

# **CIVIL SERVICE RULES**



**CITY OF ROBSTOWN  
AS ADOPTED BY THE  
CIVIL SERVICE COMMISSION  
OF THE  
CITY OF ROBSTOWN  
FISCAL YEAR 2015 - 2016**

**(ALL BUDGET ITEMS REQUIRE CITY COUNCIL APPROVAL)**

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## **CHAPTER ONE**

### **GENERAL PROVISIONS**

- 1.1 The Rules and Regulations of the Firefighter's and Police Officer's Civil Service Commission of the City of Robstown are hereby promulgated.
- 1.2 The purpose of adopting these Rules is to promote the efficiency of the Fire and Police Departments of the City of Robstown. Further, the purpose of these Rules is to comply with the mandate of Section 143.008 of the Local Government Code which requires each Civil Service Commission to adopt Rules and Regulations consistent with said law.
- 1.3 All firefighters and police officers will be provided a copy of these Rules and Regulations free of charge. Copies of these Rules will be kept available for distribution to members of the public.
- 1.4 These Rules and Regulations are promulgated and adopted pursuant to the authority vested in the Commission under Chapter 143. These Rules are intended to supplement and compliment the provisions of Chapter 143 and shall be read in conjunction therewith. If a conflict arises between these Rules and Chapter 143, Chapter 143 controls and shall determine the outcome.
- 1.5 Nothing contained herein shall be construed as a limit upon the Department Head's ability to control the off-duty employment of Departmental employees, to the extent authorized by law.  
**See: Chapter 20 of these Rules.**
- 1.6 The words and phrases used in these Rules and Regulations shall have the meaning assigned to such words as may be used by reasonable people in the conduct of their own affairs, except as provided hereinafter.
- 1.7 Any word or phrase that is defined in Chapter 143 shall be defined in that same manner for the purpose of interpreting these Rules and Regulations.
- 1.8 Whenever a dispute arises about the meaning of a word, group of words or a phrase, the construction given to such word or phrase shall be determined by reference to the latest available edition of Webster's Dictionary, at the time of adoption, unless the Courts of the State of Texas shall have determined the meaning of the disputed word, group of words or phrase, in which event such construction of the word, group of words or phrase shall control.
- 1.9 The Pay Categories stated in this document are for classification purposes only and do not authorize any individual to receive compensation. Only the Robstown City Council has the authority to approve compensation.

## **CHAPTER TWO**

### **PROVISIONS RELATING TO THE COMMISSION**

- 2.1 The Commission shall consist of three members. Said members must meet the qualifications prescribed in Section 143.006. Members are to be appointed by the Mayor of the City and are subject to confirmation by the City Council before taking office.
- 2.2 In making appointments, the Mayor shall consider all persons and make such appointments in such a manner that the makeup of the Commission shall reflect the population of the City and all segments of the population are represented on the Commission.
- 2.3 Commission members serve staggered three-year terms with the term of one member expiring each year.
- 2.4 The Mayor of the City may reappoint a commission member to consecutive terms. A commission member may not be reappointed to more than a third term unless the member's reappointment to a fourth or subsequent consecutive term is confirmed by a two-thirds majority of all members of the City Council.
- 2.5 Commissioners may be removed pursuant to Section 143.007.
- 2.6 Any vacancy on the Commission occurring for any reason shall be filled in the same manner as stated in Paragraph 2.01.
- 2.7 A person appointed to the commission must:
  - 1) be of good moral character;
  - 2) be a United States citizen;
  - 3) be a resident of the City of Robstown who has resided in Robstown for more than three years;
  - 4) be over 25 years of age; and
  - 5) not have held a public office within the preceding three years. {143.006}
- 2.8 When necessary, and in order to assist the City Council in complying with the provisions of Chapter 143, the Commission shall make known to the Council its needs for suitable office space.
- 2.9 During the first regular meeting in each year, the Commission shall establish a schedule of meetings. Such meetings shall be spaced throughout the year to allow the Commission to transact its business in an orderly manner. Such meetings may be canceled by the Chairperson, if no other commissioner objects, when there is no business to transact. If a commissioner is out of the City and unable to be contacted to secure his/her agreement in the cancellation of such meeting, the meeting may be canceled by the Chair[person], if the remaining member does not object.

- 2.10 During the first regularly scheduled meeting in January of each year, the Commission shall select, from among its members, a Chairperson and Vice-Chairperson. In the event of the departure of the Chairperson from the commission, the Vice-Chairperson will assume the duties of Chairperson, and an interim election will be held to fill the position of Vice-Chairperson. Should the position of Vice-Chairperson become vacant, an interim election will be held to fill that office. Any member of the Commission elected in an interim election to fill a vacant position shall hold such office until the next regularly scheduled election under these rules.
- 2.11 The Commission may also meet at the call of the Chairperson or any two members.
- 2.12 Any two members of the Commission shall constitute a Quorum to transact the business of the Commission.
- 2.13 The Commission shall conduct its meetings in a place that is accessible to all the public. The Commission and the City shall make provisions for persons needing special accommodations to attend said meetings. The facilities provided to the Commission shall be suitable for open public meetings and have ample space for public attendance.
- 2.14 All meetings of the Commission shall be preceded by appropriate notice that complies with all the provisions of the Open Meetings Act; Government Code, Chapter 551.
- 2.15 Each commission meeting shall be duly recorded. All hearings and controversies shall be preserved by verbatim records that are available for subsequent review. All Commission decisions, orders and findings shall be in writing and signed by all concurring Commissioners. Such decisions, orders and findings shall be retained by the Commission. All records of the Commission are public records and are available to the public for inspection or purchase, at actual cost, during normal business hours of the City or at time set by the Commission or the Civil Service Director.
- 2.16 Pursuant to the provisions of Section 143.009, the Commission is empowered to conduct investigations and inspections, and report on all matters relating to the application of and adherence to Chapter 143 and these Rules. The Commission shall conduct discussions concerning any such investigations in open public meeting before authorizing any such investigations. The Commission will not allow its authority to be utilized for the purpose of resolving routine employee grievances that should be resolved by the Department and the employee's chain of command.
- 2.17 When a suspended or aggrieved employee has invoked any review procedures under these Rules and Regulations, the Commission or any Hearing Examiner shall conduct such hearing fairly and impartially. The Commission, or any Hearing Examiner, shall render a fair and just decision, considering only the evidence presented in such hearing when determining the truth of the charges which are the subject of the review. The Commission or any Hearing Examiner decision need only be based on a preponderance of the evidence for the charges to be sustained. The Commission, or any Hearing Examiner, shall sustain any charge where sufficient evidence is presented, and shall never substitute its personal preferences for the judgment of the Department Head. Proof beyond a reasonable doubt is never required to sustain a charge appealed to the Commission or any Hearing Examiner.

2.18 Any appeal to the Commission, or any Hearing Examiner, shall be governed by the rules of procedure adopted by the Commission.

## **CHAPTER THREE**

## **COMMISSION RECORDS**

3.1 See Section 143.011 of the Texas Local Government Code

## **CHAPTER FOUR**

### **DIRECTOR OF CIVIL SERVICE**

- 4.1 The Commission shall appoint a Director of the Firemen and Policemen's Civil Service, who shall meet the same requirements for appointment as set out in Section 143.012.
- 4.2 The Director is subject to removal by the Commission. The Commission's action shall be final and binding on the issue.
- 4.3 The Director shall serve as Secretary to the Commission and shall perform all such work as may be incidental to the Civil Service program and as may be required by the Commission including, but not limited to, the following:
  - a) maintenance of all Commission records;
  - b) perpetration of all tests administered hereunder;
  - c) maintenance of all required lists;
  - d) administration of any tests given hereunder;
  - e) preparation of all notices;
  - f) preparation of all certifications;
  - g) security of all test materials;
  - h) receipt of all documents and filings on behalf of the Commission;
  - i) scheduling, at the direction of the Commission, regular and special Commission meetings;
  - j) attendance at all Commission meetings;
  - k) preparation of agenda for Commission meetings;
  - l) coordination of Commission inspections and investigations;
  - m) serve as liaison with other City officials;
  - n) serve as custodian of Commission records;
  - o) acting on behalf of the Commission for actions and issues not specifically addressed in Chapter 143 or these Rules;
  - p) maintaining the personnel files of all employees in the civil service as required by Section 143.089(a);
  - q) when a specific Rule does not address a particular question or issue, interpreting the Rules based on circumstances, facts and issues, and taking appropriate action;

- r) maintaining the Record of Certification and Appointment as required by Section 143.037;
- s) maintaining a seniority roster for the Police and Fire Departments by date of hire;
- t) shall have the authority to designate an Acting Director in the absence of the Director; and
- u) other duties as directed by the Commission.

4.4 If the Director is away from his/her duties, he/she may appoint a designee to perform the duties outlined above on a temporary basis.

## **CHAPTER FIVE**

### **RULE MAKING**

- 5.1 The Commission shall publish its Rules and Regulations, consistent with the provisions of Section 143.008. Any other item that is published by the Commission shall be published in a manner consistent with Chapter 143.
- 5.2 If there is a conflict between these Rules and the provisions of Chapter 143, as it is now or may be hereafter amended, or any other State or Federal law, then such law shall control.
- 5.3 These Rules and Regulations are subject to revision, amendment, supplementation, and repeal as deemed necessary and appropriate by the Commission. It is the intention of the Commission that any change made to such Rules shall be made only after consideration of such change during an open public meeting.

## **CHAPTER SIX**

### **APPOINTED POSITIONS**

#### ***SUBCHAPTER A - DEPARTMENT HEAD***

- 6.1 The individuals appointed to the position of Department Head of the Fire and Police Departments are selected by the Mayor of the City of Robstown. These individuals must be confirmed by a majority vote of the City Council present. The qualifications for the appointment of the position of Department Head in the Fire or Police Department shall be those qualifications required by Chapter 143.
- 6.2 If a person has been appointed as head of the Fire or Police Department from within the respective Department, then such person shall be reinstated in the position that said person held in their respective department immediately prior to their appointment as Department Head and shall retain all rights of seniority.
- 6.3 An individual who has been previously appointed to the position of Department Head in either the Fire or Police Departments, but who has not previously served as a member of the Robstown Fire or Police Department, as appropriate, shall not be entitled to any benefit, relief, hearing or reinstatement under this section.

#### ***SUBCHAPTER B - POSITION IMMEDIATELY BELOW DEPARTMENT HEAD***

- 6.4 In the event that the provisions of Section 143.014 shall be adopted by the City, then in each situation where such a position is filled, the provisions of that section shall be complied with by the Department Head, department members and the Commission.

## **CHAPTER SEVEN**

### **INCREASING DIVERSITY**

- 7.1 The Commission is committed to the employment of all qualified persons without regard to race, color, sex, religion, age, national origin or to the extent that they are otherwise completely qualified if handicapped or disabled.
- 7.2 The Commission declares and directs that the Department Heads should use every available method to recruit, hire, train and retain qualified individuals who reflect the composition of the City. In hiring, training, promoting and retaining employees, the Commission directs that there shall be equal opportunities provided for all persons.
- 7.3 The Commission finds that it is the duty of Department Heads, Department members and all others who are governed by, involved in implementing or administering these rules, to take all necessary and legal actions as may be needed to give full force and effect to this Chapter.
- 7.4 The Commission encourages the Department Heads and the City to expend necessary funds to accomplish these goals.
- 7.5 No person shall violate any provision of these rules when attempting to lawfully comply with this particular chapter of these rules.

## **CHAPTER EIGHT**

### **APPOINTMENT**

- 8.1 See Section 143.024. More than ten (10) days in advance of the scheduled date for any entrance examination, the Director shall cause to be posted in plain view a notice of such examination. Such notice must be posted on a bulletin board located in the main lobby of City Hall, at the office of the Commission, on bulletin boards in the Fire and Police Departments, and on the City's webpage. The Commission intends that the notice of such examination shall receive the widest and most diverse distribution as is possible. The Director is instructed to take all necessary steps to insure that the examination notice has widespread distribution.
- 8.2 Such notice shall identify the position to be filled and for which Department the examination is to be held. The date, time, and place of the examination will be clearly identified. The minimum qualifications established for the position by the Commission, and the deadline for receiving applications to take the examination shall be clearly set out in the examination notice. The notice must also state the period during which the eligibility list created as a result of the examination will be effective.
- 8.3 Each person desiring to take an entry level examination shall complete an application approved by and provided by the Commission. Such application must be signed by the applicant in handwriting. In order for an application to be complete, all information requested must be provided and all necessary documents must be presented.
- 8.4 Applicants may obtain an application from the Director at anytime prior to the examination and after the notice has been posted.
- 8.5 Only those persons who take and pass the examination will be considered for employment.
- 8.6 Applications for entry-level positions in the Fire or Police Departments must be filed in the office of the Director during regular office hours and not later than the listed closing date on the announcement of entrance examination. All supporting documentation shall be turned in to the Director within five (5) business days after the date of the entrance examination.
- 8.7 The Director is authorized to require any necessary documents, records or certifications regarding the qualifications or merits of any candidate or applicant for an entry-level position. Any such documents, records or certifications may be required to be verified.
- 8.8 The Director shall screen all applications to determine that the applicant has complied with this section. The failure of an applicant to comply with this section will result in the termination of the process for that applicant. No applicant may be considered for appointment to a beginning position if any parts of the requirements of this section have not been complied with by said applicant.
- 8.9 An applicant may, at the discretion of the Director, be afforded a single opportunity to correct any deficiency in his/her application. The duration of such opportunity shall not exceed five (5) business days past the last date for submission of applications as determined by Section 9.6.

- 8.10 The Commission, acting through the Director, may retain applications on file even though an entrance examination has not been or is not currently scheduled. Such persons shall be notified by the Director when an entrance examination is scheduled and the applicant shall be permitted to take such examination if all the requirements have been met and the information previously provided remains current and valid.
- 8.11 The Commission may refuse to examine, or after the examination, to certify as eligible, any applicant below. Time calculations for an action that constitutes rejection for a specified period of time shall be calculated from the date the application for employment is submitted by an applicant.
- a. Applicant fails to pass any part of the entrance examinations;
  - b. Applicant fails to make application in the manner prescribed in the notice of examination and/or fails to file the application with the Director within the time limits prescribed in the notice of examination;
  - c. Applicant fails to meet Minimum Standards for Initial Licensure as set forth by the Texas Commission on Law Enforcement (“TCOLE”) for peace officer candidates or fails to meet any of the minimum requirements expressed in the rules of the Texas Commission on Fire Protection and the Texas Department of State Health Services for fire fighter candidates;
  - d. Applicant for Police Officer is not a citizen of the United States of America by birth or naturalization. The applicant shall be considered disqualified until citizenship is obtained in compliance with federal laws;
  - e. Applicant fails to demonstrate his/her ability to read, write, and fluently speak the English language. The applicant shall be disqualified until the deficiency is corrected;
  - f. Applicant is unable to perform essential functions of the position to which he/she seeks appointment, with or without reasonable accommodation;
  - g. Applicant has been convicted of or admitted to conduct that constitutes a Class A or Class B Misdemeanor under the Penal Code or equivalent under federal law, to include the Uniform Code of Military Justice (UCMJ), except for marijuana use, within the past ten (10) years may result in a temporary rejection. Applicant cannot have formal criminal charges above a Class C misdemeanor pending before a Grand Jury or District Attorney's office. Crimes involving moral turpitude may result in permanent disqualification and shall be considered on a case-by-case basis with appropriate consideration of circumstances and how recent. Applicant must not be on court-ordered community supervision or probation for any misdemeanor offense above the grade of a Class C misdemeanor. Applicant will be rejected if he/she is subject of any arrest warrant above the grade of Class C misdemeanor. All Class C misdemeanor warrants must be cleared within fourteen (14) days of notification of existence of warrant(s). Applicant has been convicted of or admitted to conduct which constitutes a felony under state or federal law, to include the UCMJ. Conviction of or admission to conduct that constitutes a felony shall result in permanent disqualification. The Fire and Police Chiefs may recommend, and the City Secretary may authorize, a variance of the above standards on a case-by-case basis.

- h. An applicant shall not be considered for employment while charges are pending for any criminal offense or while he/she is currently on probation for any offense;
- i. Applicant has made any false statement in any material fact; withheld information, practiced or attempted to practice any deception or fraud in his/her application, examination or appointment. Depending on the variables involved, rejection may be either permanent or temporary;
- j. Applicant fails to complete or satisfactorily meet the employment process requirement of the respective Department, including missed appointments, failure to return necessary paperwork, failure to notify Department of changes in address or telephone numbers, failure to properly complete any or all application materials, or who otherwise fails to complete application process;
- k. Applicant fails to satisfactorily pass the oral interview process, including but not limited to B-PAD (Behavioral Personnel Assessment Device, if required by the Chief) for police officer applicants. An applicant shall be disqualified for failure to verbally communicate effectively and appropriately; failure to demonstrate an understanding of the roles and responsibilities of a fire fighter or police officer; failure to present the maturity expected of a fire fighter or police officer; or failure to accurately and precisely respond to the questions of the interviewers;
- l. Applicant has used illicit substances as indicated by the following guidelines:

An applicant may be temporarily or permanently disqualified if it has been determined by the City that, or he/she has admitted to, conduct which constitutes excessive and/or recent use of illicit substance(s) or excessive use of intoxicants, under the following guidelines:

- (1) Consumption of marijuana within the last 5 years.
- (2) Consumption of paints, gases or other abusable chemicals.
- (3) Unlawful consumption of any Texas Health and Safety Code Penalty Groups I and II drugs (excluding Marijuana).
- (4) Unlawful consumption of any Texas Health and Safety Code Penalty Groups III, IV, or V drugs within the last 10 years.

Conduct involving excessive and/or recent use of illicit substance or excessive use of intoxicants shall be considered on a case-by-case basis with consideration given to circumstances and how recent.

An applicant may be temporarily or permanently disqualified if it has been determined by the City that he/she has admitted to, conduct which constitutes abuse 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) shall be considered on a case-by-case basis with consideration given to circumstances and how recent.

An applicant shall be permanently disqualified if it has been determined by the City that, or he/she has admitted to, conduct which constitutes illegal use of felony grade substances as defined in the Texas Penal Code.

The Fire and Police Chiefs may recommend, and the City Secretary may authorize, a variance of the above standards on a case-by-case basis.

- m. Police applicant does not have a valid driver's license. Applicants for Fire fighter must be able to obtain a Class B drivers license before the date of hire;
- n. Applicant has a conviction of DWI/BWI/FWI/DUI within the past five (5) years or violations exceeding four (4) events (moving violations or preventable accidents) within the past three (3) years. An applicant shall be temporarily disqualified until he/she can meet the above standards.

Lesser, but more severe, violations which tend to indicate driving habits that are not compatible with the operation of emergency vehicles and present potential liabilities to the City shall be temporary disqualifications. Reapplication shall be permitted when the applicant can meet the above standards;

- o. Applicant has been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Said dismissal or termination shall be considered on a case-by-case basis. Rejection under this provision shall be considered permanent;
- p. Applicant has demonstrated a failure to pay just debts. Due to the variables involved, each situation shall be considered on a case-by-case basis. Factors which shall be considered include, but are not limited to: type and number of debts, reasons for the bad credit, extenuating circumstances, and the potential for the credit-related problems impacting the applicant's judgment and integrity. Resolution of bad credit may result in requalification;
- q. Applicant has exercised poor judgment skills within the past five (5) years. The applicant has demonstrated either immaturity or poor judgment in the applicant's decision-making process. Examples of such conduct would include, but is not limited to: attendance at a party or social function at which controlled substances or dangerous drugs are consumed, and such activity is known or should have been known by the applicant; silent acceptance of known illegal conduct by others in his/her presence; workplace behavior/decisions that adversely affect the business or associates, with little or no objectively justifiable need for such behavior. Rejection for this cause shall be temporary until the applicant can demonstrate that his/her judgment skills have developed;
- r. Applicant has a history of unstable work, i.e., including short terms of employment over his/her employment history; a history of employment in an illegal occupation. Rejection under this provision shall be temporary in nature and an applicant shall be eligible for reapplication after a five (5) year period. Due to the variables involved, each situation shall be considered on a case-by-case basis. Rejection for employment in an illegal occupation shall be permanent in nature;
- s. Applicant has failed to meet all legal requirements necessary for future licensing and certification as required by the Texas Commission on Law Enforcement or the Texas

Commission on Fire Protection. Rejection for this cause shall be temporary until applicant can meet those standards;

- t. Applicant has been discharged from any military service under less than honorable conditions, including specifically:
  - i. Under other than honorable conditions;
  - ii. Bad conduct;
  - iii. Dishonorable;
  - iv. Any other characterization of service indicating bad character.
- u. Applicant fails to return a completed Personal History Statement at a time designated by the Department Head;
- v. Applicant provides false information related to the selection process;
- w. Applicant fails any part of background investigation;

Any applicant rejected during the testing process must wait at least one year before re-applying for employment, unless a longer waiting period is indicated by the reason for the rejection, such as an unacceptable driving record;

- 8.12 Any employee who leaves the classified service of the Police Department voluntarily, shall, if subsequently reappointed, be entitled to the restoration of any previous seniority. It is the intention of the Commission that all individuals covered by the provisions of these Rules and Regulations shall be entitled to credit for all seniority accrued during any employment with the City in their respective Department.
- 8.13 Entrance examinations shall be scheduled by the Director at the direction of the Commission. The Commission intends that an entry level eligibility list shall be in existence at all practical times. To that end, the Director shall schedule an entrance examination whenever the existing list is exhausted.
- 8.14 The Director shall be responsible for the development, research and actual construction of each entry level examination. The Director is authorized to purchase a commercially marketed examination if such examination meets the criteria established by the Commission. The Director may call upon technical advisors to assist with the examination.
- 8.15 An applicant may take an entrance examination only once per list. Any examination shall be administered in accordance with the provisions of Chapter 143 and these Rules and Regulations.
- 8.16 Applicants shall take the examination in the presence of one another. At least one other person must be present and taking the examination in order for it to be competitive. In the Fire Department, the exam may be given at different locations as provided by Chapter 143.

- 8.17 The place that the examination is administered shall be sufficiently sized and arranged to provide adequate space for each applicant. Each applicant shall be provided with a separate desk with approximately six square feet of flat surface area during the examination period. In selecting a location for the testing, the Director will select a site that will allow for the least amount of interruptions and distractions. The Commission, through the Director, shall provide all necessary materials for the examination. Such materials shall be collected and retained for further use or destruction, as appropriate, by the Director. Once the examination has begun, no one shall be permitted to enter the testing site.
- 8.18 The Director is to take all necessary actions to ensure that the administration of examinations, under these rules, complies with all relevant portions of the American with Disabilities Act.
- 8.19 The Director may obtain the assistance of other individuals to assist in the administration of the examination. The Director shall monitor the examination and the applicants to ensure that no applicant is permitted to engage in any activity that would assist that applicant in securing answers to questions from sources outside of his own knowledge, skills and abilities.
- 8.20 An applicant who has served in the armed forces of the United States of America, received an honorable discharge, and passes the entry level examination, shall receive an additional five (5) points. Said points shall be added to the passing grade of the applicant. In order to provide for the uniform application of these military service points, the Commission has determined that such points will be awarded to any applicant who passes the examination and who has served on active duty for at least 180 days, exclusive of training, in the armed forces of the United States of America.
- 8.21 Any applicant who is either a natural-born or adopted child of a firefighter who previously suffered a line-of-duty death shall be ranked at the top of any eligibility list in which the applicant receives a minimum passing grade on the eligibility exam and meets all other requirements. {143.025}
- 8.22 Applicants for a police officer position who successfully complete the written examination shall be required to complete a physical agility evaluation designed to give the applicant a chance to demonstrate his/her physical condition. Successful completion for police officer applicants will be based on the City's police officer physical fitness standards.
- 8.23 Applicants for a firefighter position shall successfully complete the City's firefighter physical agility exam. Successful completion for firefighter applicants will be based on the City's firefighter physical fitness standards.
- 8.24 The following physical agility procedures will be used to determine the applicant's physical condition and ability:

#### **A. POLICE OFFICER APPLICANT AGILITY EXAM REQUIREMENTS**

The physical fitness/agility test consists of six elements. An applicant must successfully complete all elements within the same testing day. This test is rigorous due to the physical nature of a police officer's job.

a. **AEROBIC POWER**

**100 Yard Dash** - The score is measured in seconds.

Applicant must run 100 Yards on a flat surface.

All applicants must run 100 Yards in 17 seconds.

Score is recorded as Pass / Fail only.

b. **AEROBIC POWER**

**40 Yard Dash** - The score is measured in seconds.

Applicant must exit a police vehicle and run 40 Yards on a flat surface.

All applicants, upon exiting a police vehicle, must run 40 Yards in 10 seconds.

Score is recorded as Pass / Fail only.

c. **MUSCULAR ENDURANCE**

Applicants must be able to properly execute required sit-ups within one minute.

Complete twenty (20) sit ups in one (1) minute.

Score is recorded as Pass / Fail only.

d. **UPPER BODY STRENGTH**

Applicants must be able to complete push-ups properly within one minute.

Complete twelve (12) push-ups in one (1) minute.

Score is recorded as Pass / Fail only.

**NOTE: Applicant must pass the required tests during a single session.**

**B. FIRE FIGHTER PHYSICAL FITNESS/AGILITY TEST**

The physical fitness/agility test consists of five elements. An applicant must successfully complete all elements within the same testing day. This test is rigorous due to the strenuous nature of the job of fire fighting.

**GENERAL PHYSICAL CONDITIONING ELEMENTS:**

a. **AEROBIC POWER**

**100 Yard Dash** - The score is measured in seconds.

Applicant must run 100 Yards on a flat surface.

All applicants must run 100 Yards in 17 seconds.

Score is recorded as Pass / Fail only.

### **TASK ORIENTED ELEMENTS:**

**b. LADDER/STAIRS CLIMB: (Muscular strength and endurance (arm, shoulder, back and legs), aerobic endurance and ability to climb ladders while carrying equipment)**

- 1) RATIONALE: Firefighters must climb ladders and stairs carrying equipment when fighting fires and performing rescue operations. This exercise simulates these tasks.
- 2) TEST DESCRIPTION: Candidates will wear jacket, helmet and air pack, will climb a 24 – ft. ladder and return to ground. They will then lift a 1- 1/2 “, 100’ hotel roll hose to shoulder and carry it up via the inside stairs and return with it to the ground twice.
- 3) SCORING: This test will be Pass/Fail.

**c. SIMULATED RESCUE: (Power, strength legs, arms, back)**

- 1) RATIONALE: Firefighters are required to perform rescue operations in which they must carry/drag people from one place to another.
- 2) TEST DESCRIPTION: Candidate will drag a 165-lb dummy or sandbag for a distance of 75 feet.
- 3) SCORING: This test will be Pass/Fail.

**d. HOSE ADVANCE: (Power, strength and muscular endurance with emphasis on the upper and lower body and back)**

- 1) RATIONALE: Firefighters are responsible for extending the hose line to the point of attack. This exercise is intended to simulate the advance of a 1 – ¾” charged line under fire conditions.
- 2) TEST DESCRIPTION: A 100’ 1 – ¾” fire hose charged to hydrant pressure (closed) must be advanced for a distance of 75 feet.
- 3) SCORING: This test will be Pass/Fail.

- 8.25 After the written examination has been concluded and the test papers scored, the points for the written and physical exams, along with the Veteran’s points, will be combined as the applicants total point rating. The Director shall construct an eligibility list for entry level positions in the Fire or Police Department, as appropriate. The list shall be in effect for not less than six (6) months or more than twelve (12) months. The Commission shall determine the duration of the

- list before the test is given. The duration of the eligibility list shall be included in the entrance examination announcement prepared by the Commission.
- 8.26 In the event that the Commission is unable to secure qualified persons because of the age limit, the provisions of Section 143.083 shall control.
- 8.27 Appropriate medical and mental examinations shall be required of all applicants for beginning positions prior to appointment. The examinations shall be given only after a conditional offer of employment has been made to the applicant. The examinations shall be given by a physician, psychiatrist or psychologist, as appropriate, appointed by the Commission and paid by the City. In the event an applicant fails to successfully complete either examination and be certified as medically and/or mentally fit for duty, then the applicant may call for further examination by a board of three (3) physicians, psychiatrists or psychologists as appropriate and appointed by the Commission. The entire expense for such additional examination shall be paid by the applicant. The board's findings shall determine the issue and be final.
- 8.28 Prior to the time that a vacancy may be filled from an eligibility list, the Department Heads of the respective departments shall be entitled to inquire into the backgrounds of the successful applicants on the eligibility list. Such inquiry may include a background investigation, criminal record check and such other inquiries that the head of the respective departments desire to make prior to an offer of appointment.
- 8.29 Whenever a vacancy occurs in the entry level positions of the Fire or Police Departments, the head of that Department shall make a written request to the Commission for a list of persons from the existing eligibility list. The Director shall submit a list containing the names of the top three persons on the existing eligibility list to the Mayor of the City. The Mayor shall make appointment from the three names submitted. Prior to such appointment, the Mayor may consult with the appropriate members of the Departments with regard to the names submitted. Before submitting the list, the Director shall break all ties using the following procedure:
- A. **FIRE DEPARTMENT**
- The assigned value of prior experience or certification, as determined by the following ranking:
- a. Prior fire fighting experience as a paid firefighter, plus certification by the Texas Commission on Fire Prevention.
  - b. Eligibility for immediate certification in the State of Texas.
  - c. Certification in another state, if reciprocal.
  - d. Certification in the State of Texas as a paramedic.
  - e. Experience gained through study in professional areas of expertise as demonstrated by completion of and acquisition of a college degree in a field reasonably related to the work of the Fire Service.
  - f. Currently enrolled in a basic Fire Academy that will enable the applicant to satisfy the minimum standards of the Texas Commission on Fire Prevention.

- g. Prior experience as a volunteer firefighter or Emergency Medical Technician.

## **B. POLICE DEPARTMENT**

The assigned value of prior experience or certification, as determined by the following ranking:

- a. Prior law enforcement experience as a full time, paid peace officer, plus a minimum of basic certification and licensing by the Texas Commission on Law Enforcement Officer Standards and Education.
- b. Certification and licensing by the Texas Commission on Law Enforcement Officer Standards and Education.
- c. Certification and licensing by another state, if reciprocal.
- d. Experience gained thorough study in professional areas of expertise as demonstrated by completion of and acquisition of a degree in an area of study reasonably related to the work of the Police Department. A Bachelor's degree in Criminal Justice shall have preference over an Associate's degree in a criminal justice related field.
- e. Currently enrolled in a Police Academy that will, upon completion, enable the applicant to secure certification and licensing by the Texas Commission on Law Enforcement Officer Standards and Education.
- f. Military Police experience, beyond initial training, for at least six months.
- g. Reserve Police Officer in an organized and trained reserve police unit.

If a tie still persists, by a flip of a coin.

- 8.30 The person with the highest score shall be appointed to the position, unless a valid reason exists to appoint a person with a lower score. Whenever the person having the highest score is not appointed, the good and sufficient reason shall be placed in writing and filed with the Commission. Said reason shall be set forth plainly and clearly demonstrate the good and sufficient reasons why the person with the highest score was not appointed. The person not appointed shall receive a copy of the reasons filed with the Commission. This procedure may be applied to a person holding the second position on the list provided to the Mayor.
- 8.31 When a person is chosen to be appointed to an entry level position, the person will be notified in writing. The offer of employment shall include all necessary information to inform the applicant of the terms and conditions of the offer of employment, including, but not limited to, the information necessary to advise the applicant with regard to the required medical and mental examinations. Each person receiving such a written communication will have 48 hours to accept the Civil Service offer of employment.
- 8.32 In the event of multiple vacancies, the Director is instructed to add two (2) additional names for each additional position to be filled from the list.
- 8.33 All persons employed in an entry level position shall be required to attend and successfully complete an approved in-service training at City Hall relating to employment with the City and

- work in the Fire Department or Police Department, as appropriate. This training must be completed prior to completing the probationary period.
- 8.34 All individuals appointed to an entry level position who are not certified by the Texas Commission on Fire Prevention or Texas Commission on Law Enforcement, as appropriate, are allowed one opportunity to successfully complete the respective academy.
- 8.35 Upon completion of the respective academy, entry level applicants shall take a written State examination based on the subject matter taught in the academy. In order to be certified for permanent employment status, all individuals must pass the State examination and become State certified.
- 8.36 The results of the State examination shall be furnished to the Commission and to the head of the Fire or Police Department.
- 8.37 All aspects of the person's performance during probation shall be considered by the Department Head when determining whether or not to certify the person for permanent status.
- 8.38 A person appointed to an entry level position in the Fire or Police Department shall serve a one (1) year probationary period, as provided by Chapter 143. If the candidate has to attend a basic academy, then that candidate's probationary period will be 18 months from date of hire. The Department Head of the appropriate Department shall remove any person whose appointment does not conform to the provisions of Chapter 143.
- 8.39 It shall also be the duty of the head of the Fire Department or Police Department to carefully inspect and observe the work of each probationer in the Department and remove from the payroll any firefighter or police officer who does not demonstrate proper qualifications and fitness for the position to which he/she has been appointed. Before the probationary period has concluded, the Department Head shall make a determination as to whether or not the person should be retained as an employee. If no adverse determination is made, the person automatically achieves civil service status.
- 8.40 The provisions of this Section apply only to an individual hired by the Police Department on or after January 22, 2003. Any Individual employed in the Police Department on January 21, 2003, shall not be subject to the provisions of this Section.
- a. Notwithstanding any other provisions of these Rules, no applicant who is related in the second degree by affinity or the third degree by consanguinity to the Mayor, City Council, or other elected officer of the City, or the City Secretary, shall be appointed to a classified Civil Service position. Under no circumstances shall an applicant and/or employee who is in the immediate family or another person employed by the Police Department be employed in the department in which the first person is employed on a regular or probationary basis nor shall any employee exercise direct supervision over an immediate family member.
  - b. For purposes of this rule, the term immediate family shall be defined as follows: Immediate family shall include all persons living in the same home with the individual, any parent, grandparent, brother, sister, uncle, aunt, half-brother or half-sister, niece or nephew, whether such relation is by blood or marriage.

8.41 In the event that two current members of the Police Department shall become married, then one of those employees shall be required to leave the service of the Police Department, but not the service of the City of Robstown if qualified for employment outside of the Police Department.

8.42 If requested by the Police Chief, with the concurrence of the City Administrator and Civil Service Director, an entry-level examination may be given which allows only applicants who currently possess a Texas Commission on Law Enforcement (TCOLE) certification to test.

Applicants must provide evidence of current TCOLE certification at the time they take the test.

8.43 If requested by the Fire Chief, with the concurrence of the City Administrator and Civil Service Director, an entry-level examination may be given which allows only applicants who currently possess a Texas Commission on Fire Protection (TCFP) certification to test.

Applicants must provide evidence of current TCFP certification at the time they take the test.

## **CHAPTER NINE**

### **PHYSICAL AND MENTAL FITNESS OF APPLICANTS AND EMPLOYEES**

- 9.1 Firefighters and police officers are required to stay physically fit to perform the duties of their position. Each firefighter and police officer shall submit to a wellness check by their personal physician or the City physician each year.
- 9.2 Accordingly, when a question arises as to whether a firefighter or police officer is sufficiently physically fit to continue his or her duties, the employee shall submit a report from his or her personal physician, psychiatrist or psychologist, as appropriate, to the Commission.
- 9.3 If the Commission, the head of the department, or the employee questions the report provided by the employee's personal physician, psychiatrists or psychologist, the Commission shall appoint another physician, psychiatrist or psychologist, as appropriate, to examine the employee and to submit a report to the Commission, to the head of the department, and to the employee.
- 9.4 If the appointed physician's, psychiatrist's or psychologist's report disagrees with the report of the employee's personal physician, psychiatrist or psychologist, the Commission shall appoint a board of three (3) physicians, psychiatrists or psychologist, as appropriate, to examine the employee. Their findings as to the employee's fitness for duty shall determine the issue.
- 9.5 The cost of the services of the employee's personal physician, psychiatrist or psychologist shall be paid by the employee. All other costs shall be paid by the City.
- 9.6 If the employee fails or refuses to submit a report, then the Commission may require an examination, at the expense of the City, by a physician, psychiatrist or psychologist, as appropriate. The employee may disagree with the report of the physician, psychiatrist or psychologist so appointed, and thereafter submit his/her own report. If the reports differ, the same procedures shall be followed.

## **CHAPTER TEN**

### **PROMOTION**

- 10.1 When a member of the Fire Department secures a promotion under the provisions of these Rules and Regulations, the member shall take and pass an appropriate physical examination before the member may be promoted to the position attained.
- 10.2 When a member of the Police Department secures a promotion under the provisions of these Rules and Regulations, the member shall take and pass an appropriate physical examination before the member may be promoted to the position attained.
- 10.3 Promotional examinations under these Rules shall be administered in accordance with the provisions of Chapter 143.
- 10.4 For purposes of determining years of service as they relate to eligibility for promotion and seniority, all complete years, excluding probation, worked by a member of the Fire or Police Departments for the City shall be considered in computing eligibility and seniority.
- 10.5 Each promotional examination shall be competitive. The Commission has determined that for an examination to be competitive, at least two (2) persons must actually take the examination together and attempt to secure the promotion. An eligible promotional candidate who is serving on active military duty outside of this state or in a location that is not within reasonable geographic proximity to the location where the examination is being administered is entitled to take the examination outside of the presence of and at a different time than the other candidates and may be allowed to take an examination that is not identical to the examination administered to the other candidates.
  - a) If a candidate serving on active military duty takes a promotional examination outside the presence of other candidates and passes the examination, the candidate's name shall be included in the eligibility list of names of promotional candidates who took and passed the examination. {143.032}
- 10.6 Before the 90<sup>th</sup> day before the date a promotional examination is to be held, the Commission shall post a notice in plain view on a bulletin board located in the main lobby of City Hall and in the Director's Office, and on the City's webpage that lists the sources from which any examination questions will be taken. The Commission shall also furnish sufficient copies of the notice for posting in the stations in which the position will be filled. {143.029}
  - a) This notice may also include the name of each source used for the examination, the number of questions taken from each source, and the chapter used in each source.
- 10.7 Before the 30<sup>th</sup> day before the date a promotional examination is to be held, the Commission shall post a notice of the examination in plain view on a bulletin board located in the main lobby of City Hall and in the Director's Office, and on the City's webpage. The notice must show the position to be filled and the date, time and place of the examination. The Commission shall also furnish sufficient copies of the notice for posting in the stations in which the position will be filled.

- 10.8 If a competitive examination cannot be administered because of a lack of applicants, then the commission shall have the power to take such actions as are authorized in Chapter 143 to secure a larger pool of eligible promotional candidates.
- 10.9 The examination notice shall state the deadline for an eligible promotional candidate to apply. The notice shall also contain such other information as may be deemed appropriate by the Commission, or that is required by the provisions of Chapter 143.
- 10.10 All examinations administered under the provisions of these Rules shall be conducted in a manner that is consistent with the provisions of Chapter 143. Within 24 hours of the end of an examination, the Director shall post the final results of the examination in the main lobby of City Hall. Raw scores shall be posted in accordance with Chapter 143.
- 10.11 Only those persons who have score 70 or above shall be deemed to have passed the examination. Seniority points shall be added to the grades of those persons passing the examination. Points will be added at the rate of one (1) point for each year service, up to a total of ten (10) points. For Police, the seniority points may be added to the score to reach a 70.
- 10.12 Each eligible promotional candidate shall be entitled to examine their examination paper during normal administrative business hours, at the office of the Director. The Director and/or designee shall monitor each requesting employee's review of his/her examination.
- 10.13 All vacancies in promotional positions shall be filled according to the provisions of Chapter 143. If an eligibility list for the position to be filled exists on the date the vacancy occurs, the Director shall certify to the Department Head the names of the three persons having the highest grades on the eligibility list. The Commission shall certify the names within ten (10) days after the date the Commission is notified of the vacancy. If fewer than three names remain on the eligibility list or if only one or two eligible promotional candidates passed the promotional examination, each name on the list must be submitted to the Department Head. {143.036}
- a) If an eligibility list does not exist on the date a vacancy occurs or a new position is created, the Commission shall hold an examination to create a new eligibility list within 90 days after the date the vacancy occurs or the new position is created. {143.036}
- 10.14 If the Department Head has a valid reason for not appointing the individual with the highest grade on the eligibility list, the Department Head shall personally discuss the reason with the person being bypassed before appointing another person. The Department Head shall also file the reason in writing with the Commission and shall provide the person bypassed with a copy of the written notice. The bypassed person's name shall be returned to its place on the eligibility list. {143.036}
- 10.15 All promotional eligibility lists shall be in effect for one (1) year or until all names on the list have been submitted or removed from such list. When a list has been exhausted, the Commission shall cause a new list to be created by the scheduling of an appropriate promotional examination. The Commission may, by order, elect not to maintain lists in positions where the likelihood of a vacancy is not anticipated. Vacancies in the Fire and Police Departments will be filled in a timely manner, as directed by the provisions of Chapter 143.

10.16 If a new classification is created under the procedures of Chapter 143 and these Rules, such position shall be filled only as a result of an examination held in accordance with Chapter 143 and these Rules. In the event that a position is to be filled by appointment by the Department Head under Section 143.014, then these provisions shall not apply to that vacancy. Appointments under Section 143.014 are covered in Chapter Six of these Rules.

10.17 A firefighter or police officer who occupies the highest position on an existing eligibility list, may address a letter to the Department Head asking to be passed over for promotional appointment to a vacant position. This request shall constitute a valid reason for the Department Head to bypass such person for appointment. When such a statement is received, the name of the firefighter or police officer shall remain on the promotional eligibility list in its original position. If a person is passed over for appointment at his/her request, the Department Head shall file a written statement to that effect with the Commission, together with a copy of said request.

10.18 Valid reasons a Department Head may use to bypass an individual shall include:

- a) inability to perform duties as the result of physical, emotional, psychological or other conditions;
- b) prior job experience which uniquely qualifies another person to be appointed ahead of the person passed over;
- c) educational training that uniquely qualifies another person to be appointed ahead of the person passed over;
- d) a recent history of corrective/disciplinary action;
- e) pending criminal charges;
- f) pending disciplinary action;
- g) disruptive actions by the person proposed to be passed over that are detrimental to the effective operations of the department;
- h) evaluations for the prior two (2) years; or
- i) such other reasons as may be asserted by the Department Head of the Fire and Police Departments that are accepted by the Commission.

10.19 Whenever a tie occurs in the promotional process, it shall be broken as follows:

- a) The raw score of each tied applicant, disregarding any seniority points.
- b) In the event that a tie remains, the tie shall be broken by the drawing of sequentially numbered lots. The order of such drawing shall determine the relative positions of persons on the promotional eligibility list for such position, as to any current vacancy and as to all future vacancies filled from such list. The drawing described in this section will be conducted, as follows:

- i. Such drawing will be conducted by the Director.
- ii. Any person whose name will appear upon such list is entitled to be present when the drawing is held.
- iii. The Director is not required to post any notice of the drawing, but may tell eligible promotional candidates who took the test and are on the list about the drawing.
- iv. The lots will be prepared by the Director.
- v. The lots shall be drawn by a disinterested person chosen by the Director.
- vi. The eligibility list shall be organized according to the results of the promotional examination and, if necessary, the results of the drawing described in this Section.
- vii. The Director's actions performed in carrying out the provisions of this section are not appealable to the Commission.

## **CHAPTER ELEVEN**

### **ALTERNATIVE PROMOTIONAL SYSTEM**

- 11.1 In the event a Petition is presented to the Commission for an alternative promotion system, the Commission will follow the provisions of Section 143.035 when conducting the election required there under. Should such petition be adopted, the Commission will implement the Alternative promotional system in accordance with that Section.

## **CHAPTER TWELVE**

### **EXAMINATION SOURCE MATERIALS**

- 12.1 As the need arises, the Commission shall determine those resources required to create promotion eligibility examinations for the Fire and Police Departments.
- 12.2 To establish the most complete and effective examination, the Commission and Director may enlist the aid of such experts and other experienced persons and entities as they deem appropriate, including resources from the Fire and Police Departments. Firefighters and police officers may suggest source materials for the examinations.
- 12.3 Lists of study materials will be maintained by the Director. A list of resources from which examination questions will be taken] shall be posted at least 90 days prior to any examination to be administered by the Commission.
- 12.4 The source materials shall be subject to review and approval by the Department Heads of the Fire and Police Departments. These materials will be of reasonably current publications and be reasonably available to all members of the Fire and Police Department.
- 12.5 Any examination given for a promotional position must be in writing and may not in any part consist of an oral interview. {143.032}

## **CHAPTER THIRTEEN**

### **COMPENSATION**

- 13.1 The Commission finds that the provisions of Chapter 143.055, relating to the assignment of uncompensated duty as discipline, are not available for utilization by the Department Heads. This would create an irreconcilable conflict between that practice and the Federal Labor Standards Act.
- 13.2 The Commission shall have no authority to set the rate of compensation of any employee of the Fire or Police department. Employee compensation shall be established by the City Council.

## **CHAPTER FOURTEEN**

## **DISCIPLINARY ACTIONS**

### ***SUBCHAPTER A – GENERAL PROVISIONS***

- 14.1 No firefighter or police officer shall engage in, or be involved in, any of the following acts or conduct, and the same shall constitute cause for removal from the service or suspension of a firefighter or police officer:
  - a. Conviction of a felony or other crime involving moral turpitude;
  - b. Any violation of the provisions of the Charter of the City of Robstown;
  - c. Acts of incompetency;
  - d. Neglect of duty;
  - e. Discourtesy by said employee to the public or to fellow employees while said employee is in the line of duty;
  - f. Acts of said employee showing a lack of good moral character;
  - g. Drinking of intoxicants while on duty, or intoxication while off-duty;
  - h. Conduct prejudicial to good order;
  - i. Refusal or neglect to pay just debts;
  - j. Absence without Leave;
  - k. Shirking duty or cowardice at fires;
  - l. Violation of any of the rules and regulations of the Fire Department or Police Department, or of any special orders, as applicable.
  - m. Violation of any City of Robstown personnel policy or procedure.
- 14.2 If a fire fighter or police officer is arrested, he or she must personally report the arrest to his or her respective Department Head within twenty-four (24) hours of the arrest.
- 14.3 All firefighters and police officers are required to sign for and keep in their possession a copy of the Rules and Regulations of their Department. The Department Head shall forward a signed receipt for these Rules to the Director. The Director shall insert such receipt into the Personnel File of the individual employee.
- 14.4 Ignorance of the Rules and Regulations or special orders of the Fire Department or the Police Department shall not be an excuse for their violation.

- 14.5 Notice of suspension shall be served as required under the provisions of Section 143.052.
- 14.6 The copy of the written statement of suspension given to the firefighter or police officer must inform the suspended firefighter or police officer that if the person wants to appeal to the Commission, the person must file a written appeal with the Commission within ten (10) days after the person receives the copy of the statement. {143.052d}
- 14.7 Whenever a firefighter or police officer appeals a temporary suspension, the employee shall have a right to an open public hearing. At the conclusion of all the evidence, the Commission may deliberate upon the matter in executive session. The Commission shall vote in open session. The Commission may affirm the Department head's action, reduce the suspension or reverse the suspension and order the firefighter or police officer be returned to work with full benefits restored at once. The Commission does not have jurisdiction to hear any disciplinary matter unless the aggrieved employee appeals in a timely manner.
- 14.8 In accordance with Chapter 143, all hearings held under the provisions of these Rules shall be conducted in accordance with the Rules of Procedure adopted by the Commission. Such Rules of Procedure shall control all matters before the Commission. If the Rules of Procedure do not address an issue, then the Commission shall rely upon the provisions of Chapter 143. If the issue remains unresolved, the Commission may adopt such procedures as deemed necessary, in the sole discretion of the Commission, to resolve the disputed matter. These Rules shall also apply in the event a hearing examiner is selected to hear the appeal, provided that in no event may a hearing examiner adopt any rule or procedure without the express written concurrence of the Commission.

#### ***SUBCHAPTER B - DISCIPLINARY SUSPENSIONS***

- 14.9 The Heads of the Fire and Police Departments are authorized to temporarily suspend any Firefighter or Police Officer for a violation of departmental rules for a reasonable period, not to exceed fifteen (15) calendar days. Such suspension shall be made in the manner provided and in accordance with Chapter 143. The failure of the Department Head to comply with any of the provisions of Chapter 143 shall result in the restoration of the Firefighter or Police Officer suspended.

#### ***SUBCHAPTER C – DEMOTIONS***

- 14.10 Whenever the Head of the Fire or Police Department desires to demote a member of the Department, such demotion shall be recommended by the Department Head to the Commission in a manner consistent with Chapter 143. The Commission shall consider such request from the Department Head as provided by Section 143.054. The rules of procedure adopted by the Commission shall apply in any proceeding conducted by the Commission relative to a requested Demotion.

#### ***SUBCHAPTER D - INDEFINITE SUSPENSIONS***

- 14.11 The Heads of the Fire and Police Departments are authorized to indefinitely suspend any Firefighter or Police Officer for violation of departmental rules. Such suspension shall be made in a manner and in accordance with Chapter 143. The failure of the Department Head to

comply with any of the provisions of Chapter 143 shall result in the restoration of the firefighter or police officer suspended.

- 14.12 A notice of indefinite suspension shall be served to the employee as required under the provisions of Chapter 143. The notice of indefinite suspension served to the employee may not be amended but, with the consent of the Commission, may be permitted only to correct typographical clerical errors.
- 14.13 In the event that a Department Head offers an employee a suspension from sixteen (16) to ninety (90) calendar days, in lieu of an indefinite suspension, and the employee accepted that offer within five (5) working days after the date the offer was made, the Commission has no jurisdiction to hear any appeal arising out of, or relating to such offer and acceptance thereof, or the disciplinary action which serves as the basis of such offer.
- 14.14 Whenever a firefighter or police officer appeals an indefinite suspension, the employee shall have a right to an open public hearing. At the conclusion of all the evidence, the Commission may deliberate upon the matter in executive session. The Commission shall vote in open session. The Commission may affirm the Department Head's action, reduce the suspension or reverse the suspension and order the firefighter or police officer returned to work with full benefits restored at once. The Commission does not have jurisdiction to hear any disciplinary action unless the aggrieved employee appeals.

#### ***SUBCHAPTER E - RULES OF PROCEDURE***

- 14.15 All hearings held under the provisions of these Rules shall be conducted in accordance with the Rules of Procedure adopted by the Commission. Such Rules of Procedure shall have jurisdiction on all matters before the Commission. If the Rules of Procedure do not address an issue, the Commission shall rely upon the provisions of Chapter 143. In the event that the issue remains unresolved, the Commission, in its sole discretion, may adopt such procedure as they deem appropriate. A hearing examiner, sitting for the Commission, may not adopt such a procedure and must refer the controversy to the Commission for resolution. These Rules shall also apply in the event a hearing examiner is selected to hear the appeal.
- 14.16 Employee dissatisfaction because of transfer, reassignment, discretionary policy decisions or policy matters is not and shall not constitute a basis for appeal to the Commission.
- 14.17 Letters of reprimand shall not be subject to appeal to the Commission.
- 14.18 The only matters which may be appealed to a third party hearing examiner are an indefinite suspension, temporary suspension, a promotional pass over or a recommended demotion. These and other matters, as provided by Chapter 143, may also be appealed to the Commission. When an employee appeals to a third party hearing examiner and a list of seven neutral and qualified hearing examiners have been obtained, the appealing employee must strike first.
- 14.19 All proceedings under these Rules shall be conducted in accordance with these Rules. Any notice of appeal to the Commission or a Hearing Examiner shall comply strictly with the provisions of

Chapter 143 relating to the timeliness and contents of such notice. The notice of appeal must contain all the issues to be raised at the Hearing. The notice of appeal must be delivered to the Director or his/her designee. Issues not contained in the notice of appeal may not be heard by the Commission.

- 14.20 The Director shall coordinate the exchange of information between the parties after the notice of appeal has been timely received and has been determined to meet all the necessary requirements of Chapter 143 and these Rules.
- 14.21 The parties shall promptly provide all information intended to be used by each party, including witness lists, within ten (10) days prior to the Hearing. The failure to provide such information may operate to bar the party proffering from using the evidence or the witness, unless good cause for failure to comply with this rule is presented. The Commission shall determine whether good cause exists. Exhibit and witness list shall be exchanged through the Director. Failure to exchange such lists may result in the Commission disallowing such witness or exhibit.
- 14.22 The failure of a party to appear and timely attend a scheduled appeal hearing shall not prevent the Commission from proceeding to convene the hearing, receive evidence and conclude the hearing, by resolving the issues on appeal.
- 14.23 Each party to a hearing shall be entitled to have one representative appear and speak for them before the Commission or Hearing Examiner. Representatives shall conduct themselves in accordance with these Rules and give their best efforts to resolve all proceedings smoothly, expediently and fairly. The representatives of the parties shall use their best efforts on behalf of their party, and shall remain business-like and focused on the factual issues that have been raised in the notice of appeal. Representatives shall keep their presentations brief and on point, avoiding unnecessarily long and/or repetitive evidence, and shall not attempt to introduce any matters not raised in the notice of appeal.
- 14.24 The Commission is committed to providing neutral, fair and equitable complaint resolution procedures. All parties are directed to cooperate with the Commission and one another to achieve such goals. Any problems or questions regarding these Rules and Procedures that arise between the parties shall be referred to the Director for resolution.
- 14.25 Texas Rules of Civil Procedure, Texas Rules of Criminal Procedure and all Court Rules regarding what is commonly known as discovery shall not apply to proceedings under these rules. Each party shall be entitled to receive from the other any and all documentary evidence that will be used in the hearing.
- 14.26 The appealing employee shall be entitled to a complete copy of the investigation and supporting documents prepared by the Department Head. Each party shall be entitled to any and all information possessed by the other party that is classed as a Personnel File maintained under Section 143.089(a). An employee so requesting must provide all necessary releases before such information may be released.
- 14.27 An employee bringing an appeal before the Commission may request the Commission to subpoena any books, records, documents, papers, accounts or witnesses that the employee

considers pertinent to his or her case. The request to have materials subpoenaed must be made at least ten (10) days before the date of the hearing.

14.28 The Chairperson of the Civil Service Commission is authorized to act on behalf of the Commission in issuing subpoenas for appeals. If the Chairperson chooses not to subpoena a requested item, the Chairperson will make a written report, prior to three (3) days before the appeal hearing, to the fire fighter or police officer, stating the reason the requested material will not be subpoenaed. If the Commission, or the Chairperson, does not subpoena the requested material, and at least three (3) days prior to the hearing date has made a written report to the employee stating the reason that the requested material was not subpoenaed, this report shall be read into the public records of the Commission hearing. If any of the procedures set out above are not complied with, the Commission shall consider the issue before hearing the appeal. The Commission may entertain another request to subpoena the requested materials at the hearing, if it believes that fundamental fairness requires such reconsideration. If the Commission reconsiders the request and orders the subpoena issued, the hearing may be continued for no more than five (5) days to allow for compliance with such subpoena.

14.29 Hearings will be promptly scheduled. The purpose of the hearing is to provide a fair and impartial review of the Department Head's actions. Disciplinary appeals shall not be conducted as formally as a trial court proceeding. The appeal shall be conducted as a review of a previous administrative decision. The Commission shall render a decision based solely upon the evidence presented at the hearing. The Commission will consider only evidence that is directly relevant to the disputed issues. This evaluation of the evidence shall be the sole province of the Commission (or Hearing Examiner).

14.30 The hearing entity shall:

- a. resolve any factual (not legal) conflicts or ambiguities which may exist;
- b. determine whether the Department's disciplinary action is free from taint of any personal animosity;
- c. determine whether the disciplinary action is reasonably supported by facts which had occurred prior to the time the disciplinary action was imposed; and,
- d. determine the overall fairness and reasonableness of the department's action and that it is in substantial compliance with the provisions of Chapter 143.

14.31 The Chairman of the Commission shall preside over all hearings. The opening of the hearing will begin the evidence. The Commission shall attempt to resolve all preliminary issues at the outset of the hearing. The City shall present the statement of charges against the employee. Such other matters, as have been stipulated to, shall be presented at this time. Thereafter, the employee may respond as "true" or "not true". If the employee responds as "true", then the only issue is punishment. Evidence may be presented on the factual issues and punishment issues in this type of hearing. If the employee responds "not true" to any or all issues, the Commission shall hear all evidence on such points. All charges not specifically denied by the employee shall be presumed to be correct and true.

14.32 The proceedings will open with the City's presentation, followed by the employee. Thereafter, the City may respond to the employee's presentation. Throughout the proceedings, the Commission may ask their own questions, as needed.

14.33 All witnesses shall be sworn by the Commission and be subject to reasonable cross-examination. Witness may be placed under the "rule" at the request of either party.

14.34 The Commission shall exercise control over the proceedings to ensure that an effective assessment of the truth is made of only the issues before the Commission, in as brief a manner as possible, and without the harassment or undue embarrassment of any witness.

14.35 Only evidence relevant to the issues before the Commission shall be heard. The Commission shall control the length of time expended during the hearing, when such hearing shall commence, recess and adjourn.

14.36 At the end of all evidence, the parties shall be permitted an opportunity to make a closing summation. The City shall have the right to open and close, and all summations shall be limited to a total of ten (10) minutes for each party.

14.37 After deliberation in executive session, if necessary, the Commission shall announce its decision by vote in open public session. A written order reflecting the votes shall be prepared by the Director and entered, after signature, into the records of the Commission.

14.38 All evidentiary rulings shall be made by the Commission. The Commission is not required to apply the technical Rules of evidence, but rather may rely upon that evidence that is used by reasonable people in the conduct of their business and private affairs. The Commission may receive into evidence affidavits, stipulations and other evidence to which it shall assign the appropriate weight. All evidence and testimony shall be presented and received into the record while in open session in the presence of the Commission and all of the parties and their representatives, except where a party is in default, is absent or has otherwise waived the right to be present.

14.39 The Commission shall determine:

- a. Does just cause exist?
- b. Was due process afforded?
- c. Was disciplinary action reasonable?
- d. Is a reinstatement or reduction compelled by the evidence presented by the employee?

14.40 The Commission shall apply the following standards of review:

- a. Did the employee have notice of the standard of conduct allegedly violated?
- b. Was the rule, etc, reasonably related to the orderly, efficient and safe operation of the City?

- c. Did the Department investigate?
- d. Was the investigation fair and objective?
- e. Does the Department's investigation support the action?
- f. Is the disciplinary action consistent with past actions?
- g. Were the allegations discussed with the employee by the department head prior to formal action being taken against the employee?
- h. Did the employee have an opportunity to respond?
- i. Did the employee present any contrary or mitigating evidence?
- j. Was the degree of discipline reasonably related to the seriousness of the conduct, the employee's record, the City's needs to maintain order and high standards and the needs of the City to deter similar events in the future?

14.41 The Department must establish by a preponderance of the evidence that the charges brought by the Department Head are sustained and established and that the punishment is commensurate with the acts alleged and proven. The Commission shall not require the Department Heads to use or employ progressive discipline. The establishment of a *prima facie* case by the city shall place and/or shift the burden to the employee to present evidence to cause the Commission to find otherwise. The past practices of the department shall not be controlling as to any future actions. Such pattern by the department may be considered as mitigation or justification.

14.42 The Commission shall enter a written order disposing of all issues presented to the Commission. Such order shall resolve all matters then pending before the Commission with regard to the appealing employee. The Commission shall find the charges "TRUE" or "NOT TRUE". The order of the Commission shall set the disciplinary action to be imposed. A copy of the order will be served on both parties and filed with the Director. The order will indicate any reason for modification of the Department Head's action. The Final Order will also include any mitigation or offset of any wages or amounts earned by the employee during the suspension.

14.43 Costs will be paid by the party incurring same. The fees and expenses of the Hearing Examiner shall be shared equally by the parties.

14.44 In the event that a third party Hearing Examiner is requested by an appealing employee, there shall be no deviation from the Commission's Rules and procedures. The form, substance and procedure of the hearing will remain unchanged due to the appointment of the hearing examiner. A person who is selected as a Hearing Examiner shall have only the authority of the Commission and no other authority. The third party Hearing Examiner shall have no rule-making or rule-changing authority. The Hearing Examiner shall be only a fact finder, and shall be bound by the law and the prior interpretations thereof. The Hearing Examiner shall never substitute his/her personal judgment on any issue arising in an appeal. The Hearing Examiner shall only determine whether sufficient evidence, as hereinbefore provided, exists to support the charges, and whether all procedural requirements have been satisfied.

14.45 No employee or representative thereof or Department Head shall attempt to contact the Hearing Examiner at any time prior to the hearing. All communications shall be handled through the Director only.

14.46 The Hearing Examiner shall have the power of the Commission, except as otherwise provided by these Rules. Any Hearing Examiner appointed under these Rules must comply with all provisions of these Rules. These Rules will empower the Commission to remove the matter from before the refusing Hearing Examiner and reschedule the hearing before another Hearing Examiner.

## **CHAPTER FIFTEEN**

## **CRIMINAL OFFENSES**

- 15.1 A member of the Fire or Police Department who is charged with a criminal offense shall be subject to discipline by the Department Head. The provisions of Section 143.056 shall be employed, if need arises, to delay the proceedings under these rules.

## **CHAPTER SIXTEEN**

## **LEAVE PROVISIONS**

### ***SUBCHAPTER A – GENERAL PROVISIONS***

- 16.1 Each fire fighter or police officer is entitled to earn a minimum of 15 working days' vacation leave with pay in each year. In computing the length of time a fire fighter or police officer may be absent from work on vacation leave, only those calendar days during which the person would be required to work if not on vacation may be counted as vacation days. Unless approved by the municipality's governing body, a fire fighter or police officer may not accumulate vacation leave from year to year. Police shall consist of 120 hours per year/15 eight-hour days. Fire Suppression shall consist of 180 hours per year/15 twelve-hour days.
- 16.2 All compensatory time requests must adhere to budget approval on an annual basis.

### ***SUBCHAPTER B – MILITARY LEAVE***

- 16.3 On written application of a firefighter or police officer, the Commission shall grant the person a military leave of absence without pay, subject to Section 143.075, to enable the person to enter a branch of the United States military service
- 16.4 The leave of absence may not exceed the period of compulsory military service or the basic minimum enlistment period for the branch of service the firefighter or police officer enters.
- 16.5 The Commission shall grant to a firefighter or police officer a leave of absence for initial training or annual duty in the military reserves or the National Guard.
- 16.6 While a firefighter or police officer who received a military leave of absence serves in the military services, the Commission shall fill the person's position in accordance with Chapter 143.
- 16.7 On termination of active military service, a firefighter or police officer who received a military leave of absence covered by USERRA is entitled to be reinstated to the position that the person held in the department at the time the leave of absence was granted if the person:
  - a. remains physically and mentally fit to discharge the duties of that position; and
  - b. makes an application for reinstatement within 90 days after the date the person is discharged from military service.
- 16.8 On reinstatement, the firefighter or police officer shall receive full seniority credit for the time spent in the military service.
- 16.9 If the reinstatement of a firefighter or police officer who received a military leave of absence causes a surplus in the rank to which the individual was reinstated, the firefighter or police

officer who has the least seniority in the position shall be returned to the position immediately below the position to which the returning firefighter or police officer was reinstated.

- 16.10 If a firefighter or police officer is returned to a lower position in grade or compensation because of reinstatement of an individual returning from military leave, and the displaced firefighter or police officer has not had charges filed against the person for violation of civil service rules, the firefighter or police officer shall be placed on a position reinstatement list in order of seniority.
- 16.11 Appointments from the reinstatement list shall be made in order of seniority. A person who is not on the reinstatement list may not be appointed to a position to which the list applies until the list is exhausted.
- 16.12 If a firefighter or police officer is called to active military service for any period, the City of Robstown shall maintain any health, dental or life insurance coverage and any health or dental benefits coverage that the firefighter or police officer is receiving on the date the firefighter or police officer is called to active military duty. This coverage shall continue until the City receives written instructions from the firefighter or police officer to change or discontinue the coverage.

#### ***SUBCHAPTER C – LEAVE OF ABSENCE***

- 16.13 The Fire Department and Police Department shall provide injury leaves of absence and line of duty illness leaves of absence for firefighters and police officers with full pay for periods of time commensurate with the nature of the line of duty illness or injuries for at least (1) year of leave time, to be used at any time, after the injury or illness occurs, as needed because of such illness or injury.
- 16.14 If there are no pension benefits available, and no extension by the City Council of such leave of absence at full or reduced pay is allotted to an employee who is temporarily disabled by a line of duty injury or illness, and the year's leave at full pay and any previous extensions which may have been granted have expired, the employee may use accumulated sick leave, vacation time, and other accrued benefits before being temporarily placed on leave without pay.
- 16.15 If an employee is temporarily disabled by an injury or illness not related to the employee's line of duty, the employee may use all sick leave, vacation time and any other time the employee may have accumulated, before being placed on temporary leave without pay.
- 16.16 After recovery from a temporary disability, a firefighter or police officer shall be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Another firefighter or police officer may voluntarily do the work of an injured or ill firefighter or police officer until he/she returns to duty.
- 16.17 A firefighter or police officer who has recovered from a disability, for which said person had been receiving a monthly disability pension, may, with the approval of the Commission and if otherwise qualified, be eligible for reappointment to the classified position that he/she held as of the date that he/she qualified for a monthly disability pension.

16.18 Vacations shall be accumulated and utilized in a manner consistent with Section 143.046.  
Employees may not accumulate vacations from year to year except as permitted by City policy.

## **CHAPTER SEVENTEEN**

### **MISCELLANEOUS PROVISIONS**

#### ***SUBCHAPTER A - ANNUAL EVALUATION***

- 17.1 On forms approved and provided by the Commission to the heads of the Fire Department and Police Department, the department may annually evaluate the performance and efficiency of each classified employee. These reports will be sent to the Director on the last working day of January and July by the Fire and Police Department heads.
- 17.2 Valid performance or efficiency standards shall be established in each classified rank and position by the Department Heads. These standards are subject to approval by the Commission. After approval, the standards shall be provided to all persons to whom they will be applied.
- 17.3 The immediate supervisor or supervisors shall evaluate each firefighter or police officer under their command at the time of the evaluation. These evaluations are subject to the Head of the Department's approval or disapproval.
- 17.4 The Commission shall send a copy of each firefighter's or police officers report to him/her.
- 17.5 The Director shall maintain the efficiency reports in the Personnel File of the individual employee.
- 17.6 Within ten (10) calendar days after the date a firefighter or police officer receives the copy of their efficiency report, the firefighter or police officer may make a statement in writing concerning the efficiency report. The statement shall be placed in the firefighter or police officer's personnel file with the efficiency report.

#### ***SUBCHAPTER B - REDUCTION IN FORCE***

##### ***Section 143.085***

- 17.7 In the event that any position in the Fire Department or Police Department is vacated or abolished by ordinance of the City Council, the classified employee holding such position shall be demoted to the position next below the position so vacated or abolished. When one or more position or positions of equal rank are abolished or vacated, the employee or employees with the least seniority in the said rank shall be the one or ones who are demoted.
- 17.8 If a firefighter or police officer is demoted without charges being filed against the person for violation of Civil Service Rules, the individual shall be placed on a position reinstatement list in order of seniority.
- 17.9 If any such position so vacated or abolished is filled or re-created within one (1) year, the reinstatement list for such position shall be exhausted before any employee, not on such list, is promoted to such position.
- 17.10 Promotions from the position reinstatement list shall be in the order of seniority.

- 17.11 If a position in the lowest classification is abolished or vacated and a firefighter or police officer must be dismissed from the department, the individual with the least seniority shall be dismissed. If a firefighter or police officer is dismissed without charges being filed against the person for violation of Civil Service Rules, the individual shall be placed on a reinstatement list in order of seniority. Appointments from the reinstatement list shall be made in order of seniority. No person may be appointed from any other eligibility list until the reinstatement list is exhausted.
- 17.12 When a person has been on a reinstatement list for three (3) years, the person shall be dropped from the list but shall be restored to the list at the request of the Commission.

#### ***SUBCHAPTER C - POLITICAL ACTIVITY AND STRIKES***

- 17.13 The Commission or the municipality's governing body may not restrict a fire fighter's or police officer's right to engage in any political activity, except as provided in Section 143.086.
- 17.14 No other limitations will be imposed by the Commission.
- 17.15 Section 143.087 prohibits a firefighter or police officer from engaging in any strike against the Department by which they are employed. Any such employee who has been convicted of striking shall be automatically released and discharged from the Fire or Police Department. Such employee shall thereafter be ineligible to receive any pay or compensation out of any public funds provided for the support of such Police or Fire department. A release and discharge under this Rule is not subject to appeal to the Commission.

#### ***SUBCHAPTER D - PERSONNEL FILE***

- 17.16 The Director shall maintain the Personnel File of the Commission. The Director shall perform all the necessary functions to comply with the provisions of Section 143.089.
- 17.17 The Department Heads shall maintain appropriate files about each employee in their respective Department at the Headquarters of the Department.
- 17.18 The reasonable and actual costs incurred in providing information from any file maintained under this section shall be collected by the Director.
- 17.19 No information may be released from any file maintained under this section without the consent of the employee, unless required by law.
- 17.20 Whenever information is released from any file maintained under this section, the employee from whose file the information was released will be notified. The employee is entitled to know what information was released and to whom the information was released.

## **CHAPTER EIGHTEEN**

### **AMENDMENTS TO RULES**

18.1 These Rules may be amended by the Commission upon majority vote at a regular meeting, and as further provided by Chapter 143.

## **CHAPTER NINETEEN**

## **RESERVED**

## **(OFF-DUTY EMPLOYMENT)**

19.1 Refer to Department Policy and City Personnel Policies.

## **CHAPTER TWENTY**

## **SEVERABILITY**

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