



CIVIL SERVICE LOCAL RULES

BIG SPRING, TEXAS

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Section 1 - General Provisions

A. Scope of the Rules

The scope and construction of the rules hereinafter set forth are adopted in accordance with Section 143.008, “A commission shall adopt rules necessary for the proper conduct of commission business”. All situations not covered by State Civil Service Law, by City Ordinance or by these Rules shall be resolved in accordance with the City of Big Spring Personnel Policies and Procedures.

B. Purpose of Law

It is hereby declared that the purpose of the fire fighters' Civil Service law is to secure to the cities affected thereby efficient Fire Departments, composed of capable personnel, free from political influence, and with permanent tenure of employment as public servants. The members of the Civil Service Commissions are hereby directed to administer the Civil Service law in accordance with this purpose; and when sitting as a board of appeals for a suspended or aggrieved employee who has invoked any review procedures under the provisions of these rules and regulations, they are to conduct such hearing fairly and impartially under the provisions of this law and are to render a fair and just decision, considering only the evidence presented before them in such hearing.

C. Definitions

All terms, words, or phrases contained in these rules shall be interpreted in accordance with the definitions contained in Chapter 143, and other applicable law. The term “Civil Service Ordinances” shall mean the ordinances codified in Section 1-25, Chapter 1 of the Code of Ordinances of the City of Big Spring. The following specific definitions shall also apply:

- a) “Fire Fighter”, “Commission”, “Civil Service Director”, - see Chapter 143. “Fire Fighter” as referred to in Chapter 143 shall be considered to include both male and female.
- b) Unless preceded by the term, “the rank of” in these rules the terms “firefighter”, shall refer to all members of the Fire Department subject to the provisions of Chapter 143.
- c) “Civil Service Position” - any position in the classified service of the Big Spring Fire Department.
- d) “Classified Service” - members of the Big Spring Fire Department as defined under fire fighter and police officer in Chapter 143.
- e) “Demotion” - whether voluntary or involuntary is a transfer of an employee from a position in one classification to a position in another classification in accordance with the classification and pay program, for which the maximum rate of base pay is lower. A pay program that reduces salaries for all classifications or all salaries for a single classification is not a demotion.
- f) “Salary” - the designated rate of pay for a classification exclusive of longevity pay, education incentive pay, assignment pay or any other specially authorized additions to salary.
- g) Whenever the term “he” is found in these rules, it shall be interpreted to mean either he or she.
- h) “Director” means Director of Civil Service.

Section 2 - Civil Service Commission

A. Election of Chairman and Vice Chairman

The Commission shall annually, each January, elect a Chairman and Vice-Chairman.

B. Regular Meetings

The Commission shall meet once a month on the 3rd Thursday at 2:30 p.m. at a regularly scheduled meeting, when there is new business to present. All agenda items shall be submitted to the Director of Civil Service at least five (5) working days prior to the scheduled meeting date.

C. Special Meetings

Special meetings shall be scheduled by the Director of Civil Service at the direction of the Chairman or at the written request of any two Commissioners.

D. Open Meetings

Regular and special meetings of the Commission shall comply with the Texas Open Meetings Act.

E. Notice of Meetings

Announcements and agenda of meetings shall be posted on the open meeting board at the City Municipal Building at least 72 hours prior to a scheduled meeting. The announcement shall contain date, time and place where the meeting will be held. Such posting shall conform to the requirements of the Texas Open Meetings Act. The Director of Civil Service shall be responsible for posting the public notices prior to each meeting and also providing this posting to the Fire Chief for distribution to various shifts or stations.

The Director of Civil Service may for good cause cancel a scheduled Civil Service meeting by writing "Canceled" across the meeting notices posted in all required posting areas. The Director of Civil Service shall report said cause to the Commission.

F. Records

Records of the Commission shall be governed by the Texas Public Information Act, with regard to information that is protected and information which is public.

The Commission shall keep records of all hearings of cases that come before it. Commission decisions shall be signed by the concurring Commissioners. All rules, opinions, directives, decisions, and orders issued by the Commission shall be written and are public records that shall be retained on file by the Commission.

G. Committee of the Whole

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 specifically authorized to do so by action of the Commission.

H. Quorum

Two members of the Commission constitute a quorum sufficient to conduct a business meeting and hearing.

I. Conflict of Interest

If a commissioner has a direct personal or pecuniary interest on any question or appeal before the commission, the commissioner must make the fact known to the other commissioners and interested parties, and must abstain from voting on the matter at issue or from hearing an appeal under consideration, if the commissioner believes that he or she cannot disregard the relationship or interest so that the same will not affect the deliberations of the commissioner or the commissioner's assessment of the credibility of a witness or the weight to be given to the witness's testimony.

For example, if a commissioner is related to an interested party or witness or has a financial relationship with an appellant or witness, or if a witness is also a potential witness in a litigation in which the commissioner is participating the fact must be disclosed to the commission and interested parties.

J. Appointment of Civil Service Director

The Human Resources Director of the City of Big Spring shall serve as the Civil Service Director. The Director serves as secretary to the Commission and is also appointed to act as the Commission agent with the requirement to submit to the Commission information on routine matters in order to keep them informed.

K. Adoption of Rules

The Commission shall make such rules and regulations for the proper conduct of business as it shall find necessary and expedient. No rules or regulations shall ever be adopted which will permit the appointment or employment of any person without good moral character; or any person unfit mentally or physically; or any person incompetent to discharge the duties of such appointment or employment.

L. Classification and Seniority Lists

The Commission shall provide for the classification of all fire fighters. Classified positions may be filled only from an eligibility list created from the results of an examination held in accordance with Chapter 143 of the Local Government Code. The classification and the number of positions in each classification shall be provided by ordinance of the City Council.

Classification and Seniority Lists containing a firefighter's name, classification, date of hire and most recent date of promotion shall be published at least annually.

M. Commission Investigations

The Commission or a Commissioner designated by the Commission may investigate and report on all matters relating to the enforcement and effect of Chapter 143 and any rules adopted under that Chapter and shall determine if Chapter 143 and the rules are being obeyed.

During an investigation, the Commission or the designated Commissioner may:

1. Administer oaths
2. Issue subpoenas to compel the attendance of witnesses and the production of books, papers, documents, and accounts relating to the investigation; and
3. Cause the deposition of witnesses residing inside or outside the state.

A deposition taken in connection with an investigation under this section must be taken in the manner prescribed by law for taking a similar deposition in a civil action in federal district court. An oath administered or a subpoena issued under this section has the same force and effect as an oath administered by a magistrate in

the magistrate's judicial capacity.

Section 3 - Eligibility for Appointment to Entrance Level Positions

A. Application for Employment

The Director shall be responsible for and provide for the recruiting of fire applicants, and shall be responsible for any and all testing or examination that shall be used to make employment decisions. The Director shall develop and prepare application forms, and shall provide such application forms without charge on request only after applicant recruitment has begun, otherwise, interested applicants will be maintained in a waiting card file.

B. Cause for Rejection of Applicant

The following shall constitute valid cause for rejection of an applicant for entry level positions in the Fire Department:

1. Failure to meet minimum preliminary requirements.
2. Failure of pre-employment drug test (Disqualification for two years.)
3. Failure to receive the required recommendation for employment by the examining psychologist, psychiatrist or medical doctor. (Temporary or permanent rejection based on the nature of the rejection.)
4. Failure to meet and/or provide documentation of the minimal educational requirements in accordance with TCFP rules. (Temporary disqualification until next examination.)
5. Conviction of conduct that constitutes a felony under State or Federal law.
6. Admission to or conviction of a crime involving moral turpitude. Candidates will be considered on a case by case basis with factors considered including the nature of the event and the potential for the conduct impacting the applicant's ability to perform public safety duties and uphold the expected conduct and image required of a firefighter. Individuals registered as "sex offenders" will be permanently disqualified.
7. False statement in any material fact; withheld information, practiced or attempted to practice deception or fraud in his or her application, examination, background investigation, polygraph examination or medical examination. (Permanent disqualification.)
8. Dishonorable or less than honorable discharge from any branch of the Armed Forces of the United States.
9. Addiction to narcotics or excessive use of intoxicants.
10. Conviction for DUI/DWI within the past ten (10) years or has a driving record incompatible with the safe operation of emergency vehicles based on the determination that the applicant is a habitual traffic violator per the guidelines established in the Personnel Policies and Procedures manual of the City of Big Spring.
11. Membership in any organization that promotes or encourages the overthrow of the United States Government.
12. Failure to complete or satisfactorily meet the employment process requirement of the fire department including, but not limited to, missed appointments, failure to return necessary paperwork, failure to promptly notify the fire department of changes in address or telephone numbers or otherwise failure to complete the application process.
13. Failure or refusal to provide any information required.

C. Notification of Rejection

Rejected applicants shall be notified in writing by the Director, such notice shall specify the reason for rejection.

D. Eligibility List for Appointment

All appointments for entry level positions for the Civil Service shall be made from eligibility lists created by the Commission.

1. All eligibility lists shall be created only as a result of open, competitive, and free examinations provided by the Commission and administered by the Director for persons making proper application and meeting the requirements as prescribed herein.
2. No appointment shall ever be made for any position in the Civil Service except as a result of such examination.
3. The Commission shall keep all eligibility lists for applicants for one year from the date of the examination, unless the names of all applicants have been referred to the department.
4. The Commission shall give a new examination at times the Commission considers necessary to provide the required staffing.

E. Written Examination

Each applicant for entry level positions in the Civil Service shall be required to take a written competitive examination to determine whether or not the applicant's name shall be placed on the eligibility list.

1. The written examination shall be such to provide for thorough inquiry into the applicant's general education, mental ability, and ability to read and write the English language.
2. All entrance examinations shall be conducted in the presence of all applicants for such position.
3. An applicant may not take an examination unless at least one (1) other applicant is being tested.
4. An applicant may not take the examination more than once for each eligibility list.
5. Any examinee that uses or attempts to use any unfair or deceitful means to pass an examination shall be informed by the test proctor witnessing the act and the test proctor will remove the examinee from the test area and void the answer sheet. The test proctor shall report his/her action to the Commission.
6. The minimum passing score shall be 70 percent.
7. The Commission may, because of any good and sufficient reason, postpone an examination to a later date.
8. After the written examinations have been graded, the Director or his/her designee shall prepare a list of names of all applicants passing the examination and list them in order from the highest score to the lowest score.
9. Eligibility for Preference
 - i. An applicant who has served in the Armed Forces of the United States and who received an honorable discharge shall receive five (5) points in addition to the passing examination score.

- ii. An applicant who is the natural-born or adopted child of a fire fighter who previously suffered a line-of-duty death shall be ranked on top of the eligibility list so long as he scores a 70 or better on the entry-level exam. The deceased firefighter's applicant child must otherwise satisfy all of the requirements for eligibility (Chapter 143.025 (j) of the Texas Local Government Code).
- iii. An applicant who holds certain certification with the appropriate agency (Department of State Health Services of Texas Commission on Fire Protection) at the time of the examination shall receive the indicated points in addition to the passing examination score.

Structural Fire Fighter TCFP – 5 points

Emergency Medical Technician DSHS – 5 points

Emergency Medical Technician Intermediate DSHS – 8 points

Emergency Medical Technician Paramedic DSHA – 10 points

10. The list shall then become the eligibility list for the positions for which the examination was given. The list shall be posted within 72 hours after completion of the examination. Whenever two (2) applicants shall attain the same grade on the entrance eligibility list, the applicant with the highest score, in the event one of the tied applicants had received veteran points, shall be listed first. If this provision is not applicable, or if the score is still tied, the applicant filing the application on the earliest date shall be listed first.

F. Physical Examinations

- 1. The commission shall set the age and physical requirements for applicants for beginning and promotional positions in accordance with Chapter 143 of the Local Government Code. The requirements must be the same for all applicants.
- 2. The commission shall require each applicant for a beginning position to take an appropriate physical examination. The commission may require each applicant for a beginning position to take a mental examination. The examining physician shall use the requirements of the National Fire Protection Publication NFPA 1582, "Medical Requirements for Fire Fighters" as a guide for the determination of medical or mental fitness for appointment. The City of Big Spring shall pay for each examination. The examination shall be administered by a physician, psychiatrist, or psychologist, as appropriate, appointed by the commission.
- 3. If an applicant is rejected by the physician, psychiatrist, or psychologist, as appropriate, the applicant may request another examination by a board of three physicians, psychologists, as appropriate, appointed by the commission. The applicant must pay for the board examination. The board's decision is final.

G. Physical Performance Examination

All applicants shall be required to take a physical performance test approved by the Commission to evaluate each applicant's overall agility and stamina. Any applicant failing to pass any part of the physical performance test, as recorded by the instructor, shall be ineligible for employment. Applicants are required to provide a doctor's release in so far as the physical requirements of the agility test and that the applicant return this signed doctor's release before they be allowed to take the agility test.

H. Hiring Process

For each vacancy, the Chief shall request in writing from the Commission the names of suitable persons from

the eligibility list. The Director will certify to the City Manager the names of the three persons having the highest position on the suitability list. The City Manager shall make a conditional offer of employment to the person having the highest position unless there is a valid reason why the person having the second or third highest grade should be appointed. Should the City Manger not appoint the person having the highest position on the list, he must notify that person according to the provision of Local Government Code Section 143.026. The conditional offer of employment shall be subject to the successful completion of the medical, psychological or psychiatric evaluations, drug screening and background investigation.

The Chief of the Fire Department shall furnish an experienced investigator to conduct background investigations on applicants for original entry level positions in the Fire Department. The investigator shall verify to the Commission the applicant's statements on his written application and in the oral interview, and any other such verification of facts or character of the applicant as the Commission, the Director, or the Fire Chief may request. Such background reports shall be in writing and shall become a permanent record in each successful applicant's Civil Service File.

Upon successful completion of these requirements, the City Manager will make the final appointment. The City Manager will comply with all federal and state laws in making any appointment. In addition, the City Manager will appoint the person having the highest position on the list unless there is a valid reason why that person should not be appointed. Should the City Manager not appoint the person having the highest position, he shall give notice to the candidate as required by Local Government Code Section 143.026.

Nothing in Local Government Code Chapter 143 provides for a candidate to be heard before the Civil Service Commission in connection with this process. Furthermore, nothing in these rules should be interpreted to accord any such hearing to employment candidates.

Persons accepting appointment to a beginning position in the Big Spring Fire Department shall become certified with the Texas Department of Health (TDH) at a level of EMT-Paramedic. The Department shall determine according to its need when and where such training will take place. Personnel failing to maintain a passing grade during coursework, failing to pass the test for certification for the level of EMT-Paramedic within six (6) months of the completion of coursework or failing to maintain this required certification may be subject to suspension or other discipline pursuant to Chapter 143 of the Local Government Code.

Section 4 - Certification of Employee Appointment

A. Certification

When a person is certified for appointment in the Fire Department, the Director shall forward a record of the person's appointment to the Fire Chief, the City Manager, and retain a copy in the Civil Service files. The record shall show:

1. The date notice of examination for the position was posted.
2. Date on which the appointed person took the examination.
3. Name of person or persons conducting the examination.
4. Relative position of the appointed person on the eligibility list.
5. Date on which the appointed person took the physical examination.
6. Name of physician making the examination and whether or not applicant was accepted or rejected.
7. Date on which request for filling the vacancy was made.

8. Date on which the appointed person was notified to report for duty.
9. Date on which the pay of the appointed person is to start.

B. Failure to Certify

If the Director intentionally fails to comply with this section, the Commission shall immediately remove the Director from office. The Director's failure to comply with this section does not, however, affect the civil service standing of an employee.

Section 5 - Probationary Period

A. Probationary Requirements

A person appointed to the Fire Department, shall serve a probationary period of one (1) year from date of employment with the Department as a fire fighter in accordance with Chapter 143 of the Local Government Code.

A person who is required to attend a basic training academy for initial certification with the Texas Commission on Fire Protection shall serve a probationary period of eighteen (18) months from date of employment with the department.

During the probationary period, it shall be the duty of the Fire Chief to discharge and remove from the payroll all fire fighters whose appointments were not regular or not made in compliance with the provisions of Chapter 143, or of the rules or regulations of the Commission.

B. Employee Organization Membership Requirements Prohibited

An employee who is on probation may not be prohibited from joining or required to join an employee organization. Joining or not joining an employee organization is not grounds for retention or non-retention of an employee who is serving a probationary period.

Section 6 – Promotional Testing Procedures

A. Eligibility for Promotional Testing

All promotional exams shall be open to a firefighter who, at any time, has held a continuous position in the next lowest pay grade for at least two (2) years. However, if a fire fighter had previously terminated his employment with the department and was subsequently re-hired by the department, the fire fighter must again meet the two (2) year service requirement for eligibility to take a promotional examination. In determining eligibility, service in another Fire Department will not be considered.

The requirement of two (2) years service in the next lowest pay grade shall not apply to those persons recalled on active military duty for a period of twenty-four months or less. Such person shall be entitled to have time spent on active military duty considered as duty in the Fire Department. However, any persons whose active military duty exceeds twelve (12) months shall be required to serve ninety (90) days upon returning to the Department before he/she may be eligible to participate in a promotional exam. This time is considered essential to bring him/her up to date on equipment and techniques.

No person with less than four (4) years actual service in the Department shall be eligible for promotion to the rank of Captain or its equivalent.

B. Notice of Promotional Examinations

Notice of a promotional examination shall be posted by the Commission not less than 31 days prior to the date set for the promotional examination. The notice shall be posted on the main bulletin board at City Hall and in each Fire Station.

Notices for promotional examinations shall contain the following information:

1. Classification to be tested for and its salary.
2. Date, time and place of examination.
3. Eligibility requirements to take the exam.
4. Dates during which the "Intent to Take Examination" forms can be filed.
5. Place where "Intent to Take Examination" forms can be picked up and returned.

C. Intent to Take Examination Forms

This form shall be designed and prepared by the Director of Civil Service. The Commission shall allow not less than ten (10) business days for eligible candidates to file this form from the date said forms are made available. When said forms are filed, a receipt shall be provided to the applicant. This receipt shall be the applicant's admission slip to the testing site.

D. Posting of Source Material

A list of source materials for which the questions shall be taken shall be posted at least 91 days before the date of the examination. Each source shall be cited in standard bibliographical form, identifying the exact book, pamphlet, statute or any other referenced material. Any chapters or similar major subdivisions of a source which are not considered appropriate for testing for the grade involved may be noted on the source material list. No question shall be taken from deleted chapters or subdivisions.

E. Insufficient Number to Take Promotional Examinations

Whenever a promotional examination is scheduled and fewer than two (2) eligible members file "Intent to Take Examination" forms in the required time, or fewer than two (2) eligible members appear to take the examination, it shall be deemed that an insufficient number of interested members exist in the eligible classification to take the examination, and the Commission may cancel such examination and reschedule said examination after opening eligibility to persons with less than two years' service or persons in the next eligible classification as provided by law.

F. Conducting Promotional Examinations

To enter the testing site, all applicants must present their receipt issued when the Intent to Take Examination form was turned in to the Personnel Department. At the posted examination time, all examinees shall be provided with a copy of the test instructions to read along with the test proctor. No applicant shall be admitted to the examination area after the instructions procedure has started.

All applicants shall be given an identical exam in the presence of each other. The Exam shall be entirely in writing.

All materials necessary to take the examination shall be brought to the test site by the Director of Civil Service or designee to include:

1. Test booklets for all eligible applicants
2. Sufficient answer sheets

3. Soft lead pencils
4. Blank scratch paper
5. Instruction sheets
6. Review of promotional exam instructions
7. Calculators (if needed)

Any examinee that uses or attempts to use any unfair or deceitful means to pass an examination shall be informed by the test proctor witnessing the act that the examinee's actions shall be reported to the Commission. The test proctor shall later make the report to the Commission for its determination. If the Commission determines after a hearing that the charges of cheating are true, such examinee shall be removed from the eligibility list by the Commission, and will be subject to disciplinary action by the Chief.

G. Post Examination Procedures

The grading of the examination shall begin promptly after the first applicant taking the examination has completed. Grading will take place at testing site in the presence of any applicants who wish to remain during the grading.

For five (5) business days immediately following the day of the test, persons who took the test shall be allowed to view their examination, answer sheet, instruction sheet and the source materials from which the test questions were taken. Test reviews will need to be by appointment in order to prepare a secure review area. No personal reference material will be allowed in or out of the test review area. In order to ensure fairness to all and maintain the integrity and security of the tests, the following procedures shall be used:

- a) Source materials and test folders containing the examination, answer sheet, instruction sheet and scratch paper for each individual tested shall be available for their examination at the office of the Civil Service Director.
- b) Each individual shall be allowed to examine his own test, answer sheet, verify the number of questions missed and fully examine each question missed.
- c) An individual who desires to protest a question may submit the appeal in writing on an Appeal Form provided by the Director within the five (5) business days immediately following the day of the test. The Appeal Form shall include the following information:
 - 1) The date and classification of the test being appealed.
 - 2) Information shall be provided stating the basis for the appeal and request for a commission hearing.
 - 3) The specific action desired on the part of the Commission (i.e. delete question, change answer, etc.)
- d) A written notice identifying the name of the appellant, the date of testing, the classification of the test and the question number or numbers appealed shall be provided to the department for distribution to all locations where tested individuals work. Individuals, who have taken the exam in question, who desire to appear before the Commission either in support of the accepted answer for a protested question or to join in the protest of this answer, shall be permitted to express their rationale concerning the proper answer. This rule does not exclude individuals or City officials responsible for administering the exam or duly identified representatives of individual examinees.
- e) Once appeals are received, the Director of Civil Service shall prepare (for the Commission) a written response for each appeal filed, which shall be attached to the appeal:

- 1) Question number
- 2) Question and answers as they appeared on the test
- 3) Correct answer as shown on the scoring key
- 4) Copy of the Source Material page(s) from which the question was pulled or those being referenced by the person appealing to support the appeal.
- 5) Appellant(s) name(s)
- 6) Staff response to the appeal, including recommended action

This information shall be provided to each Commissioner at the scheduled Commission meeting.

- f) During the appeal hearing, the following rules will apply:
- 1) Appealed question(s) will be considered in numerical order.
 - 2) Each appellant shall be given an opportunity to present reasons for appeal. The appellant may designate a representative to present comments.
 - 3) The Chairman will first ask each appellant if he still wishes to appeal. The appellant will then be allowed to make a brief presentation. The Commission may limit the time for each appellant to speak on each question as long as all Commissioners agree to such limitation.
 - 4) After each appellant has spoken on the question, the Commission may ask questions of the appellant. The Chairman will then allow others an opportunity to speak on the question offering differing opinions, if they so desire. The Commission will then make a decision on that question once all discussion has ended.
 - 5) The accuracy of an answer is always based on those sources from the current Source Material list. If, on some questions, there are two or more answers that may be generally relevant, the best answer shall always be the correct answer.
 - 6) The Commission will then consider the next question being appealed, and so forth, until the Commission has rendered a decision on each of the appealed questions.
 - 7) After discussing each question, the Commission will vote on their decision on each question. The Commission will decide on one of the following alternatives for each appealed question:
 - a) Keep the same answer as on the original key (answer stands);
 - b) Change the correct answer;
 - c) Delete the question.
 - 8) A majority of the Commission agreeing on a decision will determine the final decision on that question.
 - 9) After announcing their decisions on each question, the Director of Civil Service will re-score all answer sheets and establish a new eligibility list during the hearing. The amended eligibility list shall have the same effective date as the original list. If a question is deleted, the total number of test questions will be reduced and the new eligibility list will be based on the remaining number of questions. For example, if two questions are deleted, this reduces the total number of questions on the test to 98. The value of remaining questions will be changed to equal a total of 100 points.

Seniority points will then be added. The new eligibility list will be approved by the Civil Service Commission and posted within 24 hours.

H. Source Materials

- a) Beginning with the effective date of these procedures, the Fire Chief shall appoint a Source Materials Review Committee. The committee will be appointed annually and will submit recommendations regarding source materials lists to the Chief. The Chiefs will make the final source material list.
- b) The Commission shall provide for posting of Source Material lists ninety-one (91) days prior to any test date as per 143.029(a).

I. Eligibility Lists

- a) "Minimum Passing Grade" - The minimum passing grade on promotional exams shall be 70 percent. This minimum passing score must be achieved before any additional credits are added to the applicant's final score.
- b) "Seniority" - The total time of employment as a firefighter for the City of Big Spring. Time-off for disciplinary suspension does not constitute a loss of seniority time, nor does it constitute a break in service. The time involved in higher classification is also not included. It does mean all years of service as a firefighter with the City of Big Spring whether interrupted, or uninterrupted and not merely the last continuous period of service.
- c) Ranking of persons on Eligibility List - The total final grade of each person on the eligibility list shall be computed, for all persons making at least a minimum passing score, by adding the examination raw score to any seniority credits for total years.
- d) Posting of Eligibility List - The Director shall post the tentative promotional eligibility list within 24 hours after the conclusion of the test. Each eligibility list remains in existence for one year after the date on which the exam is given.
- e) Tie-Breaking Procedure - In the event two or more examinees make identical total final scores under the above section, then their order on the eligibility list shall be based upon their examination raw scores only. In the event the examinees are still tied, their order on the eligibility list shall be based upon whoever has the greatest length of time in their present grade or classification. In the event the examinees are still tied, their order shall be decided by their rank on the preceding eligibility list from which they were promoted.
- f) Removal from Eligibility List - A person occupying a position on a current eligibility list shall be removed from the eligibility list by the Commission whenever he 1) terminates from the classified service, or 2) voluntarily requests that he be removed, or 3) declines an offered promotion three times, or the head of the department passes over such person and such bypass is not challenged or is upheld by the Commission, or any combination of the two for three times, with written reasons filed thereafter by the head of the department with the Commission and not set aside.
- g) Exhaustion of Eligibility List - If all candidates on a given promotional eligibility list reject a position, all shall be considered to be removed from the promotional list, the list shall be considered to be exhausted and a new examination shall be posted. New examinations posted following the exhaustion of a promotional eligibility list due to rejection of a position may be dropped to the next lower classification as specified in Chapter 143.

J. Selection Process

If an eligibility list for a position to be filled exists on the date the vacancy occurs, the Director, on request by the Chief of the department, shall certify to the Chief the names of the three (3) persons having the highest positions on that eligibility list. The Commission shall certify the names within ten (10) days after the date the Commission is notified of the vacancy.

Unless the Chief has a valid reason for not appointing the person, the Chief shall appoint the eligible promotional candidate having the highest grade on the eligibility list. If the Chief has a valid reason for not appointing the eligible promotional candidate having the highest grade, the chief shall personally discuss the reason with the person being bypassed before appointing another person. The Chief shall also file the reason in writing with the Commission.

If the person is bypassed, the person's name is returned to its place on the eligibility list and shall be resubmitted to the Chief if a vacancy occurs.

If the Chief refuses three (3) times to appoint a person, files the reasons for the refusals in writing with the Commission, and the Commission does not set aside the refusals, the person's name shall be removed from the eligibility list.

Appeals from a bypass, conducted pursuant to this section, shall be in accordance with the provisions of Sections 143.036 of the Local Government Code.

Persons accepting a promotion in the Big Spring Fire Department on or after the effective date of 04/16/2001, shall, within twelve months of being appointed, become certified with the Texas Department of Health, at a minimum level of EMT-Basic. Said persons shall maintain such certification, after obtaining it, throughout their employment. Any person failing to obtain and maintain such requirements or criteria may be subject to demotion or other discipline pursuant to Chapter 143 of the Local Government Code.

The Fire Chief may extend the twelve month compliance period in those cases where required outside training cannot be obtained within the twelve month compliance period. Such extension shall, however, be effective only until the training becomes available.

Any individual offered a promotion as the next eligible candidate from an Eligibility List may decline such promotion for reasons, which seem to him to be necessary and appropriate. Those reasons shall be furnished in writing to the Chief for his consideration and retention in file. If a candidate verbally turns down a position but does not sign a form it will also be valid.

K. Test Security and Retention

The Director is responsible for the preparation and security of each promotional examination. Both before and after administration of the test, all copies of the test and answer key shall be kept in a secure location. Access shall be limited to those staff who the Director has designated as necessary for the administration of testing and record keeping.

Per guidelines established by the Texas States Records Retention Schedule (2nd Edition), promotional tests will be kept on file for a period of two years.

Section 7 - Efficiency Reports

The Commission may formulate proper procedures and rules for semiannual efficiency reports and grade of

each member of the Fire Department. If the Commission compiles efficiency reports for members of the Fire department, the Commission shall provide a copy of a member's efficiency report to the member. Any fire fighter may, within ten (10) days after receiving his efficiency report, make a statement in writing about the efficiency report. The statement shall be placed in his permanent file with the efficiency report.

Section 8 - Disciplinary Suspensions

A. Procedures

The Fire Chief may suspend an employee under his supervision or jurisdiction for the violation of a Civil Service rule for a reasonable period not to exceed fifteen (15) calendar days, or for an indefinite period. An indefinite suspension is equivalent to permanent dismissal from the department.

If offered by the Chief the employee may agree in writing to voluntarily accept, with no right of appeal, a suspension of not less than sixteen (16) or more than ninety (90) calendar days for violation of Civil Service rules. The employee must accept the offer no later than the fifth (5th) working day after the offer is made. If the Chief suspends an employee, the Chief shall, within 120 hours after the suspension, file a written statement with the Commission giving the reasons for the suspension. The Chief shall deliver a copy in person to the suspended employee.

The written statement filed by the Fire Chief with the Commission shall point out the Civil Service Rule alleged to have been violated by the suspended employee and shall describe the alleged acts of the employee that the Fire Chief contends are in violation of the Civil Service rules. It is not sufficient for the Fire Chief merely to refer to the provision of the rules alleged to have been violated. If the Fire Chief does not specifically point out the act or acts complained of on the part of the employee, the Commission shall promptly reinstate the employee.

The order of suspension shall inform the employee that if he wishes to appeal, he must file a written appeal with the Commission not later than the tenth (10th) day after the date on which the employee receives a copy of the statement. If the employee refuses an offer of suspension of not less than sixteen (16) or more than ninety (90) calendar days and wishes to appeal to the Commission, the employee must file a written appeal with the Commission not later than the fifteenth (15th) day after the date the employee receives the statement.

If a suspended fire fighter appeals the suspension to the commission, the commission shall hold a hearing and render a decision in writing within 30 days after the date it receives notice of appeal. The suspended person and the commission may agree to postpone the hearing for a definite period. In its decision, the commission shall state whether the suspended fire fighter is: (1) permanently dismissed from the fire department; (2) temporarily suspended from the department; or (3) restored to the person's former position or status in the department's classified service.

In a hearing conducted under this section, the department head is restricted to the department head's original written statement and charges, which may not be amended.

If the Commission finds that the period of disciplinary suspension should be reduced, it may order a reduction in the period of suspension. If the suspended employee is restored to the position of class of service from which he was suspended, the employee shall receive full compensation for the rate of pay provided for the position or class or service from which he was suspended for the actual time lost as a result of the suspension. All hearings of the Commission in case of a suspension are public. The Commission may deliberate the decision in closed session but may not consider evidence that was not presented at the hearing. The Commission shall vote in open session.

In a Civil Service hearing conducted under this subsection, the Fire Chief is restricted to his original written statement and charges which may not be amended. In the original written statement and charges and in any hearing conducted under this subsection, the Fire Chief may not complain of an act or acts that occurred earlier than the 180th day immediately preceding the date on which the Fire Chief suspends the employee. If the act is allegedly related to criminal activity including violation of a federal, state or local law for which the fire fighter is subject to criminal penalty, the Fire Chief may not complain of an act that is discovered earlier than the 180th day preceding the date the Fire Chief suspends the fire fighter. The Fire Chief must allege that the act complained of is related to criminal activity.

The commission may suspend or dismiss a fire fighter only for violation of civil service rules and only after a finding by the commission of the truth of specific charges against the fire fighter.

B. Cause for Removal or Suspension

The following shall constitute valid grounds for removal or suspension of a fire fighter:

1. Conviction of a felony or other crime involving moral turpitude;
2. Violations of the provisions of the Charter of the City of Big Spring;
3. Acts of incompetency;
4. Neglect of duty;
5. Discourtesy by said employee to the public or to fellow employees while said employee is in the line of duty;
6. Acts of said employee showing a lack of good moral character;
7. Drinking of intoxicants while on duty or intoxication while off duty;
8. Conduct prejudicial to good order;
9. Refusal or neglect to pay just debts;
10. Absence without leave;
11. Shirking duty, or cowardice at fires;
12. Violation of any rules and regulations of the Fire Department, or of special orders, as applicable.

Section 9 - Demotions

If the Fire Chief wants an employee under his supervision to be involuntary demoted, the Chief may recommend in writing to the Commission that the commission demote the employee.

The Fire Chief must include in the recommendation for demotion the reasons the Fire Chief recommends the demotion and a request that the commission order the demotion. The Fire Chief must immediately furnish a copy of the recommendation in person to the affected employee.

The commission may refuse to grant the request for demotion. If the commission believes that probable cause exists for ordering the demotion, the commission shall give the employee written notice to appear before the commission for a public hearing at a time and place specified in the notice. The commission shall give the

notice before the 10th date the hearing will be held.

Said employee shall have the right to a full and complete public hearing upon such proposed demotion. The Commission shall not demote any employee without such hearing.

A voluntary demotion in which the officer accepting the demotion has in writing accepted the terms of the demotion is not subject to this section.

Section 10 - Hearing Examiners

The letter of disciplinary action issued to an employee shall state, in addition to other notice requirements prescribed by Chapter 143 that in an appeal of an indefinite suspension, a promotional pass over, or a recommended demotion, the appealing employee may elect to appeal to an independent third party hearing examiner instead of to the Commission. The letter must also state that if the employee elects to appeal to a hearing examiner. The employee waives all rights of appeal to a district court except as provided by the last paragraph of this section. To exercise this choice, the appealing employee must submit to the Director a written request as part of the original notice of appeal required Chapter 143 stating his decision to appeal to an independent third party hearing examiner. The decision of the hearing examiner is final and binding on all parties.

If the appealing employee chooses to appeal to a hearing examiner, the employee and the Fire Chief or their designees shall first attempt to mutually agree on the selection of an impartial hearing examiner. If an agreement is not reached on the selection of the hearing examiner on or before the tenth (10th) day after the date the appeal is filed, the Director shall immediately request a list of seven (7) qualified neutral arbitrators from the American Arbitration Association or Federal Mediation and Conciliation Service, or their successor in function. The employee and the Fire Chief or their designees may mutually agree on one (1) of the seven (7) neutral arbitrators on the list. If they do not agree within five (5) working days after receipt of the list, each party shall alternate striking a name from the list and the name remaining shall be the hearing examiner. The parties or their designees shall mutually agree on a date for the hearing.

The appeal hearing shall commence as soon as the hearing examiner selected can be scheduled. If the hearing examiner cannot commence the hearing within forty-five (45) calendar days after the date of selection, the employee may, within two (2) days of learning of that fact, call for the selection of a new hearing examiner using the same procedure as provided above.

In all hearings conducted under this section, the hearing examiner shall have the same duties, powers, and authority as the Commission, including, the right to issue subpoenas. In a hearing held under this section, the parties may agree to an expedited procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing examiner shall render a decision on the appeal within 10 days after the conclusion of the hearing. In appeals not involving an expedited hearing procedure, the hearing examiner shall make a reasonable effort to render a decision on an appeal within 30 days after the conclusion of the hearing or the filing of the briefs. The hearing examiner's inability to meet the time requirements imposed by this section does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action, or the hearing examiner's final decision.

All fees and expenses of the hearing examiner are shared equally by the appealing employee and by the Department. The costs of witnesses are paid by the party who calls the witness.

A state district court may hear an appeal of a hearing examiner's award only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion, or other unlawful means. An appeal must be brought in the state district court having Jurisdiction in the municipality in which the Department is located.

Section 11 - Procedures After Felony Indictment or Misdemeanor Complaint

If a fire fighter is indicted for a felony or officially charged with the Commission of a class A or B misdemeanor, the procedures prescribed by this section apply.

The Fire Chief may temporarily suspend the fire fighter with or without pay for a period not to exceed 30 days after the date of final disposition of the specified felony indictment or misdemeanor complaint. The Fire Chief shall notify the suspended fire fighter in writing that they are being temporarily suspended for a specific period with or without pay and that the temporary suspension is not intended to reflect an opinion on the merits of the of the indictment or complaint.

If the action directly related to the felony indictment or misdemeanor complaint occurred or was discovered on or after the 180th day before the date of the indictment or complaint, the Fire Chief may, not later than the thirtieth (30th) day after the date of final disposition of the felony charge or misdemeanor Complaint, bring a charge against the fire fighter for a violation of civil service rules.

Conviction of a felony is cause for dismissal, and conviction of a Class A or B misdemeanor may be cause for disciplinary action or indefinite suspension.

Acquittal or dismissal of an indictment or a misdemeanor complaint does not mean that a fire fighter has not violated Civil Service rules or regulations and does not negate the charges that may have been or subsequently be brought against him by the Fire Chief. A fire fighter indicted for a felony or officially charged with the Commission of a Class A or B misdemeanor who has also been charged by the Fire Chief with Civil Service violations directly related to the indictment or misdemeanor complaint may delay the Civil Service hearing for a period of not more than thirty (30) days after final disposition of the indictment or complaint.

If the Fire Chief temporarily suspends a fire fighter who has been indicted for a felony or officially charged with a class A or B misdemeanor, and the fire fighter is not found guilty of the indictment or complaint in the court of competent jurisdiction, the fire fighter may appeal to the Commission or to a hearing examiner for recovery of back pay. The Commission or hearing examiner may award all or part of the back pay or reject the appeal.

The Fire Chief may order an indefinite suspension based on an act or acts classified as felony or a class A or B misdemeanor after the 180-day period after discovery of the act or acts by the Department if delay is considered necessary by the Fire Chief to protect a criminal investigation of the employee's conduct. If the Fire Chief intends to order an indefinite suspension after the 180-day period, the Fire Chief must file a statement describing the criminal investigation and its objectives with the attorney general not later than the 180th day after the date on which the act complained of occurred.

Section 12 - Procedures Before Commission

A. Appeal

In order for a fire fighter to appeal to the Commission from any action for which an appeal or review is provided under the terms of these rules, it shall only be necessary for him/her to file within ten (10) days with the Commission an appeal setting forth the basis of his appeal, except as otherwise specifically provided by these rules and regulations.

The appeal shall include a statement denying the truth of the charge as made, a statement taking exception to the legal sufficiency of such charges, a statement alleging that the recommended action does not fit the offense, alleged offense, or any combination of the statements, and in addition, a request for a hearing by the Commission.

B. Right to Counsel

In all hearings, appeals, and reviews of every kind and character, wherein the Commission is performing an adjudicatory function, the employee shall have the right to be represented by counsel or any person of his choice.

C. Request to Subpoena

The employee may request the Commission to subpoena any books, records, documents, papers, accounts, or witnesses that the employee considers pertinent to his case. The request to have materials subpoenaed must be made at least ten (10) days before the date of the hearing.

If the Commission does not subpoena the requested materials, at least three (3) days prior to the hearing date, it shall make a written report to the employee stating the reason it will not subpoena the requested material, and this report shall be read into the public records of the Commission hearing.

D. Proceedings

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

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 four (4) copies of all documents or exhibits to be considered by the Commission at the hearing.

All disciplinary appeal proceedings shall be public hearings.

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

After being called to order but prior to the beginning of testimony or evidence, consideration shall be made as to any 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 motions until the hearing is completed and all factual evidence has been presented before making its final ruling thereto.

Both parties may be allowed to make brief opening statements.

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 factual summary of the operative events as filed with the Commission by the Fire Chief and which forms the basis of disciplinary action imposed on the employee. The hearing shall then proceed to develop the evidence and testimony as to those contested matters.

The City shall go first in the presentation of evidence and testimony. Thereafter, the responding party shall have the opportunity to respond with its own evidence, witnesses or testimony. Thereafter, the City may come forward with rebuttal evidence or testimony. Presentations by both parties shall be as brief and closely related to the issue(s) as much as is possible. Throughout the proceedings, Commission members may also ask their own questions as needed in order to aid their consideration of the testimony or evidence.

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.

Upon request by either party, the hearing process may utilize what is commonly known 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.

The Commission shall exercise reasonable control over the questioning of the witnesses and presentation of evidence so as to:

- a) make an effective ascertainment of 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.

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 shall provide the employee 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 which would justify or compel modification of the Department Head’s action.

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 that deteriorates into a “shouting match” or where fruitful dialogue ceases.

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.

After the close of the presentation of evidence and testimony, both parties shall be given an opportunity to make closing summations.

Thereafter, 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 same shall be prepared and signed by the Commissioners.

E. Rules of Evidence

Technical rules of evidence shall not apply nor control the conduct of any civil service hearing.

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.

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

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 of 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.

Subject to limited exceptions for compelling reasons shown by a party, the Commission shall refuse to hear or consider any testimony or item of evidence if the hearing has been closed.

By agreement of all parties, the Commission may receive and consider the evidence of witnesses by affidavit when such witnesses are otherwise unable to attend. The Commission may assign it such weight as it deems proper. When witnesses are not available for the Commission meeting, copies of such affidavits shall be given to the opposing party prior to hearing.

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.

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

Section 13 - Appeal to District Court

In the event any fire fighter is dissatisfied with any decision of the Commission, he may, within ten (10) days after the reading of such final decision, and it is sent to the fire fighter by certified mail or is personally received by the fire fighter or by the fire fighter designee, file a petition in the District Court, of Howard County and asking that the decision be set aside, and such case shall be tried de novo.

Section 14 - Political Activities

A. Political Activities

Employees in the Fire Department shall not be permitted to take an active part in another's political campaign for an elective position of the City if they are in uniform or on active duty. The term active part means making political speeches, passing out cards, or other political literature, writing letters, signing petitions, actively and openly soliciting votes or making public derogatory remarks about candidates for such elective positions.

B. Political Contributions/Services

Fire fighters may not be required to contribute to any political fund or render any political service to any person or party whatsoever; and no person shall be removed, reduced in classification or salary, or otherwise prejudiced by refusing to do so. A city official who attempts these actions shall be in violation of Chapter 143 of the Local Government Code.

Except as expressly provided by this section, neither the Commission nor the City Council may restrict a fire fighter's right to engage in a political activity.

Section 15 - Leaves of Absences

A. Military Leave of Absence

The Civil Service Commission, on written application of a fire fighter shall grant the person a military leave of absence without pay to enable him or her to enter a branch of the United States military. Such leave of absence may not exceed the compulsory military service or the basic minimum enlistment period of that branch of service.

The Commission shall grant a leave of absence to a fire fighter for initial training or annual duty in military reserves or the National Guard.

Upon termination of active military service, any such fire fighter receiving a military leave of absence is entitled to be reinstated to the-position that the person held at the time the leave of absence is granted, provided he/she receives an Honorable Discharge and remains physically and mentally fit to discharge the duties of that position; and further provided he/she makes -application for reinstatement within ninety (90) days after discharge. Upon being reinstated, the fire fighter shall receive full seniority credit for the time spent in the military service.

While a fire fighter who received a military leave of absence service in the military, the Commission shall fill the person's position in the department in accordance with Chapter 143 of the Local Government Code. The fire fighter who fills the position is subject to replacement by the person who received the military leave at the time the person returns to active duty in the department.

If the reinstatement of a fire fighter who received a military leave of absence causes that person's replacement to be returned to a lower positioning grade or compensation, the replace person has a preferential right to a subsequent appointment or promotion to the same or a similar position from which the person was demoted. This preferential right has priority over an eligibility list and is subject to the replaced person remaining physically and mentally fit to discharge the duties of that position.

B. Other Leave –

All other leave, including sick, vacation, and line of duty, shall be granted in accordance with Chapter 143 of the Local Government Code and the City of Big Spring Personnel Policies and Procedures.

Section 16 – Amendment of Rules

A. Amendment of Rules

These rules and regulations may be amended, repealed or supplemented and new rules adopted by the Commission at anytime. However, such changes must be published and posted in accordance with subsection B of this Section.

B. Publication of Rules

The Commission shall publish all adopted rules and regulations and provide copies upon demand. A rule is considered to be adopted and sufficiently published if the Commission adopts the rule by majority vote and causes the rule to be written, typewritten or printed. A rule is valid and binding when the Commission:

1. Mails a copy of the rules to the Chief of the Fire Department; and
2. Posts the rules at a conspicuous place for a period of seven (7) days in the Central Fire Station; and
3. Mails a copy of the rules to each of the sub-stations.

The Director of Civil Service shall keep on hand copies of the rules and regulations for free distribution to members of the Fire Department and said rules and regulations shall also be available for inspection by any interested citizen.

Section 17 - Status of Present Employees

Fire fighters in the actual service of the City of Big Spring, at the time of the implementation of these rules and regulations are entitled to Civil Service classification, and shall enjoy the status of

Civil Service employees without having to take any competitive examinations for the position occupied at the time.

Section 18 - Emergency Appointment

When the City is unable to recruit qualified employees in the Fire Department because of the maximum age limit set by the Commission and Chapter 143 of the Local Government Code, and the City Council finds that such condition constitutes an emergency, then the Commission shall recommend to the City Council additional rules and regulations governing the temporary employment of fire fighters who are over the age of thirty-five (35) years. A person employed these rules shall:

1. Be designated as a "temporary employee";
2. Be ineligible for pension benefits;

3. Be ineligible for appointment or promotion when one or more permanent applicants or employees are available;
4. Be ineligible to become a full-fledged civil service employee; and
5. Be terminated before any permanent Civil Service Employee is terminated pursuant to Section 143.085 of the Local Government Code.

Section 19 – Repeal and Saving Clause; Controlling Law

A. Repeal & Saving Clause

If any section, paragraph, portion, sentence, line, phrase, clause or word of these rules and regulations should be held to be unconstitutional or invalid, then such unconstitutionality or invalidity of said section. Paragraph, portion, sentence, line, phrase, or word hereof shall not affect the remaining portions of these rules and regulations, and it is hereby declared to be the Commission's intent that each and all the said portions as above specified that are not held to be unconstitutional or invalid, shall be and remain in full force and effect, just as though said unconstitutional or invalid portions, if any, were eliminated from the text of these rules and regulations.

B. Controlling Law in Event of Conflict

These rules and regulations are enacted pursuant to Chapter 143 of the Local Government Code. In the event of any conflict between a provision of said statute and these rules and regulations, the provisions of Chapter 143 shall control.