

LOCAL CIVIL SERVICE RULES

FIRE FIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION CITY OF CONROE, TEXAS

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Article I General Provisions

§ 1.01 Title; Effective Date.

These rules shall be referred to as the Local Civil Service Rules of the City of Conroe, Texas, and are effective as of January 19, 1994.

§ 1.02 Authority.

These rules are adopted by the Fighters' and Police Officers' Civil Service Commission of the City of Conroe, Texas, pursuant to Texas Local Government Code § 143.008. In the event of any conflict between any term or provision of these rules and any term or provision of Texas Local Government Code Chapter 143, Municipal Civil Service, then such Act shall control over these rules.

§ 1.03 Severability of Provisions.

If any provision of these rules or any application thereof to any person or circumstance is held unconstitutional or invalid for any reason, such invalidity shall not affect any other provision or application of these rules which may be given effect without the invalid application or provision. Each provision is severable unless otherwise herein expressly provided.

§ 1.04 Repeal and Saving Provisions.

These rules shall repeal those certain rules and regulations previously adopted by the Commission and effective November 1, 1989. Notwithstanding repeal, such prior rules and regulations shall apply to and control in any action, appeal, grievance or other proceeding initiated before the Commission prior to the effective date of these rules. Each seniority, eligibility or promotional list in effect as of the effective date of these rules shall continue in effect until exhausted or expired in accordance with the provisions of the Act and such prior rules.

§ 1.05 Adoption of Municipal Personnel Regulations.

(a) Except to the extent of any conflict between the provisions of the Act or these rules, all policies, rules or regulations of the City of Conroe, Texas, which are generally

applicable to the conduct of its municipal employees are hereby adopted by reference and incorporated within these rules. This provision applies to each such municipal rule now in effect or which may hereafter be adopted by the City Council. The Commission may by express action accept application of any such municipal rule to fire fighters or police officers of the classified service.

(b) No additional publication of any such municipal rule shall be required.

(c) The conduct of any appeal, grievance or disciplinary action arising out of application of any such municipal rule shall be governed by the provisions of the Act and these rules.

§ 1.06 Distribution of Rules to Fire Fighters and Police Officers.

(a) The Director shall distribute copies of these rules and any subsequent amendments to each fire fighter and police officer. Each fire fighter and police officer is charged with knowledge of these rules.

(b) Failure to distribute the rules in accordance with this provision shall not result in their invalidity or exempt any fire fighter or police officer from their application.

§ 1.07 Definitions.

(a) In these rules:

(1) "Act" means Texas Local Government Code Chapter 143, Municipal Civil Service.

(2) "Commission" means the Fire Fighters' and Police Officers' Civil Service Commission of the City of Conroe, Texas.

(3) "Current illegal use of drugs" means illegal drug use which has occurred recently enough to indicate that the individual is actively engaged in such conduct. Evidence of illegal drug use within the previous five (5) year period creates a rebuttable presumption of current use.

(4) "Essential functions of the job" or "essential job functions" has the same meaning as assigned to those phrases by regulations adopted by the United States

Equal Employment Opportunity Commission pursuant to the federal Americans with Disabilities Act.

(b) When used in these rules, any term expressly defined by the Act shall have the meaning therein provided.

Article II Procedural Rules of the Commission

§ 2.01 Commission Meetings.

(a) The Commission shall meet quarterly, with the first such regular meeting on the third Wednesday of January in each year, with subsequent meetings on the same day of each third month thereafter.

(b) Special meetings shall be called as from time to time required in conformity with the provisions of the Act and these rules and at such other times as the Commission shall provide.

(c) A special meeting of the Commission may be called by:

- (1) The Director,
- (2) The Chairman of the Commission, or
- (3) Any two members of the Commission.

(d) Except to the extent otherwise authorized or required by the Act, each meeting of the Commission shall be governed by Article 6252-17, Vernon's Texas Civil Statutes, (The Open Meetings Act). Notice of any meeting may be given by the Director. In the event of a special meeting called by any two members of the Commission such notice may be given by either Commissioner.

(e) The Director shall prepare the agenda of each meeting in consultation with the Commission. In the event of a special meeting called by any two members of the Commission, the members calling such meeting shall establish the agenda.

§ 2.02. Quorum.

Any two members of the Commission shall constitute a quorum.

§ 2.03. Procedure.

(a) Except as provided by (b) of this section, meetings of the Commission may be conducted informally, provided however, no action shall be authorized except upon the affirmative vote of two Commissioners.

(b) Each Commissioner may, at any time, require the conduct of any meeting in conformity with parliamentary rules of procedure as established by Robert's Rules of Order.

§ 2.04 Secretary; Custodian of Records.

(a) The Director shall serve as Secretary to the Commission and shall prepare the minutes of each meeting, and following approval by the Commission, shall execute same. The Secretary may authenticate and certify records and copies thereof on behalf of the Commission. The Commission may designate one or more persons as deputy secretaries of the Commission.

(b) The Director shall be the official custodian of all records of the Commission.

§ 2.05 Appeal to Commission; Other Appearances.

(a) If a fire fighter or police officer wishes to appeal to the Commission from any action for which an appeal or review is authorized by the Act or these rules, such appeal must be in writing. The written appeal must include any statement or information otherwise required by the Act or these rules and must be signed by the officer making the appeal.

(b) The appeal must be filed with the Director.

(c) An appeal may not be amended or supplemented following the expiration of the time period otherwise applicable for initiation of the appeal. Jurisdiction of the Commission in any appeal is limited to those matters expressly set forth in the written appeal.

(d) In every other instance in which a person may desire to appear before the Commission such person shall make written request to the Director, which request shall include a brief and specific statement of the subject matter to be addressed and shall be

accompanied by any information to be submitted to the Commission for consideration. The Director, in consultation with the Chairman, may authorize or reject such request.

Article III Classification, Qualifications and Appointment

§ 3.01 Classification of Fire Fighters and Police Officers.

(a) The Commission shall by resolution establish a classification plan for all fire fighters and police officers within their respective departments. Such classification plan shall be amended from time to time as necessary to provide for the classification of previously unclassified positions of employment or to provide for the abolition or combination of previously established classifications. Such classification plan shall establish the relative rank of classifications for the purposes of promotion.

(b) Each classification shall be established and ranked giving due consideration to the position's essential job functions and salary.

(c) The Director shall from time to time as required allocate each position in the classified service to its appropriate class within the classification plan. The title of the class will become the title of the individual positions and will be used in all official records and communications of the Commission, the personnel department, the payroll office, and in all budgetary matters. Should any fire fighter or police officer believe that his position has been improperly allocated, such employee may appeal the decision of the Director to the Commission. The decision of the Commission shall be final.

(d) This provision shall not be deemed to limit the authority of the City Council to create new positions, abolish existing positions or to combine existing positions in conformity with the Act.

§ 3.02 Vacancy within Classified Positions.

(a) An existing position shall be deemed vacated upon the death, resignation, demotion, indefinite suspension or dismissal of a fire fighter or police officer, or upon action of the Commission granting a military leave of absence to enable a person to enter a branch of the United States military service.

(b) A vacancy occurring as a result of demotion, indefinite suspension or dismissal shall be considered effective:

(1) Upon the expiration of the period provided by the Act for appeal of the action to the Commission, if no appeal is perfected; or

(2) Upon the expiration of the period provide by the Act for appeal of the decision of the Commission to District Court, if no appeal is perfected; or

(3) upon the entry of judgment by a District Court authorizing demotion, indefinite suspension or dismissal, regardless of whether or not an appeal is perfected; or

(4) Upon rendition of a decision by a hearing examiner authorizing demotion, indefinite suspension or dismissal, regardless of whether or not an appeal is perfected.

(c) A vacancy occurs in a newly created position upon the first day in which appropriated funds of a current fiscal year are available for expenditure.

§ 3.03 Minimum Age Requirements.

(a) A person may not take an entrance examination for a beginning position in the fire department unless the person is at least 18 years of age.

(b) A person may not take an entrance examination for a beginning position in the police department unless the person is 21 years of age at the time of the examination, or will attain the age of 21 years prior to the scheduled completion of the police academy into which he may be enrolled as a paid recruit.

§ 3.04 General Requirements for Beginning Position.

(a) In addition to the requirements of the Act, each applicant for a beginning position in the fire or police department shall meet the following requirements:

(1) the applicant may not have been dismissed for just cause from employment by any unit of federal, state or local government within the five (5) year period immediately prior to the entrance examination;

(2) If a former member of any branch of the United States armed forces the applicant must not have received a dishonorable discharge. An applicant

possessing a general or unspecified discharge or other form of discharge less than an honorable discharge may be disqualified from appointment upon the basis of an background investigation which reveals that the discharge was the result of misconduct;

(3) The applicant may not have been convicted of a felony;

(4) The applicant's credit rating must be in good standing;

(5) The work history of the applicant must reveal an honest, competent and cooperative employee and the applicant must be able to fully account for any period of unemployment;

(6) The applicant must not be currently engaged in the illegal use of drugs;

(7) The applicant must not be currently engaged in the abuse of alcohol;

(8) The applicant must possess a general reputation for sound judgment, truthfulness and honesty; and

(9) The applicant must meet the minimum standards set forth in the published notice inviting applicants for entrance examination and established as minimum qualifications in the position classification plan as adopted by the Commission.

(b) The Director is authorized to grant priority to any TCOLE certified candidate on any entry level Police list before consideration of non-certified candidates. Upon presentation by the Police Chief of sufficient evidence of a critical manning situation, the Director is authorized to require that all applicants for a specific testing period be able to become currently TCOLE certified by the time of their date of hire. No waiver of any Police Department hiring processes would be granted.

(c) Each applicant for a beginning position in the fire department must also possess current certification under Texas law as an emergency medical technician.

§ 3.041 Additional Requirements for Beginning Position in Fire Department.

(d) The following constitute grounds for disqualification from employment in a beginning position in the Fire Department. That the Candidate:

- (1) Citizenship: Is not a citizen of the United States of America.
- (2) Language Requirement: Has failed to demonstrate his/her ability to read, write, and fluently speak the English Language. (Temporary disqualification until deficiency corrected.)
- (3) Essential Functions of Position: Is unable to perform the essential functions of the position to which he/she seeks appointment, with or without reasonable accommodation. (Temporary disqualification until deficiency corrected.)
- (4) Physical Agility Test: Is unable to successfully complete the Conroe Fire Department Physical Agility Test within one (1) attempt. (Temporary disqualification until next entrance examination.)
- (5) Debt Responsibility: Demonstrates a failure to pay just debts. Candidates will be considered on a case by case basis due to the number of variables involved with factors considered including type and number of debts, reason(s) for the bad credit, extenuating circumstances, and the potential for the credit-related problems impacting the applicant's judgment and integrity. (Temporary disqualification until resolution of bad credit and/or credit related issues.)
- (6) Felony Conviction: Has been convicted of conduct that constitutes a felony under State or Federal Law or the Code of Uniform Military Justice. (Permanent disqualification.)
- (7) Felony Conduct Admission: Has admitted conduct that constitutes a felony under State or Federal Law, or the Code of Uniform Military Justice and/or has accepted probation and/or deferred adjudication for such conduct. (Temporary disqualification of up to ten (10) years with a minimum disqualification until the statute of limitation expires for the applicable violation and the Candidate has demonstrated appropriate improvement in judgment.)
- (8) Class A or B Misdemeanor Conviction: Has been convicted of conduct that constitutes a Class A or Class B Misdemeanor under State or Federal Law or the Code of Uniform Military Justice and/or has accepted probation and/or deferred adjudication for such conduct. (Temporary disqualification for up to five (5) years dependent upon nature of crime and a demonstrated improvement in judgment.)

(9) Class A or B Misdemeanor Admission: Has admitted conduct that constitutes a Class A or Class B Misdemeanor under State or Federal Law or the 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 Candidate has demonstrated an appropriate improvement in judgment.)

(10) Moral Turpitude: Has admitted to conduct involving a crime or act of moral turpitude. Candidates will be considered on a case by case basis with factors including the nature of the event and the potential for the conduct impacting the applicant's ability to perform Public Safety duties and uphold the expected conduct and image required of a firefighter. Individuals registered as "sex offenders" will be permanently disqualified. (Temporary or permanent disqualification based on nature of occurrence.)

(11) Pending Criminal Charge: Currently has pending criminal charges of any type, or is on "deferred adjudication" and/or "probation" for a criminal offense other than minor Class C traffic violations. (Temporary disqualification pending the resolution of the criminal charges and/or completion of the deferred adjudication and/or probation requirements and a demonstrated improvement in judgment.)

(12) False or Incomplete Information: Has made a false statement in any material fact; withheld information, practiced or attempted to practice deception or fraud in his/her initial application/letter of intent, examination, personal history statement, polygraph examination, background investigation, oral interview(s), psychological examination, medical examination, or any other part of the hiring process. (Permanent disqualification.)

(13) Employment Process Completion: Has failed to complete or satisfactorily meet the employment process requirement of the Fire Department including, but not limited to, missed appointments, late arrival for appointments, failure to submit the personal history statement and/or other requested documents, failure to promptly notify the Fire Department of changes in address, telephone numbers, e-mail addresses, and other contact information, failure to respond to contact attempts (unreachable), or who otherwise fail to complete the application process. (Temporary disqualification until next entrance examination.)

(14) Oral Interview Process: Has failed to satisfactorily complete the oral interview process, including, but not limited to any personal or automated interview process. Candidates may be disqualified for failure to verbally communicate effectively and appropriately; failure to demonstrate an understanding of the roles and responsibilities of a Conroe firefighter; failure to present the maturity expected of a Conroe firefighter; failure to accurately and precisely respond to the questions of the interviewers; and failure to demonstrate his/her knowledge of the essential skills, knowledge, and abilities expected of a certified Firefighter or Emergency Medical Technician. (Temporary disqualification until next entrance examination.)

(15) Illegal Drug Use: Has previous or current involvement with illicit substances as indicated by the following guidelines:

(A) Admission of illegal use of marijuana or synthetics within the last three (3) years preceding employment, with the exception of a one-time "experimentation use" at least one (1) year preceding employment. (Temporary disqualification until standard is met.)

(B) Admission of abuse or misuse of legally obtained prescription medication(s), or illegal use of the prescription medication(s) of another person. Conduct involving the abuse and/or misuse of prescription medication(s) will be considered on a case by case basis with consideration given to circumstances and elapsed time since last drug use. (Permanent or temporary disqualification based on circumstances.)

(C) Admission of illegal use of any felony grade substances as defined in the Texas Penal Code within ten (10) years preceding employment, with the exception of a one-time "experimentation use" of any such substance at least five (5) years preceding employment. (Temporary disqualification until standard is met.)

(D) Admission of illegal use of anabolic steroids within ten (10) years preceding employment. (Temporary disqualification until standard is met.)

(E) Admission of illegal use of marijuana, synthetics, or any felony grade substances as defined in the Texas Penal Code at any time while employed in a public safety organization. (Permanent disqualification.)

(F) Admission of the illegal use of one or more of the following common name drugs and/or their chemical analogs (Permanent disqualification):

- Methamphetamine
- Heroin
- OxyContin
- Crack Cocaine
- PCP
- Ketamine
- LSD

(G) Pre-employment drug and/or alcohol tests indicates positive test results for alcohol, marijuana, or any controlled substance. (Permanent disqualification.)

(H) Admission of having willingly been involved in the sale, for profit, of any controlled substances during the Candidate's lifetime. Examples include, but are not limited to, direct sale, and/or "holding" or "transporting" for the purposes of sale. Claims of involvement under duress will be evaluated on a case by case basis. (Permanent disqualification.)

(16) Driving Record: Has a driving record incompatible with the safe operation of emergency vehicles or which present potential liabilities to the City of Conroe as indicated by the following guidelines:

(A) Three or more events (moving violations or preventable accidents) within the thirty-six (36) months preceding employment. Evidence of traffic violations includes, but is not limited to: convictions, "no contest" pleas, dismissal for defensive driving purposes, receiving deferred adjudication, and any current charges. (Temporary disqualification until standard met.)

(B) Reckless driving or similar conviction within the sixty (60) months preceding employment. (Temporary disqualification until standard met.)

(C) Driving while intoxicated or under the influence of drugs, within the sixty (60) months preceding employment. Pleas to a lesser charge as the result of a DUI arrest may also be considered under this section. (Temporary disqualification until standard met.)

(17) Prior Employment: Has a history of unstable work including, but not limited to, short terms of employment over the Candidate's employment history; employment in an illegal occupation; termination of employment without proper notice; and/or dismissal from any public safety position. Has been disciplined, dismissed, or resigned in lieu of dismissal from any employment for inefficiency, delinquency, misconduct, or policy violations. Applicants will be considered on a case by case basis with due consideration of the situation(s). (Permanent or temporary disqualification based on circumstances.)

(18) Judgment Issues: Exercised poor judgment skills within the preceding five (5) years. The Candidate has demonstrated either immaturity or poor judgment in the Candidate's decision-making process. Examples of such conduct would include, but is not limited to: attendance at parties or social functions at which controlled substances or dangerous drugs are consumed, and such activity is known or should have been known by the Candidate; silent acceptance of known illegal conduct by others in his/her presence; workplace behavior/decisions that adversely affect the business or associates, with little or no objectively justifiable need for such behavior; arrests for misdemeanor offenses other than minor traffic violations. (Temporary disqualification based on circumstances or until the Candidate can demonstrate that the Candidate's judgment skills have improved.)

(19) Psychological/Medical: Has failed to receive the required recommendation for employment by the Commission's psychologist, psychiatrist, or medical doctor. (Temporary or permanent rejection based on nature of the rejection.)

(20) Required Minimal Certifications: Has failed to meet and/or provide documentation of the minimal certification requirements as indicated by the following:

(A) Texas Commission on Fire Protection Basic or higher structural firefighter certification.

(B) Texas Department of State Health Services Basic or higher Emergency Medical Technician certification.

(e) To the extent that employment standards prescribed by these Rules for beginning positions in the Fire Department exceed the requirements of Texas Local Government Code Chapter 143 and other applicable state law, any such entry employment requirement not prescribed by state law may be waived by the Fire Chief with the concurrence of the Director when such waiver would be in the best interest of the Fire Department and would not substantially lower the high standards sought by the City.

§ 3.05 Physical and Mental Requirements for Beginning Position.

(a) Each applicant for a beginning position in the fire or police department shall be mentally and physically fit for the performance of the essential job functions of the position sought.

(b) An applicant must not pose a direct threat to the health and safety of other individuals in the work place.

§ 3.06 Application.

(a) The Director shall prescribe application forms for admission to the entrance examinations for beginning positions. Such forms shall conform to the requirements of the Act and these rules and may require submission of proof as to the applicant's compliance with any required licensing, certification, veteran's status or other similar matters.

(b) An application must be filed with the Director and received at least seven (7) days prior to the date upon which an examination is to be held. An application may be amended or supplemented at any time prior to the expiration of such time. Applications shall be retained for a period of one (1) year during which time a qualified applicant may be admitted to any entrance examination without the necessity of reapplication.

§ 3.07 Refusal to Test.

The Director may reject any application and may refuse to test any applicant for a beginning position if:

(1) The applicant fails to make timely application in the manner prescribed by these rules and the notice of examination;

(2) The applicant fails to complete the application or to submit any required information to accompany the application;

(3) The application on its face reflects the applicant's disqualification under the Act or any provision of these rules; or

(4) The application is demonstrated upon subsequent investigation to be fraudulent, false or intentionally misleading in any respect, or the applicant is found to lack any qualification under the Act or these rules.

§ 3.08 Background Investigation.

(a) The Director, or some person authorized by the Director shall conduct a comprehensive background investigation of each applicant prior to appointment. The investigator may seek information about the applicant from past employers, family members, friends, associates, credit bureaus, law enforcement agencies or any other reputable source that is able to provide insight into the background of the applicant. Applicants are required to submit Personal History Statements or similar forms developed by the Department Head of the department in which employment is sought. Submissions will be within a limited time frame, as determined by the Director, but shall not be less than 14 days from the date the examination was administered nor more than 30 days.

(b) An applicant may be required to submit to a polygraph examination as a part of the background investigation.

(c) An applicant may be required to submit to oral interviews with the Director, an authorized investigator or representatives of the department in which employment is sought.

§ 3.09 Entrance Examination.

(a) The Director shall schedule entrance examinations as necessary to conform to the requirements of the Act and these rules and shall, in addition to any other requirements cause notice of each entrance examination to be published in a newspaper of general circulation within Montgomery County, Texas. The notice must be published at least once before the fourteenth (14th) day before the date an entrance examination is held.

(b) The Director may postpone or cancel any examination for good and sufficient reason. No entrance examination shall be conducted of less than two (2) applicants.

(c) The Director or examiners designated by the Commission or the Director shall conduct each entrance examination. Any Commissioner or other person designated by the Director may be present during the examination.

(d) The Director or an examiner designated to conduct the test may discontinue testing of any applicant found cheating or assisting another applicant to cheat.

§ 3.10 Grading of Entrance Examinations.

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

(b) Each person taking an entrance examination shall, if so requested in writing by the applicant, be notified by the Director of whether or not the person passed or failed the examination, the person's complete score, and their position on the eligibility list provided the person made a passing score.

§ 3.11 Physical Agility Examination.

(a) Each applicant passing the written entrance examination shall be subjected to a physical agility examination.

(b) The physical agility examination shall be developed by the Department Heads of the fire and police departments. The examination must be job related and consistent with business necessity. The examination shall consist of elements capable of objective measurement or evaluation demonstrating the applicant's compliance with the minimum physical requirements established by these rules and the ability to perform, without reasonable accommodation, the essential job functions of the position sought. The form and content of the examination for each department shall be approved by the Commission.

(c) The physical agility examination may be administered by a representative of the department for which such examination is given acting under the direction and supervision of the Director. The Director need not be present during the examination.

(d) Scoring of the examination shall be pass or fail, with successful completion of each element of the examination required for a passing score.

(e) Any applicant failing the Police Department test may be retested one additional time. Application for retesting must be made by the applicant within one week of the date of the initial test. The Director or the Director's designee shall schedule the second test for a date within thirty (30) days of the initial test. The Fire Department allows only one attempt of its physical agility examination.

§ 3.12 Eligibility List.

(a) The Director shall establish an eligibility list in the manner provided by law. The list shall rank the applicants from highest to lowest based upon the total score attained by each applicant on the written entrance examination.

(b) In the event of a tie between two or more applicants for an entry level position in the Police or Fire Departments, the respective rank of each such applicant shall be determined by application of the following methods applied in the order listed until the tie is broken:

- (1) The application receiving the higher written examination score before the addition of veteran's points shall be ranked first; and if the tie remains unbroken, then;
- (2) The applicant that finished the written examination in the fastest manner and turns the examination in to the exam proctor first, shall be ranked first; and if the tie remains unbroken, then;
- (3) The applicant drawing the high card from a deck of playing cards shall be ranked first.

(c) The Commission may order the correction or amendment of any eligibility list where necessary to correct errors resulting from grading or other clerical errors and may, for good cause, revoke a list as a result of widespread cheating, fraud or any other similar conduct.

(d) Unless previously exhausted or revoked for good cause, an eligibility list shall continue in effect for a minimum period of six (6) months from its effective date. Following the expiration of such period an eligibility list may be canceled by the Commission at any time in its sole discretion, provided however, in no event shall an eligibility list continue in effect for more than twelve (12) months.

(e) Expiration or cancellation of an eligibility list shall not affect the eligibility for appointment of any applicant previously certified by the Director to the Chief Executive for appointment to a current vacancy.

§ 3.13 Removal From Eligibility List.

(a) The Director shall remove the name of any applicant from the eligibility list if:

(1) the applicant becomes dispossessed of any qualifications required for appointment;

(2) the applicant fails to submit a Personal History Statement in the manner proscribed in section 3.08, or if upon subsequent investigation of the applicant's background it becomes clear that the applicant is disqualified for appointment for any reason or has made any materially false or misleading statement, or engaged in any fraud with regard to either the application or examination;

(3) the applicant declines appointment;

(4) the applicant is passed over for appointment by the Chief Executive;

(5) the applicant fails, without prior notice and consent, to report for any required pre-employment interview; or

(6) an appointment of the applicant is withdrawn on the basis of a post job offer medical or psychiatric examination or the applicant's failure to submit to such examination.

(7) the applicant fails to successfully complete the physical agility examination as described above.

(b) If requested by an applicant prior to certification by the Director to the Chief Executive, the Director may, in his discretion, withhold certification of such applicant. Any applicant whose certification is so withheld shall remain on the eligibility list at the same relative rank with respect to the remaining applicants.

(c) In each instance in which an applicant is passed over for appointment by the Chief Executive the Director shall, for two (2) years, maintain a copy of the written explanation of the good and sufficient reasons for declining the appointment of such person.

§ 3.14 Appointment to Beginning Position; Medical and Psychiatric Examination.

(a) Each appointment of an applicant by the Chief Executive shall be conditioned upon the results of a post job offer medical and psychiatric examination.

(b) Following appointment, but prior to assuming employment duties, the applicant shall submit to a physical and mental examination administered by a physician, psychiatrist or psychologist, as appropriate, appointed by the Director on behalf of the Commission. Certification by such physician, psychiatrist or psychologist of the applicant's compliance with the minimum physical and mental requirements of these rules and the applicant's fitness for the performance of the position's essential job functions shall be a condition of the applicant's continued employment.

(c) Subject to the applicant's right of reexamination under the Act, rejection by the Commission appointed physician, psychiatrist or psychologist shall automatically result in the revocation of the applicant's appointment and termination of continued employment.

(d) The Civil Service Director is authorized to appoint the board of three physicians, psychiatrists, or psychologists, as appropriate, required for candidate re-examination by Section 143.022 (c) of The Texas Local Government Code.

§ 3.15 Probationary Period.

(a) Each person appointed to a beginning position in the fire or police department must serve a probationary period of one year. The probationary period shall consist of 365 consecutive calendar days commencing with the day upon which the probationary

employee first performs compensable work and ending at midnight at the end of the three hundred sixty-fifth (365th) day.

(b) The probationary period of a person who is appointed to a beginning position in the police department and is required to attend a basic training academy for initial certification by the Texas Commission on Law Enforcement Officer Standards and Education is extended by an additional 180 days.

(c) A Department Head may discharge a fire fighter or police officer for any reason at any time prior to the expiration of the probationary period. No such discharged fire fighter or police officer shall have any right of appeal under these rules.

§ 3.16 Reappointment as Police Officer after Voluntary Resignation

A person who previously served as a City of Conroe police officer may apply to the Chief of Police for reappointment as patrol officer within eighteen months of the effective date of termination if the applicant for reappointment resigned voluntarily in good standing and holds a valid, current license as police officer from the Texas Commission on Law Enforcement Officer Standards and Education. Reappointment will not be considered if the applicant resigned pending disciplinary action or investigation.

An applicant for reappointment shall meet all requirements for entry level patrol officer except he or she will not be required to take an entrance examination or be placed on the eligibility list. Upon reappointment, the applicant will be reinstated the same as an entry-level officer including probationary status.

It shall be the Chief of Police's discretion to determine the applicant's suitability for reappointment. In the event the Chief of Police decides the applicant should not be reappointed, the applicant shall be notified of the decision in writing and the reappointment process is terminated. The Chief of Police shall forward a copy of this documentation to the Director. If, based on the overall value of the applicant to the department, the Chief recommends reappointment as patrol officer, notice of the reappointment shall be given in writing to the Director.

In the event there is no vacancy for patrol officer at the time of application for reappointment, the Chief may retain the application. Reappointment can be made only within eighteen months of the date of resignation. If there is no vacancy for reappointment within eighteen months from date of resignation of the applicant, the reappointment process is automatically terminated.

Article IV
Promotion

§ 4.01 Eligibility for Promotion.

(a) Each candidate for promotion in the fire or police department shall be mentally and physically fit for the performance of the essential job functions of the position sought.

(b) A candidate may not pose a direct threat to the health and safety of other individuals in the work place.

(c) Each candidate for promotion shall submit to a physical examination administered by a physician appointed by the Commission. Certification by such physician of the candidate's fitness for the performance of the position's essential job functions shall be a condition of the candidate's promotion.

(d) A fire fighter or police officer is not eligible for promotion to the rank of Battalion Chief in the Fire Department, or lieutenant in the Police Department unless the person has at least four years of actual continuous service in the department. If the employment of a fire fighter or police officer with the department has been previously terminated and the person is subsequently reemployed by the department, the fire fighter or police officer must again meet the requirement.

(e) Time served in an entry level probationary classification is not considered for purposes of determining eligibility for promotion to any position that is subject to an examination requirement.

§ 4.02 Determination of Adequate Pool for Fire Department and Police Department Promotional Examinations.

(a) An adequate pool for any promotional examination shall consist of at least three (3) qualified fire fighters or police officers who desire to take the examination.

(b) If less than an adequate pool exists, then the Director shall open the examination to additional fire fighters or police officers in accordance with the provisions of the Act.

(c) If no candidate shall pass a promotional examination, then the pool of candidates shall be considered insufficient regardless of number and the Director shall conduct a subsequent examination and shall open the examination to additional fire fighters or police officers in accordance with the provisions of the Act.

(d) In order to determine if an adequate pool of firefighters or police officers who desire to take the promotional examination exists, a letter of intent to take the promotional examination will be required and must be submitted to the Director or person(s) designated by the Commission by the deadline posted in the notice of promotional examination; deadline shall be ten (10) working days from the date the promotional examination is posted.

§ 4.03 Source List for Promotional Examinations.

(a) The Director or a person authorized by the Commission to prepare promotional examinations shall assemble a list of the sources from which examination questions may be taken for each promotional examination. The sources must be of reasonably current publication and must be made reasonably available to members of the fire and police department. The Director shall post such list:

(1) in the offices of the Commission;

(2) on a bulletin board located in the main lobby of the City Hall;

(3) on a bulletin board located in the department for which the source list is applicable.

(b) The source list may remain continuously posted and shall remain in effect until removed by the Director.

(c) A committee of firefighters or police officers appointed by the department head of each department may suggest source materials or questions for promotional examinations. All such suggestions should be made to the Director in writing.

(d) Source materials shall be considered of reasonably current publication and may be used if published in the ten (10) year period immediately preceding an examination.

Source materials need not be the most current edition of a publication. Source materials published more than ten (10) years prior to an examination may be used if:

- (1) customarily utilized for fire or law enforcement training purposes, and
- (2) the source material is not generally obsolete.

(e) The Director shall post a list indicating publishing houses, book suppliers or other sources from which each source material may be obtained, which list shall be posted with the source list. Each fire fighter and police officer shall be responsible for securing such publications.

§ 4.04 Seniority Points added to Passing Scores.

Seniority points are added only to the scores of those persons passing a promotional examination and may not be used to achieve a passing score.

§ 4.05 Appeal of Promotional Examination.

(a) Any eligible promotional candidate may appeal the scoring of his examination to the Commission. Such appeal must be in writing and filed with the Director within five (5) business days following the date of the examination. In computing this period, a Saturday, Sunday, or holiday authorized by the City Council will not be considered a business day. A business day shall be considered from 8:30 a.m. to 5:00 p.m. of any day not otherwise excluded.

(b) An appeal must:

- (1) specifically identify the questions challenged; and
- (2) specify the basis of the challenge as to each such question.

(c) The Commission shall have the power to correct, amend or revoke any eligibility list for good cause.

§ 4.06 Eligibility List for Promotions Within the Fire Department.

(a) The Director shall establish an eligibility list for promotion to each grade or classification within the fire department consisting of all fire fighters passing the written promotional examination. The list shall rank the candidates from highest to lowest based upon the total score, including seniority points, attained by each candidate on the written promotional examination.

(b) In the event of a tie between two or more candidates the respective rank of each such candidate shall be determined by application of the following methods applied in the order listed until the tie is broken:

(1) the candidate receiving the higher written examination score before the addition of seniority points shall be ranked first, and if the tie remains unbroken, then

(2) the candidate having an earlier date of hire shall be ranked first, and if the tie remains unbroken, then

(3) the candidate having the higher structural Firefighter certification from the Texas Commission on Fire Protection shall be ranked first, and if the tie remains unbroken, then

(4) the candidate who, in the full twenty four calendar months prior to the calendar month in which the examination has been given, has used the least amount sick leave, excluding leave necessary as a result of on duty injury, and if the tie remains unbroken, then

(5) the candidate drawing the higher card from a deck of playing cards shall be ranked first.

§ 4.07 Alternate Promotional System Within Police Department;
Promotional Eligibility List.

(a) The Director shall establish an eligibility list for promotion to each grade or classification within the police department based upon a written examination conducted in conformity with the provisions of these rules and evaluation in an assessment center conducted in accordance with this section. Only those candidates obtaining a passing score on the written examination shall be eligible for participation in the assessment center. The list shall rank the candidates from highest to lowest based upon the total score, including seniority points, obtained by each candidate on the written promotional examination and the

assessment center. Eligibility lists established under this Alternate Promotional System will expire one year following the date of the assessment center completion.

(b) The maximum number of points available on the written examination will be worth 60% of the total combined points. The maximum number of points available from the assessment center will be worth 40% of the total combined points. Seniority points will be added to the final combined score of assessment center and written exam.

Additional points for certification will be added to the combined written examination and assessment center score for the final score to be placed on the eligibility list. Certificate points are awarded as follows:

Intermediate = 1 point

Advanced = 2 points

Masters = 3 points

(c) It shall be the responsibility of the Department Head to conduct an assessment center within thirty (30) working days from the posting of the final score of the written examination. The Department Head shall conduct the assessment center as set forth below:

- (1) The assessment center will examine multiple dimensions and those dimensions shall be job-related to the position being tested for.
- (2) The board of evaluators shall be composed of not less than three (3) assessors of which at least two will be either police administrators, police managers, or police supervisors. No two assessors will be from the same police agency and they will not be employees, former employees, or have any affiliation with the City of Conroe or the Conroe Police Department. The assessors will be from agencies outside the bounds of Montgomery County. They will hold appropriate positions in a professional field related to law enforcement or personnel evaluation. Assessors selected must have experience and/or an educational background in law enforcement, criminal justice education, personnel administration, or behavioral science. The assessor's organizations within which they hold their positions shall be large enough to indicate the utilization of modern management concepts. Assessors from law enforcement agencies shall be at least the rank being assessed or one pay grade higher than the position being assessed.
- (3) No one shall be allowed to communicate with any assessor prior to, during, or after the conduct of the assessment center in regard to any candidate's

background, work history, disciplinary record, evaluations or any subject that could prejudice or influence his/her judgment as an assessor toward the officer.

- (4) It shall be the responsibility of the Department Head to furnish the Director with the final scores, as tabulated by the assessors, for each officer participating in the assessment center within three (3) working days from the closure of the assessment center.

(d) It shall be the responsibility of the Director to total the scores of the written examination, seniority points and assessment center for each candidate and ensure that this final aggregate score is the sole determinant factor in the establishment and placement of officers on the eligibility list for the position being tested.

(e) In the event of a tie between two or more candidates the respective rank of each such candidate shall be determined by application of the following methods applied in the order listed until the tie is broken:

- (1) A candidate receiving the higher written examination score before the addition of seniority points shall be ranked first;

- (2) A candidate having the higher assessment center score shall be ranked first;

- (3) A candidate having an earlier date of hire shall be ranked first; and

- (4) An applicant drawing the high card from a deck of playing cards shall be ranked first.

(f) The alternate promotional system established by this section may be repealed in conformity with the provisions of the Act.

(g) The provisions of this section shall be deemed waived and the required assessment center need not be conducted in any case where the number of candidates obtaining a passing score upon the written promotional examination does not exceed the number of vacant positions to be filled.

§ 4.08 Removal from Eligibility List for Promotion.

The Director shall remove the name of any candidate from an eligibility list for promotion if:

(1) The candidate becomes dispossessed of any qualifications required for appointment;

(2) The candidate declines appointment and is not granted an exemption from the Commission to remain upon the eligibility list;

(3) the candidate is rejected for appointment by the Department Head three (3) times in accordance with the provisions of the Act and the Commission fails to set aside such rejections; or

(4) The applicant fails to submit to any required medical examination.

Article V Disciplinary Proceedings

§ 5.01 Cause for Removal or Suspension.

(a) A fire fighter or police officer may be removed or suspended for:

(1) Any reason for which removal or suspension is authorized under the Act; or

(2) violation of any policy, rule or regulation of the City of Conroe generally applicable to the conduct of its municipal employees, except where the application thereof would conflict with the provisions of the Act or these rules.

(b) A disciplinary measure instituted under (a) (2) of this section may not impose any sanction which is greater in severity than that applicable under the municipal rule to non civil service employees.

§ 5.02 Cause for Involuntary Demotion.

A fire fighter or police officer may be involuntarily demoted for:

(1) Any reason for which removal or suspension may be authorized under the Act or the provisions of these rules; and

(2) Any other reason authorized under the Act.

Article VI
Leaves of Absence

§ 6.01 Vacation Leave.

(a) Each fire fighter and police officer shall accumulate vacation leave at the greater of the following rates:

(1) fifteen (15) days a year; or

(2) Such greater rate as may be applicable to non civil service employees of the municipality having comparable years of continuous service.

(b) No fire fighter or police officer may utilize vacation leave until after one (1) year of continuous employment, provided however, vacation leave shall accumulate from the date of employment.

(c) Accumulated vacation leave may not be carried forward from year to year except in conformity with policies of the municipality generally applicable to all employees.

§ 6.02 Payment for Accumulated Sick Leave.

(a) Each fire fighter or police officer who leaves the classified service for any reason shall be entitled to payment for sick leave accumulated subsequent to November 1, 1988, up to a maximum of ninety (90) days.

(b) No payment for accumulated sick leave under this section will be made prior to the day upon which such person's position becomes vacant as provided by these rules.

§ 6.03 Holidays.

Each fire fighter and police officer shall be entitled to the same number of holidays or days in lieu of holidays as are afforded to the non civil service employees of the municipality.

Article VII
Fitness for Duty

§ 7.01 Whenever the question arises as the physical or mental fitness of a firefighter or police officer for the City of Conroe, the provisions of Section 143.081 of the Texas Local Government Code will apply. The Civil Service Director is authorized to appoint the physician, psychiatrist, or psychologist, as appropriate, discussed in sub-paragraph (b) of that section. The Civil Service Director is further authorized to appoint the three-member board composed of a physician, a psychiatrist, and a psychologist, or any combination, as appropriate, discussed in subparagraph (d) of that section.”