



**RULES AND REGULATIONS
OF THE
CIVIL SERVICE COMMISSION
CITY OF DENTON, TEXAS**

ADOPTED BY THE CIVIL SERVICE COMMISSION

March 27, 2024

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ADA/EOE/ADEA
TDD: 800-735-2989

**FIREFIGHTER’S AND POLICE OFFICER’S
CIVIL SERVICE COMMISSION
CITY OF DENTON, TEXAS**

ORDER 24-024

BE IT HEREBY KNOWN that on March 27, 2024, the Civil Service Commission of the City of Denton, Texas, met in open session for the purpose of consideration and adoption of proposed amendments to the City of Denton Firefighter’s and Police Officer’s Civil Service Rules and Regulations. Upon proper motion having been made and seconded, the Commission proceeded to officially adopt the revised Rules and Regulations for Civil Service employees.

Therefore, it is the ORDER of this Commission that the Rules and Regulations as set forth above be revised and are hereby adopted to be the official rules and regulations for Denton Civil Service employees.

It is the FURTHER ORDER of this Commission that the Director of Civil Service shall immediately cause these Rules and Regulations to be officially recorded and thereafter implemented in accordance with Chapter 143 of the Texas Local Government Code.

It is the FURTHER ORDER of this Commission that these rules and regulations as adopted shall become fully effective immediately upon their being recorded and implemented in compliance with Chapter 143 of the Local Government Code.

SIGNED AND ENTERED this 27th day of March 2024.

BY THE COMMISSION:

DR. DARHYL RAMSEY, COMMISSIONER

JOHN BAINES, COMMISSIONER

JAIME BLANTON, COMMISSIONER

ATTEST:

MEGAN GILBREATH, DIRECTOR
CIVIL SERVICE COMMISSION or DESIGNEE

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**The Firefighters’ and Police Officers’
Civil Service Rules and Regulations
of the City of Denton, Texas**

PREAMBLE: Pursuant to Chapter 143 of the Texas Local Government Code, the Firefighters’ and Police Officers’ Civil Service Commission of the City of Denton, Texas does hereby adopt the following rules and regulations for the administration of the civil service system for the City of Denton, Texas (the “City”).

CHAPTER A. GENERAL PROVISIONS

001. PURPOSE

There is hereby established a Firefighters’ and Police Officers’ Civil Service with the adoption of these Local Civil Service Rules and Regulations, in compliance with Chapter 143, as amended, of the Texas Local Government Code.

002. MUNICIPALITIES COVERED BY CHAPTER (RESERVED)

003. DEFINITIONS

[Subjected to additions or deletions as additional rules are considered for adoption.]

- 1) **APPOINTMENT** – The designation of a person by the City Manager to become an employee in a classified civil service position. (*Revised 9/19/02; 11/16/06; 3/25/10; 12/2/15; 9/24/19 superseded by Meet and Confer Agreements*)

The Meet and Confer Agreements for Police and Fire that was approved by the City Council on September 26, 2006, and subsequently approved since then, allow for appointments to be made by the Department head.

- 2) **BUSINESS DAY** – The day the City is customarily open for normal business and does not refer to the employee’s workday, or holidays observed by the City.
- 3) **CIVIL SERVICE ANNIVERSARY DATE** – The date a person was most recently hired into a classified civil service position in this city.
- 4) **CLASSIFICATION** – A position or group of positions that involve similar duties and responsibilities and require similar qualifications.
- 5) **COMPLAINT** – Any affidavit, administrative referral, or other document setting forth allegations or facts that may form the basis of future allegations of misconduct against a firefighter or police officer and which serves as the basis for initiating an investigation.
- 6) **DATE OF COMMISSION** – The date an individual takes the oath of office and is sworn in as a member of the Denton Police Department (*Revised 01/25/23*).
- 7) **DATE OF HIRE** – The date an individual is hired to be a member of the Denton Fire Department as a firefighter.

- 8) **DAY** – Calendar day, unless otherwise specified.
- 9) **DEMOTION** – The transfer of an employee from a position in one classification to a position in another classification for which the maximum rate of pay is lower.
- 10) **DISCIPLINARY ACTION** – Suspension, indefinite suspension, demotion in rank, reprimand, or any combination of these actions.
- 11) **ELIGIBILITY LIST** – A list of candidates for a classified civil service position who have taken and passed the examination, turned in all paperwork as required by the department and/or Civil Service Director, and passed and are ranked on the eligibility list in order of the score received, including tie-breakers.

In the case of Fire, this list will be called a “Commission List” in compliance with Article 4, Section 3 of the Fire Meet and Confer Agreement approved by City Council on September 26, 2006. Subsequent Fire Meet and Confer Agreements, including the most current agreement approved on September 24, 2019, continue to allow. When a vacancy occurs in a beginning position and the Department head requests in writing from the director the names of suitable persons, the director shall certify and provide all of the names on the Commission List to the department head. The “Eligibility List” is created considering the applicants’ Oral Interview Board score and the Chief’s Interview score as outlined in Article 4, Section 7. *(Revised 6/15/20)*

For Police, candidates with a passing test score will be placed on an “Eligibility List.” The entire eligibility list will be provided to the Police department by the director at one time for further processing. New eligibility lists may be created while an active list is being processed. Reference Article 4, Section 6 in the Police Meet and Confer Agreement for more information. *(Revised 6/15/20)*

With the Police Meet and Confer Agreement approved on August 18, 2015, and in subsequent agreements including the most recent agreement approved on September 27, 2022, for the rank of Lieutenant, placement on an eligibility list will not be based on a written examination alone. Upon receiving a cumulative test score of 70 or higher, promotional candidates will be subjected to an assessment center. The cumulative score for the assessment center will be added to the cumulative score for the written examination. Candidates will be ranked on the eligibility list and corresponding certified list according to the candidate’s total score (reference Article 5, Section 8i). *(Revised 6/15/20, 1/25/23)*

With the Police Meet and Confer Agreement approved on approved on September 27, 2022, for the rank of Sergeant, placement on an eligibility list will not be based on a written examination alone. Upon receiving a cumulative test score of 70 or higher, promotional candidates will be subjected to an assessment center. The cumulative score for the assessment center will be added to the cumulative score for the written examination. Candidates will be ranked on the eligibility list and corresponding certified list according to the candidate’s total score (reference Article 5, Section 8i). *(Revised 6/15/20, 1/25/23)*

- 12) **EVIDENCE** – Statements, reports, records, recordings, documents, computer data, text, graphics, videotape, photographs, or other tangible forms of information, including a complaint.

- 13) **INVESTIGATION** – An administrative investigation of alleged misconduct by a firefighter or police officer that could result in disciplinary action.
- 14) **INVESTIGATOR** – An agent or employee of the Fire Department or Police Department or an Independent Investigator who participates in conducting an investigation.
- 15) **MILITARY SERVICE CREDIT** – A person who has served a minimum of 180 days of active duty in the armed forces of the United States of America and who has received a DD-214 that reflects an honorable discharge. Any discharge other than honorable discharge is not creditable for the purpose of this section.
- 16) **RAW SCORE** – The numerical grade based upon the questions correctly answered on entrance and promotional examinations unverified and subject to verification by the Commission.
- 17) **STATEMENT** – Any communication (oral or written) setting forth or facts regarding the alleged misconduct under investigation.
- 18) **WORKING DAY** – A “working day” does not equate to a “shift.” In the case of each police officer, for purposes of the accumulation of holiday, vacation, and sick leave, a “working day” shall be eight (8) hours. This provision is limited to accrued holiday, vacation, and sick leave. *(Revised 12-8-05; 6/15/20)*

004. ELECTION TO ADOPT OR REPEAL CHAPTER (RESERVED)

005. STATUS OF EMPLOYEES IF CHAPTER ADOPTED (RESERVED)

006. IMPLEMENTATION: COMMISSION

The Commission shall conduct its meeting as designated in the meeting notice. The Commission shall conduct all meetings in compliance with the provisions of Section 551.07 et. seq. of the Texas Government Code (Open Meetings Law).

Meetings shall be called by the Director of Civil Service at the request of the Chair, at the written request of any two (2) Commissioners, or at the request of the Fire or Police Chief. *(Revised 12/2/15)*

Notice of meeting of the Commission shall be given by the Director or designee to the members of the Commission at least seventy-two (72) hours preceding the day of the meeting, except in case of emergency or urgent public necessity, in which case two (2) hours’ notice shall be given in accordance with the provisions the Texas Government Code.

In all matters of procedure not controlled by the provisions of the Texas Local Government Code, chapter 143, the order of business and conduct of meetings shall be in conformity with Robert’s Rules of Order. The Commission may, by majority vote, make rules of procedure for the administration of the Texas Local Government Code.

A. RULES AND REGULATIONS

- 1. The rules of the Civil Service Commission currently in effect are only those contained herein. These rules have been approved by the Commission and shall remain in effect until officially amended, revised, or repealed by the Commission.
- 2. Notice of Rules – Immediately upon becoming effective, all rules contained herein shall thereafter

be deemed to constitute full and effective prior notice to all civil service employees of prescribed or prohibited conduct as stated in any such rule.

3. Amendment to these rules may be made at any meeting of the Commission and such amendments shall become effective on the date of their approval by the Commission and subsequent compliance with the posting and notice requirements of Chapter 143 and of these rules. All rules and amendments shall be made reasonably available for access by all civil service employees. *(Revised 12/2/15)*

B. ENACTMENT

1. The civil service system of the City has been established pursuant to Chapter 143 of the Texas Local Government Code (“Chapter 143”) for the purpose of developing and enforcing rules regarding the initial selection of employees as well as for their advancement, benefits, discipline and discharge, and conditions of employment.
2. These rules completely repeal and replace such earlier rules and regulations as have been adopted by the Civil Service Commission. These rules are made and shall be construed in accordance with Chapter 143. These rules intend to cover situations not mentioned in Chapter 143 or are ambiguous in Chapter 143.
3. The scope and construction of the rules hereinafter set forth shall be interpreted and applied within the spirit and intent of Chapter 143. All situations that are not expressly covered by Chapter 143, City ordinances, or these rules and regulations shall be resolved in accordance with the City of Denton personnel rules and regulations, departmental SOPs, or the residual discretionary authority vested in a Department head. These rules and regulations shall apply to all of the classified, non-probationary police officers and firefighters covered under Chapter 143 and specifically certified by the Texas Commission on Law Enforcement and Texas Commission on Fire Protection. For any provision of Chapter 143 that applies to probationary police officers or firefighters, the corresponding local rule will apply. *(Revised 11/16/06; 12/2/15)*
4. Responsibility of Civil Service Director – when a specific rule does not address a particular question or issue, it is the responsibility of the Director of the Civil Service Commission to interpret the rules based on circumstances, facts, and issues.

C. THE CITY COUNCIL

1. The City Council of the City is the elected legislative body that provides policy and guidance for the operations of the City, including the civil service system.
2. These rules are enacted by the Civil Service Commission pursuant to the statutorily delegated authority under Chapter 143. These rules were not acted upon in any official manner by the City Council. Therefore, these rules do not constitute any form of “policy” nor any other official act of the City Council.

D. CIVIL SERVICE COMMISSION

1. **APPOINTMENTS** – The City Manager shall appoint, and the City Council shall confirm the appointment of the three members of the Civil Service Commission who meet the required statutory qualifications. The members shall elect one member to serve as chair and one to serve as vice-chair each January. *(Revised 6/15/04)*

2. **CHAIR AND VICE-CHAIR REPLACEMENT** – When vacancies of members of the Commission occurs, the replacement of chair and vice-chair will be handled as follows: 1) in the event of a vacancy in the chair position, the vice-chair will assume the role of the chair, and an interim election will be held to elect a new vice-chair; 2) in the event of a vacancy in the vice-chair position, an interim election will be held to fill that office.
3. **TERM OF OFFICE** – Each member of the Commission holds office for a staggered three-year term (with terms beginning in August) and thereafter until a successor is appointed and confirmed. Interim vacancies on the Commission shall be filled by appointment of the City Manager and confirmed by the City Council for the unexpired term of the member whose position has been vacated. Commissioners are permitted to serve terms as defined in Chapter 143. The term of a Commissioner does not include appointments to serve an unexpired term of a previous Commission member. *(Revised 9/19/02; 04/20/06; 12/2/15)*
4. **RESPONSIBILITIES** – The Commission, acting in compliance with Chapter 143, has the authority to adopt, publish, and enforce rules relating to:
 - a) The proper conduct of Commission business meetings;
 - b) The proper conduct of examinations for entry-level and promotional eligibility;
 - c) The proper conduct of appeals of testing and examination scoring;
 - d) The prescribed cause or causes for the removal or suspension of a civil service employee;
 - e) The procedures for the hearing of disciplinary appeals concerning suspensions without pay, indefinite suspensions, promotional passovers or recommended demotions; and
 - f) Such other matters reasonably related to the selection, promotion, and discipline of civil service employees, not otherwise vested in the discretionary or managerial authority of the City Council, City Manager, Director of Civil Service, Fire Chief or Police Chief.
5. **RULE OF CONDUCT** – In the discharge of their duties, members of the Civil Service Commission act as a Committee of the whole and not as individuals. An individual Commission member has no legal or moral right to speak for the Commission unless specially authorized to do so by action of the Commission.
6. **MEETINGS**
 - a) Regular meetings of the Commission shall be routinely held at a time and a place or manner designated by the Commission. Meetings may be rescheduled or postponed when such action is deemed necessary. The Director of Civil Service may call, schedule, reschedule, or cancel meetings of the Civil Service Commission.
 - b) The business meetings of the Commission are open to the public and the time, date, and place or manner (if the meeting will be held virtually) of the meetings shall be posted in accordance with Chapter 143 and applicable State law. Special meetings of the Commission may be called by the Chairperson or both of the other Commission members upon giving reasonable advance notice to each Commission member and the other parties necessary for the meeting. All agenda items shall be submitted in a manner prescribed by the Director. The agenda shall be posted on the bulletin board at City Hall at least 72 hours prior to any meeting. *(Revised 6/15/04)*

The Director shall have discretion not to place on the agenda any item over which he/she

believes the Commission lacks jurisdiction. Only such topics as are listed on the agenda may be acted upon. *(Revised 6/15/04)*

- c) Meetings of the Commission may be closed from time to time in conformance with the provisions of applicable State law.
7. **QUORUM** – Two members of the Commission constitute a quorum sufficient to conduct meetings and hearings.
8. **CONDUCT OF BUSINESS MEETINGS** – The Commission may set reasonable rules and procedures for the proper and efficient conduct of business. The Chairperson shall conduct meetings in an orderly and timely fashion. The normal order of business at non-disciplinary or non-appeal hearings shall be generally:
- a) Call to order
 - b) Approval of minutes
 - c) Action items
 - d) Miscellaneous matters from the Director of Civil Service as long as the meeting notice is specific enough to comply with the Texas Open Meetings Act. *(Revised 04/20/06)*
 - e) Future business – Commission members may suggest items for future agendas. *(Revised 6/15/04)*
 - f) Adjourn

The order of business may be altered at any time by agreement of Commission members present at the meeting.

9. **MINUTES** – The Director of Civil Service or designee shall prepare the minutes of each meeting. The minutes of a meeting are to be provided to the Commissioners for approval at a subsequent meeting of the Commission. *(Revised 6/15/04)* The minutes, other than matters discussed in executive session, upon approval by the Commission, shall be kept open for public inspection as governed by applicable State law. A Commission member may record in the minutes an approval of or objection to any act of the Commissioners together with the Commissioner’s reasons. Copies of the minutes and records may be obtained from the Director of designee for the standard fee charged by the City for similar official record duplication. The minutes of the Commission shall be signed by the Chairperson, or in the Chairperson’s absence, the Vice-chairperson.
10. **COMMUNICATIONS** – All communications or request to the Commission are to be made in writing through the office of the Director of Civil Service.

007. REMOVAL OF COMMISSION MEMBER

REMOVAL FROM OFFICE – A member of the Commission may tender his or her resignation in writing at any time. A Commission member may be removed from office by the City Council for misconduct in office or otherwise in accordance with Chapter 143 of the Texas Local Government Code.

If a Civil Service Commission member is absent three (3) meetings during a twelve (12) month period without good and reasonable cause, then the absent member may be automatically deemed to have submitted a resignation, and if accepted by the City Manager, the position shall be deemed vacant without further action. Upon the occurrence of any of these events, a request shall thereafter be made by the Director to the City Manager for a replacement of such member.

008. ADOPTION AND PUBLICATION OF RULES

LOCAL RULES

- A. These rules supersede all other rules pertaining to firefighters and police officers in the City of Denton except Chapter 143 of the Texas Local Government Code or Meet and Confer Agreements, where applicable. If any section, subsection, paragraph, sentence, clause, phrase, or word contained in these rules shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portion of these rules. *(Revised 04/20/06)*

DEPARTMENT RULES

- B. The Chief of the Police Department and the Chief of the Fire Department may each adopt and promulgate written rules, regulations, and personnel policies pertaining to the operation of their respective departments. While the Civil Service Commission is not required to approve departmental rules, no such departmental rule shall conflict with the provisions of these civil service rules. Copies of all departmental rules, or amendments thereto, shall be readily available to each member of the Commission, the Director, the City Manager, and the City Attorney. Copies of all Police Department rules shall be made readily available to all members of the Police Department. Copies of all Fire Department rules shall be made readily available to all members of the Fire Department. *(Revised 6/15/04; 6/15/20)*

009. COMMISSION INVESTIGATIONS AND INSPECTIONS (RESERVED)

010. COMMISSION APPEAL PROCEDURE

- A. In appeals to the Commission, the “rules of evidence” will not be observed.
- B. Per Section 143.010 of the Texas Local Government Code, the Commission shall conduct the hearing fairly and impartially as prescribed by the chapter and shall render a just and fair decision. The Commission may consider only the evidence submitted at the hearing.

The Party with the burden of proof must establish a fact by a “preponderance of the evidence.” A “preponderance of the evidence” means that the party bearing the burden of proof must present evidence which is more credible and convincing than that presented by the other party, or which shows that the fact to be proven is more probable than not.

- C. Appeals having jurisdiction before the Commission:
 - 1. Disciplinary suspensions of one to 15 days and indefinite suspensions,
 - 2. Involuntary demotions,
 - 3. Promotional passovers,
 - 4. Written promotional examinations, and
 - 5. Rejection of entry-level applicants by a physician, psychiatrist, or psychologist. *(Revised 12/2/15)*

011. DECISIONS AND RECORDS

Access to records of employees in the classified service including, employment applications, background investigation records and reports, examinations, and answer sheets shall be governed by the Texas Local Government Code and the Texas Government Code.

012. DIRECTOR

- A. **APPOINTMENT** – When vacancies arise in the Director position, the Commission shall appoint a director who shall be responsible for implementing these rules and administering the civil service system. *(Revised 04/20/06)*
- B. **DUTIES** – The Director or designee shall also act as secretary to the Commission and perform work incidental to the civil service system as required by the Commission. The Director’s duties include, but are not limited to: *(Revised 4/20/06; 12/2/15)*
1. Serves as Secretary to the Commission;
 2. Serves as an advisor to the Police and Fire Departments and may monitor all examinations, including the preparation, scheduling, scoring and security thereof; *(Revised 12/2/15)*
 3. Serves as an advisor to the Police and Fire Departments with coordination of recruitment and examination of applicants; *(Revised 12/2/15)*
 4. Sets agenda for Commission meetings;
 5. Acts as a liaison and provides staff support to Commission;
 6. Determines whether any matter is appropriately brought before Commission in a reasonable and timely fashion;
 7. Calls, schedules, reschedules, and cancels meetings of the Civil Service Commission;
 8. Acts as records custodian as provided by Chapter 143;
 9. Acts on behalf of the Civil Service Commission for actions and issues not specifically addressed in Chapter 143 or these rules;
 10. Recodifies Civil Service Commission rules as necessary in a professional and timely fashion;
 11. Establishes and monitors procedures for the discipline and termination of civil service employees; and
 12. Performs such other functions as may be deemed reasonably necessary in regard to the efficient and effective administration of the civil service system of the City.

013. APPOINTMENT AND REMOVAL OF DEPARTMENT HEAD (RESERVED)

014. APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED IMMEDIATELY BELOW DEPARTMENT HEAD

If the position(s) are approved by the City Council by ordinance, the Chief of the Police Department and Chief of the Fire Department are hereby authorized to appoint each person occupying an authorized position in the classification immediately below that of Department head as allowed by state law. *(Revised 6/15/04; 11/10/06; 3/25/10; 12/2/15; 9/24/19; 6/15/20; superseded by Meet and Confer Agreements)*

With the Police Meet and Confer Agreement approved by the City Council on August 18, 2015, and in the subsequent agreement approved on September 24, 2019, all Deputy Chief and Assistant Chief positions may be filled by appointment by the Department head pursuant to the process provided for in Section 143.014 of the Texas Local Government Code (reference Article 6).

With the Fire Meet and Confer Agreement approved by the City Council on September 19, 2023, the positions of Emergency Management Program Manager and Emergency Management Specialist shall be appointed by the Department head and shall not be filled by a promotional examination. A person appointed under this section serves at the pleasure of the Department head (reference Article 2, Section 3). Note: these appointments are in addition to the appointment authorized by Chapter 143 and Article 6 of the Meet and Confer Agreement.

Additionally, the position of Fire Marshal shall be filled by Texas Local Government Code Chapter 143 and/or Local Civil Service Commission rules and/or current Meet and Confer Agreement.

015. APPEAL OF COMMISSION DECISION TO DISTRICT COURT (RESERVED)

016. PENALTY FOR VIOLATION OF CHAPTER (RESERVED)

017. – 020. (RESERVED)

CHAPTER B. CLASSIFICATION AND APPOINTMENT

021. CLASSIFICATION; EXAMINATION REQUIREMENT

The civil service positions in the Fire and Police Departments are classified on a basis of similarity in duties and responsibilities as shown in the list of positions referenced and published in the pay plans for the respective department in the City of Denton personnel manuals and the City’s budget, adopted annually by City Council.

Only employees of the City authorized by this section shall be classified under civil service in either the Fire or Police Departments. These positions should be filled by examination as provided in Chapter 143 unless an alternative is outlined in the Meet and Confer Agreement or Chapter 143. All civil service personnel shall receive the salary specified and set forth in the current City budget. *(Revised 11/16/06)*

022. PHYSICAL REQUIREMENTS AND EXAMINATIONS

A. GENERAL REQUIREMENTS

Each applicant for entry-level and promotional positions shall be required to submit to such physical and mental tests as are reasonably necessary and proper to determine the physical and mental ability of the applicant to perform the essential functions required for the position sought. Applicants who are not capable of performing the essential job functions with reasonable accommodation or no accommodation will not be appointed.

B. ENTRY LEVEL APPEALS

If a candidate is not appointed due to failure to successfully pass the medical or psychological examination, the candidate’s appeal must be received by the Civil Service Commission through the Director of Civil Service or designee, in writing, within ten business days of initial receipt of notification of rejection.

Additionally, the Fire or Police Recruit is required to take a new medical or psychological exam, whichever one the candidate is appealing, at his/her own expense. *(Revised 9/19/02)*

The board of three physicians, psychiatrists, or psychologists, as appropriate, appointed by the Commission will have sixty (60) days to finalize their assessment. The 60-day time period will begin when the board members receive a written notification confirming their appointment to the board. In the event schedule conflicts prevent the board from meeting this timeframe, the timeframe may be extended up to thirty (30) days with approval from the Civil Service Director. *(Revised 12/2/15)*

023. ELIGIBILITY FOR BEGINNING POSITION

Employment standards for firefighters and police officers are provided in the City’s and department’s Policies and Procedures. Entry-level employment not prescribed by State laws may be waived by the Chief of the Police

Department or Chief of the Fire Department with the concurrence of the Director of Civil Service and consent of the City Manager or designee. Such waiver must be shown to be in the best interest of the Police Department or Fire Department and shall not substantially lower the high standards sought by the City.

A. ELIGIBILITY REQUIREMENTS FOR ENTRY LEVEL POLICE OFFICERS

The Chief of the Police Department shall establish written standards for entry-level requirements. Persons eligible for an entry-level position in the Denton Police Department shall meet all of the requirements as stated in the Denton Police Recruit hiring standards. *(Revised 9/19/02)*

With the Police Meet and Confer Agreement approved by the City Council on September 27, 2022, a candidate must be 21 years of age and cannot yet be 45 years of age on the date of the entry-level test required of that candidate, except as provided in Article 4, Section 5 of the Police Meet and Confer Agreement for actively employed full-time police officers (lateral entry) and candidates that have been continuously serving in a branch of the United States military for a minimum of 24 months during the 36-month period immediately before the date the entry-level test is administered. (Reference Article 4, Sections 4 and 5) *(Revised 6/15/20; 1/25/23)*

B. CAUSE FOR REJECTION FOR POLICE OFFICER

The Chief of the Police Department shall establish written standards for the rejection of applicants.

C. ELIGIBILITY REQUIREMENTS FOR FIREFIGHTERS

The Chief of the Fire Department shall establish written standards for entry-level requirements. Persons eligible for an entry-level position in the Denton Fire Department shall meet all of the minimum requirements as stated in the Denton Fire Department Rules and Regulations. *(Revised 9/19/02)* The Chief is specifically empowered to include statutory certifiability (either as a firefighter, paramedic, or both) as a mandatory hiring criterion within those written standards. *(Revised 10/28/05)*

D. CAUSE FOR REJECTION FOR FIREFIGHTERS

The Chief of the Fire Department shall establish written standards for the rejection of applicants.

024. ENTRANCE EXAMINATION NOTICE (RESERVED)

025. ENTRANCE EXAMINATIONS

Application for employment shall be made to the Director of Civil Service or designee on the appropriate application forms. Upon request to the Director of Civil Service or designee, accommodations will be provided to applicants in accordance with the Americans with Disabilities Act. The Director or designee shall set forth the requirements and timelines for receipt of the notification.

Any person shall be permitted to take the entry-level examination so long as the applicant has not been rejected by the Director or designee for cause in accordance with the provisions of these rules.

The Director or designee may, because of the small number of applicants for any position, or because of any other good and sufficient reason, postpone an examination to a later date. Any examination may be canceled by the Director or designee should its occurrence become unnecessary because of a change in the personnel requirements of the classified service.

The Director shall provide an eligibility list after the examination that shall remain in effect for twelve (12) months specified by the Position Opportunity Announcement or until all names have been referred to the appropriate

department, whichever event occurs first. *(Revised 6/15/04; 12/2/15; 6/15/20; superseded by Meet and Confer Agreements)*

A. FIRE ENTRANCE EXAMINATIONS

With the Fire Meet and Confer Agreement adopted on September 1, 2015, and a subsequent agreement adopted on September 19, 2023, the list of applicants who made a passing grade on the written examination shall be placed on the “*Commission List*” ranked highest to lowest, including any applicable military points. Further, with the Fire Meet and Confer Agreement, additional points will be awarded as follows (reference Article 4, Section 3a):

Additional Points

- An additional one (1) point shall be given to an applicant that completed the Denton Independent School District High School Fire Program and obtained certification through the Texas Commission on Fire Protection, or
- An additional one (1) point shall also be given for completion of the Denton Independent School District High School-EMT Program and obtained certification through the Texas Department of State Health Services.

Residency Points

- An additional one (1) point shall be given to an applicant that resides within the City of Denton. *(Revised 6/15/20)*

Whenever two (2) or more applicants for entrance positions attain the same grade, the tie shall be broken in the manner prescribed by the respective department prior to the posting of the certified eligibility list:

FIREFIGHTER *(Revised 6/15/20)* – These criteria are ranked in order of importance.

- a) Raw score
- b) Certified as a Firefighter by the Texas Commission on Fire Protection. Burden of proof is with the applicant.
- c) Certified or licensed as an Emergency Medical Technician-Paramedic (EMT-P) by the Texas Department of Health.
- d) Certified as an Emergency Medical Technician-Basic (EMT-B) by the Texas Department of State Health Services.
- e) Possess a Bachelor’s Degree
- f) Applicant with the earliest registration date. *(Revised 6/15/04)*

When requested, the Civil Service Director shall certify and provide to the Department head all of the names of such applicants on the Commission List. The Department head shall identify a number of applicants, based on the determination of the Department head related to the number of vacancies, with the highest-ranking from this list to proceed through the process (reference Article 4, Section 4 (b)). The *eligibility list* is created by taking the overall score for each eligible applicant based on the applicant’s final Oral Interview Board score (multiplied by 70%) and adding the final Chief’s Interview score (multiplied by 30%). When a vacancy occurs, the Department head shall appoint the eligible suitable applicant having the highest final overall score on the eligibility list unless the Department head has a valid reason for not appointing the person (reference Article 4, Section 7). Each hiring eligibility list remains in existence for one (1) year after the written examination unless exhausted.

B. POLICE ENTRANCE EXAMINATIONS

With the Police Meet and Confer Agreement adopted on September 24, 2019, candidates with passing test

scores will be placed on an eligibility list in the order of their overall eligibility scores (test score plus additional points). Current, non-sworn employees of the Denton Police Department (detention officers and civilian staff) and Denton firefighters who achieve a passing score on the Police entry-level test will then receive one (1) point for each full year of service with the Police or Fire Departments, to a maximum of five (5) points, added to their test score. These additional points may not be added to the test score to achieve a passing score. (Reference Article 4, Section 6)

Per the Police Meet and Confer Agreement adopted on September 27, 2022, the final eligibility list may be certified by the Director of Civil Service. The Director of Civil Service may seek certification of a final eligibility list by the Civil Service Commission. *(Revised 1/25/23)*

Whenever two (2) or more applicants for entrance positions attain the same grade, the tie shall be broken in the manner prescribed by the respective department prior to the posting of the certified eligibility list:

POLICE RECRUIT – These criteria are ranked in order of importance.

- a) Prior law enforcement experience plus certification in the State of Texas.
- b) Certification in the State of Texas.
- c) Certification in another state.
- d) Possess a graduate degree. *(Revised 04/20/06)*
- e) Possess a Bachelor’s degree. *(Revised 04/20/06)*
- f) Possess an Associate’s degree. *(Revised 04/20/06)*
- g) Current enrollment in a Texas certified Police Academy.
- h) Experience as a Texas Police Reserve Officer.
- i) Military Police experience.
- j) Reserve Police experience.
- k) Applicant with the earliest registration date. *(Revised 6/15/04)*

The entire eligibility list will be provided to the Police Department at one time for further processing, and all those applicants will be considered to have been “referred” at that time. New eligibility lists may be created while an active list is being processed. The effective date of an eligibility list may be set to coincide with the expiration of an existing list, a time period between three (3) and twelve (12) months until a specific number of candidates for an academy class have been hired or any combination of these. The condition that will determine when an active list may be closed, other than by the Commission, must be determined prior to the posting of the exam. Candidates may not be hired from an eligibility list that is created after an existing active eligibility list has been established until the existing list has been exhausted or has expired. An exception to this is that a Reappointed City of Denton Officer and Lateral Entry Officer may be processed and hired while an existing eligibility list is in effect. With the approval of the Commission, the Civil Service Director may close an eligibility list and cancel all candidates' processing if sufficient reason, as determined by the Commission, exists to do so (reference Article 4, Section 6). *(Revised 6/15/20)*

C. ADMINISTERING EXAMINATIONS

All examinations shall be of such nature that they will test the relative suitability and ability of the persons examined to discharge the duties of the particular position to which they seek appointment.

The actual conduct of every examination shall be under the direction of the Director of Civil Service who shall be responsible to the Commission. The Director shall have the authority to designate an assistant to administer tests or examinations. No individual shall deceive or obstruct any person in respect to his/her

right of examination under the provision of these rules and the Texas Local Government Code; or falsely mark, grade or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion. Applicants shall not deceive the Commission for the purpose of improving their chances for appointment or promotion. Any person found to be cheating on an examination, or otherwise deceiving the Commission for purposes of improving his or her chances for appointment, shall be removed from further consideration and dropped from the eligibility list. Only persons with a passing raw score will be ranked on the eligibility list.

An applicant for the position of firefighter or police officer wishing to receive military service credit must provide to the Director of Civil Service or designee, prior to the start of the examination, a complete and unaltered copy of his/her DD Form 214 that shows: *(Revised 9/19/02; 11/16/06)*

- 1) 180 total days of active military service in the Armed Forces of the United States, and
- 2) An honorable discharge in order to receive military service credit of five (5) points in addition to his/her passing score on the written examination. Any discharge other than “honorable discharge” is not creditable for the purpose of this section. (Reference Section A, #8 – Definitions)

D. ENTRANCE EXAMINATION ADMINISTRATION PROCEDURES

- 1) Smoking shall be prohibited at all times in the testing area.
- 2) Check-In – All applicants shall be checked in and no applicant shall be admitted after the time designated to on the Position Opportunity Announcement. *(Revised 9/19/02; 04/20/06)*
- 3) Military Service Credit – Those persons who desire to have military service credit added to a test score of 70% or better (for Police, pursuant to Article 4, Section 7 of the Meet and Confer Agreement, a passing score as determined by the test publisher), must provide a DD-214 with a minimum of 180 total days of active military service prior to the start of the examination. Any discharge other than “honorable discharge” is not creditable for the purpose of this section. *(Revised 9/19/02)*
- 4) Failure to Appear – Any registrants on file of persons who fail to appear for the entrance examination shall be voided by the Director of Civil Service.
- 5) Cancellation of Entrance Examination – The Director or designee may cancel a scheduled entrance examination for sufficient cause.
- 6) Cheating – Any person taking an entrance examination who uses or attempts to use any unfair or deceitful means to answer questions on such an examination shall be informed by the test administrator, and the test administrator shall void that person’s exam and remove them from the testing site. The test administrator shall report the action to the Director of Civil Service or designee.
- 7) Test Monitors – The Director of Civil Service or designee may select a reasonable number of persons employed by the City of Denton or an agency of the State of Texas to assist in the administration, proctoring, and grading of an entrance examination. *(Revised 12/2/15).*

- 8) Application and Personal History Statements – Candidate shall be given an application and personal history statement to be completed and returned at a time designated by the Chief or designee of the respective department. Failure to return these forms at the prescribed time shall make the candidate ineligible to continue in the hiring process. (Revised 6/15/04; 04/20/06)
- 9) Upon request, accommodations will be provided to applicants in accordance with the Americans with Disabilities Act. Applicants who need special arrangements must submit a request in writing to the Civil Service Director or designee at a time to be determined by the Civil Service Director or designee. (Revised 9/19/02)

E. ELIGIBILITY LISTS

Each person on an eligibility list shall notify the Director of Civil Service or designee of any change in mailing address or email. Notices sent to a person's last known mailing address or email shall be considered sufficient notification. (Revised 12/2/15)

F. CHILD OF A DECEASED FIREFIGHTER WHO SUFFERED A LINE OF DUTY DEATH

The applicant is responsible for collecting and delivering to the Department head information requested for verification of the hiring preference as outlined in 143.025(j) in the manner set forth in the departmental SOPs. (Revised 04/20/06)

0251. REAPPOINTMENT AFTER RESIGNATION

A police officer who voluntarily resigns from the Denton Police Department, and who desires to return, within 5 years, to service with the Denton Police Department, may be reappointed to the rank of a police officer without taking another departmental entrance examination in accordance with the following: (Revised 6/15/04)

1. The person shall complete a Denton Police Department hiring packet and send that to the Chief of the Police Department or designee. (Revised 6/15/04; 12/2/15)
2. The hiring packet shall be processed in the same manner as other applicants who have taken an entrance examination. (Revised 6/15/04; 12/2/15)
3. The Chief of the Police Department may choose to process the former officer or not, within the Chief's discretion. Prior to recommending the reappointment of a former police officer, the Chief of the Police Department will review past performance records of the officer, conduct a background investigation, and require any other portion of the employment process he/she deems appropriate. (Revised 6/15/04)
4. If the Chief does process for appointment one or more former officers who are not on the current eligibility list and finds that reappointment of the person would be in the best interest of the Denton Police Department, the Chief shall forward those persons' names to the Director of Civil Service for appointment to a vacant entry-level position by the Chief Executive Officer prior to the selection of any entry-level candidates under 143.026. In case there is more than one former officer forwarded to the Director of Civil Service for reappointment, the Chief may specify order of placement on the list. (Revised 6/15/04; 04/20/06)
5. If the person is reappointed in accordance with this process, the person shall receive previously accrued seniority, but only for purposes of promotional examinations (seniority points). (Revised 6/15/04; 12/2/15)
6. If the person is being appointed under Article 4, Section 5 of the Meet and Confer Agreement as a lateral entry-level police officer or meets the military requirement, the officer may not be less than twenty-one

(21) years of age and must have not reached their 51st birthday at the time they apply for a lateral entry-level police officer position. *(Revised 12/2/15; 6/15/20; 1/25/23)*

026. PROCEDURE FOR FILLING BEGINNING POSITIONS

Upon certification of the “Commission list” for Fire, procedures for filling a beginning position in the Fire department shall be made in accordance with Article 4 of the Fire Meet and Confer Agreement. *(Revised 11/16/06; 3/25/10; 6/15/20; 3/27/24)*

Upon certification of the eligibility list for Police, procedures for filling a beginning position in the Police department shall be made in accordance with Article 4 of the Police Meet and Confer Agreement. Exceptions apply to Officers hired under the Modified Hiring Process as described in Article 4, Section 18 for Reappointed City of Denton Officers and the Modified Hiring Process as described in Article 4, Section 19 for Lateral Entry Officers. *(Revised 6/15/20; 1/25/23)*

027. PROBATIONARY PERIOD

The Meet and Confer Agreements approved by City Council on September 26, 2006, and subsequent agreements, including the most current agreements for Police (approved on September 27, 2022) and for Fire (approved on September 19, 2023), include the following provisions:

- A. Police – All new hires for police positions, hired Lateral Entry Officer Applicants, and reappointed officers will serve a one-year probationary period beginning on the date of being commissioned (or recommissioned) as a Denton police officer (this is inclusive of current police officers commissioned on or before the ratification of this Agreement). (Reference Article 4, Section 16) *(Revised 6/15/20; 1/25/23)*
- B. Fire – Unless already certified as both a firefighter by the Texas Commission on Fire Protection and a paramedic by the Texas Department of State Health Services, a person appointed to a beginning position in the Department must serve a probationary period of up to 18 months beginning on that person’s date of employment as a firefighter. A person appointed to a beginning position in the Department who is certified as both a firefighter and a paramedic shall serve a probationary period of 12 months (reference Article 4, Section 9).

028. ELIGIBILITY FOR PROMOTION (RESERVED)

029. PROMOTIONAL EXAMINATION NOTICE (RESERVED)

030. ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION

The length of service for determining the eligibility for taking a promotional examination shall include the probationary period in the Fire Department. *(Revised 10/23/00)*

With the Fire Meet and Confer Agreement approved by the City Council on September 19, 2023, prerequisites to take the written examination are outlined in Article 5, Section 5 *(Revised 12/2/15; 6/15/20; 3/27/24)*.

031. ELIGIBILITY FOR POLICE DEPARTMENT PROMOTIONAL EXAMINATION

The length of service for determining the eligibility for taking a promotional examination shall include the probationary period in the Police Department. *(Revised 11/14/00)*

With the Police Meet and Confer Agreement approved by the City Council on September 26, 2006, an Officer is not eligible for promotion to Sergeant rank unless the Officer has served in the department in the next lower rank

for at least three years immediately before the examination date (reference Article 5, Section6). *(Revised 11/16/06; 3/25/10; 12/2/15; 6/15/20)* Subsequent Police Meet and Confer Agreements, including the most current agreement approved on September 27, 2022, continue to allow. *(Revised 6/15/20; 1/25/23)*

032. PROMOTIONAL EXAMINATION PROCEDURE

All examinations shall be structured to test an applicant’s relative capacity to discharge the duties of the particular position.

The actual conduct of every examination shall be under the direction of the Director of Civil Service, who shall be responsible to the Commission. The Director shall have the authority to designate a designee to administer tests and/or examinations.

No individual shall deceive or obstruct any person in respect of his/her right of examination under the provision of these rules and the Civil Service statute; or falsely mark, grade or report the examination or standing of any person examined hereunder; or aid or furnish any special information for the purpose of either improving or injuring the rating of any such person for appointment or promotion.

No promotional candidate shall deceive the Commission for the purpose of improving his/her chances for appointment or promotion. Any person acting in this manner will be disqualified from further consideration for the position sought, and the department Chief may take additional disciplinary action.

Employees shall complete an official “Notice of Intent to Test” form for each promotional examination, as prescribed by the Director of Civil Service or designee, in order to take a promotional examination. Failure to submit a completed form in the manner prescribed in the Position Opportunity Announcement, and failure to file the form with the Director of Civil Service or designee within the time limits prescribed will render the employee ineligible to take the examination. *(Revised 9/19/02; 1/10)*

The Director or designee may, for good and sufficient reasons, postpone an examination to a later date. There must be a minimum of two (2) completed “Notice of Intent to Test” forms completed for a promotional examination to be administered. *(Revised 6/15/20)*

A. PROMOTIONAL EXAMINATION ADMINISTRATION PROCEDURES

- 1) Smoking shall be prohibited at all times in the testing area.
- 2) Check-In – Applicants shall be checked in and no applicant shall be admitted after the time designated on the Position Opportunity Announcement. *(Revised 04/20/06)*
- 3) Failure to Appear – Any registrations on file for persons who fail to appear for the examination shall be voided by the Director of Civil Service or designee. *(Revised 6/15/04; 04/20/06; 6/15/20)*
- 4) Cancellation of Examination – The Director may cancel a scheduled examination for sufficient cause.
- 5) Cheating – Any person taking an examination who uses or attempts to use any unfair or deceitful means to answer questions on such examination shall be informed by the test administrator, and the test administrator shall void that person’s exam and remove him/her from the testing site. *(Revised 04/20/06)*

The test administrator shall report the action to the Director of Civil Service or designee. Any person acting in this manner will be disqualified from further consideration for the position sought, and the department Chief may take disciplinary action. *(Revised 6/15/04)*

- 6) Test Monitors – The Director of Civil Service or designee may select a reasonable number of persons employed by the City of Denton or an agency of the State of Texas to assist in the administration, proctoring, and grading of an examination.

Per the Police Meet and Confer Agreement approved on September 27, 2022, for the Sergeant examination, the Promotional Test Proctor will be a Lieutenant or higher as appointed by the Department head. For the Lieutenant’s examination, the Promotional Test Proctor will be a Deputy Chief appointed by the Department head. *(Revised 1/25/23)*

B. TESTING FOR PROMOTIONAL CANDIDATES IN THE ARMED FORCES

(Revised 04/20/06)

- 1) Any employee who wishes to be notified of promotional testing opportunities for which he/she is qualified while serving in the armed forces must leave contact information with the Department head or his/her designee prior to leaving. The Department head or his/her designee will then be responsible for sending a notice to a qualified candidate of such promotional tests. Notification should happen as soon as possible. Once the notice is sent, the Department head or his/her designee has fulfilled his/her obligation. Receipt of the notice by the employee is not the responsibility of the Department head or his/her designee.
- 2) Every effort will be made to conduct promotional examinations simultaneously. If this is not possible, every effort will be made for the remote test taker to test after the other candidates. Every effort should be made to allow the test taker to test within 72 hours of the original test date. *(Revised 12/2/15)*
- 3) All remote tests shall be conducted in compliance with 143.032 (A) and these rules. *(Revised 6/15/20)*

033. PROMOTIONAL EXAMINATION GRADES

(Revised 9/19/02)

A. SENIORITY POINTS *(Revised 12/2/15; 6/15/20)*

A firefighter or a police officer must score at least 70 on the written examination before any seniority points are added for a total score on the eligibility list.

For Police, seniority points are calculated from the date of commission with the City of Denton as a police officer, up to and including the test date, per the Police Meet and Confer Agreement approved on September 27, 2022. For Fire, seniority points are calculated from the date of hire with the City of Denton as a firefighter, up to and including the test date. Previous years of service with the City of Denton as a police officer or firefighter will also be counted towards seniority for purposes of calculating seniority points.

B. TIE BREAKERS

- 1) **POLICE** – Whenever two (2) or more candidates obtain identical total final scores, the following procedures will be used to break the tie and determine placement on the final eligibility list for promotion:
 - a. **Highest Test Score** – If two (2) or more persons tie on total final scores, the persons

shall be ranked in the order according to which person had the highest examination raw score prior to the addition of seniority points and after the Commission's determination of appeals, if any.

- b. **Time in Rank** – If there are still ties, the persons shall be ranked in the order according to which person had the most seniority in the position immediately below the position for which the examination was given. In the event an employee was demoted, the years prior to the demotion will not be considered for “time in rank.” (*Revised 12/2/15*)
- c. **Date of Commission** – If there are still ties, the persons shall be ranked in the order according to which person has the most seniority with the department as a commissioned police officer.
- d. **Placement on Entry-Level Eligibility List** – If there are still ties, the persons shall be ranked in the order according to how those persons placed on their entry-level eligibility list.

Per Article 5, Section 8 (i) of the Police Meet and Confer Agreement approved on September 27, 2022, the final score shall be carried to three decimal points. Civil Service tiebreaking rules shall apply if necessary. (*Revised 1/25/23*)

Per the Police Meet and Confer Agreement adopted on September 27, 2022, the final eligibility list may be certified by the Director of Civil Service after any challenges to test questions have been heard and ruled upon by the Commission. The Director of Civil Service may seek certification of a final eligibility list by the Civil Service Commission. (*Revised 1/25/23*)

- 2) **FIRE** – Whenever two (2) or more candidates obtain identical total final scores, the following procedures will be used to break the tie and determine placement on the final eligibility list for promotion:
 - a. **Highest Test Score** – If two (2) or more persons tie on total final scores, the persons shall be ranked in the order according to which person had the highest examination raw score prior to the addition of seniority points and after the Commission's determination of appeals, if any.
 - b. **Time in Rank** – If there are still ties, the persons shall be ranked in the order according to which person has the most seniority in the position immediately below the position for which the examination was given. In the event an employee was demoted, the years prior to the demotion will not be considered for “time in rank.” (*Revised 12/2/15*)
 - c. **Date of Hire** – If there are still ties, the persons shall be ranked in the order according to which person has the most seniority with the department as a firefighter.
 - d. **Placement on Entry-Level Eligibility List** – If there are still ties, the persons shall be ranked in the order according to how these persons placed on their entry-level eligibility list. (*Revised 11/14/00*)

034. REVIEW AND APPEAL OF PROMOTIONAL EXAMINATIONS

- a) Upon completion of grading, each promotional candidate by himself or herself may review his/her

examination and answers, the examination grading, and the source material for the examination in the presence of a monitor(s) designated by the Civil Service Director. If filing an appeal, the notice of the appeal must be filed with the Civil Service Director or Designee in writing by 5 p.m. on the fifth (5th) business day (exclusive of the date of the posting of the raw scores) and must include the basis for the appeal. Appeals shall be limited to the quoted source material attributable to the referenced examination question. If the appeal does not include the basis and is not limited to the quoted source material, it will not be considered by the Commission. *(Revised 6/15/04; 12/2/15; 6/15/20)*

The Civil Service Commission shall receive a copy of each appeal submitted, the appealed question(s) with answer and explanation, and such other material deemed appropriate by the Commission or Director. *(Revised 6/15/04; 04/20/06)* The appeal information shall not reveal the name of the appellant, prior to the scheduled Civil Service Commission meeting. *(Revised 9/19/02) (Revised 11/16/06; 3/25/10; 12/2/15, 6/15/20; superseded by Meet and Confer Agreement for Police Lieutenant rank)*

With the Police Meet and Confer Agreement approved by the City Council on August 18, 2015, and the Fire Meet and Confer Agreement approved on September 1, 2015, and subsequent agreements approved on September 24, 2019, promotional examination appeals to the Commission under Section 143.034 of the Texas Local Government Code from firefighter and police candidates “shall be limited to the quoted source material attributable to the referenced examination question.” This shall not limit the Commission from requesting information from representatives from the applicable department, the Civil Service Director or designee, other test-takers, the appellant, or any other credible person needed for the Commission to accurately understand the question and the appropriate response(s). (Reference Article 5, Section 1(b) for Police and Article 5, Section 8 for Fire). *(Revised 6/15/20)*

Promotional examination multiple-choice questions appealed to the Civil Service Commission will be sustained or disqualified by a ruling issued by the Civil Service Commission. *(Revised 9/20/01; 11/16/06; 3/25/10; 6/15/20)*

With the Fire Meet and Confer Agreement approved by the City Council on September 24, 2019, all test questions will be graded with either one best answer correct, multiple answers correct, or all answers graded correct. “Disqualifying” a question is not an option. (Reference Article 5, Section 9). *(Revised 6/15/20; 3/27/24)*

With the Police Meet and Confer Agreement approved by the City Council on September 27, 2022, Police Sergeant and Lieutenant promotional candidates may review their own Assessment Center session pursuant to procedures established by the Civil Service Director. However, nothing in the Assessment Center process may be appealed either to the Civil Service Commission, a hearing examiner, or the District Court. *(Revised 1/25/23)*

1) **Sustain the Answer Key** (test scores will remain as keyed)

A ruling which rejects the appeal presented to the commission will require the Director of Civil Service or designee to accept the answer as given on the answer key while grading the promotional examinations of all eligible candidates.

2) **Disqualify the Answer Key** (The Commission will designate another answer(s) to be accepted.)
(Revised 6/15/20)

A ruling which accepts one or more answers related to the appeal of a promotional examination

question will require the Director of Civil Service or designee to accept a different answer(s), as directed in the ruling while grading the promotional examination of all eligible candidates. *(Revised 04/20/06)*

- 3) **Disqualify the Test Question** (The test question will not be included; this is only applicable to an appeal related to a Police promotional exam.) *(Revised 6/15/20)*

A ruling which rejects the test question related to the appeal of a promotional examination question will require the Director of Civil Service or designee to disregard the question and its' answer while grading the promotional examination of all eligible candidates. This will result in the recalculation of the point value for each question. *(Revised 04/20/06)*

Formula for calculating scores after appeals for Fire Promotional Examinations:

The formula for calculating the promotional test scores will be as follows:

$$(\# \text{ of questions}) - (\# \text{ of wrong questions}) = \text{score}$$

Formula for calculating written examination scores after appeals for Police Promotional Examinations:

The formula for calculating the promotional test scores will be as follows:

$$100 - \text{total number of questions disqualified by the Commission} = \# \text{ of question used}$$

$$(100) / (\# \text{ of questions used}) = \text{point value of each question}$$

$$(\# \text{ of questions used}) - (\# \text{ of wrong questions}) = \# \text{ of correct questions}$$

$$(\# \text{ of correct questions}) \times (\text{point value of each question}) = \text{score}$$

Formula for calculating total scores after appeals for Police Sergeant and Lieutenant Promotional Examinations *(Revised 1/25/23):*

Written Examination Points:

Maximum Exam Points = 100

+

Maximum Seniority Points = 10

Maximum Score on the Written Portion = 110

Assessment Center Points:

Maximum Points = 100

Promotion Eligibility List Formula

Sergeant: Written Examination Points (70%) + Assessment Center Points (30%)

Lieutenant: Written Examination Points (50%) + Assessment Center Points (50%)
(Revised 1/25/23)

- b) During the appeal hearing, the following rules will apply:
- Appealed questions will be considered in numerical order.
 - Each appellant will be given an opportunity to present reasons for the appeal. The Chairperson will first ask each appellant if he/she still wishes to appeal. The appellant will then be allowed to make a brief presentation (typically no more than three (3) minutes).
 - After each appellant has spoken on the question, the Commission may ask questions of the appellant, Civil Service Director, or designee.
 - The Department will have an opportunity to respond to the appealed questions.
 - After the department representative has responded, the Commission may ask questions of the department representative, Civil Service Director, or designee.
 - The Chairperson will allow other test takers an opportunity to speak in opposition of the appealed questions. The total time allotment for **ALL** test-takers will be a maximum of two (2) minutes combined (i.e. each person does not get up to two minutes each).
 - After all statements have been heard, the Commission will discuss and make a final ruling on the appealed question(s).
 - In making its decision, the Commission may consider the number of test-takers that answered a question correctly. (Revised 1/25/23)

035. ALTERNATE PROMOTIONAL SYSTEM IN POLICE DEPARTMENT

If adopted by the Commission, the Director shall provide for absentee balloting in an alternate promotional system in a Police Department. (Revised 6/15/20)

036. PROCEDURE FOR MAKING PROMOTIONAL APPOINTMENTS

Promotional appointments for the ranks of Deputy Chief and Assistant Chief shall be made in accordance with Article 6 of the Police Meet and Confer Agreement.

Promotional appointments for Fire Assistant Chiefs shall be made in accordance with Article 6 of the Fire Meet and Confer Agreement. (Revised 11/16/06; 3/25/10; 12/2/15; 6/15/20)

037. RECORD OF CERTIFICATION AND APPOINTMENT

The record of certification shall be filed in the Civil Service Director's file as defined in subsection .089 (a). (Revised 6/15/04)

038. TEMPORARY DUTIES IN HIGHER CLASSIFICATION

The Fire and Police Department Chiefs may prescribe methods for selecting and making temporary appointments to higher classifications.

039. – 040. (RESERVED)

CHAPTER C. COMPENSATION

041. SALARY (RESERVED)

042. ASSIGNMENT PAY

The Chief of a department may prescribe rules for determining whether and which individual firefighter or police officer is eligible for assignment pay as prescribed under Chapter 143.

043. FIELD TRAINING OFFICER ASSIGNMENT PAY (RESERVED)

044. CERTIFICATION, EDUCATIONAL INCENTIVE, AND FITNESS INCENTIVE PAY (RESERVED)

045. ACCUMULATION AND PAYMENT OF SICK LEAVE AND OTHER BENEFITS

A police officer who is indefinitely suspended must exhaust all appeal rights before the City is obligated to pay any accumulated sick leave as prescribed under Chapter 143. The City will not authorize withdrawals from the Texas Municipal Retirement System (TMRS) or Fire Pension System unless the police officer or firefighter submits a written resignation and terminates employment with the City of Denton. *(Revised 04/20/06)*

With the Fire Meet and Confer Agreement approved by City Council on September 19, 2023, if a firefighter is indefinitely suspended, the firefighter may, upon request, be paid in a lump sum for:

- Firefighters working a 40-hour workweek: up to 320 hours of accrued vacation leave.
- Firefighters working a 56-hour workweek: up to 480 hours of accrued vacation leave.
- Up to 1180 hours of accrued sick leave.

If the indefinite suspension is overturned on appeal, the Civil Service Commission or Hearing Examiner may restore such leave, but the total reward of leave and back pay, if any, shall be offset by the amount paid to the firefighter.

Additionally, with the Fire Meet and Confer Agreement approved by City Council on September 19, 2023, the City agrees that during the term of the current Meet and Confer Agreement, expiring September 30, 2027, the sick leave payout upon separation shall be increased by 100 hours, for a total payout of accrued sick leave of 1180 hours. *(Revised 3/27/24)*

046. VACATIONS

A police officer or firefighter who is indefinitely suspended must exhaust all appeal rights before the City is obligated to pay any accumulated vacation pay as prescribed by City policy unless the police officer or firefighter submits a written resignation and terminates employment with the City of Denton. *(Revised 6/15/04; 04/20/06)*

047. SHIFT DIFFERENTIAL PAY (RESERVED)

048. – 050. (RESERVED)

CHAPTER D. DISCIPLINARY ACTION

051. CAUSE FOR REMOVAL OR SUSPENSION

The following are declared to be grounds for removal or suspension of any employee from his/her civil service position in the City of Denton: *(Revised 6/15/04)*

- A. Indictment, deferred adjudication, or conviction of a felony, Class A or B misdemeanor, or other crime involving moral turpitude or violation of laws/ordinances of the United States, State of Texas or City of Denton;
- B. Violation of the provisions of the Charter of the City of Denton;
- C. Acts of incompetence;
- D. Neglect of duty;
- E. Discourtesy to the public or to fellow employees;
- F. Acts showing a lack of good moral character;
- G. Drinking intoxicants while on duty or intoxication while off duty; *(Revised 9/19/02)*
- H. Conduct prejudicial to good order;
- I. Insubordination;
- J. Refusal or neglect to pay City taxes;
- K. Refusal or neglect to pay other just debts;
- L. Absence without leave;
- M. Shirking of duties;
- N. Cowardice;
- O. Violation of any of the rules and regulations of the Fire Department or Police department; of special orders, as applicable; of these rules and regulations; or of any of the City Personnel rules and regulations.

052. DISCIPLINARY SUSPENSIONS

A. GENERAL PROVISIONS

- 1) These rules shall apply to and govern all disciplinary actions and disciplinary appeals of the Denton civil service firefighters and police officers pursuant to Chapter 143 of the Texas Local Government Code. *(Revised 6/15/04)* The primary purpose of the following chapter is to ensure that disciplinary action is imposed as fairly and equitably as is reasonably possible, with the intention of correcting deficient performance and securing substantial compliance with the working rules and regulations of the Civil Service departments.

- 2) All disciplinary actions and appeals concerning civil service employees shall be made in compliance with Chapter 143, Meet and Confer Agreements, these rules and regulations, the City's Personnel Rules and Regulations manual as well as the rules and regulations of the employee's department. *(Revised 11/16/06)*
- 3) The term "cause" shall also mean "employee misconduct" and shall necessarily include any act or omission that violates:
 - a. An applicable provision of Chapter 143, Texas Local Government Code; or
 - b. An applicable rule or regulation duly adopted by the Civil Service Commission of Denton
- 4) A Department head may proceed with appropriate disciplinary action arising from any particular factual event(s) and/or misconduct, which would constitute "cause," only when the employee's misconduct is related to those matters set forth in Chapter 143.
- 5) For disciplinary action purposes, a determination of what constitutes "just cause" is generally made by comparison to what a reasonable person, who is mindful of the habits and customs of his/her department, who is also mindful of the responsibilities and needs of his/her department and who is also mindful of the standards of justice and fair dealing prevalent in the City of Denton, should have done (or should have not done) under similar circumstances.

B. DOCUMENTATION OF DISCIPLINARY ACTION

- 1) An employee with Civil Service status may be disciplined by the Department head by an order in writing submitted in compliance with Chapter 143 stating at least the following:
 - a. The specific civil service rule(s) or regulation(s) allegedly violated;
 - b. A description of the operative factual events giving rise to the alleged violation of civil service rules;
 - c. The disciplinary action to be imposed;
 - d. The effective dates;
 - e. The rights of the employee to appeal the disciplinary action; and
 - f. Such other matters deemed relevant to the action or as required by law.
- 2) The Department head may not suspend an employee based upon an act that occurred more than 180 days prior to the date the employee is suspended, except as may be provided for in certain criminal investigations as per Chapter 143 of Texas Local Government Code. *(Revised 11/16/06; 3/25/10; 12/2/15; superseded by Meet and Confer Agreement)*

With the Police Meet and Confer Agreement approved by the City Council on September 26, 2006, in the original written statement and charges and in any disciplinary hearing conducted under the Meet and Confer Agreement or Chapter 143, the Department head has 240 days from the date the act (not related to criminal activity) occurred to discover the act. The Department head shall have 180 days from the date of discovery, as set forth in the preceding sentence, to investigate and take disciplinary action for the act (not related to criminal activity) (reference Article 7, Section 1). Subsequent Police Meet and Confer Agreements, including the most current agreement approved on September 27, 2022, continue to allow.

With the Police Meet and Confer Agreement approved by the City Council on September 27, 2022, an officer or their authorized designee and the Chief or the Chief's designee, may agree to extend

the deadline for imposing discipline for a period not to exceed additional thirty (30) day increments. Either the officer or the Chief may offer or request the extension. The agreement to extend this deadline shall be in writing and shall be signed by both the officer and the Chief (or their designees).

Additionally, if an officer is on extended leave, including but not limited to FMLA, injury leave, or military leave, and the deadline to impose discipline occurs during that period of leave, the deadline to impose discipline shall automatically be extended by the length of the leave taken, plus an additional 30 days after the officer returns to full duty with the Department.

Disciplinary action taken by the Chief under the two paragraphs immediately preceding this paragraph before the extended deadline expires shall be considered timely and does not affect an officer's right of appeal from the disciplinary action (reference Article 7, Section 4). *(Revised 1/25/23)*

With the Fire Meet and Confer Agreement approved by the City Council on September 19, 2023, a firefighter or their authorized designee and the Chief or the Chief's designee, may agree to extend the deadline for imposing discipline for a period not to exceed additional thirty (30) day increments. Either the firefighter or the Chief may offer or request the extension. The agreement to extend this deadline shall be in writing and shall be signed by both the firefighter and the Chief (or their designees).

Additionally, if a firefighter is on extended leave, including but not limited to FMLA, injury leave, or military leave, and the deadline to impose discipline occurs during that period of leave, the deadline to impose discipline shall automatically be extended by the length of the leave taken, plus an additional 30 days after the firefighter returns to full duty with the Department.

Disciplinary action taken by the Chief under the two paragraphs immediately preceding this paragraph before the extended deadline expires shall be considered timely and does not affect a firefighter's right of appeal from the disciplinary action (reference Article 9, Part B, Section 4). *(Revised 3/27/24)*

With the Fire Meet and Confer Agreement approved by the City Council on September 26, 2006, in the original written statement and charges and in any disciplinary hearing conducted under the Meet and Confer Agreement or Chapter 143, the Department head shall have 180 days to investigate and take disciplinary action from the date the Department head discovers an act, provided that the Department head may not complain of or take disciplinary action for an act (not related to criminal activity) that occurred more than one year before the date of disciplinary action (reference Article 9, Part B, Section 2). Subsequent Fire Meet and Confer Agreements, including the most current agreement approved on September 19, 2023, continue to allow.

- 3) The Department head shall file a written statement with the Director of the Civil Service and the Commission within 120 hours after the disciplinary action is imposed giving the reason for a suspension. *(Revised 6/15/04; 3/25/10; 12/2/15; superseded by Meet and Confer Agreement)* A copy thereof shall also be served on the employee in accordance with Chapter 143.

With the Police and Fire Meet and Confer Agreements approved by the City Council on September 22, 2009, the written statement does not have to be filed with the Commission unless the police officer or firefighter appeals the written statement to the Commission (reference Article 9, Section

1 of the Fire agreement and Article 7, Section 3 of the Police agreement). If the police officer or firefighter appeals, the written statement must be filed with the Commission within 120 hours of the filing of the notice of appeal. Subsequent agreements, including the most current agreements (Fire Meet and Confer Agreement approved on September 19, 2023, and Police Meet and Confer Agreement approved on September 27, 2022), continue to allow.

053. APPEAL OF DISCIPLINARY SUSPENSION

A. SCOPE OF MATTERS SUBJECT TO APPEAL

- 1) It shall be the duty of the Civil Service departments and also of all employees to use every effort to resolve conflict within the department concerned and to minimize resorting to the appeal processes. No matter what the conflict, management and the employee(s) concerned shall make good faith attempts peacefully to resolve the conflict prior to beginning each subsequent step of the appeal process.
- 2) If an employee is in doubt as to whether a situation or issue may be appealed to the Commission, the employee is encouraged to file a timely request for appeal or hearing so as not to inadvertently waive the issue. After considering the request, the Commission responds by informing the employee whether the situation or issue is appropriate for consideration by the Commission. If it is to be considered, the Commission will arrange to have the matter placed on the Commission's agenda.
- 3) Only temporary and indefinite suspensions and involuntary demotions may be appealed to the Commission. Employee dissatisfaction resulting from a job transfer or reassignment of duties or a policy decision, in and of itself, are not appealable.
- 4) An employee who has voluntarily resigned or retired from his/her Civil Service position thereby forfeits all rights to the disciplinary appeal processes, unless a timely appeal or request for a hearing was filed prior to retirement or resignation.
- 5) An employee may voluntarily enter a written agreement that expressly evidences his/her intent finally to resolve the issue(s) of any type of disciplinary action imposed. The agreement shall also include a statement that the employee waives all rights to further proceedings in the disciplinary appeal processes.

B. ORIGINAL NOTICE OF APPEAL

- 1) The employee's notice of appeal must be filed in writing, by 5:00 p.m. in the Civil Service Director's office within ten (10) calendar days after receiving the notice of disciplinary action from the Department head. An employee may withdraw his/her request for an appeal at any time thereafter, terminating the appeals process.
- 2) The employee's notice of appeal and request for a hearing shall set forth the employee's basis for appeal in compliance with Chapter 143.

C. FAILURE TO TIMELY FILE AN APPEAL

There will be no right to an appeal hearing in a situation where an employee fails to file a notice of appeal of a disciplinary action with the Director or Director's designee within the ten (10) day period allowed in Chapter 143.

D. OPTIONS FOR DISCIPLINARY HEARINGS

- 1) If an employee appeals a disciplinary action to the Commission, the Commission shall hold a hearing and render a decision in writing within thirty (30) days after the date it receives the notice of appeal. The employee and the Commission may agree to extend the thirty (30) day period and postpone the hearing or the deadline for the final ruling.
- 2) At any time after filing the original notice of appeal but before either party has incurred third party hearing examiner expenses, an employee may withdraw the original request for the independent third-party hearing examiner and submit the appeal to a hearing before the Commission. The election must be made in writing and filed with the Director’s office. However, this election may not be used to manipulate the thirty (30) day hearing deadline imposed on Commission decisions by Chapter 143.
- 3) At any time after the filing of the notice of appeal, the parties may mutually agree to withdraw the appeal from an independent third-party hearing examiner and submit the appeal to a hearing before the Commission. The mutual agreement must be made in writing and filed with the Director’s office.

E. DIRECTOR TO COORDINATE ALL MATTERS

- 1) The location and accommodations for all hearings and appeals shall be arranged by the Director of Civil Service or designee.

All subsequent matters raised by either party regarding attendance, scheduling, requests for subpoenas, requests for continuance, etc., shall be coordinated through the Director or designee. In the event an appeal is scheduled to be heard by a Hearing Examiner, the parties may request subpoenas be issued by the Hearing Examiner or the Director (or designee) on behalf of the Commission. All such information shall be provided to the Director or designee who shall then provide copies of same to the opposing party or representative and also coordinate the appropriate response or action to be taken. In a hearing coordinated by an outside agency, that agency shall also provide coordination services between the parties and the hearing examiner in conjunction with the Director’s office.

F. EXPENSE AND COSTS

- 1) If appealed to a Hearing Examiner, the employee and the Police or Fire Department shares the Hearing Examiner’s fees and expenses equally. The party who calls the witness pays the cost of a witness.

With the Police Meet and Confer Agreement approved by City Council on September 27, 2022, and the Fire Meet and Confer Agreement approved by City Council on September 19, 2023, for appeals to a Hearing Examiner, each party shall be responsible for one-half the cost of the Hearing Examiner’s fee, expenses, and the court reporter. A party requesting a copy of the transcript shall be responsible for their cost of the transcript. The costs of a witness to attend the hearing remains with the party calling the witness, with the understanding and agreement that the firefighter or officer is not required to reimburse the City for the salary of a City employee that is subpoenaed to testify on behalf of the firefighter or officer. *(Revised 1/25/23; 3/27/24)*

- 2) An employee may receive an estimate of anticipated costs upon written request to the Director or designee. *(Revised 9/19/02; 3/27/24)*

- 3) When applicable, the State law governing the doctrine of “mitigation of damages” will be applied in computing reimbursements or the offset for an award of back pay.

G. FAILURE TO ATTEND SCHEDULED HEARING

The failure of a party to attend a scheduled appeal hearing, or to file a timely request for a continuation of the hearing to a later date, shall not in itself prevent the hearing from proceeding as scheduled nor prevent the Commission from proceeding to take such action as may be appropriate.

H. EMPLOYEE AND DEPARTMENT REPRESENTATIVES

- 1) The hearing process shall recognize the right of employees as well as the department to be represented by one or more persons throughout the proceedings of a disciplinary appeal. However, only one representative shall be allowed to speak or otherwise present evidence on behalf of either party throughout the questioning of a particular witness.
- 2) Employee and department representatives shall use their best efforts to conclude all proceedings smoothly, expeditiously, and as fairly as possible to all concerned.
- 3) The function of the representatives shall be to articulate the best interests of the employee or the department represented and to make their presentations pertinent to the issue(s) being considered. Dissatisfaction with a representative shall not constitute grounds for modification of the final ruling.
- 4) All representatives or employees who represent themselves shall become familiar with and follow these rules and regulations at all times during the disciplinary appeal process.
- 5) Any problems or concerns regarding the manner in which the opposing party or his/her representative is handling a particular disciplinary appeal should be brought to the attention of the Director of Civil Service or designee. The difficulty will be expeditiously addressed.

I. EXCHANGE OF DOCUMENTATION AND IDENTITY OF WITNESSES

- 1) The Texas Rules of Civil Procedure, the Texas Rules of Criminal Procedure, and all other rules of court regarding what is commonly known as “discovery” shall not apply to any civil service proceedings. Mediation and arbitration rules and processes do not apply to any civil service hearings.
- 2) Parties who request photocopies of documents from the opposing party should be accommodated if such requests are reasonable. Items from departmental policies, and rules and regulations manual may be photocopied. Items such as Accident Review Board recommendations, time and attendance records, duty status forms, and other such documents may also be provided so long as they are relevant to the employee and the disciplinary action under appeal.
- 3) Employees and their legal representatives may obtain copies of matters contained in the City’s personnel file on the employee which may include disciplinary records. The employee may be asked to sign a release form(s) as a demonstration of the employee’s consent that their legal representative receives a copy of such records, even if the records are confidential in nature. *(Revised 6/15/20)*

- 4) Before requesting a subpoena duces tecum for the production of documentation material, a party shall first make a request for the materials directly to the other party and allow a reasonable time for a response. If the request is refused or otherwise not produced, then a request may be made to the Commission to issue the subpoena duces tecum.

Requests for subpoenas must be filed on the eleventh (11) day prior to the scheduled hearing date in order to be processed in a timely manner. *(Revised 6/15/20)*

- 5) All requests for subpoenas to compel the attendance of a witness shall be coordinated through the Director (or designee) or the Hearing Examiner in the event an appeal is scheduled to be heard by a Hearing Examiner. Requests for subpoenas shall be completed at least ten (10) days prior to the scheduled hearing date in order to be processed in a timely manner. The Director (or designee) may issue subpoenas on behalf of the Commission. In the event an appeal is scheduled to be heard by a Hearing Examiner, the Hearing Examiner may issue subpoenas.

J. FORMAT OF APPEAL HEARINGS

The format for appeals hearing before the Commission will be as follows:

- 1) The City's (department's) case:
 - a. Direct testimony of witness
 - b. Cross-examination of witness
 - c. Redirect
 - d. Additional questions, if any, by Commission
- 2) Employee's response:
 - a. Direct testimony of witness
 - b. Cross-examination of witness
 - c. Redirect
 - d. Additional questions, if any, by Commission
- 3) Rebuttal by City Department, if any:
 - a. Direct testimony of witness
 - b. Cross-examination of witness
 - c. Redirect
 - d. Additional questions, if any, by Commission
- 4) Short argument, summary by City
- 5) Short argument, summary by employee
- 6) Short argument by City
- 7) Consideration by Commission of facts
- 8) Decision

K. HEARING PROCEDURES

- 1) At the scheduled time and place, the hearing shall be called to order.

- 2) All parties shall come to the hearing prepared and ready to proceed so as to minimize any disruption of the hearing process. All parties shall bring at least six (6) copies of all documents or exhibits to be considered by the Commission at the hearing.
- 3) All disciplinary appeal proceedings shall be public hearings.
- 4) A record of the proceedings, capable of clear and accurate reproduction or transcription, shall be made and maintained by the Director in compliance with State law. *(Revised 6/15/04)*
- 5) After being called to order but prior to the beginning of testimony or evidence, consideration shall be made as to any pre-hearing motions, requests, or jurisdictional matters as submitted by either party. The participants shall also seek to obtain as many stipulations as possible as to non-contested or non-material matters. The Commission may “carry” such pre-hearing motions until the hearing is completed and all factual evidence has been presented before making its final ruling thereto.
- 6) Both parties may be allowed to make brief opening statements.
- 7) Unless waived by the participants, the hearing shall then proceed with the reading into the record the statement of charges and specifications as well as a factual summary of the operative events as filed with the Commission by the Department head, and which forms the basis of the disciplinary action imposed on the employee.
- 8) The hearing shall then proceed to develop the evidence and testimony as to those contested matters.
- 9) The party with the burden of proof shall go first in the presentation of evidence and testimony. Thereafter, the responding party shall have the opportunity to respond with his/her own evidence, witnesses, or testimony. Thereafter, the party with the burden of proof may come forward with rebuttal evidence or testimony as may be necessary. Presentations by both parties shall be as brief and as closely related to the issue(s) as much as is possible. Throughout the proceedings, Commission members may also ask questions as needed in order to aid their consideration of the testimony or evidence.
- 10) Witnesses may be sworn and their testimony taken under oath or affirmation. Witnesses are subject to reasonable and relevant cross-examination by the opposing party.
- 11) Upon request by either party, the hearing process may utilize what is commonly know as “the Rule” concerning oral testimony, meaning that all persons who shall be expected to testify at the hearing, other than the parties and their representatives, shall not be allowed to observe or listen to any of the proceedings except when they are actually testifying as a witness. “The Rule” may be used to ensure one witness’ testimony is not influenced by another’s testimony. While under “the Rule,” potential witnesses shall not discuss any aspect of the appeal or hearing except with the attorneys or the representative involved. Invoking “the Rule” is not mandatory and may be waived in whole or in part by agreement.
- 12) The Chairperson shall exercise reasonable control over the questioning of witnesses and the presentation of evidence so as to:
 - a. Effectively ascertain the truth;

- b. Keep such presentations relevant to the issues to be determined;
 - c. Avoid the needless consumption of time and expense; and
 - d. Protect the witnesses and employees from harassment or undue embarrassment.
- 13) The parties and their respective representatives shall cooperate in keeping all presentations as brief and to the point as possible. Long drawn-out sessions shall be discouraged. The Commission may establish time limits for presentation of each side of the case.
- 14) All hearings must remain business-like and focus upon resolution of factual matters. Hearings shall not be a time for accusations, threats, speeches or arguments. The Commission shall have the discretion to adjourn any meeting, which deteriorates into a “shouting match” or where fruitful dialogue ceases.
- 15) The Commission shall have the discretion to control the length of time of any particular session as well as the amount of time provided for recesses, breaks, lunch hours, etc.
- 16) After the close of the presentation of evidence and testimony, both parties shall be given an opportunity to make closing summations.
- 17) Before adjourning, the Commission may adjourn to executive session for deliberation. Thereafter, the Commission shall reconvene in open session and shall, upon motion and second, make its decision. Thereafter, a written order containing it shall be prepared and signed by the Commissioners.

L. RULES OF EVIDENCE

- 1) Technical rules of evidence shall not apply nor control the conduct of any civil service hearing. The Texas Rules of Court and the Texas Rules of Evidence shall not apply nor govern any aspect of any civil service proceeding.
- 2) The scope of evidence to be considered at a disciplinary hearing shall be generally limited to matters relevant to the statement of charges as set forth in the department’s written statement, the employee’s notice of appeal as well as the employee’s previous employment record with the department.
- 3) Either party may offer such relevant evidence as he/she may desire to aid in the determination of material disputed issues.
- 4) It shall be the province of the Commission to ultimately determine:
- a. The non-admissibility or non-consideration of any particular evidence or testimony;
 - b. The relevance or non-relevance of any particular evidence or testimony;
 - c. The credibility, or lack thereof, of any particular evidence or testimony; and
 - d. The materiality or “weight” to be given to any particular evidence or testimony.
- 5) Subject to limited exceptions for compelling reasons shown by a party, the Commission may refuse to hear or consider any testimony or item of evidence if:
- a. A party has deliberately withheld previously known and duly requested evidence from the other party until the hearing, and the said evidence should have been previously produced as per these rules; or

- 6) The Commission may receive and consider the evidence of witnesses by affidavit and assign same such weight as it deems proper after consideration of objections, if any, made to its admission.
- 7) On-site inspections shall be discouraged and may be conducted only if the evidence to be considered cannot be otherwise presented via stipulations, photographs, videotapes, maps, diagrams, etc.
- 8) All evidence and testimony shall be presented and received into the record while in open session.

M. ISSUES TO BE DETERMINED IN DISCIPLINARY APPEALS

- 1) Generally, the determinative issues to be considered and determined by the disciplinary action appeal process shall be:
 - a. Did “cause” exist to support the imposing of some form of disciplinary action as to the employee;
 - b. Did the employee receive reasonable or appropriate “due process” in the department’s disciplinary process;
 - c. Was the degree of disciplinary action imposed by the department “reasonable” under the circumstances; and
 - d. Has the hearing process developed matters that justify or compel modification of the Department head’s disciplinary action?
- 2) The Party with the burden of proof must establish a fact by a preponderance of the evidence.
- 3) It shall be recognized that prior to imposing any form of discipline, the Department head may use lesser forms of disciplinary or corrective action. However, the failure to utilize “progressive discipline” shall not in itself be grounds to overturn or otherwise modify a Department head’s decision to proceed directly to the appropriate level of discipline if the employee’s misconduct warrants such disciplinary action including indefinite suspension. Progressive discipline need not always apply, and the seriousness of a single offense may negate a previously unblemished record.
- 4) The hearing shall provide the employee every reasonable opportunity to produce objective evidence and/or testimony to develop:
 - a. That the employee did not commit the misconduct as alleged, i.e., “the facts are not true;” or
 - b. That even if the employee committed the acts as alleged, that such activity does not constitute actionable misconduct; or
 - c. That even if the employee committed actionable misconduct, that the degree of discipline imposed is too harsh or severe, i.e., the disciplinary action imposed was “unreasonable, arbitrary, or capricious;” or
 - d. A combination of any of these matters would justify or compel modification of the Department head’s action.
- 5) An employee’s mere disagreement or difference in opinion in regard to the Department’s actions or reasoning shall not constitute grounds to overturn nor modify the disciplinary action.
- 6) If the hearing establishes one valid charge of misconduct supported by evidence sufficient to establish its truth, that charge shall be sustained even if the evidence at the hearing does not support

other charges in the letter of disciplinary action.

N. FINDINGS AND ORDERS OF THE COMMISSION

- 1) As a result of the evidence and testimony presented at the hearing, the Commission shall make a just and fair resolution of the matter via a written statement finding the truth of the specific charge(s) against the employee, or a written statement finding that the specific charge(s) against the employee are not true. This issue shall be addressed in all final orders, regardless of the subsequent issues addressed in the same final order.
- 2) In the event that the specific charge(s) of misconduct against the employee are found to be “not true,” then the final order and ruling shall be promptly to restore the employee to the employee’s proper position or status without penalty.
- 3) In the event that specific charges of misconduct against the employee are found to be “true,” then the final order and ruling shall clearly state whether the employee is:
 - a. Permanently dismissed from the fire or police department; or
 - b. Temporarily suspended from the department and shall then set forth the definite time period which shall be imposed.
- 4) The final written ruling on all disciplinary appeals shall also include such other matters so as to finally and clearly resolve the issues under consideration, particularly to resolve questions concerning:
 - a. The employee’s resulting employment status;
 - b. Back pay and other employment benefits;
 - c. Mitigation of damages; and
 - d. Whether the documents relating to the disciplinary action should be modified or removed from the employee’s personnel file per Chapter 143.
- 5) If modifying the disciplinary action of the department, the final order shall clearly explain in writing the factors and rationale for doing so. If affirming the disciplinary action of the department, it shall be presumed to be for the same reasons and facts as presented by the department unless otherwise indicated.
- 6) When necessary, the Commission may consider matters involving questions of applying Chapter 143 to facts or events that may arise during the disciplinary appeal process and that are outside the scope of the department’s statement of charges or the employee’s notice of appeal. The Commission shall do so only after obtaining an agreement from the parties as to precisely what issue(s) is to be decided. If no such agreement can be reached, then the Commission shall use its best efforts to avoid the disputed issue(s) and proceed to determine only the factual merits of the disciplinary action properly before the Commission.
- 7) The final ruling and order of the Commission may be made by the majority vote of two of the three Commissioners present. If only two Commissioners are present, the final ruling and order must be made in agreement by both Commissioners present.
- 8) A copy of the department’s disciplinary action, a copy of the employee’s request for appeal, the record of the proceedings, a copy of the exhibits submitted together with a copy of the final decision shall be filed in the Commission record. (*Revised 6/15/20*)

054. DEMOTIONS

If the Commission determines that probable cause exists for a recommended demotion, the Director’s letter to the police officer or firefighter will include the hearing examiner option under Chapter 143. *(Revised 6/15/20)*

After the Commission has determined that probable cause exist for a requested demotion and has provided the employee with written notice as per Chapter 143, thereafter the action for appeal of the demotion or suspension may be conducted according to the same hearing procedures as set forth herein for all other disciplinary actions or as expressly provided otherwise in Chapter 143. *(Revised 6/15/04)*

With the Police Meet and Confer Agreement approved by City Council on September 27, 2022, in the appeal of an indefinite suspension, the Civil Service Commission or a Hearing Examiner may substitute a demotion for the indefinite suspension imposed by the Chief (reference Article 7, Section 5). *(Revised 1/25/23)*

With the Fire Meet and Confer Agreement approved by City Council on September 19, 2023, in the appeal of an indefinite suspension, the Civil Service Commission or a Hearing Examiner may substitute a demotion (if the firefighter is a Driver or higher rank) or a suspension of up to 90-days for the indefinite suspension imposed by the Chief (reference Article 9, Section 5). *(Revised 3/27/24)*

055. UNCOMPENSATED DUTY OF POLICE OFFICERS (RESERVED)

056. PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT

Conviction or deferred adjudication of a felony may result in the firefighter or police officer being terminated from his or her position. *(Revised 6/15/20)*

057. HEARING EXAMINERS

A. APPEALS TO INDEPENDENT THIRD PARTY HEARING

- 1) Only disciplinary actions concerning an indefinite suspension, a suspension, a promotional passover, or a recommended demotion are appealable to Hearing Examiners.
- 2) The Director or designee shall thereafter coordinate with the parties and the agency sponsoring the Hearing Examiner as to all matters regarding scheduling, place of hearing, accommodations, etc.
- 3) The rule-making power and authority of the Civil Service Commission is in no way conferred upon and/or delegated to any Hearing Examiner, either by implication or otherwise.
- 4) In every disciplinary appeal conducted under Chapter 143, the Hearing Examiner shall have the “same duties and powers” as would the Commission, including the right to issue subpoenas to compel the attendance of a witness.
- 5) A disciplinary proceeding conducted by a Hearing Examiner instead of the Commission shall not be conducted or resolved via arbitration or arbitration processes. An employee’s election of appeal to a Hearing Examiner shall not constitute a right or an agreement to submit the appeal to arbitration or arbitration processes.
- 6) The Hearing Examiner is to conduct a hearing fairly, objectively, and impartially under the provisions of Chapter 143 and these Rules and Regulations. The Hearing Examiner is to render a fair and just decision based solely on the evidence presented in the hearing. The scope of evidence

to be considered at the hearing shall be generally limited to matters closely relevant to the charges of misconduct as set forth in the department's written statement and the employee's notice of appeal as filed with the Commission as well as the appealing party's previous work record with the department. It shall be the province of the Commission (or Hearing Examiner) to:

- a. Resolve any factual (not legal) conflicts or ambiguities, which may exist;
- b. Determine whether the department's disciplinary action is free from the taint of any personal animosity; and
- c. Determine whether the disciplinary action is reasonably supported by facts, which had occurred prior to the time the disciplinary action was imposed.

The Hearing Examiner's final deliberations shall primarily focus on the overall reasonableness of the department's action as well as its substantial compliance with Chapter 143, these rules and regulations, and the general orders and standard operating procedures of the department.

- 7) All hearings conducted by Hearing Examiners shall also be recorded so as to be capable of clear and accurate reproduction or transcription. The Director or designee will coordinate with the Hearing Examiner for use of City equipment for this purpose or will coordinate the hiring of a court reporter. *(Revised 6/15/04)*
- 8) After the close of evidence and testimony, a Hearing Examiner may deliberate and thereafter enter the ruling either in the same manner as the Commission or as per Chapter 143.
- 9) If a situation arises pertaining to the administration process of selecting a Hearing Examiner or meeting notices, or request for rescheduling, refusal, conflict of interest, etc., and the situation is not provided for Chapter 143 or in these Rules and Regulations, then the parties and the Director shall attempt to mutually resolve the situation by agreement. If the matter is not one capable of being reasonably resolved by agreement, then the Director may refer the matter to the administrative processes of the entity sponsoring the Hearing Examiner to resolve the situation within their own processes.
- 10) If a Hearing Examiner has been initially selected but is thereafter objected to or is asked to be excused by a party, both parties may mutually agree to excuse the Hearing Examiner and thereafter request a new list of qualified and neutral Hearing Examiners and start the selection process over again. If no such agreement can be reached, then both parties shall prepare a written statement including their requests and reasoning therefore which shall be submitted to the Director. The Director shall then transmit it to the agency sponsoring the Hearing Examiner, which shall then resolve the dispute according to its own administrative processes. The response shall either excuse the Hearing Examiner or thereafter provide a new list or it shall provide a written statement of reasons why the Hearing Examiner was not excused.

058. – 070. (RESERVED)

CHAPTER E. LEAVES

071. LEAVES OR ABSENCE: RESTRICTION PROHIBITED (RESERVED)

072. MILITARY LEAVE OF ABSENCE

A promotional vacancy is created when a firefighter or police officer is granted a military leave of absence to initially enter a branch of the United States military service. The City does not consider a military leave of absence as a vacant position when a firefighter is recalled to active military duty; therefore, the Chief is not required to fill the position. *(Revised 6/15/04; 6/15/20, 1/25/23)*

With the Police Meet and Confer Agreement approved by Council on September 27, 2022, if a Sergeant or Lieutenant is approved for a military leave of absence for a continuous period of six (6) months or more, that absence shall create a promotional vacancy that shall be filled according to the Texas Local Government Code Chapter 143.036, as amended by the Police Meet and Confer Agreement. When the service member returns to active duty with the Police department, if there are no vacancies in their rank, the last person promoted to that rank shall be demoted, returned to their prior rank, and placed on a promotional reinstatement list that is valid for one (1) year. (Reference Article 5, Section 11 (b))

073. LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE

If necessary, the length of “temporary” leave (as referenced in 143.073 (d) and (e)) will be determined by the City’s governing body. Aligned with 143.073 (a), the amount of leave will be commensurate with the nature of the illness or injury, and if necessary, shall continue for at least one year. *(Revised 12/2/15)*

The Chief of the Police Department may develop departmental procedures regarding police officers who voluntarily work for another police officer who is temporarily disabled by an illness or injury. *(Revised 12/2/15)*

The Chief of the Fire Department may develop departmental procedures regarding firefighters who voluntarily work for another firefighter who is temporarily disabled by an illness or injury. *(Revised 12/2/15)*

If receiving full pay, the police officer or firefighter must sign over any worker’s compensation or other wage replacement benefit checks to the City.

074. REAPPOINTMENT AFTER RECOVERY FROM DISABILITY (RESERVED)

075. MILITARY LEAVE TIME ACCOUNTS (RESERVED)

076. – 080. (RESERVED)

CHAPTER F. MISCELLANEOUS PROVISIONS

081. DETERMINATION OF PHYSICAL AND MENTAL FITNESS

(Revised 12/11/08)

Every member of the Fire Department and Police Department must continually remain in such physical and mental condition as to be capable of rendering safe and efficient service to the City and performance of the duties and essential functions of the appropriate department. Fitness for duty will be based on requirements outlined in the employee's job description, departmental SOPs, and the Meet and Confer Agreement, as applicable.

All firefighters and police officers shall be required to submit to a psychological or physical examination when a question arises as to whether the employee is sufficiently physically or mentally fit to continue his/her duties.

If a question arises about the employee's fitness for duty, the Department head shall require sufficient proof of fitness for duty and include a timeframe for when the employee must submit proof of his/her fitness for duty. If the employee does not provide sufficient information to the Department Head regarding their fitness for duty, the Department Head may institute the fitness for duty process authorized by Texas Local Government Code Chapter 143.081.

Determination of the firefighters' or police officers' mental and/or physical fitness for duty shall not be subject to appeal to the Commission or Hearing Examiner. The findings of the medical panel as outlined in Chapter 143 shall be determinative and final. Medical information will be dealt with in accordance with applicable state and federal law(s).

If the determination of the three-member board deems the firefighter or police officer is not fit for duty, the firefighter or police officer will be afforded the considerations of reasonable accommodation options under the American with Disabilities Act and its amendments as well as any applicable City of Denton policy. *(Revised 1/25/23)*

082. EFFICIENCY REPORTS

The Chief of the Police department or Chief of the Fire department of each respective department may establish procedures and rules for performance evaluations for positions in the department.

083. EMERGENCY APPOINTMENT OF TEMPORARY FIREFIGHTERS AND POLICE OFFICERS (RESERVED)

084. CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIREFIGHTERS AND POLICE OFFICERS (RESERVED)

085. FORCE REDUCTION AND REINSTATEMENT LIST (RESERVED)

086. POLITICAL ACTIVITIES (RESERVED)

(Revised 6/15/20)

087. STRIKE PROHIBITION (RESERVED)

088. UNLAWFUL RESIGNATION OR RETIREMENT (RESERVED)

089. PERSONNEL FILE

Any written warnings or reprimands will be maintained in the Fire or Police department's personnel file as defined in subsection (g). *(Revised 6/15/04)*

090. – 100. (RESERVED)