or Injury Leave.

7. Temporary Leave (Phase IV). Temporary Leave, if granted, shall only be allowed in thirty (30) day increments and shall not exceed a six (6) month period, unless the employee has not expired his/her FMLA leave in which case Temporary Leave must accommodate the FMLA leave available to the employee. If an employee recovers during the time that he/she is on Temporary Leave, then the employee may apply for reinstatement at the same rank and seniority as he/she held prior to taking leave using the reappointment procedures in Rule 74. Temporary Leave is considered a break in service for insurance purposes.

8. Trainees. Fire Trainees will not be eligible to receive Salary Continuation benefits for Line of Duty Illness or Injury Leave. Accommodations, if any, will be in accordance with the City Personnel Policy Manual and Federal law.

9. FMLA. Any days in which Illness or Injury Leave, whether in the Line of Duty or Off-duty, is utilized will be applied toward the classified employee's leave benefit under the Family Medical Leave Act.

10. Documentation Required. The classified employee shall attend all doctor appointments as scheduled by their physician. The employee shall be responsible to schedule a monthly medical appointment and must update their supervisor after each appointment. Employees must provide signed documentation from a treating licensed physician in accordance with City policy in order to continue to obtain benefits under these rules and may be ordered to appear before the Commission in the event of a failure to comply with this requirement.

11. Availability on Leave. An employee who wishes to travel or otherwise be unavailable while on Illness or Injury Leave, whether in the Line of Duty or off-duty, must contact his/her HR Consultant for instructions.

12. Verification. The Department Head or Director may order home checks to be made on any employee off work under this Section and may order an employee to provide a doctor's letter verifying any claimed illness or non-work injury.

13. Contact Information. An Employee is responsible for ensuring that the City has his/her current contact information, including personal address, phone number and electronic mail, while they are on Illness or Injury Leave.

C. Prohibitions

While on Illness and Injury Leave, whether in the Line of Duty or Off-duty, employees shall not engage in the following conduct:

1. Drive a city-owned vehicle;
2. Participate in activities that could possibly hinder recovery (i.e., strenuous athletic activity);
3. Work any secondary employment;
4. Wear any part of the Arlington Fire Department Uniform, including T-Shirts;
5. Carry a City issued weapon; or
6. Display their Fire Department Identification or Special Events Identification card in a manner that may identify them as a member of the Fire Department.

D. Transitional Duty Assignment or Permanent Re-Assignment

To the extent the City's Personnel Policy Manual does not conflict with these Local Rules, any requirements contained therein are incorporated into this Section. The Arlington Fire Department will make every effort to offer a reasonable accommodation to enable an employee to perform the essential functions of his/her position when the employee cannot otherwise perform his/her full duties unless (1) a need cannot be properly substantiated, (2) the accommodation would not be effective, or (3) it would impose an undue hardship on the City.

1. Documentation Required. A classified employee returning to duty after Illness or Injury Leave must provide a written release from the treating licensed physician indicating the employee's fitness to return to duty, stipulating any type of restrictions and the date of the employee's release from medical care. If restrictions are specified, the employee must report to HR before reporting to work.

2. Transitional Duty Required. If the employee is subject to restrictions that render the employee temporarily unable to perform the essential functions of the job, an attempt will be made to find a Transitional Duty Assignment that the employee can perform. If Transitional Duty is available, an employee must take the offered assignment; failure to accept the assignment may result in the employee forfeiting their workers' compensation indemnity benefits. In assigning Transitional Duty to classified employees, the Department Head may assign employees to duties outside the Fire Department. Transitional Duty Assignments must be compliant with the City of Arlington Personnel Policy Manual and Federal law. A Transitional Duty Assignment must not extend beyond 120 Work Days per illness or injury, unless Extended Transitional Duty is approved by the Department Head.

3. Extended Transitional Duty. The Department Head has the option, but not requirement, either to approve Extended Transitional Duty or call for a Fitness for Duty Evaluation. Employees with a Line of Duty Illness or Injury will have preference over Employees with an Off-duty Illness or Injury for Extended Transitional Duty.

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

5. Trainee Accommodations. If the employee is a Fire Trainee at the time of Line of Duty Injury or Illness and can perform duties with restrictions, then the employee may be given a Transitional Duty Assignment in the fire training class for the academic component only, holding the physical component of training until a full release is received by a treating licensed physician, so long as it is approved by the Department Head and does not disrupt operations.

6. Re-assignment. Upon expiration of the Transitional Duty Assignment and Extended Transitional Duty, the employee may be eligible for permanent re-assignment to a non-classified, vacant position for which he/she is qualified with or without reasonable accommodation. The employee may be re-assigned to a lower graded position if there are no other accommodations that would enable the employee to be permanently re-assigned. If there is no other vacant position for which the employee is qualified or capable and Illness and Injury Leave has been exhausted, then the employee may be subject to a Fitness for Duty Evaluation.

SECTION 74. REAPPOINTMENT AFTER RECOVERY FROM DISABILITY

See Texas Local Government Code § 143.074.

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

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

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

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

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

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

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

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

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

SECTION 75. MILITARY LEAVE TIME ACCOUNTS

See Texas Local Government Code § 143.075.

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

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

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

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

A. Military Leave Time Account Eligibility

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

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

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

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

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

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

B. Termination of Eligibility

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

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

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

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

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

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

C. Donated Leave

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

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

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

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

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

D. Distribution

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

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

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

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

(Sections 76–80 reserved for expansion.)

SECTION 81. DETERMINATION OF PHYSICAL OR MENTAL FITNESS

See Texas Local Government Code § 143.081.

A. If the Department Head questions whether an employee is mentally or physically fit for duty, the Department Head may order that the employee attend an appointment with the employee's personal physician, psychiatrist, or psychologist, as applicable, in order to obtain a fitness for duty evaluation report under Tex. Local Gov't Code Section 143.081, and the Department Head must give a copy of such order to the employee. An employee ordered to submit to a fitness for duty evaluation must execute a written consent to the release of the evaluation report directly from the healthcare provider to the Director, Department Head, and Commission, in the form required by the City. The Department Head may allow the employee to continue working in regular assignment or may place the employee on administrative leave with pay pending the outcome of the response, depending on the circumstances of the case.

B. If the Department Head, Commission, or employee disagrees with the fitness for duty evaluation report from the employee's personal healthcare provider, then the Department Head may request that the Commission appoint another physician, psychiatrist or psychologist, as appropriate, to evaluate the employee and to provide an additional evaluation report to the Commission. If the Commission orders this additional evaluation report, the employee must execute a written consent to the release of the evaluation report directly from the healthcare provider to the Director, Department Head, and Commission, in the form required by the City.

C. Failure of the employee to attend an appointment with any healthcare provider or to cause any healthcare provider to fail to return the fitness for duty evaluation report within ten (10) days of the order shall be considered grounds for disciplinary action, unless within four (4) days of the order, the employee requests a reasonable extension for good cause from the Department Head or Commission, as the case may be. However, in no event shall an employee return any evaluation report later than twenty-one (21) days after the initial order or Commission appointment unless an extension is granted. Such failure may be grounds for disciplinary action.

D. If the two (2) evaluation reports conflict, the Commission shall appoint a board of three (3) physicians, psychiatrists or psychologists, as applicable, pursuant to Tex. Local Gov't Code Section 143.081(f). The employee must see all three (3) healthcare providers within the time prescribed by the Commission. The Commission may grant an extension of its deadline for good cause shown by employee. The employee must execute a written consent to the release of the evaluations directly from the healthcare providers to the Director, Department Head, and Commission, in the form required by the City. The board's decision is final and not appealable to the Commission.

E. This section must not be used for failing to follow the Fitness Regimen or skills test required by the Arlington Fire Department.

SECTION 82. EFFICIENCY REPORTS

See Texas Local Government Code § 143.082.

The performance of all employees who are not in entry-level probationary status will be evaluated on a semiannual basis through individual Efficiency Reports. These reports are intended to ensure that all employees are aware of the expected level of performance for effectiveness and efficiency in their duties. These reports allow for timely feedback to encourage education, training and employee development to ensure a consistently fair evaluation process.

Entry-level employees who are in probationary status under Section 27 will undergo an Efficiency Report evaluation monthly as well as an environmental assessment to evaluate the employee's personal experience as it relates to their current work environment. The results of a monthly Efficiency Report during probationary status does not necessarily guarantee the employee any rights to a position, and the Department Head maintains full rights of discharge during the probationary period.

The Director must provide each employee a copy of their individual Efficiency Report. Within ten (10) calendar days after the date an employee receives the copy of their Efficiency Report, the employee may make a statement in writing concerning the report. The statement shall be placed in the employee's personnel file with the Efficiency Report.

The Department Head may establish procedures for Efficiency Reports. Efficiency Report evaluations are not appealable to the Commission. Continued poor efficiency evaluations may result in disciplinary actions under these Rules.

SECTION 83. EMERGENCY APPOINTMENT OF TEMPORARY FIREFIGHTERS

See Texas Local Government Code § 143.083.

SECTION 84. CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIREFIGHTERS

See Texas Local Government Code § 143.084.

SECTION 85. FORCE REDUCTION AND REINSTATEMENT LIST

See Texas Local Government Code § 143.085, Chapter 143.

SECTION 86. POLITICAL ACTIVITIES

See Texas Local Government Code § 143.086.

SECTION 87. STRIKE PROHIBITION

See Texas Local Government Code § 143.087.

SECTION 88. UNLAWFUL RESIGNATION OR RETIREMENT

See Texas Local Government Code § 143.088.

SECTION 89. PERMANENT PERSONNEL FILE

See Texas Local Government Code § 143.089.

(Sections 90–100 reserved for expansion.)

Exhibit A

2019

ARLINGTON FIRE DEPARTMENT

- **PREPARED FOR DUTY**
- **RESPONDING WITH COMPASSION**
- **SERVING WITH HONOR**
- **COMMITTED TO PROFESSIONAL EXCELLENCE**

PHYSICAL ABILITY TEST

Exhibit A

PHYSICAL ABILITY TEST (PAT)

APPLICANTS WITH PHYSICAL OR MEDICAL CONDITIONS OF ANY NATURE SHOULD:

1. *CONTACT YOUR PHYSICIAN BEFORE TAKING THE PHYSICAL ABILITY TEST TO DETERMINE IF IT IS ADVISABLE TO TAKE THE TEST.*

2. *WITHDRAW FROM THE PROCESS IF YOU HAVE ANY CONDITION OR LIMITATION THAT COULD ENDANGER YOU IF YOU PARTICIPATE IN THE TEST.*

The City of Arlington, the Arlington Fire Department, its' agents and employees do not assume any responsibility for an applicant's health or medical condition or the effect that this test could have. Further, the City of Arlington, the Arlington Fire Department, its' agents and employees accept no responsibility or liability for any injury an applicant might receive during the test. This test should be considered strenuous physical activity and as such carries a risk of injury, not limited to strained muscles, scrapes, scratches and/or bruises.

Timed events include: Rescue Maze, Aerial Ladder Climb, Charged Hose Drag, Equipment Carry, Ventilation Simulator, Body Carry, and Ladder Raise. Events are further described in this packet.

Testing location: Fire Service Training Center, Tarrant County College (Northwest Campus), 4801 Marine Creek Parkway, Ft. Worth, TX 76179.

Eligible candidates will attend an orientation followed by the actual test. Upon successfully passing the PAT, candidates can request a PAT certificate from Tarrant County College that is good for six months and is honored at a number of fire departments in the Metroplex.

Exhibit A

Physical Ability Test Instructions

Applicants are required to wear structural firefighting Personal Protective Equipment (PPE) and Self Contained Breathing Apparatus (SCBA) throughout the Physical Ability Test. Structural firefighting PPE will consist of a bunker coat with the thermal and vapor liner, helmet, and gloves that meet NFPA Standards. The SCBA will consist of the backpack with frame, shoulder and waist straps, and air cylinder. A blacked-out SCBA facepiece will be worn only during Event 1: Rescue Maze. The remainder of the events will be performed without a facepiece. The SCBA and facepiece, and PPE will be provided by Tarrant County College Fire Training Center (TCC). Knee pads will also be provided by TCC if requested by the applicant. TCC strongly encourages applicants that have their own PPE to bring for the test.

Event 1: Rescue Maze
(Maximum time allowed 2 minutes)

- Each applicant will be required to wear structural firefighting PPE. Structural firefighting PPE will consist of a bunker coat, helmet, and gloves.
- Each applicant will be required to wear an SCBA with a blacked-out facepiece.
- Each applicant will enter the rescue maze and follow 100 feet of $1^{3/4}$ inch hose through the rescue maze until they exit the other end.
- Each applicant must not lose contact with the hose. Contact for this event is defined as: **"At least one hand on the hose at all times."**
- Failure points: *(Overall test failure and disqualification from continuing in the hiring process)*
  - Exceed maximum time allowed (2 minutes).
  - Lose contact with hose (release).

Exhibit A

<u>Event 2</u>: <u>Aerial Ladder Climb</u>
(Maximum time allowed 3 minutes)

- Aerial ladder will be at a 70-degree angle and extended to 75 feet.
- Applicant will climb the ladder using a “truck” belt and safety line.
- Applicant must touch every rung while climbing up and climbing down the aerial ladder device.
- Each applicant will be instructed to remain at the top climbing rung of the aerial ladder for 10 seconds prior to descent.
- A whistle will signify the completion of the 10 seconds. After the whistle is sounded the applicant can then start descending the aerial ladder.
- Applicant must remove ladder belt after dismounting the aerial apparatus onto the ground.
- After the applicant removes the ladder belt the next event, Event 3: Fireground Evolution, will start in 30 seconds.
- Failure points: *(Overall test failure and disqualification from continuing in the hiring process)*
    - Exceed maximum time allowed (3 minutes).
    - Skipping ladder rungs.

<u>Event 3</u>: <u>Fireground Evolution</u>
(Maximum time allowed 4 minutes)

This event consists of five separate stages: A., B., C., D., and E.

A. Charged Hose Drag

B. Equipment Carry

C. Ventilation Simulator

D. Body Carry

E. Ladder Raise

Exhibit A

Applicant must wait 30 seconds prior to starting Event 3: Fireground Evolution.

- Failure Points: *(Overall test failure and disqualification from continuing in the hiring process)*
  - 1st Early Start is a Warning
  - 2nd Early Start is a Failure

A. <u>Charged Hose Drag</u>

- 200 feet of 1 3/4 inch hose will be used for this event. This hose is to be charged and maintained at approximately 100 psi.
- Nozzle shall be secured in the closed position for the test.
- Each applicant will drag the hose a distance of 100 feet then return to the starting point for a total of 200 feet. Cones shall be set up that clearly define the distance.
- Each applicant will return the nozzle to the starting point.
- The applicant can "aim" the nozzle straight down or forward but not backwards. The applicant must maintain control of the nozzle throughout the entirety of this event. This is for their safety as well as minimizing damage to the equipment.
- Warning point:
  - Improper aiming of the nozzle.
- Failure points: *(Overall test failure and disqualification from continuing in the hiring process)*
  - Exceed total time given for entire event.
  - Lose control of the nozzle.
  - Improper aiming of the nozzle.

B. <u>Equipment Carry</u>

- The equipment used for this portion of the event will be a ventilation fan. The fan will be located on the ground inside a 3 feet x 3 feet area marked with paint or tape.

- A cone will be placed and marked 75 feet past the 3 feet x 3 feet area. Each applicant must lift and carry the fan around the cone and return it back to the 3 feet x 3 feet area.

- Each applicant must not allow the fan to touch the ground until it is returned to the 3 feet x 3 feet area.

- Failure points: *(Overall test failure and disqualification from continuing in the hiring process)*
  - Exceed total time given for entire event.

  - Fan touches ground prior to reaching return area.

  - Applicant touches a cone.

C. <u>Ventilation Simulator</u>

- An eight (8) pound lead shot hammer will be used for this event.

- The applicant must drive the sled 5 feet with the sledge hammer.

- The applicant must maintain control of the sledge hammer throughout this event.

- No pushing or pulling of the sled by the hammer. The applicant will receive one (1) warning for each violation.

- Failure points: *(Overall test failure and disqualification from continuing in the hiring process)*
  - Exceed total time given for entire event.
  - Lose control of the hammer.
  - No pushing or pulling the sled with hammer. 1st violation will result in a warning; the second warning will result in failure.

D. <u>Body Carry</u>

- The dummy used for this event will weigh approximately 150 pounds.
- When carrying the dummy, it may be either dragged or carried in any fashion as long as the head does not strike the ground.
- Applicant must clear all cones.
- The dummy must be advanced 25 feet around the cone and returned to the starting point for a total of 50 feet.
- The entire dummy must pass the finish line that will be clearly marked by a line and/or cones.
- Failure points: *(Overall test failure and disqualification from continuing in the hiring process)*
  - Exceed total time given for entire event.
  - Dummy's head touches the ground.
  - Applicant touches cone.

E. <u>Ladder Raise</u>

- Standing in a designated 2-foot x 2-foot square 6 inches from the ladder, the applicant will fully raise (extend) and lower the top (fly) section of a permanently fixed 24-foot ladder twice by using the hand-over-hand method.

- The applicant must not allow his/her feet to step outside of the lines of the box.

- The applicant must not allow the rope to slide through his/her hands to lower the fly section or step out of the designated square. The applicant will receive one (1) warning for each violation.

- Warning points:
  - First violation will result in a warning of any of the following:
    - Steps outside of the lines of the box.
    - Allows rope to slide through hands.
    - Does not use hand over hand method.
- Failure points: *(Overall test failure and disqualification from continuing in the hiring process)*
  - Exceed total time given for entire event.
  - Second violation of any of the following will result in failure:
    - Steps outside of the lines of the box.
    - Allows rope to slide through hands.
    - Does not use hand over hand method.