**CERTIFICATION BY COMMISSION**
**OF "MUNICIPAL CIVIL SERVICE RULES AND REGULATIONS"**

We, the undersigned Commissioners for the City of Round Rock's Fire Fighters' Civil Service, do hereby affix our signatures below to certify as follows:

The attached "Municipal Civil Service Rules and Regulations" are promulgated and adopted in accordance with the provisions of Texas Local Government Code, Chapter 143, Section 143.008.

Such "Municipal Civil Service Rules and Regulations" are necessary for the proper conduct of Commission business, and such "Municipal Civil Service Rules and Regulations" meet all statutory mandates of Texas Local Government Code, Chapter 143.

Such "Municipal Civil Service Rules and Regulations," also encompassing each individual rule contained therein, were adopted by the Commission by majority vote in a meeting duly called, posted, and conducted in compliance with the provisions of the Open Meetings Act, Texas Government Code Annotated, Chapter 551 (Vernon 1994), as amended.

The Commissioners hereby direct as follows:

That such "Municipal Civil Service Rules and Regulations" be "sufficiently published" according to Texas Local Government Code, Chapter 143, Section 143.008(d), which requires that each adopted rule be written, typewritten, or printed. Publication in a newspaper is not required, and is not hereby directed. The governing body of the City of Round Rock is not required to act on such rules, and is not hereby directed.

That such "Municipal Civil Service Rules and Regulations" shall be made available on demand.

That a copy of such "Municipal Civil Service Rules and Regulations" be mailed to the department head of the fire department; a copy of such "Municipal Civil Service Rules and Regulations" be posted for a seven (7) day period at a conspicuous place in the central fire station; and a copy of such "Municipal Civil Service Rules and Regulations" be mailed to each branch fire station.

That the Civil Service Director shall keep copies of all rules for free distribution to members of the fire department who request copies of same, and shall keep copies of all rules for inspection by any interested person.

DATED this the 11th day of December, 2014.

Gisele Schaefer, Commissioner

Jeff Seiler, Commissioner

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# CITY OF ROUND ROCK, TEXAS
# FIRE FIGHTERS' CIVIL SERVICE SYSTEM
# "MUNICIPAL CIVIL SERVICE RULES AND REGULATIONS"

INITIALLY ADOPTED October 29, 2001
REVISED January 09, 2003
REVISED June 24, 2003
REVISED May 24, 2006
REVISED January 29, 2010
REVISED April 16, 2013
REVISED October 22, 2013
REVISED December 11, 2014

## PREAMBLE:

The City of Round Rock's Fire Fighters' Civil Service was established following adoption of Chapter 143, Texas Local Government Code, by the qualified voters of the city in an election held on May 5, 2001. The aim of such chapter is to secure an efficient fire department composed of capable personnel who are free from political influence and who have permanent employment tenure as public servants.

## SUBCHAPTER A: GENERAL PROVISIONS

### Section 143.001 PURPOSE AND APPLICATION OF RULES

(A) The purpose of these "Municipal Civil Service Rules and Regulations" is to carry out state law and to provide for the local administration of such law by prescribing rules and regulations for the initial selection of employees into the fire department, for conducting promotional examinations, for governing disciplinary matters, and for providing general information concerning the rights and benefits of civil service employees. These "Municipal Civil Service Rules and Regulations" are promulgated in compliance with Chapter 143, Texas Local Government Code, which is incorporated herein for all purposes. It is intended that these "Municipal Civil Service Rules and Regulations" shall complement said statute and not conflict with the statute.

(B) These "Municipal Civil Service Rules and Regulations" shall apply to all non-probationary employees appointed in substantial compliance with Chapter 143 holding a classified position in the fire department as reflected in the most recently approved classification ordinance passed by the Round Rock City Council.

### Section 143.002 MUNICIPALITIES COVERED BY CHAPTER

See Section 143.002, Chapter 143

**Section 143.003** DEFINITIONS

The following words, terms and phrases, when used herein, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this ordinance. All words, terms and phrases contained in these rules shall be interpreted in harmony with the provisions of Chapter 143 and subsequent amendments thereto.

(A) *Appointment* means the designation of a person by the City Manager to become an employee in a classified civil service position.

(B) *Business day* means 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.

(C) *Chapter 143* means that portion of the Texas Local Government Code containing the civil service provisions.

(D) *Chief Executive* means the City Manager of the City of Round Rock, Texas, who is the person with final authority to make appointments to the classified service.

(E) *Civil Service Anniversary Date* means the date a person was most recently hired into a classified civil service position in the City of Round Rock, Texas.

(F) *Classification* means a position or group of positions that involve similar duties and responsibilities and require similar qualifications.

(G) *Commission* means the Round Rock Fire Fighters' Civil Service Commission.

(H) *Conviction* or *convicted* means that a person is convicted if he/she has pled guilty, pled no contest/nolo contendere, or been found guilty in a trial, regardless of whether the sentence is subsequently probated and the person is discharged from probation; whether the defendant has received an unadjudicated or deferred adjudication probation, or similar deferred disposition, for a criminal offense; whether the case has been made the subject to an expunction order; or whether the person is pardoned, unless the pardon is expressly granted for subsequent proof of innocence.

(I) *Day* means a calendar day, unless otherwise specified.

(J) *Department Head* means the chief of the fire department of the City of Round Rock, Texas.

(K) *Demotion* means 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.

(L) *Director* means the director of the Fire Fighters' Civil Service Commission, who is also the person appointed by the Fire Fighters' Civil Service Commission to act in the capacity of secretary to the Commission, and includes his/her designee.

(M) *Eligibility List* means the list of applicants for a position who have taken the requisite examination and passed, and been ranked on the list in order of the score received, taking into account tie-breaking rules and final determination of eligibility.

(N) *Fire Fighter* means a member of the fire department appointed in substantial compliance with Chapter 143 or who is entitled to civil service status under Section 143.005 or Section 143.084. The term includes fire fighters who perform:

(1) Fire suppression;
(2) Fire prevention;
(3) Fire training;
(4) Fire safety education;
(5) Fire maintenance;
(6) Fire communications;
(7) Fire medical emergency technology;
(8) Fire photography; or
(9) Fire administration.

(O) *Military Service Credit* means credit provided to a person who has served a minimum of one hundred eighty (180) days of active duty in the armed forces of the United States of America and who has received an honorable discharge. Any discharge by whatever name other than "honorable discharge" will not be recognized for purposes of the points referred to in Chapter 143.

(P) *Raw Score* means the numerical grade based on questions correctly answered on entrance and promotional examinations, unverified and subject to Commission approval.

(Q) *Veteran* means an honorably discharged person who has served a minimum of one hundred eighty (180) days active duty in the armed forces of the United States of America.

**Section 143.004** ELECTION TO ADOPT OR REPEAL CHAPTER

See Section 143.004, Chapter 143

**Section 143.005** STATUS OF EMPLOYEES IF CHAPTER ADOPTED

See Section 143.005, Chapter 143

Except for an employee appointed under Section 143.014, each fire fighter serving in this municipality who has been in the service of this municipality less than six (6) months at the time Chapter 143 is implemented and who is entitled to civil service classification has the status of a civil service employee and is not required to take a competitive examination to remain in the position the person occupies at the time of implementation of Chapter 143.

**Section 143.006** ESTABLISHMENT: COMMISSION APPOINTMENTS

See Section 143.006, Chapter 143

(A) Establishment

Upon adoption of Chapter 143, the Round Rock Fire Fighters' Civil Service Commission is established in this municipality.

(B) Initial Appointment to Commission

The City Manager of the city shall appoint the members of the Commission within sixty (60) days after the date Chapter 143 is adopted.

Thereafter, the City Manager shall appoint new members to the Commission as and when necessary.

(C) Subsequent Appointment to Commission; Terms of Commissioners

The City Manager shall appoint and the City Council shall confirm the appointment of the three (3) members of the Commission who meet the required statutory qualifications. Each member of the Commission holds office for a staggered three-year term and thereafter until a successor is appointed and confirmed. An interim vacancy on the Commission shall be filled by appointment of the City Manager and confirmed by the City Council for the unexpired term of the member whose position has been vacated.

(D) Commission Chair and Vice-Chair Election and Replacement

The members shall elect one (1) member to serve as Chair of the Commission and one (1) member to serve as Vice-Chair of the Commission. Whenever vacancies of members of the Commission occur, the replacement of Chair and Vice-Chair shall be handled as follows:

(1) In the event of a vacancy in the Chair position, the Vice-Chair will assume the role of Chair and an interim election will be held to elect a new Vice-Chair;

(2) In the event of a vacancy in the Vice-Chair position, an interim election will be held to fill the office.

**Section 143.007** REMOVAL OF COMMISSION MEMBER

See Section 143.007, Chapter 143

(A) A member of the Commission may tender his/her resignation in writing at any time to the City Manager. The City Council may remove a Commission member from office for misconduct in office or otherwise in accordance with Chapter 143.

(B) If a Commission member is absent three (3) consecutive or non-consecutive meetings during a twelve (12) month period without reasonable cause, the absent member is automatically deemed to have submitted his/her resignation and, if accepted by the City Manager, the position will be deemed vacant without further action.

(C) Upon the occurrence of any of the events enumerated under Section 143.007, a request will thereafter be made by the Director to the City Manager for a replacement of such member.

**Section 143.008** ADOPTION AND PUBLICATION OF RULES

See Section 143.008, Chapter 143

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

(B) The Commission has the responsibility to adopt, publish, and enforce rules relating to:

(1) Proper conduct of Commission business;

(2) Proper conduct of examinations of entry level and promotional eligibility;

(3) Procedures for appointment and certification;

(4) Proper conduct of appeals of testing and examination scoring;

(5) Procedures for hearing disciplinary appeals concerning indefinite suspensions, suspensions, promotional passovers, recommended involuntary

demotions; and

(6) Such other matters reasonably related to the selection, promotion, and discipline of civil service employees, not otherwise vested in the discretionary or managerial authority of the City Council, the City Manager, the Director, or the Fire Chief.

(C) These rules shall remain in effect until officially amended, revised or repealed by the Commission in the same manner that the original rules were adopted.

(D) Amendments to these rules may be made at any meeting of the Commission by appropriate inclusion on the agenda. If passed, such amendments will become effective on the date of their approval by the Commission and compliance with the posting and notice requirements of Chapter 143 and of these rules.

(E) These rules are made and shall be construed in accordance with Chapter 143. It is the intent of these rules to cover situations not specifically addressed in or which may be ambiguous in Chapter 143, and to address those areas where a local rule is permitted, necessary, or desirable. These rules have been drafted to follow the same numbering system used in Chapter 143. In adopting these rules, the Commission has negated the necessity of repeating Chapter 143. The scope and construction of these rules shall be interpreted and applied within the spirit and intent of Chapter 143. In the event of a conflict between Chapter 143 and these rules, Chapter 143 shall govern.

(F) If any part, section, subsection, paragraph, sentence, clause, phrase or word contained in these rules shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portion of these rules.

(G) These rules and regulations shall apply to all of the classified, non-probationary fire fighters covered under Chapter 143 and specifically certified by the Texas Commission on Fire Protection. For any provision of Chapter 143 that applies to probationary fire fighters, the corresponding local rule will apply.

(H) Immediately upon becoming effective, all rules contained herein will thereafter be deemed to constitute full and effective prior notice to all civil service employees of prescribed or prohibited conduct as stated in any rule.

(I) These rules are enacted by the Commission pursuant to the statutorily-delegated authority of Chapter 143. They were not acted upon in any official manner by the City Council and do not constitute any form of "policy" or "official act" of the City Council.

(J) When a specific rule does not adequately address a particular questions or issue, it shall be the responsibility of the Director to interpret these rules based upon circumstances, facts and issues.

(K) All situations not expressly covered by Chapter 143, by these City of Round Rock Fire Fighters' Civil Service System "Municipal Civil Service Rules and Regulations," by fire department rules, by standard operating procedures, and/or by administrative directives shall be resolved in accordance with "City of Round Rock Human Resources Policies and Procedures" and/or the residual discretionary authority vested in a department head.

(L) All rules and amendments shall be printed and made reasonably available for access by all civil service employees in accordance with Chapter 143, Section 143.008(e).

(M) Civil Service Commission

(1) Rules of Conduct

In the discharge of their duties, members of the Commission act as a committee of the whole and not as individuals. An individual Commission member has no legal or moral right to speak for the Commission unless specially authorized to do so by the action of the Commission.

(2) Meetings

(a) The Commission shall conduct all meetings in compliance with the provisions of the Open Meetings Act, Texas Government Code Annotated, Chapter 551 (Vernon 1994), as amended.

(b) Regular meetings of the Commission will be routinely held at a time and place designated by the Commission. Special meetings may be called by the Director, at the request of the Chair, or at the written request of any two (2) commissioners.

(c) The Commission shall conduct its meetings at such times and in such places as designated in its statutorily-required postings. Notice of a meeting shall be given to the members of the Commission and the public by posting at least seventy-two (72) hours preceding the scheduled time of the meeting, except in case of emergency or urgent public necessity, in which case two (2) hours notice shall be given prior to the meeting being convened, all in accordance with the provisions of the Open Meetings Act, Texas Government Code Annotated, Chapter 551 (Vernon 1994), as amended. Notices of Commission meetings shall be sent to the fire stations.

(d) Meetings may be rescheduled or postponed when such action is deemed necessary. The Director may call, schedule, reschedule or cancel meetings of the Commission.

(e) Meetings of the Commission may be closed from time to time in conformance with the provisions of applicable state law.

(f) Agenda items shall be submitted as prescribed by the Director, and he/she shall have discretion over whether to place on the agenda any item over which he/she believes the Commission lacks jurisdiction. Only items properly listed on the agenda may be acted upon.

(3) Quorum

Two (2) members of the Commission constitute a quorum sufficient to conduct business meetings and hearings.

(4) Conduct of Business Meetings

(a) In all matters of procedure not controlled by the provisions of Chapter 143, the order of business and conduct of meetings shall be in conformity with Robert's Rules of Order. Meetings of the Commission shall be conducted with an appropriate degree of formality so as to be conducive to the most effective conduct of business.

(b) The Commission may set reasonable rules and procedures for proper and efficient conduct of business. The Chair will conduct meetings in an orderly and timely fashion. The normal order of business at non-disciplinary or non-appeal hearings will generally be as follows:

(i) Call to order;

(ii) Approval of minutes;

(iii) Communication from meeting attendees;

(iv) Consideration of action items;

(v) Consideration of miscellaneous matters;

(vi) Consideration of new business, including Commission members' suggestions of items for future agendas;

(vii) Executive session, if required; and

(viii) Adjournment.

(5) Minutes

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

(6) Communications

All communications or requests to the Commission shall be made in writing through the office of the Director.

(N) Departmental Rules

(1) The Fire Chief shall adopt and promulgate written rules, regulations and policies pertaining to the operation of the fire department.

(2) A departmental rule, regulation, general order, or policy shall not conflict with Chapter 143 or these rules.

(3) If neither a departmental rule nor Chapter 143 addresses a policy or procedure, then the "City of Round Rock Human Resources Policies and Procedures" shall apply.

**Section 143.009** COMMISSION INVESTIGATIONS AND INSPECTIONS

See Section 143.009, Chapter 143.

**Section 143.010** COMMISSION APPEAL PROCEDURE

See Section 143.010, Chapter 143

(A) Notice of Appeal

An employee's notice of appeal shall be filed in writing with the Director within 240 hours after receiving notice of disciplinary action from the Department Head. An employee may withdraw his/her request for an appeal at any time, and thereby terminate the appeals process.

(B) In appeals to the Commission, formal "rules of evidence" will not be observed.

(C) Subpoena

Before requesting a subpoena duces tecum for the production of documents under Section 143.010(e), a party shall first make a request for the documents directly to the other party and allow a reasonable time for a response. If the request is refused or otherwise not produced, then a request may be filed with the Director requesting the Commission to issue a subpoena duces tecum. This request shall be filed with the Director at least ten (10) days prior to the hearing date, and the party requesting the documents shall also serve the opposing party with a copy of the subpoena duces tecum at least ten (10) days prior to the hearing date. If the opposing party wishes to object to the request for the issuance of a subpoena duces tecum, the opposing party shall file its written objections with the Director at least six (6) days prior to the hearing. If the Commission receives written objections to the issuance of a subpoena duces tecum from the opposing party, the Commission shall meet not later than the third day before the hearing to determine whether to issue, quash, or modify the requested subpoena. This meeting may be convened by conference call, at the discretion of the Chair. The Director shall then notify the parties verbally and in writing of the Commission's decision. Because of the short timeframe permitted in this process, all written materials may be served by facsimile by the parties to each other and to the Director.

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

(D) Except for the document subpoena provision in Section 143.010(e), there shall be no discovery in Commission proceedings.

(E) Appeals for which the Commission has jurisdiction are as follows:

(1) Disciplinary suspensions of one to fifteen days, and indefinite suspensions;

(2) Demotions;

(3) Promotional passovers; and

(4) Written promotional examinations.

(F) The Commission shall base its decisions on "substantial evidence."

(1) Substantial evidence is evidence which a reasoning mind would accept as sufficient to support a particular conclusion and which consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance.

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

**Section 143.011** DECISIONS AND RECORDS

See Section 143.011, Chapter 143

Access to records of employees in the classified service, employment applications, background investigation records and reports, examinations and answer sheets shall be governed by the Open Records Act, Texas Government Code Annotated, Chapter 552 (Vernon 1994), as amended.

**Section 143.012** DIRECTOR

See Section 143.012, Chapter 143

(A) The Commission shall appoint a Director who shall be responsible for implementing these rules and for administering the civil service system.

(B) The Director shall perform work incidental to the civil service system as required by the Commission. The Commission may, if necessary, appoint an assistant director. The Director shall:

(1) Serve as Secretary to the Commission;

(2) Serve as chief test examiner for the Commission; supervise all examinations, including the preparation, scheduling, scoring and security of test materials;

(3) Coordinate the recruitment and examination of applicants;

(4) Recommend classification of any newly-established fire department positions to the Commission, and assist in the classification of fire department positions;

(5) Set or assist the Chair in setting agendas for Commission meetings;

(6) Serve as liaison and provide staff support to Commission;

(7) If necessary, obtain a determination from the City Attorney's office as to whether the Commission has jurisdiction over any matter, and determine whether any matter is appropriately brought before the Commission in a reasonable and timely fashion;

(8) Call, schedule, reschedule, and cancel meetings of the Commission;

(9) Serve as records custodian as provided by Chapter 143;

(10) Act on behalf of the Commission for actions and issues not specifically addressed by Chapter 143 and these rules;

(11) Recodify Commission rules as necessary in a professional and timely fashion;

~~(12) Establish and monitor procedures for the discipline and termination of civil~~ service employees; and

(13) Perform other such functions as may be deemed reasonably necessary in regard to the efficient and effective administration of the civil service system for the city.

**Section 143.013** APPOINTMENT AND REMOVAL OF DEPARTMENT HEAD

See Section 143.013, Chapter 143

**Section 143.014** APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED IMMEDIATELY BELOW DEPARTMENT HEAD

See Section 143.014, Chapter 143

The Fire Chief is authorized to appoint each person occupying an authorized position in the classification immediately below that of department head, as allowed by state law.

**Section 143.015** APPEAL OF COMMISSION DECISION TO DISTRICT COURT

See Section 143.015, Chapter 143

**Section 143.016** PENALTY FOR VIOLATION OF CHAPTER

See Section 143.016, Chapter 143

**(Sections 143.017 - 143.020 reserved for expansion)**

## SUBCHAPTER B: CLASSIFICATION AND APPOINTMENT

**Section 143.021** CLASSIFICATION; EXAMINATION REQUIREMENT

See Section 143.021, Chapter 143

(A) The Commission shall provide for the classification of all firefighters. City Council shall establish by ordinance the number of positions in each classification in the department.

(B) The Fire Chief shall develop job descriptions for each position in each classification in the department. Specifications for the various classifications shall conform as follows:

(1) The job specifications are descriptive only and are not restrictive. They shall indicate the kinds of positions that should be allocated to each classification as determined by their duties, responsibilities and qualification requirements.

(2) Titles shall be suggestive of the kind of work performed by the incumbent of the position and indicative of the rank.

(3) The description of duties shall be construed as a general description of the kind of work performed and shall not limit what the duties of any position shall be.

(4) Examples of work shall be construed as typical tasks only, illustrative of the duties as outlined in the general statements. Examples are not intended to be exhaustive or exclusive, and the fact that actual tasks performed by the incumbent of a position do not appear on the job specification shall not be taken to mean that the position is necessarily excluded from the classification, provided that the tasks constituting the main work are duly covered by the general statements of duties.

**Section 143.022** PHYSICAL REQUIREMENTS AND EXAMINATION

See Section 143.022, Chapter 143

(A) Applicants shall be required to take a physical ability test and shall be required to submit to such tests as are reasonably necessary to determine the physical fitness of the applicant to perform the essential functions of the position.

(B) Applicants who are not capable of performing the essential functions of the job, with or without reasonable accommodation, will not be appointed. An applicant will not be appointed if it is determined that the applicant would be a physical danger to himself/herself or others.

(C) The Fire Chief shall be responsible for developing physical ability tests in accordance with guidelines established by the state commission, in compliance with all applicable employment laws, and with the approval of the Director.

**Section 143.023** ELIGIBILITY FOR BEGINNING POSITION

See Section 143.023, Chapter 143

(A) Minimum eligibility requirements for a fire fighter are as follows:

~~(1) Achieve a minimum passing score of seventy (70) percent on a written~~ examination;

(2) Successfully complete the physical ability test;

(3) Pass a background investigation;

(4) Pass an oral interview board;

(5) Successfully complete a conditional (post-job offer) medical examination including visual acuity, and the physician must be able to certify that the applicant is free of drug dependency or illegal drug usage;

(6) Be at least eighteen (18) years of age but not thirty-six (36) years of age or older to take an entrance exam, and may not be certified as eligible for a beginning position if thirty-six (36) years of age or older;

(7) Be a graduate of an accredited high school or have an equivalency certificate;

(8) Have a valid Texas driver's license at hire date;

(9) Be authorized to work in the United States;

(10) Discharge from military service shall not have been under less than honorable conditions;

(11) Be able to read, write, and speak the English language;

(12) Be of good moral character; and

(13) Be able to meet all certification requirements as established by the Texas Commission on Fire Protection.

(B) Any of the following will disqualify an applicant from further consideration at any stage of the process:

(1) Is unable to perform the essential functions of the position to which he/she seeks appointment, with or without reasonable accommodation. Temporary disqualification based upon circumstances.

(2) Has been convicted of conduct that constitutes a felony under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Permanent disqualification.

(3) Has admitted conduct that constitutes a felony under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Permanent disqualification.

(4) Has been convicted of conduct that constitutes a Class A Misdemeanor under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Permanent disqualification.

(5) Has been convicted of conduct that constitutes a Class B Misdemeanor under the Texas Penal Code, equivalent federal law, or equivalent Code of Uniform Military Justice. Temporary disqualification for a minimum of sixty (60) months.

(6) 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. Temporary disqualification for a minimum of twelve (12) months.

(7) Has admitted to conduct involving a crime of moral turpitude, or being known to habitually associate with those of questionable moral character. Permanent disqualification.

(8) Currently has pending criminal charges of any type, or is on "deferred adjudication" for a criminal offense. Temporary disqualification.

(9) 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. Permanent disqualification.

(10) Has failed to complete or satisfactorily meet employment process requirements of the Fire Department including but not limited to missing appointments, failing to return application package or other necessary paperwork, failing to promptly notify the Fire Department of changes in address/telephone numbers, or otherwise failing to complete the application process. Temporary disqualification for a minimum of twelve (12) months.

(11) Has failed to satisfactorily complete the oral interview process including but not limited to any personal or automated interview process. Temporary disqualification for a minimum of twelve (12) months.

(12) Has used illicit substances as indicated by the following guidelines:

(a) Admission of illegal use of marijuana ten (10) or fewer times (experimentation) within the last two (2) years. Temporary disqualification until two (2) years have passed from last use.

(b) Admission of illegal use of marijuana more than ten (10) times. Temporary disqualification until five (5) years have passed from last use.

(c) 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 use, 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 upon circumstances.

(d) Admission of illegal use of felony-grade substances as defined in the Texas Penal Code. Temporary disqualification until ten (10) years have passed since last use.

(13) Has a driving record incompatible with the safe operation of emergency vehicles, the required driving standards of the City of Round Rock Risk Management Department, or which present potential liabilities to the City of Round Rock:

(a) Three (3) or more events (moving violations or preventable accidents) in the preceding thirty-six (36) months. Temporary disqualification.

(b) Reckless driving or similar conviction within the preceding sixty (60) months. Temporary disqualification.

(c) Driving while intoxicated or under the influence of drugs within the preceding sixty (60) months. Temporary disqualification.

(14) Has been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Permanent or temporary disqualification.

(15) Demonstrated poor maturity or judgment in the applicant's decision-making ability. Permanent or temporary disqualification based upon circumstances.

(16) 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 appropriate notice, dismissal for cause from employment, and/or dismissal from employment in a public safety position. Permanent or temporary disqualification based upon circumstances.

(17) Has failed to meet all legal requirements necessary for future licensing and certification as required by the Texas Commission on Fire Protection and the Texas Department of State Health Services. Temporary disqualification.

(C) Notification of Rejection

Whenever an applicant for employment is rejected before being placed on an eligibility list, the applicant shall be notified in writing by the Director. The applicant shall be further notified that he/she will not be able to apply again with the city for a period of one (1) year.

**Section 143.024** ENTRANCE EXAMINATION NOTICE AND APPLICATION

See Section 143.024, Chapter 143

(A) Applicants shall complete a City of Round Rock Employment Application and other forms as prescribed by the Director, in order to take an entrance examination. Failure to pre-register in the manner and within the time limits prescribed in the "Notice of Entrance Examination," and/or failure to file the application with the Director, will render the applicant ineligible to take the examination. Applicants shall make application in his/her own handwriting or in typed form and shall certify

the correctness of the facts.

(B) Any person shall be considered for appointment to a vacancy in the classified service who has filed an application with the Director in the manner specified in these rules and upon the form furnished by the Director, and whose application has not been rejected by the Director for cause in accordance with the provisions of these rules.

(C) The Director may, because of the small number of candidates or because of any other good and sufficient reason (i.e. death in the immediate family, public emergency, unavailability of test site), postpone an examination to a later date.

**Section 143.025** ENTRANCE EXAMINATIONS

See Section 143.025, Chapter 143

(A) Written Entrance Examination

(1) The actual conduct of every examination shall be under the direction of the Director who shall be responsible to the Commission. Examinations shall be conducted on an "as needed" basis. Any examination may be canceled by the Director should it become unnecessary due to i.e. a change in the personnel requirements of the classified service.

(2) The minimum passing score shall be seventy (70) percent on the written examination.

(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) Tie-breakers - whenever two (2) or more applicants attain the same grade on the entrance eligibility list, the applicant with the highest raw test score prior to the addition of military service points shall be listed first. If the score is still tied, the applicant listed first shall be based upon the following criteria in descending order of importance:

(a) The applicant holding the highest medical certification from the Texas Department of State Health Services. If the score is still tied, then

(b) The applicant having completed the highest level of formal education from an accredited high school, college or university. If the score is still tied, then

(c) The applicant holding the highest level of firefighter certification from the Texas Commission on Fire Protection. If the score is still

tied, then

(d) The applicant with the earliest date stamp and the earliest time stamp on his/her properly completed and submitted application.

(5) 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 candidate shall deceive the Commission for purposes of improving his/her chances for appointment or promotion.

(6) Eligibility List

(a) The Director shall keep all eligibility lists for applicants for original positions in the fire department in effect for twelve (12) months. The Director shall provide in the eligibility list announcement that the list shall remain in effect for the time specified by these rules or until all names have been referred to the appropriate department, whichever event occurs first.

(b) Child of a deceased fire fighter - each applicant who is either a natural-born or adopted child of a fire fighter who previously suffered a line-of-duty death while covered by Chapter 143 civil service shall be ranked at the top of any eligibility list in which said applicant receives a minimum passing grade on that respective eligibility exam, if such applicant meets all entry-level hiring requirements. The eligible applicant shall have provided the name of the deceased fire fighter parent on his/her application, and it shall be the responsibility of the Director to verify the information relating to the line-of-duty death prior to placing the applicant at the top of the eligibility list.

(7) Following compilation of the eligibility list, the remaining steps in the process are listed hereafter as (B) Physical Ability Test, (D) Background Investigation, (E) Oral Interview Board, (F) Medical Examination, and (G) Additional Examinations. The Director shall retain the right to determine the number of applicants who will continue through such process, based upon the City's staffing needs.

(B) Physical Ability Test

All applicants shall be required to take a physical ability test approved by the Director to evaluate each applicant's overall agility and stamina.

(C) Any applicant failing to pass the physical ability test, as recorded by the instructor, shall be rejected.

(D) Background Investigation

(1) The Fire Chief shall appoint an investigator to conduct background investigations on applicants for beginning positions in the fire department.

(2) The investigator shall verify the applicant's statements on his/her written application and in the oral interview, and any other such verification of facts or character of the applicant as the Commission, the Director, or the Fire Chief may request.

(3) Fingerprints may be required of all applicants accepted for beginning positions.

(E) Oral Interview Board

(1) An oral interview shall be required for fire department applicants occupying positions on the entrance eligibility list.

(2) The interview board shall consist of five (5) city employees who shall be appointed by the Fire Chief. The City's Director of Human Resources or his/her designee shall serve as an ex-officio member. The Fire Chief shall designate one member of the department to serve as chairperson of the interview board. At the Fire Chief's discretion, the chairperson may or may not be one of the five (5) voting members of the interview board. Only one (1) substitution of a board member shall be permitted, and then only under special circumstances with approval from the Director. The board members shall continue to serve until the final selection of applicants, at which time the board shall disband.

(3) The purpose of the interview is to determine if the applicant possesses necessary qualifications to satisfactorily perform all required duties of a fire fighter.

(4) The reason or reasons for the recommendation for rejection of an applicant shall be stated fully, be clearly signed by each member of the oral interview board, and submitted to the Fire Chief.

(F) Medical Examination

(1) Appropriate post-job-offer medical examinations shall be required of all applicants for beginning positions.

(2) The examinations shall be given by a physician or other authorized medical professional approved by the Director and paid for by the city.

(3) In the event of rejection by such physician, the applicant may call for further examination by a board of three (3) physicians approved by the Director, but at the expense of the applicant, and the findings of such board shall be final.

(4) The physician shall certify to the Director whether or not the applicant is physically fit for the service.

(G) Additional Examinations

(1) Applicants for original civil service positions may be required to take a psychological or psychiatric examination conducted by a psychologist or psychiatrist, and/or a polygraph examination conducted by a qualified polygraph examiner.

(2) Such examiners shall be approved by the Director and paid for by the City. The examiner shall submit a written report of the results of the examination to the Director with the recommendation that the applicant be accepted or rejected, and this report is final.

**Section 143.026** PROCEDURE FOR FILLING BEGINNING POSITIONS

See Section 143.026, Chapter 143

(A) When a vacancy occurs in a beginning position in the fire department, the Fire Chief shall request in writing from the Commission the names of suitable persons from the eligibility list. The Director shall certify to the City's chief executive officer the names of the three (3) persons having the highest grades on the eligibility list.

(B) From the three (3) names certified, the City's chief executive officer shall appoint the person having the highest grade unless there is a valid reason why the person having the second or third highest grade should be appointed.

As to a paramedic position in the fire department, the following shall constitute a "valid reason" and a "good and sufficient reason" in accordance with subsections (B) and (C) herein why a person having the second or third highest grade should be appointed over the person having the highest grade: if the person having a higher grade does not hold an EMT paramedic designation, then the person holding the next highest grade who does have such EMT paramedic designation may be appointed.

(C) If the City's chief executive officer does not appoint the person having the highest grade, the City's chief executive officer shall clearly set forth in writing the good and sufficient reason why the person having the highest grade was not appointed.

(D) The reason required by Subsection (C) shall be filed with the Commission and a copy provided to the person having the highest grade. If the City's chief executive officer appoints the person having the third highest grade, a copy of the report shall also be furnished to the person having the second highest grade.

**Section 143.027** PROBATIONARY PERIOD

See Section 143.027, Chapter 143

(A) Probationary employees shall have no rights under Chapter 143 or under these Rules.

(B) The Department Head of the Fire Department may, at his/her discretion, extend the probationary period of a person who is appointed to a beginning position in the Fire Department from the mandatory twelve (12) months up to a maximum of eighteen (18) months from the date of appointment. Such extension shall only be permitted if the appointee is required to attend a basic training academy necessary for initial certification by the Texas Commission on Fire Protection. The decision of the Department Head of the Fire Department to extend the probationary period is not subject to appeal under Chapter 143.

**Section 143.028** ELIGIBILITY FOR PROMOTION

See Section 143.028, Chapter 143

**Section 143.029** PROMOTIONAL EXAMINATION NOTICE

See Section 143.029, Chapter 143

(A) The Director shall post notices that list the sources from which the examination questions will be taken.

(B) The Director may post notices for each rank to be tested, or may post a combined notice for all ranks.

**Section 143.030** ELIGIBILITY FOR PROMOTIONAL EXAMINATION

See Section 143.030, Chapter 143

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

(B) A fire fighter's prior service with the City does not count toward meeting the two (2) year requirement established in Section 143.030. A fire fighter who has been rehired shall not be given credit for prior service to determine eligibility to take a promotional examination.

**Section 143.032** PROMOTIONAL EXAMINATION PROCEDURE

See Section 143.032, Chapter 143

(A) All examinations shall be of such nature so as to test the relative capacity and fitness of the person examined to discharge the duties of the particular position to which he/she seeks appointment.

(B) The actual conduct of every examination shall be under the direction of the Director who shall be responsible to the Commission. The Director shall have the authority to designate an assistant to administer tests or examinations.

(C) 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 purposes of improving his/her chances for appointment or promotion.

(D) Employees shall complete an Official Application for Promotional Examination, 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/or failure to file the application with the Director within the time limits prescribed in the "Notice of Promotional Examination" will render the employee ineligible to take the examination.

(E) The Commission or Director may, because of the small number of eligible promotional candidates for any position or because of any other good and sufficient reason (i.e. death in immediate family, public emergency, unavailability of test site), postpone an examination to a later date.

(F) To provide for competitive promotional examinations, at least three (3) qualified candidates in the next lower position with two (2) years' service must sit for an examination. If there are not three (3) candidates in the next lower position, the Commission will follow the procedures relating to eligibility for promotional examinations outlined in Section 143.030(d) until at least three (3) qualified candidates sit for the examination. If necessary, the Director may make a recommendation to the Commission to open applications to lower ranks where there are fewer than three (3) candidates who have applied to take the examination.

(G) The Director shall establish a promotional eligibility list from those persons passing the promotional examination.

(H) Promotional examination procedures for certain personnel on active military duty:

(1) Promotional candidates who are serving on active military duty outside the state of Texas or on active military duty more than two hundred (200) miles from the Round Rock City Hall are eligible to take a separate promotional examination. Such an examination may or may not be identical to the examination administered to other eligible candidates, and such an examination may be administered outside the presence of other candidates.

(2) The Director is authorized to coordinate all testing hereunder, and may exercise the discretion necessary to ensure the secrecy of the examination and to ensure that proper administrative procedures are followed.

(3) At no time shall the administration of such a promotional examination unnecessarily interfere with ongoing military efforts.

(4) If an eligible candidate serving on active military duty takes and passes such 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 took the examination.

(5) Eligible candidates serving on active military duty who take such a promotional examination outside of the City shall be eligible to file an appeal of the examination as provided in 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.

(6) Eligible promotional candidates must notify the Director at least twenty-five (25) days in advance of the examination of the candidate's desire to have the examination administered off-site.

(7) Any employee covered by Chapter 143 civil service who is called to active military duty must notify the Director of his/her mailing address and email address. The Director shall use his/her best reasonable effort to inform any such employee who is on active military duty of upcoming promotional examinations.

(I) Promotional examination procedures for deployed military personnel:

(1) In this Section 143.032, "deployed person" means a civil service employee of the Round Rock Fire Department who is a member of the U.S. military and who has been deployed under orders in the service of the United States of America; "federal regulations" means USARA; and "state regulations" means Chapter 143, Section 143.072 and Section 143.075.

(2) When a person in the Fire Department is ordered to active military duty and deployed, all federal and state regulations shall apply.

(3) Deployed persons are responsible for providing a regular mailing address and email address if available to the Civil Service Director for the duration of their deployment. The Civil Service Director is not responsible to seek out contact information for deployed persons.

(4) Deployed persons are to remain aware of the likelihood of promotional examinations being given during their deployment.

(5) Civil Service processes govern all promotional examinations for deployed and non-deployed persons alike.

(6) When the Civil Service Director posts study resource lists for promotional examinations, the Civil Service Director shall forward a copy of the study resource list to all deployed persons eligible to take the promotional examination to the email or regular mail address provided by the deployed person.

(7) If requested by the deployed person, the Civil Service Director shall ship all resource material listed on the promotional examination resource study list to the deployed person to the regular mailing address provided by the deployed person at no cost to the deployed person. The deployed person is responsible for returning all resource material sent to the deployed person by the City to the City in good condition within six weeks after the examination is given.

(8) When the Civil Service Director posts notice for promotional examinations, the Civil Service Director shall forward a copy of the posting to all deployed persons eligible to take the promotional examination to the email or regular mailing address provided by the deployed person.

(9) The process for signing up for Civil Service promotional examinations shall follow the same process for deployed and non-deployed persons.

(10) When a deployed person is eligible for promotional examination, and desires to take the promotional examination, the deployed person must notify the Civil Service Director of the desire to sit for the examination by email or

regular mail within the sign-up period allowed for non-deployed persons to sign up to take the promotional examination.

(11) Included with the notification to the Civil Service Director of the desire to sit for the promotional examination, the deployed person must enclose the name and address of the deployed person's commanding officer.

(12) The Civil Service Director shall obtain a promotional examination for the deployed person that is equal in length and taken from the posted study resource lists but with different questions than the questions to be included in the promotional examination given to non-deployed persons.

(13) The Civil Service Director shall notify the deployed person's commanding officer by email or regular mail of the impending arrival of the promotional examination accompanied by a copy of this SOP and specific instructions on how to administer the examination to the deployed person and how to preserve the integrity of the promotional examination process.

(14) To the extent possible, the promotional examination should be administered ~~to the deployed person by the commanding officer at or about the same time~~ and on the same date as it is being administered to non-deployed persons.

(15) The deployed person's commanding officer must return the test, answer sheet, and all sheets of scratch paper utilized during the examination by the deployed person to the Civil Service Director in the envelope provided by the Civil Service Director.

(16) Upon receiving the examination packet from the deployed person's commanding officer, the Civil Service Director shall score the examination in the same manner as the examinations were scored for non-deployed persons.

(17) The Civil Service Director shall place the grade of the deployed person on the list of scores in the same manner as the scores for non-deployed persons.

(18) The Civil Service Director shall forward a copy of the raw grades and the final grades that are posted within the City to the deployed person by email or regular mail to the address provided by the deployed person.

**Section 143.033** PROMOTIONAL EXAMINATION GRADES

See Section 143.033, Chapter 143

(A) All test participants receiving a grade of seventy (70) points or more shall be determined to have passed an examination. Candidates shall have their examination

grade combined with seniority points provided for in Chapter 143, and the combination shall determine the final score of each candidate.

(B) When two (2) or more applicants have equal total grades or scores (including seniority points) and a tie exists on the eligibility list for promotion, the following shall be used, in the order listed, until the tie is broken:

(1) Highest written test score;

(2) Longest period of continuous employment in the department;

(3) Earliest date of appointment to present rank;

(4) Earliest appointment to previous ranks, from highest to lowest;

(5) Highest position on entry-level eligibility list.

(C) A promotional eligibility list shall be established with names listed in order from highest score to lowest score. All eligibility lists shall remain in existence for one (1) year, unless exhausted. The Fire Chief shall notify the Director of the necessity to replace an exhausted eligibility list.

(D) Medical examinations taken not earlier than twelve (12) months preceding date of promotion will be required prior to promotion.

(E) The Director is authorized to establish rules for grading examinations.

**Section 143.034** REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION

See Section 143.034, Chapter 143

(A) The Director is authorized to establish rules for the review of examinations.

(B) Upon completion of grading, each promotional candidate by himself/herself may review his/her examination and answers, the examination grading, and the source material for the examination in the presence of the Director or a monitor(s) designated by the Director.

(C) The period of review of test materials begins after promotional examination grades are posted and is limited to the time prior to the date when an appeal may be filed.

(D) If any candidate appeals a question(s) on a promotional examination under this rule, the Director shall prepare a written notice of the hearing and notify all parties concerned as to the time, date, and place of the hearing. The appeal information shall

not reveal the name of the appellant(s) prior to the appeal hearing before the Commission. The Director shall prepare a package of information for each test question being appealed, to include:

(1) The question number;

(2) The question and its answer choices from the examination;

(3) The correct answer on the scoring key;

(4) The correct answer, if different from the scoring key;

(5) A copy of the source material;

(6) The appellant(s) written reason(s) for appeal;

(7) The Director's statements, if any;

(8) The Fire Chief's statements, if any;

~~(9) Other material deemed relevant by the Director.~~

(E) During the appeal hearing, the following rules will apply:

(1) Appealed questions will be considered in numerical order;

(2) Each appellant will be given an opportunity to present reasons for the appeal. The appellant may designate someone else to present comments. The Commission may limit the time for each appellant to speak, and the Commission may require non-duplication of information presented.

(3) After each appellant has spoken on the question, the Commission may ask questions of the appellant or anyone else that may have information pertinent to the question.

(4) The chairperson shall allow others an opportunity to speak on the question offering differing opinions. The chairperson may limit the time for each speaker and may require non-duplication of information presented.

(5) The Commission may go into executive session at any time during the appeal hearing in order to deliberate, but not vote.

(6) The Commission will make a decision on each question presented. The Commission's options on each appealed question are to:

(a) Let the question stand as it was originally graded;

(b) Change the answer from the way it was originally graded to another answer choice;

(c) Allow more than one correct answer; or

(d) Delete the question from the examination.

(7) The formula for calculating the promotional test scores after appeal is as follows:

(100) / (total number of test questions used) = point value of each question

(# of total test questions) - (# of wrong questions) = # of correct questions

(# of correct questions) x (value of each question) = score

(8) The Commission will consider all questions being appealed.

(9) The Commission will indicate its decision for each question on a form provided by the Director. Each Commission member who agrees with that decision will sign the form. A majority of the Commission agreeing on a decision will determine the final decision on that question.

(10) If necessary, the Director will re-score all answer sheets as directed by the Commission and create and post a new eligibility list. The amended eligibility list will have the same effective date as the original eligibility list.

**Section 143.036** PROCEDURE FOR MAKING PROMOTIONAL APPOINTMENTS

See Section 143.036, Chapter 143

(A) Persons accepting a promotion in the Round Rock fire department shall be medically and physically capable to perform the essential functions of the job and shall demonstrate a driving record which meets current City liability insurance requirements.

(B) The Director and/or the Fire Chief may establish other reasonable, valid criteria for promotion to the particular position.

(C) When the term "Commission" is used in Section 143.036, the Director may perform the duties specified.

(D) Promotional procedures for deployed military personnel:

(1) In this Section 143.036, "deployed person" means a civil service employee of the Round Rock Fire Department who is a member of the U.S. military and who has been deployed under orders in the service of the United States of America; "federal regulations" means USARA; and "state regulations" means Chapter 143, Section 143.072 and Section 143.075.

(2) When a person in the Fire Department is ordered to active military duty and deployed, all federal and state regulations shall apply.

(3) When a deployed person is the person with the highest grade on a promotional eligibility list, and a promotional vacancy is to be filled, the department head may:

(a) promote the deployed person per Section 143.036 (Procedure for Making Promotional Appointments);

~~(b) not promote the deployed person for a valid reason per Section~~ 143.036(f)(g);

(c) designate a person from the next lower classification to temporarily fill the position that is vacant due to the absence of the deployed person per Section 143.038 (Temporary Duties in Higher Classification); or

(d) promote the deployed person and the next person having the highest grade on the eligibility list to fill the vacant position until the return of the deployed person.

(4) If the Fire Chief promotes the deployed person and the next person on the list having the highest grade on the eligibility list, the last person promoted to that rank may be demoted to their previous rank upon the return and reemployment of the deployed person no matter if the last person promoted was promoted from the same promotional list as the deployed person or from a later promotional list.

(5) The Fire Chief shall cause each person promoted but subject to being demoted upon the return of a deployed person to be notified of such risk in writing. However, the failure of the Fire Chief to notify a person subject to being demoted in writing does not protect the person from being demoted to their previous rank upon the return of the deployed person.

**Section 143.037** RECORD OF CERTIFICATION AND APPOINTMENT

See Section 143.037, Chapter 143

**Section 143.038** TEMPORARY DUTIES IN HIGHER CLASSIFICATION

See Section 143.038, Chapter 143

The Fire Chief may prescribe methods of selecting and making temporary appointments to higher classifications. The Fire Chief shall determine eligibility for higher classification pay and requirements to earn higher classification pay above the base salary.

**(Sections 143.039-143.040 reserved for expansion)**

**SUBCHAPTER C: COMPENSATION**

**Section 143.041** SALARY

See Section 143.041, Chapter 143

**Section 143.042** ASSIGNMENT PAY

See Section 143.042, Chapter 143

**Section 143.043** FIELD TRAINING OFFICER ASSIGNMENT PAY

See Section 143.043, Chapter 143

**Section 143.044** CERTIFICATION AND EDUCATIONAL INCENTIVE PAY

See Section 143.044, Chapter 143

**Section 143.045** ACCUMULATION AND PAYMENT OF SICK LEAVE

See Section 143.045, Chapter, 143

(A) Civil Service Sick Leave

The City of Round Rock Human Resources Policies and Procedures Manual, Chapter 5, Section 12. Sick Leave establishes and specifies sick leave accrual and usage for civil service employees.

(B) Sick Leave Payment Upon Suspension

A fire fighter who is temporarily suspended or indefinitely suspended must exhaust all appeal rights before the City is obligated to pay any accumulated sick leave as prescribed under Chapter 143. Specifically, a 12-hour work day shall be used in calculating the ninety (90) days set forth in Chapter 143. The City shall not authorize withdrawals from the Texas Municipal Retirement System (TMRS) or Fire Pension System unless the fire fighter submits a written resignation and terminates employment with the City of Round Rock.

**Section 143.046** VACATIONS

See Section 143.046, Chapter 143

**Section 143.047** SHIFT DIFFERENTIAL PAY

See Section 143.047, Chapter 143

**(Sections 143.048-143.050 reserved for expansion)**

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**SUBCHAPTER D: DISCIPLINARY ACTIONS**

**Section 143.051** CAUSE FOR REMOVAL OR SUSPENSION

See Section 143.051, Chapter 143

(A) Each of the following are declared to be grounds for removal or suspension of any employee from the classified service in the City of Round Rock:

(1) Indictment, deferred adjudication, or conviction of a felony, Class A or Class B misdemeanor, or other crime involving moral turpitude or violation of laws/ordinances of the United States, State of Texas or City of Round Rock;

(2) Violation of the provisions of the Charter of the City of Round Rock;

(3) Acts of incompetency;

(4) Neglect of duty;

(5) Discourtesy by said employee to the public or to fellow employees while the fire fighter 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) Refusal or neglect to pay just debts;

(10) Absence without leave;

(11) Shirking duties;

(12) Cowardice at fires;

(13) Insubordination; or

(14) Violation of any of the rules and regulations of the fire department; or of special orders as applicable; or of these rules and regulations; or of any of the "City of Round Rock Human Resources Policies and Procedures."

**Section 143.052** DISCIPLINARY SUSPENSIONS

See Section 143.052, Chapter 143

(A) General Provisions

(1) These rules shall apply to and govern all disciplinary actions and appeals of the City of Round Rock Fire Fighters' Civil Service pursuant to Chapter 143.

(2) All disciplinary actions and appeals concerning civil service employees will be made in compliance with Chapter 143, these rules and regulations, the "City of Round Rock Human Resources Policies and Procedures," as well as the rules and regulations of the employee's department.

(3) The term "cause" shall also mean "employee misconduct" and will 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.

(4) A department head may proceed with appropriate disciplinary action arising from any particular factual event(s) and/or misconduct which would constitute "cause" when the employee's misconduct is related to those matters set forth in Chapter 143, these rules, departmental rules and regulations, or the "City of Round Rock Human Resources Policies and Procedures."

(5) For disciplinary action purposes, a determination of what constitutes "just cause" is generally made by comparison to what a reasonable person, who is mindful of the habits and customs of his/her department, and who is also mindful of the responsibilities and needs of his/her department, should have done (or should have not done) under similar circumstances.

(6) After the Commission has determined that probable cause does exist for a requested demotion and has provided the employee with written notice as per Chapter 143, thereafter the action for appeal of the demotion may be conducted according to the same hearing procedures as set forth herein for all other disciplinary actions or as expressly provided otherwise in Chapter 143. An employee may elect the hearing examiner provisions of Section 143.057 only if the demotion is considered disciplinary in nature.

(7) After an employee has been passed over for promotion as per Chapter 143, thereafter the promotional passover appeal will be conducted according to the hearing procedures as provided in Chapter 143. An employee may elect the hearing examiner provisions of Section 143.057 only if the promotional passover is considered disciplinary in nature.

(8) Prior to imposing any particular level of disciplinary action, 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 discipline.

(B) Filing of Charges

The Director or his/her designee shall file-stamp all disciplinary actions filed by the department head, showing the date and time of receipt.

**Section 143.053** APPEAL OF DISCIPLINARY SUSPENSION

See Section 143.053, Chapter 143

The Commission hereby adopts the procedure set out in this section for hearing appeals of disciplinary suspensions. The format for the hearing shall generally be as follows:

(A) Opening statement, City (department head).

(B) Opening statement, fire fighter.

(C) Presentation of City's (department head's) case.

(1) Direct testimony of witnesses.

(2) Cross-examination of witnesses.

(3) Follow-up questions by Commission.

(D) Response by fire fighter.

(1) Direct testimony of witnesses.

(2) Cross-examination of witnesses.

(3) Follow-up questions by Commission.

(E) Rebuttal by City (department head), if any.

(1) Direct testimony of witnesses.

(2) Cross-examination of witnesses.

(3) Follow-up questions by Commission.

(F) Final statement by City (department head).

(G) Final statement by fire fighter.

(H) Closing final statement by City (department head).

(I) Deliberation by Commission in executive session.

(J) Commission publicly votes on the appeal.

(K) All Commission members voting shall immediately sign a written order memorializing the Commission's decision.

**Section 143.054** DEMOTIONS

See Section 143.054, Chapter 143

**Section 143.056** PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT

See Section 143.056, Chapter 143

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

**Section 143.057** HEARING EXAMINERS

See Section 143.057, Chapter 143

(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, formal "rules of evidence" will not be observed.

(C) Hearing Examiners shall base their decisions on "substantial evidence."

(D) All hearings conducted by a Hearing Examiner will be conducted within Round Rock's city limits.

(E) Hearing Examiners shall have the same authority to uphold the suspension, reduce the suspension, or overturn the suspension as does the Commission.

(F) Unless expressly authorized by Section 143.057, Hearing Examiners will observe the procedures as described in Section 143.010.

(G) 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.

(H) Disciplinary proceedings 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 agreement to submit the appeal to such arbitration.

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

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

**(Sections 143.058-143.070 reserved for expansion)**

## SUBCHAPTER E: LEAVES

### Section 143.071 LEAVES OF ABSENCE: RESTRICTION PROHIBITED

See Section 143.071, Chapter 143

### Section 143.072 MILITARY LEAVE OF ABSENCE

See Section 143.072, Chapter 143

### Section 143.073 LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE

See Section 143.073, Chapter 143

### Section 143.074 REAPPOINTMENT AFTER RECOVERY FROM DISABILITY

See Section 143.074, Chapter 143

### Section 143.075 MILITARY LEAVE TIME ACCOUNTS

See Section 143.075, Chapter 143

**(Sections 143.076 - 143.080 reserved for expansion)**

## SUBCHAPTER F: MISCELLANEOUS PROVISIONS

### Section 143.081 DETERMINATION OF PHYSICAL OR MENTAL FITNESS

See Section 143.081, Chapter 143

(A) Each employee shall continually remain in such physical and mental condition as to be capable of rendering safe and efficient service to the City and performance of the duties and essential functions assigned to the employee.

(B) Each employee shall be required to submit to a psychological or physical examination where there exists some reasonable basis to believe that the employee's mental or physical fitness for duty is an issue. For purposes of this Section 143.081, a question arises as to sufficient physical or mental fitness to continue duties if the person self-refers for medical or psychological assistance, or if the person is so referred by the department head. The employee must submit to such mandatory psychological or physical examination as soon as is reasonably practical, but not later than ten (10) business days from referral. A business day, as used herein, is defined as follows: Any day (other than Saturday, Sunday, and legal holidays as specified by the City of Round Rock) on which the business of the City is conducted.

(C) Determination of the employee's mental and/or physical fitness for duty shall not be subject to the Commission or Hearing Examiner's review. The decision of the three-member panel, as provided for in Section 143.081(d), is final and binding; and no further appeal to the Commission or to a Hearing Examiner shall be permitted if the employee is terminated from his/her position based on the panel's report.

(D) If a question arises as to whether a fire fighter is sufficiently physically or mentally fit to continue the persons' duties, the fire fighter shall submit to the Commission a report from the person's personal physician, psychiatrist, or psychologist, as appropriate.

(E) If the Commission, the Fire Chief, or the fire fighter questions the report, the Commission shall appoint a physician, psychiatrist, or psychologist, as appropriate, to examine the fire fighter and to submit a report to the Commission, the Fire Chief, and the person. For purposes of this subsection (E), such second examination shall be conducted as soon as is reasonably practical, but not later than ten (10) business days from referral.

(F) If the report of the appointed physician, psychiatrist, or psychologist, as appropriate, disagrees with the report of the fire fighter's personal physician, psychiatrist, or psychologist, as appropriate, the Commission shall appoint a three-member board composed of a physician, a psychiatrist, and a psychologist, or any combination, as appropriate, to examine the fire fighter. The board's findings as to the person's fitness for duty shall determine the issue.

(G) The fire fighter shall pay the cost of the services of the person's personal physician, psychiatrist, or psychologist, as appropriate. The City shall pay all other costs.

**Section 143.082** EFFICIENCY REPORTS

See Section 143.082, Chapter 143

**Section 143.083** EMERGENCY APPOINTMENT OF TEMPORARY FIRE FIGHTERS

See Section 143.083, Chapter 143

**Section 143.084** CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIRE FIGHTERS

See Section 143.084, Chapter 143

**Section 143.085** FORCE REDUCTION AND REINSTATEMENT LIST

See Section 143.085, Chapter 143

Whenever the Fire Department reorganizes the number of positions in a particular rank which results in a position(s) being eliminated in one classification, and when a promotional eligibility list for the position being eliminated exists at the time of the reorganization, the Director shall notate in the "a" file of an affected employee(s) the following information:

(A) Promotion of the top person(s) on the eligibility list to the abolished position(s) as of 7:00 a.m. on the effective date; and

(B) Demotion of the same person(s) promoted to the abolished position(s) at 7:01 a.m. on the same date.

The Director shall create a Reinstatement List in accordance with the requirements of this section.

**Section 143.086** POLITICAL ACTIVITIES

See Section 143.086, Chapter 143

**Section 143.087** STRIKE PROHIBITION

See Section 143.087, Chapter 143

**Section 143.088** UNLAWFUL RESIGNATION OR RETIREMENT

See Section 143.088, Chapter 143

**Section 143.089** PERMANENT PERSONNEL FILE

See Section 143.089, Chapter 143

(A) Access to records of employees in the classified service, employment applications, background investigation records and reports, examinations and answer sheets shall be governed by Chapter 143 of the Texas Local Government Code and the Texas Government Code and appropriate federal statutes.

(B) Ordinance No. G-10-01-14-7A1, codified in Chapter 1, Section 1.1002.1(7) of the Code of Ordinances of the City of Round Rock, provides for the following:

Access to Subsection 143.089(g) File:

(a) Access to a fire fighter's otherwise confidential subsection (g) file is an inherent right, in their official capacities, of the City Council, the City Manager, and the Director of Fire Fighters' Civil Service.

(b) In addition to those persons listed in subsection (a) above, access to a fire fighter's otherwise confidential subsection (g) file shall be specifically granted to the Department Head of the Fire Department, the City Attorney, and outside attorneys retained by the City.

**(Sections 143.090-143.100 reserved for expansion)**