**AGENDA**
**WATAUGA CIVIL SERVICE COMMISSION MEETING**
**CITY HALL- COUNCIL CHAMBERS, 7105 WHITLEY ROAD**
**FRIDAY, JANUARY 20, 2017**
**3:00 P.M.**

**CALL TO ORDER**

**INVOCATION**

**CITIZEN'S OPEN FORUM**

**REPORTS FROM STAFF**

1. Update on Meet and Confer Negotiations

**APPROVAL OF MINUTES FOR MEETING ON**

1. June 10, 2016

**NEW BUSINESS**

1. Discussion and action on electing a Civil Service Commission Chairman as required by Local Government Code Chapter 143, Section 143.006(e)

2. Discussion and action on electing a Civil Service Commission Vice-Chairman as required by Local Government Code Chapter 143, Section 143.006(e)

3. Discussion and action to approve proposed revisions to sections 2.01, 4.08, 4.19 and 5.04 of the City of Watauga Firefighters' And Police Officers' Civil Service Rules and Regulations to incorporate amendments made through the Meet and Confer Agreements between the City of Watauga and the Watauga Firefighters' Association ratified on August 3, 2016

**ADJOURNMENT**

**NOTICE**

THIS FACILITY IS WHEELCHAIR ACCESSIBLE AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT THE CITY SECRETARY'S OFFICE AT (817) 514-5825, (817) 514-5812 OR FAX (817) 281-1991 FOR FURTHER INFORMATION.

I, Zolaina R. Parker, City Secretary for the City of Watauga, Texas, do hereby certify that this agenda was posted on the official bulletin board at City Hall, 7105 Whitley Road, Watauga, Texas, on Thursday, January 12, 2017 before 6:30 p.m., in accordance with Chapter 551 of the Texas Government Code.

Zolaina R. Parker

Zolaina R. Parker, City Secretary

CITY OF WATAUGA, TEXAS

**MINUTES**
**WATAUGA CIVIL SERVICE COMMISSION MEETING**
**CITY HALL COUNCIL CHAMBERS, 7105 WHITLEY ROAD**
**FRIDAY, JUNE 10, 2016**
**3:00 P.M.**

MINUTES DRAFT

## CALL TO ORDER

Chairman Bailey called the meeting to order at 3:00 p.m. in the City of Watauga City Hall Council Chambers on Friday, June 10, 2016, with the following persons present:

| | |
|---|---|
| Joe Bailey | Chairman |
| Bernard Bowman | Vice-Chairman |
| Barry Sullivan | Member |

And

| | |
|---|---|
| Marcia Reyna | Civil Service Director |
| Glen Fowler | Police Chief |
| Robert Parker | Assistant Police Chief |

## INVOCATION

Chairman Bailey gave the invocation.

## CITIZEN'S OPEN FORUM

None.

## REPORTS FROM STAFF

None.

**APPROVAL OF MINUTES FOR MEETING ON**

1. January 27, 2016

   Vice-Chairman Bowman made a motion to approve the January 27, 2016 Civil Service Commission Meeting Minutes. Member Sullivan seconded the motion, which passed as follows:

   Ayes: Bailey, Bowman, Sullivan
   Nays: None
   Absent: None

**NEW BUSINESS**

1. Certify eligibility list resulting from the Police Lieutenant Promotional Written Examination on April 19, 2016 and Assessment Center on May 17, 2016

   Vice-Chairman Bowman made a motion to certify the eligibility list resulting from the Police Lieutenant Promotional Written Examination on April 19, 2016 and Assessment Center on May 17, 2016. Member Sullivan seconded the motion, which passed as follows:

   Ayes: Bailey, Bowman, Sullivan
   Nays: None
   Absent: None

2. Certify eligibility list resulting from the Police Sergeant Promotional Written Examination on April 19, 2016 and Assessment Center on May 18, 2016

   Vice-Chairman Bowman made a motion to certify the eligibility list resulting from the Police Sergeant Promotional Written Examination on April 19, 2016 and Assessment Center on May 18, 2016. Member Sullivan seconded the motion, which passed as follows:

   Ayes: Bailey, Bowman, Sullivan
   Nays: None
   Absent: None

MINUTES DRAFT

**ADJOURNMENT**

With no further business to discuss, Chairman Bailey declared the meeting adjourned at 3:09 p.m.

**APPROVED:** this ____ day of _____ 2016

**SIGNED:** this ____ day of _____ 2016

**APPROVED:**

_____
Joe Bailey, Chairman

**ATTEST:**

_____
Marcia Reyna, Civil Service Director

MINUTES DRAFT

**THE CITY OF WATAUGA**
**FIREFIGHTERS' AND POLICE OFFICERS'**
**CIVIL SERVICE RULES AND REGULATIONS**

PREAMBLE: Pursuant to Chapter 143 of the Texas Local Government Code, the Firefighters' and Police Officers' Commission of the City of Watauga, Texas does hereby adopt the following Rules and Regulations for the administration of the Civil Service System for the City of Watauga, Texas.

It is not the intent of these Rules to grant greater appeal rights or to provide additional tribunals than provided by the State statute as determined by the courts having jurisdiction over this area.

**THE CITY OF WATAUGA**
**FIREFIGHTERS' AND POLICE OFFICERS'**
**CIVIL SERVICE RULES AND REGULATIONS**

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**SPECIAL AMENDMENTS TO THESE RULES**

*Department of Public Safety* concept was abolished by Watauga City Council on September 10, 2007. Hereinafter Department of Public Safety will be referred to as Police Department and Fire Department. These rules were revised on February 13, 2008 to reflect this change.

Pursuant to Section 143.035 of Local Government Code Chapter 143, Watauga Police Officers voted to approve an *Alternate Promotional System in the Watauga Police Department*. The votes were canvassed by the Civil Service Commission on March 21, 2011. The total number of votes was 30, 20 For and 10 Against.

On March 23, 2015, Watauga City Council ratified an *Agreement between the City of Watauga and the Watauga Firefighters' Association*. This agreement was created

through Meet and Confer deliberations pursuant to Section 114.113 of the Texas Local Government Code (TLGC) and Texas Open Meetings Act.

On August 3, 2016, Watauga City Council ratified an amendment to the Agreement between the City of Watauga and the Watauga Firefighters' Association established on March 23, 2015. This amended agreement was created through Meet and Confer deliberations pursuant to Section 114.113 of the Texas Local Government Code (TLGC) and Texas Open Meetings Act.

## CHAPTER ONE

### ORGANIZATION AND GENERAL PROVISIONS

ENACTMENT

1.01 The Civil Service System of the City of Watauga has been established pursuant to Chapter 143 of the Texas Local Government Code, as now or hereafter amended, ("Chapter 143"), for the purpose of developing and enforcing rules regarding the initial selection of employees and their advancement, benefits, and conditions of employment, as well as securing efficient Police and Fire Departments composed of capable personnel who are free from political influence and who have permanent employment tenure as public servants. The City of Watauga Firefighters' and Police Officers' Civil Service Rules and Regulations hereinafter set forth represent the Rules ("Rules") which are necessary for the proper conduct of the City of Watauga Civil Service Commission (the "Commission") business and shall prescribe the cause for removal or suspension of a firefighter or police officer.

1.02 These Rules are made in accordance with Chapter 143, and specifically pursuant to Section 143.008 and legal precedent interpreting the provisions of Chapter 143. These Rules will take effect for all matters occurring after the effective date of these Rules. All matters occurring prior to the effective date of these Rules will be governed by the Rules in effect at that time.

1.03 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 not expressly covered by Chapter 143, the Watauga City Ordinances, the Watauga City Charter, or these Rules shall be resolved in accordance with the City of Watauga Personnel, Administration and Financial Policies and Procedures Manual and/or the residual discretionary authority vested in a department head. These Rules shall apply to all of the classified employees of the Fire and Police Departments covered under Chapter 143.

COMMISSION

1.04 The Chief Executive shall appoint and the City Council shall confirm the appointment of the three members of the Commission. The members shall elect one member to serve as Chairman and one to serve as Vice-Chairman every January pursuant to Section 143.006 of Chapter 143.

1.05 Each member of the Commission holds office for a staggered three-year term and thereafter until a successor is appointed and has qualified. Interim vacancies on the Commission shall be filled for the unexpired term of the member whose position has been vacated. The Chief Executive may reappoint a Commission Member to consecutive terms, and may appoint a former Commission Member to the Commission if the only public office held within the preceding three (3) years is membership on the Commission. A Commission

Member may not be reappointed to more than a third consecutive term unless the Member's reappointment to a fourth or subsequent consecutive term is confirmed by a two-thirds majority of all members of the municipal's governing body.

1.06 The Commission has the responsibility to adopt, publish, and enforce rules relating to:

a. The proper conduct of Commission business;

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(s) for the removal or suspension of a civil service employee;

e. The procedures for the hearing/adjudicatory function of disciplinary appeals concerning indefinite suspensions, suspensions, promotional pass over or demotions;

f. Such other matters reasonably related to the selection, promotion and discipline of civil service employees; and

g. Any other matters relevant to the conduct and powers or authority of the Commission pursuant to Chapter 143 and these Rules.

1.07 Regular Business Meetings:

a. Regular meetings of the Commission are to be held as may be necessary for the transaction of the business of the Commission. The Director of Civil Service (the "Director") shall give proper notice of all meetings of the Commission.

b. The Commission Chairman or the other two members of the Commission upon giving advance notice to each member and public notice pursuant to subparagraph "c" below may call special meetings of the Commission.

c. All meetings of the Commission shall be in conformity with Chapter 551 of the Texas Government Code, as now or hereafter amended.

d. All agenda items should, if possible, be submitted to the Director at least fourteen (14) calendar days prior to the scheduled meeting date. The Director shall have discretion to determine whether items shall be added to the agenda, which are submitted less than fourteen (14) calendar days before the meeting date.

e. The Director shall be responsible for posting the public notice prior to each

meeting as prescribed by Chapter 551 of Texas Government Code, as now or hereafter amended.

f. The Director may, for good cause, cancel a Civil Service Meeting by updating the City website and original meeting notice with the notice of cancellation in all required posting areas. The Director shall report said cause to the Commission.
g. The Commission may consider input and suggestions for the conduct of Commission business from any person. Such input shall be reduced to writing, filed with the Director and shall include a clear statement as to what action is recommended.

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

1.09 The Commission shall conduct its regular business and non-disciplinary proceedings in accordance with Robert's Rules of Order. Disciplinary Appeal hearings shall proceed as hereafter set forth in Chapter 12 of these Rules. The normal order of business at a non-disciplinary or non-appeal hearing shall generally be:

a. Call to order;

a) Invocation;

b) Citizen’s open forum;

c) Reports from staff;

d) Approval of minutes;

e) Unfinished business;

f) New business; and

g) Adjournment.

1.10 The Director shall be responsible for preparing the minutes of each meeting and shall record at least the following:

a. the time and place of each meeting of the Commission;

b. the names of the Commission members present;

c. all official actions of the Commission;

d. the official vote by each Commission member;

e. upon request, a Commission member's dissent with stated reasons; and

f. such other matters deemed appropriate for the record.

1.11 The minutes of a meeting may be presented for approval at the next meeting of the Commission. The minutes, other than matters discussed in executive session, upon approval by the Commission, shall be kept available for public inspection as governed by the Texas Government Code, Chapter 552 ("Texas Public Information Act") and Chapter 143. A Commission member may record in the minutes an approval of, or objection from, any act of the Commission together with the Commissioner's reasons.

1.12 After any investigation made by the Commission pursuant to Section 143.009 of Chapter 143, the Commission shall issue its findings and recommendations, if any, in writing and such findings and recommendations, if any, shall be binding upon both the department and the employee, subject to any appeal rights under Chapter 143 and these Rules.

1.13 All communications or requests to the Commission must be made in writing through the office of the Director who shall then forward them to the Commission. The Commission has delegated the Director to determine whether the Commission has jurisdiction over the communication or request. If appropriate, the Director shall place the request(s) on the Commission agenda. If the Commission does not have jurisdiction over the matter, the Commission delegates the Director to inform the party. A summary of the request, and the action, if any, of the Commission regarding same, may be made in the official minutes of the Commission.

1.14 A member of the Commission may tender his/her resignation in writing at any time. A Commission member may be removed from office by the City Council for an act constituting moral turpitude or misconduct in office in accordance with the provisions of Section 143.007 of Chapter 143. Upon the occurrence of any of these events, request shall thereafter be made by the Commission or the Director to the Chief Executive for a replacement or substitute of such member.

CIVIL SERVICE DIRECTOR

1.15 The Commission, by majority vote, shall appoint the Director who shall perform work incidental to the civil service system as required by the Commission.

1.16 The Director or his/her designated representative(s) shall also act as Secretary to the Commission and/or as Chief Examiner of Tests and Test Appeals. The Director or his/her designee shall also:

a. Be the general manager of civil service and be responsible for the direction of the staff and work product of that function;

b. Coordinate with the department heads the administration of a broad personnel program, which may include but is not limited to:

1. supervisor of all examinations, including the preparation, reading list posting, scheduling, scoring, creating the eligibility list from the

examination, and security thereof;

2. and examination of applicants;
3. classification of positions;
4. recruitment salary classification determination;
5. employee information and counseling;
6. in-service training;
7. performance appraisal system;
8. approve leaves of absence;
9. maintenance and development of personnel standards and programs;
10. procedures for appeals and for the discipline and/or termination of employees;
11. maintain official civil service file under Section 143.089(a);
12. conduct election process; and
13. such other matters as may be deemed reasonably necessary in regard to the efficient and effective administration of the Civil Service System for the City of Watauga.

c. The Director and his/her designee(s) shall maintain records of the names, job title or code, salary, time and attendance records, ethnicity, hire date, department and other relevant matters of all employees in civil service of the City of Watauga as required pursuant to Chapter 143.

d. The Director or his/her designee(s) shall also maintain in the Human Resources Department an employment record of all employees in civil service of the City of Watauga. This record may include all personnel actions, personal employment data, benefit information, educational courses or seminars attended, and other matters of an employee's employment history as deemed relevant by the Director, the department head, or as otherwise required by law. The Director is authorized to use her/his discretion in performing the functions authorized in this section in all tasks delegated to her/him.

COMMISSION RECORDS

1.17 Records of the Commission shall be governed by the Texas Public Information Act.

RULES AND REGULATIONS

1.18 The rules of the Commission are those contained herein. These rules have been approved by the Commission and shall remain in effect until officially amended, revised or eliminated by the Commission.

1.19 These rules may be amended at any meeting of the Commission after proper submission and prior notice as set forth in these rules. All rules and amendments shall become effective on approval by the Commission and subsequent compliance with the posting and notice requirements of Section

143.008 and of these rules. All rules and amendments shall be printed and made reasonably available for access by all civil service employees.

1.20 Immediately upon becoming effective, all rules contained herein shall be deemed to constitute full and effective notice to all civil service employees of prescribed or prohibited conduct as stated in any such rule.

## CHAPTER TWO

## DEFINITIONS

2.01 All terms, words and phrases contained in these Rules shall be interpreted in accordance with Chapter 143 and other applicable law. The following specific definitions shall also apply:

a. “Adult” is defined as a person 17 years of age or older.

b. "Business Day" means the days the City is customarily open for normal business, and does not refer to the employee's work day. In computing this period, a Saturday, Sunday, or legal holiday is not considered a business day.

c. “Calendar Day” means any day of the week, as opposed to business day.

d. “Certified Firefighter” means an individual certified by the Texas Commission on Fire Protection (TCFP).

e. "Chief Executive" means the Mayor of the City of Watauga or his/her designee.

f. “Chief Administrator” means the City Manager of the City of Watauga, or his/her designee.

g. “Commission Office” is designated as the Director’s office.

h. "Civil Service Rule" or “Rule” shall be liberally defined to include a rule, regulation, general order, standard operating procedure or special order applicable to civil service employees, whether from Chapter 143, the City's Personnel, Administration and Financial Policies and Procedures, these Rules, or the appropriate department's rules and regulations.

i. "Class" or “Classification” means a position or group of positions sufficiently similar with respect to duties, authority and responsibilities thereto and in which there are (a) similar requirements as to education, experience, knowledge and ability; (b) similar tests of fitness which are used in choosing qualified appointees and; (c) a similar base compensation schedule that would apply with equity and uniformity.

j. "Classification Plan" means a group of positions placed into classes that have approximately equal duties and responsibilities with class titles, descriptive of the work of the class, identifying each class, and written class specifications for each class of position.

k. "Classified Employee" means an employee covered under Chapter 143.

l. "Classified Service" means all positions in the Police Department or the Fire Department covered by the civil service statute and entitled to civil service protection.

m. “Commission” means Civil Service Commission of the City of Watauga.

n. “Commission of a Crime” means committing an act or failing to act when the person clearly knew or should have known the act or omission was illegal.

o. "Competitive Exam" means an examination in which two or more candidates are in competition and from which the eligibility list is promulgated.

p. “Computing Time” In computing any period of time prescribed or allowed by these Rules, identify the date of the act or event – exclude the first day, do not count Saturday and Sunday. The last day of the period is to be included, unless it is a Saturday, Sunday, or legal holiday then it would be the first business day the City is open for normal business.

q. “Community Supervision” means the placement of a defendant by a court under a continuum of programs and sanctions, with conditions imposed by the court for a specific period of time where criminal proceeding are suspended, deferred, or sentence is probated or suspended, whole or in part.

r. “Conviction” or "Convicted" means that a person has plead guilty, no contest (Nolo contendere), or been found guilty in a lawful trial in a court of valid jurisdiction, regardless of whether:

1. the sentence is subsequently probated and the person is discharged from probation;
2. the defendant has received an unadjudicated or deferred adjudication probation for a criminal offense;
3. the case has been made the subject of an expunction order; or
4. the person is pardoned, unless the pardon is expressly
5. granted for subsequent proof of innocence.

s. “Expunction” means the legal process by which a person who has been placed under custodial or non-custodial arrest for the commission of either a felony or misdemeanor, has the arrest completely deleted from existence. Once an expunction order is issued by the court, all files and records of the arrest are destroyed. An expunged arrest, conviction, or

acquittal does not qualify as a conviction.

t. "Day" means calendar day unless otherwise specified in the statute.

u. "Date of Rank" means the first day an employee is entitled to compensation in that specific classification, excluding temporary assignments.

v. "Demotion" means the transfer of an employee from a position in one classification to a position in a lower classification.

w. “Deferred Adjudication” is defined as when a court of competent jurisdiction, after receiving a plea of guilty or nolo contendere finds in the best interest of society and the defendant to defer further proceedings without entering an adjudication of guilt. Upon successful completion of conditions imposed by the court, the criminal charge is subsequently dismissed and there is no judgment of guilt entered in the matter.

x. “Department Head” means Police Chief or Fire Chief and/or his/her designee.

y. “Director” means the Director of Civil Service as appointed by the City of Watauga Civil Service Commission is the director of the Firefighters’ and Police Officers’ Civil Service and serves as the secretary to the Commission.

z. “DWI” or “DUID” commission is based on a preponderance of the evidence that demonstrates the applicant’s driving capacity was sufficiently impaired by the induction of a substance into the body.

aa. "Eligibility List" means any list of names of persons qualified through suitable tests, for employment in positions in the classified service, and includes employment lists, reemployment lists and promotional lists.

bb. "Firefighter" means a member of the Fire Department that was appointed in substantial compliance with this chapter or who is entitled to civil service status under Section 143.005 or 143.084. The term includes an employee of the Fire Department whose position requires substantial knowledge of firefighting and has met the requirements for certification with the Texas Commission on Fire Protection under Chapter 419, Government Code, including an employee who performs:

1. fire suppression;
2. fire prevention;
3. fire training;
4. fire safety education;
5. fire maintenance;
6. fire communications;
7. fire medical emergency technology;
8. fire photography;

9. fire administration; or
10. fire arson investigation; and does not apply to a secretary, clerk, budget analyst, custodial engineer, or other administrative employee.

cc. "Indefinite Suspension" is final separation from the Fire or Police Department. Indefinite suspension is also known as the disciplinary term "dismissal."

dd. A person acts "intentionally", or with intent, with respect to the nature of his or her conduct or to a result of his or her conduct when it is his or her conscious objective or desire to engage in the conduct or cause the result.

ee. A person acts "knowingly", or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct, when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

ff. "Hazardous Moving Violations" are traffic violations as defined by the Texas Transportation Code or Texas Vehicle Law which directly relates to the operation of a motor vehicle in an unsafe manner. The following are considered to be hazardous moving violations: Speeding; Speeding School Zone; No Seatbelt/Operator; Child Restraint Violation; Disobeying a Traffic Control Device; Violation of Traffic Signal Device; Failure Yield Right of Way; Improper Turn; Improper Passing; Improper Lane Change; No Turn Signal; Failure to Obey Police Officer; Driving on Wrong Side of Street; One Way Street; Exhibition of Acceleration; Racing; Leaving Scene of Accident; Following Too Closely; Unsafe Backing; Crossing Physical Barrier; Disregard Traffic Barrier; Coasting; Driving on Center Lane; Disregard RR Devices/Flagman; Unsafe Movement Right/Left; Crossing Median; Impeding Traffic; Failure to Control Speed to Avoid Collision; Passing School Bus; Cut through drive to avoid TCD; DUI Minor; Failure to Dim Lights; Failure to Stop for School Bus; Violations Against Pedestrian

gg. "Military Service Credit" is an additional five points to the entrance examination grade of an applicant who served, or is currently serving in a branch of the United States Armed Forces, who received an honorable discharge, and made a passing grade on the examination.

hh. "Moral Turpitude" shall include, but not be limited to, any felony, theft, sexual offense, fraud, perjury or other falsification, bribery or corrupt influence, or public indecency offenses.

ii. "Paramedic" means an individual certified or licensed by the Texas Department of State Health Services (TDSHS).

jj. “Police Officer” means a member of the Police Department or other peace officer who was appointed in substantial compliance with Chapter 143 or who is entitled to civil service status under Section 143.005, 143.084, or 143.103.

kk. "Pleading" includes, but is not limited to, notice of appeal, request for hearing, request for review of test materials, or any other document submitted by an employee (or his/her authorized representative) for Commission action.

ll. “Probable Cause” exists where reasonably trustworthy information is sufficient to warrant a reasonable person to believe a particular person has committed or is committing an offense.

mm. “Probation” means the person has received an unadjudicated or deferred adjudication probation for a criminal offense.

nn. A person acts “recklessly”, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor’s standpoint.

oo. "Rule or Special Order" as used in Chapter 12, Disciplinary Action, 12.03 (12) includes any special order, general order, standing order, temporary order, operational/procedural rule, regulation, policy, City of Watauga Personnel, Administration and Financial Policies and Procedures, or other orders of the Police or Fire Department.

pp. "Seniority" means accumulated time of service with the City of Watauga, whether interrupted or uninterrupted, and not merely the last continual period of service beginning the date that an employee is sworn in as a patrol officer with the Watauga Police Department or from the date when a firefighter begins employment with the City of Watauga, if already certified.

qq. “Suspension" means the period of time during which an employee, through disciplinary action of the department head, is forbidden to work with or without salary.

rr. “Unadjudicated” means any offense admitted during a sentencing hearing and taken into account by a court in another criminal matter pursuant to Section 12.45 of the Texas Penal Code, or an equivalent federal procedure or statute, or any offense which is not formally filed or prosecuted in a state or federal court by virtue of an agreement allowing the accused to participate in any diversionary program which has been recognized or created by either the court or the prosecutor’s office which

provides for the non-filing or the *Nolle Prosequi* of a criminal case upon the condition that a person successfully complete any certain tasks or curriculum.

Use of the masculine noun or pronoun in these Rules shall be held to include the feminine, the singular to include the plural, and the plural to include the singular.

All references in these Rules to statutory provisions, ordinances, personnel policies, charter provisions or other legal authority includes the text of such provisions at the time of adoption but also incorporates and adopts any subsequent amendments to such provisions.

## CHAPTER THREE

## CLASSIFICATION OF FIREFIGHTERS AND POLICE OFFICERS

3.01 The title and number of all authorized positions in each of the classifications in the Fire and Police Department shall only be those as prescribed by ordinance enacted by the City Council.

## CHAPTER FOUR

## ENTRANCE EXAMINATIONS AND ORIGINAL APPOINTMENT

APPLICATION FOR ENTRANCE EXAMINATIONS

4.01 Prior notice and posting of upcoming entrance examinations and publication of eligibility lists shall be in accordance with Chapter 143, Sections 143.024 and 143.025.

4.02 Application forms for entrance examinations shall be designed and prepared by the Director in cooperation with the Department Head. The applications shall enable the Director to determine whether an applicant meets the minimum qualifications for a beginning position. Applicable minimum qualifications shall be those that comply with statutory requirements, standards set by the Commission, City Ordinances, and standards of appropriate State certification agencies.

4.03 The Director shall cause to be posted in plain view on a bulletin board in the lobby of City Hall, on the City's website and also in the office of the Director the appropriate notices for the entrance examination. The notice will specify the deadline for accepting applications.

4.04 The Director shall review timely submitted completed applications to determine if each applicant meets the minimum statutory and departmental qualifications for the beginning position, standards set by the Commission, City Ordinances, and standards of appropriate State certification agencies.

4.05 MILITARY SERVICE CREDIT. An additional five points shall be added to the entrance examination grade of an applicant who served, or is currently serving, in the United States Armed Forces, received an honorable discharge, and made a passing grade on the examination.

4.06 PERSONAL HISTORY STATEMENTS. Applicants shall be given a personal history form to be completed and returned at a time designated by the Civil Service Director. Failure to return this form at the prescribed time shall be a reason to exclude the person's application from further processing.

4.07 Any false statement knowingly made by any applicant or made at his/her request or with his/her knowledge in any instrument which may accompany an application or any other document or statement required to be completed or which is submitted in relation to the application during the selection process shall be sufficient cause for the Director to remove the applicant's name from the eligibility list or shall be a reason to exclude the person's application from further processing.

## FIRE DEPARTMENT ELIGIBILITY STANDARDS

4.08 Eligibility Standards for Beginning Position in the Fire Department.

The Commission may refuse to examine, or after examination, to certify as eligible, any applicant who fails to meet the following requirements.

To the extent that employment standards for an entry-level firefighter as provided in the Civil Service Classification Plan exceed the requirements of Chapter 143 and other applicable State laws, any of such entry-level employment requirements not prescribed by State laws may be waived by the Department Head with the concurrence of the Director and consent of the City Manager, when such waiver would be in the best interests of the Fire Department and provided further that such waiver of requirements shall not substantially lower the high standards sought by the City. Any changes under this Section shall be based on a case-by-case review.

## HIRING AGE LIMIT

(Amended through Meet and Confer negotiations, March 23, 2015)

A person may not take an entrance examination for a beginning position in the fire department unless the person is at least eighteen (18) years of age, but have not attained forty (40) years of age or older.

A person may not be certified as eligible for a beginning position in the fire department if the person has attained forty (40) years of age or older.

EDUCATION AND TRAINING

The applicant must possess a high school diploma/Graduate Equivalency Diploma (GED), must be able to speak, read and write the English language, and meet at least one (1) of the following qualifications:

a. possess a current Texas Paramedic License/Certificate issued by the Texas Department of State Health Services and a Basic Structural Firefighter Certificate issued by the Texas Commission on Fire Protection (PREFERENCE MAY BE GIVEN TO CANDIDATES WHO ALREADY POSSESS THESE CERTIFICATIONS); or
b. possess a current Texas Paramedic License/Certificate issued by the Texas Department of State Health Services.

Applicants who are hired as Paramedics will be required to successfully complete a Structural Firefighter Certification Program approved by the Texas Commission on Fire Protection within one (1) year of employment at the City's expense. An extension may be granted by the City Manager, if warranted, due to class availability.

LATERAL ENTRY FOR BEGINNING POSITIONS

(Amended through Meet and Confer negotiations, August 3, 2016)

1. A person may be eligible for lateral entry to a beginning position if they are certified as a Firefighter and Paramedic.

2. Lateral entry applicants must successfully meet and complete all Fire Department Eligibility Standards as set by Section 4.08 of the City of Watauga Firefighters' and Police Officers' Civil Service Rules and Regulations.

3. A person eligible for lateral entry shall be placed on the City's approved step plan at the step which equates to their years of experience, up to a maximum of Step 5. Only years of experience at a paid Fire Department will apply.

4. A person who obtains a positon for lateral entry will not be eligible for promotion until they have served in the next lower position at the Watauga Fire Department for at least two (2) years before the date the promotional examination is held.

5. Seniority points shall be calculated at one (1) point for each full year of service with the Watauga Fire Department as a commissioned firefighter, up to a maximum of ten (10) points. Service with another agency will not apply.

CITIZENSHIP

The applicant must be a United States citizen.

CHARACTER

The applicant must be of good moral character.

CRIMINAL HISTORY

1. The applicant must not have been convicted or have ever been placed on court-ordered community supervision, probation, or deferred adjudication for any criminal offense of the grade of a Class B misdemeanor within the last 10 years from the date of the court order.

2. The applicant must not have been convicted of, or have pending charges or have ever been placed on court-ordered community supervision, probation, or deferred adjudication for any criminal offense above the grade of a Class B misdemeanor; or an offense involving theft, sex crimes, possession of drugs; or under indictment for any of the same; or having executed a confession admitting to any of the same. (Additional limitations are placed on firefighters as established by the appropriate licensing agency.)

3. The applicant must not have any current pending criminal charges, or civil litigation actions or have any active warrants.

4. The applicant must not have been convicted of the offense of driving while intoxicated or driving under the influence of drugs or reckless driving conviction in the preceding ten (10) years from the date of the Civil Service examination.

5. The applicant must never have been convicted of any felony grade offense. The applicant must never have been convicted of an offense under Texas Government Code, Chapter 419, as now or hereafter amended.

6. The applicant must never have been convicted of offenses under Texas Insurance code of 1951, Chapter 5.43-1, 5.43-2, and 5.43-3, as now or hereafter amended.

7. The applicant must not have been convicted of any class “C” misdemeanor for family assault within the three (3) years prior to the date of the entrance examination, or convicted of any other family violence offense at any time.

8. The applicant must not have ever been convicted of failure to stop and render aid,

within the past three (3) years from the date of the entrance examination.

9. The applicant must not have ever been convicted of leaving the scene of an accident, within the past three (3) years from the date of the entrance examination.

10. The applicant must not have ever been convicted of driving with license suspended, within the past three (3) years from the date of the entrance examination.

11. The applicant must not have had their driver's license suspended within the past (3) years from the date of the entrance examination.

12. The applicant must not have been convicted of or admitted to:

    a. the possession, use, manufacture, or delivery of any Penalty Group 1, 2, 3 or anabolic steroids after February 27,1991;
    b. possession or use of marijuana within the last four (4) years;
    c. abuse of inhalants within the last five (5) years;
    d. any use, possession, or distribution of any prescription drug in a manner not specifically ordered by a licensed physician; this requirement will be analyzed on a case by case basis;
    e. selling any illegal or prescription drug for profit during their lifetime.

    (Penalty Groups are defined by the Chapter 481 Texas Controlled Substance Act.)

13. A violation of the law of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed in Paragraph 1 through Paragraph 12 above shall be treated the same as comparable violations in Texas.

## DRIVING RECORD

1. The applicant must possess a valid driver's license;
2. The applicant must not:
    a. have more than three convictions, pleas of guilty, or pleas of nolo contendere for hazardous moving violations in the last two years; or
    b. have more than five convictions, pleas of guilty, or pleas of nolo contendere for hazardous moving violations in the last five years;
    c. have pending or unresolved traffic citations from any agency or jurisdiction whose conviction would create a minimum standard violation;
    d. have more than two at-fault vehicle accidents in the last two years; and
    e. have any license suspensions in the last two years.

## OTHER STANDARDS

1. The applicant will submit to a search of local, state and national records and

fingerprint files, if a search of such files discloses any identity falsification or criminal record that disallows the candidate from employment.

2. An applicant must meet all the requirements for certification as a structural Firefighter as specified by the Commission on Fire Protection Personnel Standards and Education.
3. An applicant must meet all the requirements for certification as a Paramedic as specified by the Texas Department of Health.
4. An applicant must be able to obtain any license or permit required for the position sought, for any reason. (i.e. The applicant must possess a valid driver's license with an acceptable driving record and must not be prohibited by State or Federal law from operating a motor vehicle.)
5. Applicant must not have intentionally or knowingly falsified any information or presented the application with any significant omissions of information in the application form.

6. Applicants must complete and return their Personal History Statement by the due date established by Civil Service Director. Applicants will be disqualified for failure to fill in all blanks, failure to provide notary seals as required, failure to attach requested documents or failure to cooperate fully with and keep scheduled appointments unless prior arrangements have been made. Applicants shall not contact Fire Department Administrators, Background Investigators, or Human Resource Personnel to inquire about the status of their application. Applicants may contact the Human Resource Department if they have specific questions regarding the application process.

7. Applicant must not have a history of unstable work, i.e., including short terms of employment over his/her employment history; difficulty receiving orders or working with coworkers, etc. Due to the variables involved, each situation shall be considered on a case-by-case basis. Rejection under this provision shall be temporary in nature and an applicant shall be eligible for reapplication after a five (5) year period.

8. Applicant must not have been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Said dismissal or termination shall be considered on a case-by-case basis. Rejection under this provision shall be considered permanent.

9. Applicant must not have demonstrated a failure to pay just debts. Due to the variables involved, each situation shall be considered on a case-by-case basis. Factors which shall be considered include, but are not limited to: type and number of debts, reasons for the bad credit, extenuating circumstances, and the potential for the credit-related problems impacting the applicant's judgment and integrity. Resolution of bad credit may result in re-qualification.

10. Applicants must not have been disciplined by the Texas Department of State Health Services within the past two (2) years for:

    a. engaging in any activity that betrays the public trust and confidence in EMS; or
    b. delaying proper patient care and jeopardizing the health or safety of a person.

MILITARY HISTORY

The applicant must not have been discharged from any military service under less than honorable conditions including, but not limited to:

a. other than honorable conditions;
b. bad conduct;
c. dishonesty; or
d. any other characterization of service indicating bad moral character.

To be eligible for appointment as a firefighter, the applicant must meet the following additional standards prior to appointment:

PSYCHOLOGICAL

Following a conditional offer of employment, each applicant must be examined by a licensed psychologist or psychiatrist, as selected by the City of Watauga, and be declared in writing by that professional to be in satisfactory psychological and emotional health for licensing as a firefighter. The examination must be conducted pursuant to professionally recognized standards and methods and must be administered by an experienced professional who is a licensed psychologist or psychiatrist.

POLYGRAPH EXAMINATION

Following a conditional offer of employment, the applicant must be examined by a licensed polygraph operator, as selected by the City of Watauga, and deemed to have been truthful regarding information submitted to the City during the pre-employment process.

PHYSICAL/MEDICAL EXAMINATION

Following a conditional offer of employment, each applicant must be examined by a Texas licensed physician, approved by the City of Watauga, and be declared in writing as being physically sound and free from any defects which may adversely affect the performance of duties as defined by the essential job functions appropriate to the type of licenses sought; and showing no trace of drug dependency or illegal drug use after a physical examination, blood test, or other medical test.

## PHYSICAL ABILITY TEST

Following the written examination, as prescribed Chapter 143 Section 143.025, an applicant must pass a physical ability assessment as prescribed by the Watauga Fire Department and approved by the Civil Service Commission, showing the applicant is physically capable of performing the essential job functions of a firefighter.

Applicants passing the written examination will be allowed to take the Physical Ability Test. This test will be given on the same day as the written examination (weather permitting). A Fire Department Officer as assigned by the Department Head will administer the test. The testing will take place at a site to be determined by the Department Head's appointee and will be announced on the day of the initial posting of entry level testing.

## PHYSICAL ABILITY TEST INSTRUCTIONS

The overall purpose of the physical ability test is to assess the applicant's ability to perform fireground related activities and to gauge the overall physical ability of the applicant.

For safety purposes, applicants are required to wear long pants and closed toe shoes or boots to complete the test.

Applicants are also required to wear structural firefighting Personal Protective Equipment (PPE) and Self Contained Breathing Apparatus (SCBA) throughout the physical ability testing. This equipment will be provided for the applicant. Structural firefighting PPE will consist of a bunker coat with the thermal and vapor liner, helmet, gloves and must have met NFPA Standards. The SCBA will consist of the backpack with frame, shoulder and waist straps, and air cylinder of the current in-service model.

This physical ability test consists of the following 2 events:

1. Aerial Ladder Climb

2. Fireground Evolution

Each event will be described in detail below including the time allowed to complete the event, if applicable. The applicant must successfully complete both events in order to pass the test.

Applicants may not run at any time during the events, because there is usually no running at a fire scene unless there are extreme circumstances (We define running as both feet off the ground at the same time). If an applicant runs, they will receive one warning. The next time the applicant runs, they will be disqualified.

### Event 1: Aerial Ladder Climb

The purpose of this event is to test the applicant's ability to safely ascend and descend the Aerial device to perform work from an elevated position. (Untimed Event)

- Aerial ladder will be at a 70-degree angle and extended to 75 feet
- Applicant will climb the ladder using a "truck" belt and safety line
- Applicant must use a continuous motion, and must touch every rung while ascending and descending the aerial ladder device.
- Each applicant will be instructed to grasp the top rung on the ladder with both hands and remain holding the top climbing rung of the aerial for 15-seconds prior to descent.
- A voice command will signify the completion of the 15-seconds. After the command is given the applicant must then start descending the aerial ladder.
- Applicant must ascend and descend the ladder at a safe pace, but not stop for an extended period of time on the way up or on the way down. Applicant is not allowed to rest at any time. If applicant stops once to rest, they will be given a warning. If applicant stops twice, they will be disqualified.
- Applicants will not have a time limit when conducting the aerial climb exercise; however, they must not pause for more than 10 seconds during the event.
- Applicant's ladder belt will be removed by FD personnel after dismounting the aerial apparatus onto the ground.
- After the applicant's ladder belt is removed by FD personnel the next event, Event 2: Fireground Evolution, will start in 00:30:00 seconds.
- Failure point:
    - Skipping rungs
    - Stopping for more than 10-seconds
    - Stopping more than twice not including the mandatory stoppage at the top rung
- Applicant must wait the full 30 seconds prior to starting Event 2: Fireground Evolution.

<u>Event 2: Fireground Evolution</u> (maximum time allowed 6:00:00 minutes)

The purpose of this event is to test the applicant's ability to perform tasks that are commonly undertaken on the fireground.

This event consists of six continuous stages; A, B, C, D, E and F. Each stage will be discussed independently. An applicant who is unable to complete all 6 stages within 6:00:00 minutes will be disqualified.

A) Supply Line Deployment

B) Charged Hose Drag and Pull

C) Hose Loading and Stacking

D) Ventilation Simulator

E) Ladder Carry

F) Body Carry/Drag

A) Supply Line Deployment

- 100 feet of 5-inch supply line hose will be used for this stage.
- Applicant walking forward in a continuous motion will advance a 5-inch supply line a distance of 100 feet and gently set the coupling on the ground.
- Failure point:
    - Exceed total time given for entire event
    - Dropping the hose coupling

B) Charged Hose Drag

- 100 feet of 1 ¾ inch hose will be used for this stage. This hose is to be charged and maintained at approximately 100 psi.
- Nozzle shall be secured in the closed position for the test.
- Each applicant will drag the hose a distance of 100 feet then return to the starting point for a total of 200 feet. Cones shall be set up that clearly define the distance.
- Each applicant will return the nozzle to the starting point, and place the nozzle on the ground.
- Applicant will then kneel down and from a kneeling position; pull one 50-foot section of the charged hose line back across the original starting line.
- The applicant can “aim” the nozzle straight down or forward but not backwards. The applicant must maintain control of the nozzle throughout the entirety of this event. This is for their safety, as well as, minimizing damage to the equipment.
- Warning point:
    - Improper aiming of the nozzle
- Failure point:
    - Exceed total time given for entire event
    - Lose control of the nozzle
    - Improper aiming of the nozzle

C) Hose Loading and Stacking

- Six sections of 1 ¾ hose will be used for this stage.

- Hose will be stacked in a single stack on the ground next to the tailgate of a truck.
- Applicant shall move each individual hose and place it into three stacks of two on the tailgate of the truck, then return each individual section of hose, into a single stack of 6 on the ground.
- Failure point:
  - Exceed total time given for entire event
  - Moving more than one section of hose at a time
  - Failing to place hose into 3-stacks of 2
  - Failing to return hose into a single stack on the ground

D) Ventilation Simulator

- A nine (9) pound dead blow hammer and Keiser Sled will be used for this stage.
- The applicant must drive the sled approximately 5 feet with the sledge hammer.
- The applicant must maintain control of the sledge hammer throughout this stage.
- No pushing or pulling of the sled by the hammer. The applicant will receive one (1) warning for each violation.
- Failure point:
  - Exceed total time given for entire event
  - Lose control of the hammer
  - No pushing or pulling the sled with hammer. 1st violation will result in a warning; the second warning will result in failure.

E) Ladder Carry

- A 14-foot Roof Ladder will be used for this stage.
- Applicant shall remove a 14-foot roof ladder from the hooks on the wall, then carry the ladder around a cone located 25-feet from the wall; then return the ladder to its original position on the wall for a total of 50-feet.
- At no time may the ladder touch the ground
- Failure point:
  - Exceed total time given for entire event
  - Allowing the ladder to touch the ground

F) Body Carry/Drag

- A manikin weighing approximately 185 pounds wearing: bunker pants, bunker coat, and bunker boots will be used for this stage.

- Applicant will carry/drag the manikin 25-feet and return the manikin to the starting point, for a total of 50-feet.
- The entire manikin must pass the 25-foot line, and the finish line. Both points will be clearly marked by a line on the ground.
- Manikin may be carried or dragged in any fashion as long as the head does not strike the ground.
- Applicant & entire manikin must clear all lines
- Failure point:
    - Exceed total time given for entire event
    - Manikin's head touches the ground

END OF TEST (maximum time allowed 6:00:00 minutes)

## INTERVIEW PANEL FOR BEGINNING POSITIONS

(Amended through Meet and Confer negotiations, March 23, 2015 and August 3, 2016)

A Fire Department applicant must successfully pass a structured interview conducted by an Interview Panel. The panel members may not have any previous relationship, personal or professional, with any applicant. Panel members may not be on any type of disciplinary probation. The panel will consist of a maximum of five (5) members, but may conduct the interview with a minimum of four (4) members. The Interview Panel shall be composed of the Fire Chief, two (2) Battalion Chiefs, and two (2) members of the association, if available. If association members are not available, the interviews will continue as scheduled.

The Association will select two (2) members to serve on the Interview Panel. The Association will provide the Civil Service Director with the names of the selected panel members in writing. The list will include primary and secondary panel members. The secondary panel member will serve as an alternate in the absence of the primary. The selected panel members will serve until written notification of a change is presented to the Civil Service Director.

The Civil Service Director or designee will serve as a moderator during the interview. The role of the Director is to oversee the process.

## CERTIFICATION

The applicant must meet the minimum standards for licensing of a firefighter (structural fire protection personnel) pursuant to the provisions of Texas Government Code, Chapter 419, as now or hereafter amended, and the rules of the Texas Commission on Fire Protection as now or hereafter amended, which are in effect at the time of the examination and appointment and meet the minimum standards of the Texas Department of State Health Services as a certified Paramedic.

The employee is required to continue to meet all job standards during the time of employment.

NEPOTISM

No individual may be considered for employment by the Fire Department of the City of Watauga who is related to a person already employed by such department pursuant to these Rules, Chapter 6. The Chief Administrator may apply the nepotism prohibition in the case of other organizational or personal relationships when failure to do so would be, in the discretion of the Chief Administrator, detrimental to the City.

POLICE DEPARTMENT ELIGIBILITY STANDARDS

4.09 Eligibility Standards for Beginning Position in the Police Department.

The Commission may refuse to examine, or after examination, to certify as eligible, any applicant who fails to meet the following requirements.

To the extent that employment standards for an entry-level police officer as provided in the Civil Service Classification Plan exceed the requirements of Chapter 143 and other applicable State laws, any of such entry-level employment requirements not prescribed by State laws may be waived by the Department Head with the concurrence of the Director and consent of the City Manager, when such waiver would be in the best interests of the Police Department and provided further that such waiver of requirements shall not substantially lower the high standards sought by the City. Any changes under this Section shall be based on a case-by-case review.

AGE

An applicant must be at least 21 years of age and less than 45 years of age at the time of hire.

EDUCATION AND TRAINING

The applicant must possess a high school diploma/Graduate Equivalency Diploma (GED), must be able to speak, read and write the English language, and meet at least one (1) of the following qualifications:

a. possession of an active Texas peace officer license (PREFERENCE MAY BE GIVEN TO CANDIDATES WHO ALREADY POSSESS THIS CERTIFICATION); or

b. completion of a Basic Peace Officer's course and eligibility for licensing at the time of the entrance examination; or

c. completion of thirty (30) semester hours of college credit from an accredited

degree granting college or university as listed in the current edition of Accredited Institutions of Postsecondary Education published by the American Council on Education, with an average grade point average (GPA) of "C" or above. Courses from a trade school and/or technical school are not applicable toward the required college credit; or

d. completion of thirty-six (36) months of active duty prior military service,

Applicants who are hired as Police Recruits will be required to obtain a Texas Peace Officer's license within six (6) months of employment at the City's expense. An extension may be granted by the City Manager, if warranted, due to class availability. The applicant shall reimburse the City for this expense if the applicant's employment with the City is terminated before the third anniversary of the applicant's hire date.

CITIZENSHIP

The applicant must be a United States citizen.

CHARACTER

The applicant must be of good moral character.

CRIMINAL HISTORY

1. The applicant must not:
    a. have been convicted for any offense above the grade of a Class B misdemeanor;
    b. have been convicted for a Class B misdemeanor in the past ten years;
    c. have been convicted for any type of family violence offense;
    d. have knowingly, intentionally, or recklessly committed a felony offense as an adult;
    e. be on court-ordered community supervision or probation for any misdemeanor offense above the grade of a Class C misdemeanor;
    f. have any commissions, unadjudicated or deferred adjudication for any misdemeanor offense above the grade of a Class C misdemeanor in the past three years, except for marijuana use (refer to 5(d) of this section);
        1. In the event of a commission of an offense, the date of the commission will be used to calculate the time disqualification.
        2. In the event of a finding of an unadjudicated or deferred adjudication for an offense, the date the offense was committed will be used to calculate the time disqualification.
    g. be the subject of any current arrest warrant above the grade of a Class C misdemeanor;
    h. have formal criminal charges above a Class C misdemeanor pending before

the District Attorney's Office or Grand Jury; and

i. be prohibited by any state or federal statute from possessing a firearm.

2. A violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed in Paragraph 1(a)-(i) above shall be treated the same as a comparable violation of Texas law.
3. The applicant must have all Class C misdemeanor warrants must be cleared within fourteen (14) days of notification of the existence of the warrants;
4. In the event that an applicant receives a conviction, probation, or court-ordered community supervision for a criminal offense, the date of conviction, probation, or community service is imposed will be used to calculate the time period.
5. The applicant must not have been convicted of or admitted to:

    a. the possession, use, manufacture, or delivery of any Penalty Group 1, or anabolic steroids after February 27,1991, within the last five (5) years or more than five (5) times in their lifetime; or
    b. the possession, use, manufacture, or delivery of any Penalty Group 2 within the three (3) years or more than five (5) times in their lifetime ; or
    c. the possession or use, without a prescription, of any Penalty Group 3 drug within the last two (2) years or more than five (5) times in their lifetime; or
    d. possession or use of marijuana within the last four (4) years;
    e. abuse of inhalants within the last five (5) years.
    f. use of illegal drug while employed in any law enforcement or prosecutorial position, or while employed in a positions which carries with it a high level of responsibility or public trust.
    g. selling any illegal drug for profit during their lifetime.

<u>DRIVING RECORD</u>

1. The applicant must possess a valid driver's license;
2. The applicant must not:

    a. have more than three convictions, pleas of guilty, or pleas of nolo contendere for hazardous moving traffic violations in the last two years; or
    b. have more than five convictions for traffic violations, pleas of guilty, or pleas of nolo contendere for hazardous moving violations in the last five years;
    c. have pending or unresolved traffic citations from any agency or jurisdiction whose conviction would create a minimum standard violation;
    d. have more than two at-fault vehicle accidents in the last two years; and
    e. have any license suspensions in the last two years.

<u>OTHER STANDARDS</u>

1. The applicant will submit to a search of local, state and national records and fingerprint files, or a search of such files discloses any identity falsification or criminal record that disallows the candidate from employment.

2. An applicant must meet all the requirements for licensing as specified by Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE).

3. An applicant must be able to obtain any license or permit required for the position sought, for any reason. (i.e. The applicant must possess a valid Texas driver's license with an acceptable driving record and must not be prohibited by State or Federal law from operating a motor vehicle)

4. Applicant must not have intentionally or knowingly falsified any information or presented the application with any significant omissions of information in the application form.

5. Applicants must complete and return their Personal History Statement by the due date established by Civil Service Director. Applicants will be disqualified for failure to fill in all blanks, failure to provide notary seals as required, failure to attach requested documents or failure to cooperate fully with and keep scheduled appointments unless prior arrangements have been made. Applicants shall not contact Police Department Administrators, Background Investigators, or Human Resource Personnel to inquire about the status of their application. Applicants may contact the Human Resource Department if they have specific questions regarding the application process.

6. Applicant must not have a history of unstable work, i.e., including short terms of employment over his/her employment history; difficulty receiving orders or working with coworkers, etc. Due to the variables involved, each situation shall be considered on a case-by-case basis. Rejection under this provision shall be temporary in nature and an applicant shall be eligible for reapplication after a five (5) year period.

7. Applicants must not have been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct: Said dismissal or termination shall be considered on a case-by-case basis. Rejection under this provision shall be considered permanent.

8. Applicants must not have demonstrated a failure to pay just debts:

    a. Due to the variables involved, each situation shall be considered on a case-by-case basis. Factors which shall be considered include, but are not limited to: type and number of debts, reasons for the bad credit, extenuating circumstances, and the potential for the credit-related problems impacting the applicant's judgment and integrity. Resolution of bad credit may result in re-qualification.
    b. An applicant cannot currently have a delinquent student loan(s) unless an agreement in writing has been made with the financial institution to repay

the delinquent loan. An applicant will be allowed thirty days following the posting date of the eligibility list in which to provide the documentation.

c. An applicant who has been ordered to pay child support must be current in payment of child support unless an agreement, in writing, has been made and filed with the appropriate court of jurisdiction.

MILITARY HISTORY

The applicant must not have been discharged from any military service under less than honorable conditions including, but not limited to:

a. other than honorable conditions;
b. bad conduct;
c. dishonesty; or
d. any other characterization of service indicating bad moral character.

To be eligible for appointment as a police recruit or police officer, the applicant must meet the following additional standards prior to appointment:

PSYCHOLOGICAL

Following a conditional offer of employment, each applicant must be examined by a licensed psychologist or psychiatrist, as selected by the City of Watauga, and be declared in writing by that professional to be in satisfactory psychological and emotional health for licensing as a peace officer. The examination must be conducted pursuant to professionally recognized standards and methods and must be administered by an experienced professional who is a licensed psychologist or psychiatrist.

POLYGRAPH EXAMINATION

Following a conditional offer of employment, the applicant must be examined by a licensed polygraph operator, as selected by the City of Watauga, and deemed to have been truthful regarding information submitted to the City during the pre-employment process.

PHYSICAL/MEDICAL EXAMINATION

Following a conditional offer of employment, each applicant must be examined by a Texas licensed physician, approved by the City of Watauga, and be declared in writing as being physically sound and free from any defects which may adversely affect the performance of duties as defined by the essential job functions appropriate to the type of licenses sought; and showing no trace of drug dependency or illegal drug use after a physical examination, blood test, or other medical test.

## PHYSICAL ABILITY

Following the written examination, as prescribed Chapter 143 Section 143.025, an applicant must pass a physical ability assessment as prescribed by the Watauga Police Department and approved by the Civil Service Commission, showing the applicant is physically capable of performing the essential job functions of a police officer.

Applicants passing the written examination will be allowed to take the Physical Ability Test. This test will be given on the same day as the written examination (weather permitting). The Training Coordinator, as assigned by the Department Head, will administer the test. The testing will take place at a site to be determined by the Training Coordinator and will be announced on the day of initial posting of entry level testing.

The physical ability test is designed to simulate the activities typically performed by police officers during the course of their duty. The overall test is designed to test the candidate's ability to perform the essential functions of a police officer. All applicants should wear appropriate athletic clothing for physical testing conditions.

EVENT 1: 30 sit-ups per minute

EVENT 2: 25 pushups, no time limit. Applicants may rest in up position only.

EVENT 3: 300 meter run in 1 minute 11 seconds

EVENT 4: 1.5 mile run in 14 minutes 36 seconds

There will be a minimum rest period of 10 minutes between the run stages.

## ORAL REVIEW BOARD

The applicant must successfully pass a structured interview conducted by an Oral Review Board. The Oral Review Board will be selected from a pool of employees who have expressed an interest and are approved by the Department Head or his designee. The board members may not have any previous relationship with any applicant. Board members may not be on any type of disciplinary probation. The board members must have a minimum of two (2) years non-probationary experience with the Department.

The board will consist of four members, filled according to the following:
1. Chairman - Administrative Commander or his designee.
2. Sergeant
3. Sworn Officer
4. One Civilian Personnel

## CERTIFICATION

The applicant must meet the minimum standard for licensing of a peace officer pursuant

to the provisions of Texas Occupation Code, Chapter 1701, and the rules of the Texas Commission on Law Enforcement Officers Standards and Education, as now or hereafter amended, if they possess either an active Peace Officer License or have successfully completed the Basic Peace Officer Certification Program. Applicants, who possess the required college hours, but are not certified by the Texas Commission on Law Enforcement Officers Standards and Education, must obtain certification by the Texas Commission on Law Enforcement Officers Standards and Education by the completion of the Basic Peace Officer Certification Program, and within six months of employment unless granted an extension from the City Manager pursuant to the rules entitled "Education and Training" contained in Rule 4.09. The employee is required to continue to meet all job standards to maintain employment.

NEPOTISM

No individual may be considered for employment by the Police Department of the City of Watauga who is related to a person already employed by such department pursuant to these Rules, Chapter 6. The Chief Administrator *may* apply the nepotism prohibition in the case of other organizational or personal relationships when failure to do so would be, in the discretion of the Chief Administrator, detrimental to the City.

ENTRANCE EXAMINATION PROCEDURES

4.10 Police and Fire Entrance Examination Procedures

1. CANCELLATION. The Director may cancel and thereafter reschedule an entrance examination for sufficient cause. The Director shall report said cause for cancellation to the Commission.

2. I.D. VERIFICATION. Identification shall be verified by photo I.D. and no applicant shall be admitted once the test begins.

3. FAILURE TO APPEAR. The applications of persons who failed to appear for the entrance examination shall be voided.

4. NO SMOKING. Smoking shall be prohibited at all times in the testing room.

5. TEST MONITORS. The Director may select a reasonable number of persons employed by the City of Watauga to assist in the administration, proctoring and grading of entrance examinations.

6. CHEATING. An examinee who uses or attempts to use any unfair or deceitful means to pass an examination, or assists or attempts to assist another in such activity, shall be informed by the test monitor that the examinee's action shall be reported to the Director for immediate investigation. If the Director determines that the examinee used or attempted to use unfair or deceitful means, or assists or attempts to assist another in such activity, to pass or obtain a higher score for the

examination, such examinee shall not be placed on the eligibility list.

7. TIE BREAKING PROCEDURE. In the event that two or more persons make identical total final scores on the written examination, the following procedures will be used to break the tie and to determine placement on the eligibility list:
The Police Department applicant with the lowest time on the 1.5 mile run will receive the higher rank. The Fire Department applicant with the lowest total time of physical ability test will receive the higher rank.

ELIGIBILITY LIST FOR ORIGINAL APPOINTMENT

4.11 The Commission has determined that eligibility lists for beginning positions are good for one (1) year or until exhausted, whichever occurs first.

4.12 Each applicant's grade on the written examination is based on a maximum grade of 100 percent and is determined by the correctness of the applicant's answers to the questions. The minimum passing grade on the examination is 70 percent. An applicant must pass the examination to be placed on an eligibility list.

4.13 Applicants who have satisfied the prior requirements for documentation entitling them to additional points for military service credit must make at least the minimum passing score (pursuant to Section 143.025) before the additional points are added to comprise their total exam score for purposes of ranking on the eligibility list.

4.14 When a vacancy occurs in a beginning position, the department head shall request in writing from the Director (Commission has delegated this responsibility) the names of suitable persons from the eligibility list.

4.15 The name of any eligible person who has been offered appointment by the department head and declines the appointment shall be stricken from the eligibility list unless the person only temporarily declined to accept appointment for reasons of temporary inability, physical or otherwise, or other good cause acceptable by the department head. The person shall state the reasons in writing and expected exclusion period and shall present them to the department head, who shall forward them to the Commission with the department's recommendation. The Commission may allow the person to remain on the eligibility list for consideration at some future date during the life of that eligibility list.

4.16 The department head, for the good of the department, may proceed to the first candidate on the eligibility list who meets or exceeds the qualifications for the posted position. Those candidates with lesser qualifications, who were passed over by the department head, shall remain in consideration for a future appointment within the one-year eligibility period.

REAPPOINTMENT AS A POLICE OFFICER AFTER RESIGNATION

4.18 A person who previously served as a City of Watauga police officer may apply to the Department Head for reappointment within five (5) years of the effective date of termination if the applicant for reappointment resigned voluntarily in good standing. Reappointment will not be considered if the applicant resigned pending disciplinary action or investigation.

A candidate for reappointment under Section 4.18 may be appointed regardless of the availability of an eligibility list. A candidate for reappointment has priority over candidates on an eligibility list.

Age limitations, as provided under Section 143.023(c), do not apply to reappointments made under Section 4.18.

An applicant eligible for reappointment must meet the following requirements:

- Holds a valid, current license as Peace Officer from the Texas Commission on Law Enforcement Officer Standards and Education.
- Successfully complete a physical/medical evaluation and drug screen.
- Successfully pass a background investigation.
- Successfully complete a psychological evaluation (If there is a 180 day break in service as required by the Texas Commission on Law Enforcement Officer Standards and Education)

Upon reappointment, the applicant will be reinstated with all previous longevity and seniority benefits earned during any previous period of employment with the City of Watauga Police Department, including placement on the salary step for an officer.

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

In the event there is no vacancy for a police officer at the time of application for reappointment, the Department Head may retain the application. Reappointment can be made only within five years of the date of resignation. If there is no reappointment within five years from date of resignation of the applicant, the reappointment process is automatically terminated.

## REAPPOINTMENT AS A FIREFIGHTER AFTER RESIGNATION

(Amended through Meet and Confer negotiations, August 3, 2016)

4.19

1. Application for Reappointment

   A person who previously served as a City of Watauga Firefighter may apply in writing to the Department Head for reappointment within three (3) years of the effective date of separation if the applicant meets the eligibility requirements in *Section B. Eligibility* herein. A person applying under this article will not be required to take an entrance examination and will not be placed on an eligibility list.

2. Eligibility

   An applicant for reappointment must have resigned voluntarily and in good standing from the Watauga Fire Department as a Firefighter. Reappointment will not be considered if the applicant resigned pending disciplinary action or investigation.

   An applicant eligible for reappointment must meet the following requirements:

   a. Hold a valid and current Basic Firefighter certification from the Texas Commission on Fire Protection.
   b. Hold a valid and current Paramedic license from the Texas Department of State Health Services.
   c. Successfully complete a physical/medical evaluation and drug screen.
   d. Successfully pass a background investigation.

   An applicant for reappointment must meet all the eligibility requirements for a person in the classification of Firefighter, with the exception of the age requirement, as provided under *Section 4.08 Eligibility Standards for Beginning Position in the Fire Department* of the Watauga Firefighters' and Police Officer's Local Rules.

3. Reappointment

   It shall be at the Department Head's discretion to determine the applicant's suitability for reappointment. In the event the Department Head determines that the applicant should not be reappointed, the applicant shall be notified of the decision in writing and the reappointment process is terminated. The Department Head shall forward a copy of this documentation to the Civil Service Director.
   If the Department Head approves a reappointment and the applicant successfully completes and meets all of the reappointment requirements, the applicant will be reappointed if a vacancy exists. Notice of the reappointment shall be given in writing to the Civil Service Director. A candidate for reappointment may be appointed regardless of the availability of an eligibility list. A candidate for reappointment has priority over candidates on an eligibility list.
   In the event there is no vacancy for a Firefighter at the time of application for

reappointment, the Department Head may retain the application. Reappointment can be made only within three (3) years of the date of resignation. If there is no reappointment within three years from date of resignation of the applicant, the reappointment process is automatically terminated.

4. Restoration of Certain Benefits

Upon reappointment, the applicant's prior years of service with the City of Watauga Fire Department in the classification of Firefighter will be counted only for the following purposes:

a. Longevity Pay
b. Accrual Benefits
c. Determination as to the appropriate placement in the Civil Service Step Plan

If reappointed, the applicant shall serve a one (1) year probation and not receive the benefits of Civil service protection. The applicant's seniority and eligibility for purposes of promotion shall be determined by their reappointment date and in accordance with the Watauga Firefighters' and Police Officer's Local Rules.

## CHAPTER FIVE

## PROBATIONARY PERIOD

5.01 A person appointed to a beginning position in the Fire or Police Department must serve a probationary period of twelve (12) months, beginning on that person's date of employment as a firefighter and police officer. A police academy trainee must serve a probationary period of eighteen (18) months, beginning on that person's date of employment.

5.02 During the probationary period, employees are not Chapter 143 civil service status employees, but rather are employed "at will" and shall be subject to discharge at the discretion of the department head, which discharge shall be final and unappealable to the Commission.

5.03 Probationary employees shall have such rights as designated by the City of Watauga Personnel, Administration and Financial Policies and Procedures Manual.

5.04 EXTENSION OF PROBATIONARY PERIOD FOR NEW EMPLOYEES

(Amended through Meet and Confer negotiations, March 23, 2015 and August 3, 2016)

1. A person appointed to a beginning position in the fire department who is certified as a Firefighter and Paramedic must serve a probationary period of twelve (12) months beginning on the first day of that person's employment as a firefighter.

2. A person appointed to a beginning position in the fire department who is not certified as a Firefighter and Paramedic shall have their probationary period extended by twelve (12) months upon successful completion of both certifications.

3. The probationary period may also be extended by a period not to exceed twelve (12) months due to prolonged leave. This extension will be at the Department Head's discretion and only due to required military leave, medical leave, and/or injury leave. The length of time in which the probation period is extended will not exceed the length of time the employee was on military leave, medical leave, and/or injury leave. The Department Head's offer of a probationary extension to the firefighter will be agreed upon in writing.

## CHAPTER SIX

## NEPOTISM

6.01 No individual may be considered for employment by the Fire Department or Police Department of the City of Watauga who is related to a person already employed by such Department. Related means within the second degree of affinity or within the third degree of consanguinity and includes those relationships identified in Art. 5996 H, Texas Civil Statutes, as now or hereafter amended. This includes, but is not limited to, the following relationships: spouse, parent, child, sibling, uncle, aunt, nephew, niece, first cousin, parent-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, step parent, step-brother, step-sister, step-daughter, and step-son.

6.02 In the event an individual who is currently in the employment of the Fire Department or Police Department of the City of Watauga marries a person who is also currently employed by the same Department the marriage shall constitute an automatic resignation by the person having the least time in service with such Department. In the event both persons were hired on the same day, then the person resigning or retiring shall be deemed the person with the most recent date stamped on his or her application for employment. However, the parties may designate in writing, addressed to the director and the department head, before their marriage, which one of the two officers shall resign or retire.

6.03 No supervisor shall become romantically involved with a subordinate officer. In the event an officer who is in the employment of the Fire Department or Police Department enters into a romantic relationship with a subordinate officer also employed by the same department, the relationship shall constitute an automatic resignation by the supervisor. However, the parties may designate in writing, addressed to the director and the department head of their Department, upon becoming romantically involved, which one of the two shall resign or retire.

The automatic resignation shall be effective the date the department head of their

department receives satisfactory proof of the existence of such relationship, whether continuing or not, during employment of the individuals. The department head shall immediately notify the director of the proof of the relationship.

## CHAPTER SEVEN

## DUTY ASSIGNMENT

7.01 The department head of the Fire or Police Department shall have the discretion to make assignments of duty within the classifications in the respective Departments. Duty assignments shall not be subject to review by the Commission. Duty assignments are not appealable to the Commission. Changes in duty assignment shall always be at the discretion of the department head.

7.02 The department head may designate a person from the next lower classification to temporarily fill a position in a higher classification. Such designation must be in writing. The designated person is entitled to the base salary of the higher position, or a 6% increase of the lower classification salary, whichever is greater.

7.03 The temporary performance of the duties of a higher position by a person who has not been promoted as prescribed by these Rules may not be construed as a promotion.

7.04 Any person who is required to act in a position of higher classification in an emergency situation shall be paid the base salary of the higher position.

## CHAPTER EIGHT

## PHYSICAL AND MENTAL REQUIREMENTS

8.01 Any person to be appointed and every member of the Fire Department and Police Department must be capable of rendering safe and efficient service to the City and performing the duties and essential functions of the appropriate classification.

8.02 All firefighters or and police officers shall be required to submit to a psychological or physical examination whenever a question arises to whether the individual is mentally or physically fit for duty. Determination of the firefighters' or police officers' mental and/or physical fitness for duty shall be subject to the Commission and department head review and hearing as provided by the provisions of Section 143.081 of Chapter 143 of the Local Government Code.

8.03 The employee shall authorize the release of such medical information as may be necessary for the Commission and department head to determine mental and/or

physical sufficiency.

8.04 If the head of the department determines that there is a question as to whether a firefighter or police officer is sufficiently physically or mentally fit to continue the person's duties, the department head shall give written notice to the employee. The employee shall, within 15 business days, comply with the provisions of Section 143.081(b) of the Local Government Code. Extensions may be granted by the Director up to an additional 10 business days if good cause exists for necessity of extension. A copy of the report shall also be submitted to the department head. If the employee presents good and sufficient information, which satisfies the department head that the employee is fit, the City will reimburse the reasonable cost of the examination not covered by other City benefits.

8.05 Police officers and firefighter applicants are covered under the Physical Ability test.

## CHAPTER NINE

## PROMOTIONAL PROCEDURES

PROMOTIONAL EXAMINATION NOTICE

9.01 Before the 90th day prior to the date a promotional examination is held, the Commission shall post a notice that lists the sources from which the examination questions will be taken.

9.02 Before the 30th day prior to the date a promotional examination is held, the Commission shall post a notice of the examination on a bulletin board located in the main lobby of City Hall, on the City's website and in the Director's office. The notice must show the position to be filled or for which the examination is to be held, and the date, time, and place of the examination.

PROMOTIONAL EXAMINATION ADMINISTRATION PROCEDURES

9.03 CANCELLATION OF PROMOTIONAL EXAMINATION: The Director may cancel and thereafter reschedule a promotional examination for sufficient cause.

9.04 PROMOTIONAL SIGN-UP LIST: Each applicant for a promotional examination will be required to sign a Promotional Sign-Up List which includes, but is not limited to, verification of their date of rank, social security number, and date of employment in the department as a firefighter or police officer.

9.05 I.D. VERIFICATION: Any person who has not signed up and does not present proper identification shall not be permitted to take the examination. No applicant shall be admitted to the examination area after the test has started.

9.06 CHEATING: Any examinee who uses or attempts to use any unfair or deceitful means to pass or enhance his or her score on the examination, or assists or attempts to assist another in such activity, shall be informed by the test monitor that the examinee's action shall be reported to the Director for immediate investigation. If the Director determines that the examinee used or attempted to use unfair or deceitful means, or assists or attempts to assist another in such activity, to pass or enhance his or her score on the examination, such examinee shall not be placed on the eligibility list. The examinee's action shall also be reported to the department head who shall determine if disciplinary action is warranted.

9.07 The actual conduct of every examination shall be under the direction of the Director, or his/her designated test monitors, free from the presence, participation or influence of any person other than the Director or persons designated by the Director to be present.

9.08 The Director may adopt additional procedures or rules for examinations to allow efficient, economic, or practical implementation of the qualification/testing process. If any unforeseen event or situation arises before or during the promotional examination process, the Director or his/her designee may utilize discretion to resolve the situation.

PROMOTIONAL EXAMINATION PROCEDURE/GRADES

9.09 Written Examination: Each applicant shall be given a written examination conducted in accordance with Section 143.032 of the Texas Local Government Code. Each applicant's grade on the written examination is based on a maximum grade of 100 points and is determined entirely by the correctness of the applicant's answers to the questions. A minimum passing grade on the examination is 70 percent correct answers. Those who do not pass the written examination shall be eliminated from the promotional process.

9.10 Each eligible promotional candidate shall be given an identical examination in the presence of the other eligible promotional candidates.

9.11 The written examination must be entirely in writing and may not in any part consist of an oral interview.

9.12 The examination questions must test the knowledge of the eligible promotional candidates about information and facts and must be based on:

a. The duties of the position for which the examination is held;
b. Material that is of reasonably current publication that has been made reasonably accessible to each member of the Police or the Fire Department involved in the examination; and
c. Any study course given by the departmental schools of instruction.

9.13 The examination questions must be taken from the sources posted as prescribed by Section 143.029(a). Firefighters and police officers may suggest source materials for the examinations.

9.14 The grading of each promotional examination shall begin when one eligible promotional candidate completes the examination.

SENIORITY POINTS

9.15 The final written examination score of each candidate shall include seniority points. Seniority points are added to the candidates final score, if and only when the candidate has scored a minimum of 70% or greater on the written examination.

a. Seniority points shall be calculated at one (1) point for each full year of service as a commissioned police officer in the Watauga Police Department, up to a maximum of ten (10) points. Cut off for seniority time will be the date of the written examination. Only those employees receiving a passing grade on the written test are eligible for seniority points.
b. Seniority points shall be calculated at one (1) point for each full year of service as a firefighter in the Watauga Fire Department, up to a maximum of ten (10) points. Cut off for seniority time will be the date of the written examination. Only those employees receiving a passing grade on the written test are eligible for seniority points.

POSTING OF EXAMINATION RESULTS

9.16 Within 24 hours after a promotional examination is held, the Commission shall post the individual raw scores on the bulletin board located in the main lobby of City Hall.

REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION

9.17 Each eligible candidate shall have the opportunity to examine the source materials, his/her examination, and his/her answers thereto together with the grading thereof. If an eligible promotional candidate requests, the eligible promotional candidate is entitled to see his/her promotional examination, answers, and source materials, but may not remove the examination, copy of answer sheet, or copy a question used in the examination.

9.18 An employee may request the Commission to reconsider the employee's promotional examination and answers, the examination grading and the source material for the examination by filing a written request with the Director within five (5) business days after the date the examination scores are posted. Saturdays, Sundays, and legal holidays are excluded in determining the five (5) day period.

A business day is defined as Monday through Friday, excluding holidays.

9.19 All appeals must be in writing and specify the challenged question number(s) only. The candidates may not copy the question(s) but must list the question number(s), the answer(s), the reason for the appeal, and the reference material(s) upon which the appeal is based.

a. If any candidate appeals a question(s) on a promotional examination under this rule, the Director shall prepare a written notice of the hearing and notify all parties concerned as to the time, date, and place of the hearing. The Director shall prepare a package of information for the Commission for each test question being appealed, to include:

1. Question number;
2. Question and answers from test;
3. Correct answer on scoring key;
4. Copy of source material, if applicable;
5. Appellant(s) name(s);
6. Appellant(s) written reason for appeal; and
7. Director's statement, if any.

b. This information will be delivered to each Commissioner before the hearing for review. A copy of the pertinent information will also be sent to each appellant and the department head (only information pertaining to the question being appealed by an appellant will be sent to that appellant).

c. The following factors will not support an appeal, including, but not limited to:

1. Evidence that other reference materials or sources support an answer which is different than the approved answer;

2. Evidence that there exists another answer which is accurate in certain limited circumstances, but which is not accurate generally; or

3. Evidence that the reference page number is incorrectly stated. (A page number is given only to assist in locating the basis for the approved answer.)

d. During the appeal hearing, the following rules will apply:

1. Appealed questions will be considered in numerical order. Each appealed questioned will be considered one at a time. The Director may enter supporting documents to the record.

2. Each appellant will be given an opportunity to present reasons for his/her appeal. The appellant may designate someone else to

present comments.

3. The Chairman will first ask each appellant if he/she still wishes to appeal. The appellant may request to enter supporting documents to the record. The appellant will then be allowed to make a brief presentation. The Chairman will limit the time for each appellant to speak on each question (normally four minutes).

4. After each appellant has spoken on the question, the Commission may ask questions of the appellant, Director, and any other necessary parties. The Chairman will then allow others an opportunity to speak on the question offering differing opinions, if they so desire. The Commission may make a decision on each question(s) appealed once the appellant has spoken and the Commission has deliberated on the information or they may wait until all appealed questions have been discussed.

5. After discussing each question, the Commission will, in open session, vote 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;
    b. change the correct answer;
    c. allow more than one correct answer; or
    d. delete the question.

6. The Commission will indicate its decision for each question by making a motion and then voting on it.

7. After the Commission votes on each question, the Director will re-score all answer sheets, if necessary. The Commission will then certify the eligibility list, if necessary. If the eligibility list is amended, it will 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. If questions are deleted, the value of remaining questions will be changed to equal a total of 100 points. All answer sheets will be re-graded to show the total number of correct answers out of 98. Seniority points will then be added, and a new eligibility list will be typed and posted.

PROMOTIONAL ELIGIBILITY LISTS

9.20 The promotional eligibility list shall consist of a listing of the last four digits of the social security numbers of those persons who took and passed the examination with their corresponding total final scores, beginning with the highest total final

score descending in order to the lowest total final score. A Police Department's employee's "total final score" shall be computed by adding the applicant's points for seniority, passing written examination score, certification points and assessment center score as discussed in Section 10.07 of the City of Watauga Firefighters' and Police Officers' Civil Service Rules and Regulations. A Fire Department applicant's score shall be based on the passing written examination score added to the seniority points. Each applicant's grade on the written examination is based on a maximum grade of 100 points and is determined entirely by the correctness of the applicant's answers to the questions. All police officer applicants who receive a grade of at least 70 points shall be determined to have passed the written examination, and all firefighter applicants who receive a grade on the written examination of at least 70 points shall be determined to have passed the examination.

CERTIFICATION OF PROMOTIONAL ELIGIBILITY LIST

9.21 The Commission shall certify all promotional eligibility lists.

9.22 Each promotional eligibility list shall remain in existence for one year after the date on which the written examination is given, unless exhausted. At the expiration of the one-year period, or after the current list is exhausted, a new promotional examination may be held, or the Commission may wait to conduct a promotional examination until a vacancy occurs.

9.23 The certified eligibility list will be posted in the Director's office and the Police Department and the Fire Department, after the Commission certifies the list.

TIE-BREAKING PROCEDURE

9.24 In the event that two or more persons make identical total final scores, the following procedures will be used to break the tie and to determine placement on the final eligibility list for promotion:

a. Highest Written Test Score: If two or more persons tie on total final scores, then the Commission shall certify the list for those persons in the order according to which person had the highest examination raw score prior to the addition of seniority points, certification points and/or assessment center score.

b. Seniority in Rank: If there are still ties, the Commission shall certify the list of those persons with tied scores in the order of each person's seniority in the position immediately below the position for which the examination was given.

c. Date of Commission: If there are still ties, the Commission shall certify the list of those persons with tied scores in the order according to seniority with the department as a certified firefighter or police officer.

d. If there are still ties, the candidates with tied scores will draw lots.

PROMOTIONAL STATUS

9.25 Occupying the top position on a promotional eligibility list does not create an absolute right to be promoted. Among other things, all promotions are subject to:

a. a vacancy occurring in the classification during the one year existence of the eligibility list;

b. a City ordinance which deletes or expresses the intent to delete the particular position upon the occurrence of a vacancy; and

c. prior review by the department head for determination of a promotional bypass action.

PROCEDURES FOR MAKING PROMOTIONAL APPOINTMENTS

9.26 Pursuant to Section 143.036 (f), the Department Head shall appoint the person having the highest grade on the eligibility list. If the Department Head has a valid reason for not appointing the person having the highest grade, the Department Head shall personally discuss the reason with the person being bypassed before appointing another person. The Department Head shall also file the reason, in writing, with the Commission and shall provide the person a copy of the written notice. On application of the bypassed person, the reason the Department Head did not appoint that person is subject to review by the Commission.

9.27 If an employee is passed over for a promotion, the employee may request a review by the Commission of the reason the department head did not appoint them pursuant to Chapter 143 and these Rules or, on the written request of the person being bypassed, a review by an independent third-party examiner.

9.28 Pursuant to Section 143.036 (g), if a person is bypassed, the person's name is returned to its place on the eligibility list and shall be resubmitted to the department head if a vacancy occurs. If the department head refuses three times to appoint a person, files the reason(s) for the refusal in writing with the Commission, and the Commission does not set aside the refusal, the person's name shall be removed from the eligibility list.

9.29 If an employee declines a promotion, he/she must submit the notice in writing to the Department Head and the Director. The declining employee's position on the eligibility list shall remain until its one-year expiration.

RECORD OF CERTIFICATION AND APPOINTMENT

9.30 Pursuant to Section 143.037, when a person is certified and appointed to a position in the Police Department or the Fire Department, the Director shall forward the appointed person's record to the Department Head. The Director

shall also forward a copy of the record to the Chief Executive, his/her designee, and the Chief Administrator and shall retain a copy in the civil service files.

9.31 The record must contain:

a. the date notice of examination for the position was posted;
b. the date on which the appointed person took the examination;
c. the name of each person who conducted the examination;
d. the relative position of the appointed person on the eligibility list;
e. the date the appointed person took the physical examination, the name of the examining physician, and whether the person was accepted or rejected;
f. the date the request to fill the vacancy was made;
g. the date the appointed person was notified to report for duty; and
h. the date the appointed person's pay was started.

9.32 The Director's failure to comply with this Section does not affect the civil service status of the employee.

## CHAPTER TEN

## ELIGIBILITY FOR PROMOTION

### ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION

10.01 Except as provided by Chapter 143 of the Local Government Code Sections 143.013 and 143.102, a firefighter is not eligible for promotion unless the person has served in the Fire Department in the next lower position or other positions specified by the Commission for at least two (2) years at any time before the date the promotional examination is held. A firefighter is not eligible for promotion to the rank of Battalion Chief or its equivalent unless the person has at least four (4) years actual service in the Fire Department.

10.02 Each promotional examination is open to each firefighter who at any time has continuously held for at least two (2) years a position in the classification that is immediately below, in salary, the classification for which the examination is to be held.

10.03 If the Fire Department has adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, each promotional examination is open to each firefighter who has continuously held for at least two (2) years a position at the next lower pay grade, if it exists, in the classification for which the examination is to be held.

10.04 If there are not enough firefighters in the next lower position with two (2) years of service in that position to provide an adequate number of persons to take the examination, the Commission may open the examination to persons in that position with less than two (2) years of service. If there is still an insufficient

number, the Commission may open the examination to persons with at least two (2) years or experience in the second lower position, in salary, to the position for which the examination is to be held.

10.05 This section does not prohibit lateral crossover between classes.

10.06 Application to Personnel on Active Military Duty

If a person is recalled on active military duty for not more than sixty (60) months, the two-year service requirements prescribed in Sections 10.01 and 10.02 do not apply and the person is entitled to have time spent on active military duty considered as duty in the respective Fire Department.

10.07 Promotional Process
(Amended through Meet and Confer negotiations, March 23, 2015)

a. Written Examination

Each firefighter seeking a promotion shall be given a written examination in the presence of the other eligible promotional candidates. Identical examinations will be given to the promotional candidates. Promotional candidates who successfully pass the written examination with a raw score of 70% or better will proceed to participate in a Promotional Panel. Only the written examination may be appealed as defined in Section 143.034 of the Local Government Code.

b. Promotional Panel

There shall be an established Promotional Panel to conduct an Assessment Center. The panel shall consist of four (4) firefighters from outside the Watauga Fire Department, preferably from a department with equal or greater number of firefighters as the Watauga Fire Department. Promotional Panel members must not be on any type of probation. Up to three (3) members of the panel should be of the same rank being sought by the applicant. At least one (1) of the panel members should be of next higher rank than the position being sought. In the case that not all panel members can be present, it is acceptable to perform the assessment with three (3) panel members. It is required that the members of the Panel not be personally acquainted with the candidates nor be employed by the Watauga Fire Department.

Each member of the Panel will certify by a written, sworn, and notarized affidavit that he or she has not and will not talk to or correspond with ANY PERSON about any candidate's abilities, personality, or qualifications for promotion, prior to and during participation in the assessment center process. The member must further stipulate that he or she has no direct relationship with any candidate, other than professional, that would interfere with the assessor's objectivity in providing a fair, balanced, and impartial evaluation of the candidate. Each candidate will certify by a written, sworn, and notarized

affidavit that he or she has not and will not talk to or correspond with ANY PERSON about any candidate's abilities, personality, or qualifications for promotion, prior to and during participation in the assessment center process. The panel shall assess the candidate's skills based on leadership group exercises, decision making exercises and oral interview questions. There will be a total of ten (10) questions and/or exercises which are equally weighted at ten (10) points each.

No part of the Assessment Center may be appealed.

Upon completion of all assessments, the Civil Service Director shall provide each candidate a written performance evaluation. The evaluation shall at minimum highlight the candidate's strengths and weaknesses as observed throughout the process.

The Civil Service Director or his/her designee shall be in attendance at all of the exercises conducted by the assessment board. The Civil Service Director's role will be to oversee the process. The Civil Service Director is not to be an assessor nor provide any input or evaluation. No observers other than the Director of Civil Service or his/her designee shall be allowed during the assessment center.

c. Seniority Points

The final promotional score of each candidate shall also include seniority points.

Seniority points shall be calculated at one (1) point for each full year of service with the Watauga Fire Department as a commissioned fire fighter, up to a maximum of ten (10) points. Cut off for seniority time will be the date of the written examination. Only those employees receiving a passing grade (70%) on the written test are eligible for seniority points.

d. Scoring Methodology

Each candidate's final score shall be the sum of the scores from the written examination and assessment center plus seniority points. The final score on the total promotional system determines placement of candidates on the eligibility list, as follows:

Written Examination - Maximum Possible Score: 60 points
Promotional Panel - Maximum Possible Score: 40 points
Maximum Total Score: 100 points

Additional Points:
Seniority - Maximum Possible: 10 points

Total Maximum Score: 110 points

Note: Additional points for seniority are added to the candidates total score, if and only when the candidate has scored a minimum of 70% or greater on the written examination.

ALTERNATE PROMOTIONAL SYSTEM IN THE POLICE DEPARTMENT
(Adopted on 03/21/2011)

10.08 ELIGIBILITY FOR PROMOTION

Promotional Eligibility for Sergeant Position

Promotion to Sergeant requires that the police officer must have, at minimum, four (4) years of service as a Police Officer in the Watauga Police Department. A police officer with two (2) years of prior service as a police officer in another comparable law enforcement agency and two (2) years of service with the Watauga Police Department, for a total of four (4) years, will also be eligible. Examples of law enforcement agencies comparable in duties include municipal police departments, departments of public safety and sheriff departments. Candidate must have an Intermediate TCLEOSE certification.

Promotional Eligibility for Lieutenant Position

Promotion to Lieutenant requires that the police officer must currently be in the position of Sergeant in the Watauga Police Department, and have served for at least two (2) years as a Sergeant in the Watauga Police Department. Candidate must have an Advanced TCLEOSE certification.

Promotional Eligibility for Assistant Chief Position

Promotion to Assistant Chief requires that the police officer must have served for at least four (4) years of service in the Watauga Police Department. Candidate must also have a Master TCLEOSE certification.

10.09 PROMOTIONAL EXAMINATION PROCEDURE

Written Exam

Each police officer shall be given an identical examination in the presence of the other eligible promotional candidates. Promotional candidates who successfully pass the written examination with a raw score of 70% or better will proceed to participate in an Assessment Center. Only the written examination may be appealed. Reviews and appeals of the written examination will be conducted in

accordance with Chapter 9 of the City of Watauga Firefighters' and Police Officers' Civil Service Rules and Regulations.

Source List and Examination Notice

Promotional examination notices and source lists will be posted in accordance with Chapter 9 of the City of Watauga Firefighters' and Police Officers' Civil Service Rules and Regulations.

Test Scores and Eligibility List

Test scores and eligibility lists will be posted in accordance with Chapter 9 of the City of Watauga Firefighters' and Police Officers' Civil Service Rules and Regulations.

Assessment Center

There shall be an established Assessment Center. The assessment board shall consist of at least three (3) police officers from outside the Watauga Police Department, preferably from a department with equal or greater number of police officers as the Watauga Police Department. An additional police officer, who must meet the same requirements stated above, for a total of four (4) will serve as an alternate. Assessment board members must not be on any type of probation. At least one member of the board shall be of the same rank as the position sought. All other members shall be of the same rank or higher than the rank being sought. It is required that the members of the board of assessors not be personally acquainted with the candidates nor be employed by the Watauga Police Department.

Each assessor will certify by a written, sworn, and notarized affidavit that he or she has not and will not talk to or correspond with ANY PERSON about any candidate's abilities, personality, or qualifications for promotion, prior to and during participation in the assessment center process. The assessor must further stipulate that he or she has no direct relationship with any candidate, other than professional, that would interfere with the assessor's objectivity in providing a fair, balanced, and impartial evaluation of the candidate. Each candidate will certify by a written, sworn, and notarized affidavit that he or she has not and will not talk to or correspond with ANY PERSON about any candidate's abilities, personality, or qualifications for promotion, prior to and during participation in the assessment center process.

The board shall assess the candidate's skills based on leadership group exercises, decision making exercises and oral interview questions. There will be a total of ten (10) questions/exercises which are equally weighted at ten (10) points each.

No part of the Assessment Center may be appealed.

Upon completion of all assessments, the Civil Service Director shall provide each candidate a written performance evaluation. The evaluation shall at minimum highlight the candidate's strengths and weaknesses as observed throughout the process.

Department Participation

The Civil Service Director or his/her designee shall be in attendance at all of the exercises conducted by the assessment board. The Civil Service Director's role will be to oversee the process not to be an assessor or to provide any input or evaluation. No observers other than the Director of Civil Service or his/her designee shall be allowed during the assessment center.

Application of Alternate Promotional System to Personnel on Active Military Duty

Promotional candidates serving on active duty during the time in which the written examination of a promotional examination is administered will be facilitated in accordance with Section 143.032 of the Texas Local Government Code and Chapter 9 of the City of Watauga Firefighters' and Police Officers' Civil Service Rules and Regulations and will be administered and facilitated by the Civil Service Director.

Should an active duty candidate pass the written examination with a score of 70 and be eligible to continue to the Assessment Center, the remaining candidates shall proceed through the process as outlined herein. When the active duty candidate returns to employment from active service the Civil Service Director shall, within 60 days, facilitate and supervise the administration of the Assessment Center, which may or may not be identical to the processes administered to the other candidates.
After the returning active duty member completes written examination and assessment center and all appeals processes outlined herein, the Civil Service Director shall establish a new eligibility list.

Seniority and Certification Points

The final promotional score of each candidate shall also include seniority and certification points.

Seniority points shall be calculated at one (1) point for each full year of service with the Watauga Police Department as a commissioned police officer, up to a maximum of ten (10) points. Cut off for seniority time will be the date of the written examination. Only those employees receiving a passing grade (70%) on the written test are eligible for seniority and certification points.

Certification points shall be applied as follows:

- 2 points - Texas Commission on Law Enforcement Officer Standards and Education Intermediate Certificate.

- 4 points - Texas Commission on Law Enforcement Officer Standards and Education Advanced Certificate.
- 6 points - Texas Commission on Law Enforcement Officer Standards and Education Master Certificate.

It is the police officer's responsibility to provide proof of certification from TCLEOSE to the Civil Service Director no later than 17:00 on the last business day prior to the written examination.

Scoring Methodology

Each candidate's final score shall be the sum of scores from the written examination and assessment center plus certification and seniority points. The final score on the total promotional system determines placement of candidates on the eligibility list, as follows:

| | |
|---|---|
| Written Examination | Possible: 60 points |
| Assessment Center | Possible: 40 points |
| Total Score | Maximum: 100 points |
| | |
| Additional Points: | |
| TCLEOSE Certification | Possible: 6 points |
| Seniority | Possible: 10 points |
| | |
| Total Maximum Score: | 116 points |

Note: Additional points for seniority and certification are added to the candidates final score, if and only when the candidate has scored a minimum of 70% or greater on the written examination.

10.10 This section does not prohibit lateral crossover between classes.

## CHAPTER ELEVEN

## DISCIPLINARY ACTIONS

GENERAL PROVISIONS

11.01 Purpose. These Rules shall apply to and govern all disciplinary actions and appeals of the City of Watauga civil service firefighters and police officers pursuant to Chapter 143 and these Rules.

11.02 All disciplinary actions and appeals concerning civil service employees shall be made in compliance with Chapter 143, these Rules and Regulations, the City of Watauga Personnel, Administration and Financial Policies and Procedures

Manual, as well as the Rules and Regulations of the employee's Department.

CAUSE FOR DISCIPLINE/EMPLOYEE MISCONDUCT

11.03 A civil service employee may be disciplined, suspended, indefinitely suspended, or removed from employment for any act(s) or omission(s) involving one or more of the following grounds:

1. Conviction of a felony crime or any crime involving moral turpitude;

2. Violation of a provision of the Municipal Charter of the City of Watauga, Texas or the Watauga Personnel, Administration and Financial Policies and Procedures Manual;

3. Acts of incompetence;

4. Neglect of duty;

5. Discourtesy to the public or to a fellow employee while the firefighter or police officer is in the line of duty;

6. Acts showing lack of good moral character;

7. Intentionally or knowingly ingesting intoxicants, either alcohol or a controlled substance, as defined by City of Watauga Drug Abuse Policy, while on duty; (“Intoxication” is defined as the loss of normal use of mental or physical faculties due to the introduction of alcohol or other intoxicants into the body.)

8. Conduct prejudicial to good order;

9. Refusal or neglect to pay just debts;

10. Absence without leave;

11. Shirking duty or cowardice in the line of duty, if applicable;

12. Violation of an applicable Fire or Police Department rule, policy; or special order;

13. Violation of City of Watauga Civil Service Rules and Regulations.

11.04 The term "cause" shall also mean "employee misconduct" and shall include any act or omission that violates:

a. An applicable provision of Chapter 143; or

b. An applicable rule or regulation duly adopted by the Commission of Watauga.

11.05 The department head shall determine whether the facts submitted substantiate a violation of one or more of the applicable rules and regulations.

11.06 A department head may proceed with appropriate disciplinary action arising from any particular factual event(s) and/or misconduct under Sections 11.03 or 11.04 which would constitute "cause", only when the employee misconduct is related to those matters set forth in Section 143.051 of Chapter 143, or violation of these Rules, or the City of Watauga Personnel, Administration and Financial Policies and Procedures Manual, or the Departmental Rules and Regulations.

11.07 If the Commission determines that cause does exist for a requested demotion and as provided the employee with written notice as per Section 143.054, thereafter the action for appeal of the demotion may be conducted according to the same hearing procedures as set forth herein for all other disciplinary actions or as expressly provided otherwise in Chapter 143.

11.08 The applicable department head is authorized to adopt such department rules, regulations, policies, procedures, standing orders, general orders, and/or special orders, as may be necessary to accomplish efficient operations of the department.

11.09 Disciplinary action under Chapter 143 shall include suspensions, involuntary demotions, and indefinite suspensions (dismissal).

DOCUMENTATION OF DISCIPLINARY ACTION

11.10 A civil service employee 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) 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 to the Commission or hearing examiner the disciplinary action; and
f. Such other matters deemed relevant to the action or as required by law.

DISCIPLINE

11.11 Disciplinary Suspensions

a. The head of the Fire or Police Department may suspend a firefighter or police officer under the department head's supervision or jurisdiction for the violation of a civil service rule or a Fire or Police Department Rule or

Special Order. The suspension may be for a reasonable period not to exceed fifteen (15) calendar days or for an indefinite period. An indefinite suspension is equivalent to dismissal from the department.

b. If the Department Head suspends a firefighter or police officer, the Department Head shall, within 120 hours after the hour of suspension, file a written statement giving the reasons for the suspension with the Director who is authorized by the Commission to accept services of such statement. The department head shall immediately deliver a copy of the statement in person to the suspended firefighter or police officer.

c. The copy of the written statement must inform the suspended firefighter or police officer that if the person wants to appeal to the Commission, the person must file a written appeal with the Commission within ten (10) days after the date the person receives the copy of the statement.

d. The written statement filed by the department head with the Commission must point out each civil service rule alleged to have been violated by the suspended firefighter or police officer and must describe the alleged acts of the person that the department head contends are in violation of the civil service rules. It is not sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated.

e. If the department head does not specifically point out in the written statement the act or acts of the firefighter or police officer that allegedly violated the civil service rules, the Commission shall promptly reinstate the person.

f. If offered by the department head, the firefighter or police officer may agree in writing to voluntarily accept, with no right of appeal, a suspension of not less than 16 or more than 90 calendar days for the violation of a civil service rule. The firefighter or police officer must accept the offer within five working days after the date the offer is made. If the person refuses the offer and wants to appeal to the Commission, the person must file a written appeal with the Commission within 15 days after the date the person receives the copy of the written statement of suspension.

g. In the original written statement and charges and in any hearing conducted under this chapter, the department head may not complain of an act that occurred earlier than the 180th day preceding the date the department head suspends the firefighter or police officer. If the act is allegedly related to criminal activity including the violation of a Federal, State, or local law for which the firefighter or police officer is subject to a criminal penalty, the department head may not complain of an act that is discovered earlier than the 180th day preceding the date the department head suspends the firefighter or police officer. The department head must allege that the act complained of is related to criminal activity.

11.12 Demotions

a. If the Department Head of the Fire or Police Department wants a firefighter, or police officer under his supervision or jurisdiction to be involuntarily demoted, the Department Head shall recommend in writing to

the Commission that the Commission demote the firefighter or police officer.

b. The department head must include in the recommendation for demotion the reasons the department head recommends the demotion and a request that the Commission order the demotion. The department head must immediately furnish a copy of the recommendation in person to the affected firefighter or police officer.

c. The Commission may deny or grant the request for demotion. If the Commission believes that probable cause exists for ordering the demotion, the Commission shall give the firefighter or police officer 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 day before the date the hearing will be held.

d. The firefighter or police officer is entitled to a full and complete public hearing, and the Commission may not demote a firefighter or police officer without conducting the requisite public hearing.

e. A voluntary demotion in which the firefighter or police officer has accepted the terms of the demotion in writing is not subject to this section.

## SCOPE OF MATTERS SUBJECT TO APPEAL

11.13 It shall be the duty of the civil service departments and of all employees to use every effort to resolve conflict within the department concerned and to minimize resorting to the appeal process. No matter what the conflict, management and the employee(s) concerned shall make good faith attempts to peacefully resolve the conflict prior to beginning each subsequent step of the appeal process.

11.14 The following matters are appealable under Chapter 143, Local Government Code:

a. Test Appeals
b. Promotional Passover Appeals
c. Disciplinary Appeals

11.15 If an employee is in doubt as to whether or not a situation or issue is appealable, the employee is encouraged to timely file their request for appeal or hearing so as not to inadvertently waive the issue or the filing deadline. The request will then be considered by the Director who will respond by informing the employee whether or not the situation or issue is appropriate for consideration by the Commission. The Director will forward a copy of all correspondence and responses to the Commission.

11.16 An employee has no right of appeal for transfer, assignment, or reassignment of duties.

11.17 An employee has no right of appeal resulting from a discretionary policy decision as to policy matters.

11.18 An employee who has voluntarily resigned or retired from the Fire or Police Department forfeits all rights to the disciplinary appeal process, unless the appeal or request for hearing was timely filed prior to retirement or resignation.

11.19 An employee who has voluntarily accepted an agreement in writing which is intended to resolve the issue of any form of disciplinary action imposed by the department head thereby forfeits all rights to further proceedings in the disciplinary appeal process for such specific disciplinary action.

ORIGINAL NOTICE OF APPEAL

11.20 The employee's notice of appeal and request for hearing shall set forth the employee's basis for appeal in strict compliance with Section 143.010.

11.21 The employee's notice of appeal must be filed in writing in the Director's office within ten (10) calendar days after receiving the disciplinary action of the department head. An employee may also withdraw his/her request for an appeal at any time thereafter, which shall terminate the appeal.

11.22 The notice of appeal and request for hearing:

a. shall contain the name of the employee appealing;
b. shall contain the employee's signature in ink;
c. should contain the signature of the authorized representative, if known;
d. should contain the phone number and address of the employee and his authorized representative, if any; and
e. should clearly state any violations, infractions, wrongdoing, or unjust actions by the employer that the employee wishes to appeal. Any grounds for appeal not stated in the appeal notice shall be waived by the appealing employee at any hearing on the matter.

11.23 All pleadings and briefs shall be written in a clear and legible form and shall be delivered to the Director.

FAILURE TO TIMELY FILE AN APPEAL

11.24 Failure on the part of an employee to file an appeal of a disciplinary action with the office of the Director within ten (10) calendar days shall result in no appeal of the matter being considered.

OPTIONS FOR DISCIPLINARY HEARINGS

11.25 Commission Hearing

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 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 to a specified date and time.

11.26 Hearing Examiners

a. The letter of disciplinary action issued to a firefighter or police officer must state that in an appeal of an indefinite suspension, a suspension, a promotional pass-over, or a recommended demotion, the appealing firefighter or police officer may elect to appeal to an independent third party hearing examiner instead of to the Commission. The letter must also state that if the firefighter or police officer elects to appeal to a hearing examiner, the person waives all rights of appeal to a district court except as provided in the statute.

b. To exercise the choice of appealing to a hearing examiner, the appealing firefighter or police officer must submit to the Director a written request as part of the original notice of appeal required under this chapter stating the person's decision to appeal to an independent third party hearing examiner.

c. If the appealing firefighter or police officer chooses to appeal to a hearing examiner, the firefighter or police officer and the department head, or their designees, shall first attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner on or within ten (10) days after the date the appeal is filed, the Director shall immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service, or their successors in function. The firefighter or police officer and the department head, or their designees, may agree on one of the seven neutral arbitrators on the list. If they do not agree within five working days after the date they received the list, each party or the party's designee shall alternate striking a name from the list and the name remaining is the hearing examiner. The firefighter or police officer, or their designee, shall make the first strike of a name from the list of seven arbitrators. The parties or their designees shall agree on a date for the hearing.

d. The Director shall thereafter coordinate with the agency sponsoring the hearing examiner as to all matters regarding scheduling, place of hearing, accommodations, etc. If a hearing examiner has been initially selected but thereafter objected to or asked to be recused by a party, both parties may only upon mutual agreement excuse the hearing examiner and thereafter request a new list of qualified and neutral hearing examiners and start the selection process over again.

e. The appeal hearing shall begin as soon as the hearing examiner can be scheduled. If the hearing examiner cannot begin the hearing within 45 calendar days after the date of selection, the firefighter or police officer

may, within two days after learning of that fact, call for the selection of a new hearing examiner using the procedure prescribed in subsection “c” above.

f. In each hearing conducted under this section, the hearing examiner has the same duties and powers as the Commission, including the right to issue subpoenas.

In a hearing conducted under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing examiner shall render a decision on the appeal within ten (10) days after the date the hearing ended.

g. In an appeal that does not involve an expedited hearing procedure, the hearing examiner shall make a reasonable effort to render a decision on the appeal within thirty (30) days after the date the hearing ends or the briefs are filed. 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.

h. The hearing examiner's fees and expenses are shared equally by the appealing firefighter or police officer and by the department. The party who calls the witness pays the costs of a witness.

i. The hearing examiner's decision is final and binding on all parties. If the firefighter or police officer decides to appeal to an independent third party hearing examiner, the person automatically waives all rights to appeal to a district court, except as provided in the statute.

j. A district court may hear an appeal of a hearing examiner's award only on the grounds that the hearing examiner 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 district court having jurisdiction in the municipality in which the Fire or Police Department is located.

11.27 Within five (5) days after filing the notice of appeal and before either party has incurred third party hearing examiner expenses and before a hearing is begun, an employee may withdraw his/her request for the independent third party hearing examiner and submit the appeal to a hearing before the Commission. The election to have the hearing before the Commission 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, and the 30 days begins to run on the day after the Director receives the election to hold the hearing before the Commission.

EXPENSE AND COSTS

11.28 The payment of all costs and expenses shall be collected by the Director, or his designee, within thirty (30) days after the conclusion of the hearing.

11.29 State law governing the doctrine of "mitigation of damages" shall be applicable in computing any reimbursements or set off for an award of back pay to be made to an employee as a result of a disciplinary action being modified or reduced.

DIRECTOR TO COORDINATE ALL MATTERS

11.30 The location and accommodations for all hearings and appeals shall be arranged by the Director.

11.31 All subsequent matters raised by either party regarding attendance, scheduling, requests for subpoenas, request for continuances, etc., shall be coordinated through the Director. All such information shall be provided to the Director who shall then provide copies of same to the opposing party or representative and also coordinate the appropriate response or action to be taken.

FAILURE TO ATTEND SCHEDULED HEARING

11.32 The failure of an appellant to attend a scheduled appeal hearing, or to timely file a 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 or hearing examiner from proceeding to take such action as may be appropriate.

EMPLOYEE AND DEPARTMENT REPRESENTATIVES

11.33 The hearing process shall recognize the right of employees as well as the department to be represented by one or more persons throughout the process of a disciplinary appeal. However, only one representative shall be allowed to speak or otherwise present evidence on behalf of either party during the questioning of a particular witness.

11.34 Employee and department representatives shall use their best efforts to help resolve all proceedings expeditiously and fairly to all concerned.

11.35 The function of the representative shall be to articulate the best interests of the employee or the department represented.

11.36 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.

11.37 Any problems or concerns regarding the manner in which the opposing party or

his or her representative is handling a particular disciplinary appeal should be brought to the attention of the Director. The issue will be expeditiously addressed.

EXCHANGE OF DOCUMENTATION AND IDENTITY OF WITNESSES

11.38 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.

11.39 Parties who request photocopies of documents from the opposing party should be accommodated if such requests are reasonable. Items from departmental policies, rules and regulations manuals 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.

11.40 Employees and their representatives may obtain copies of documentation contained in the employee's own personnel and departmental files after the employee has provided a written, signed request.

11.41 Before requesting a subpoena *duces tecum* for the production of documentary material, a party shall first make a request for the materials directly to the other party and provide a reasonable time for a response. If the request is refused or otherwise not produced, then a request may be made to the Commission or hearing examiner to issue the subpoena *duces tecum*. Requests to the Commission or to a hearing examiner for subpoenas shall be completed at least ten (10) days prior to the scheduled hearing date in order to be processed in time.

11.42 All requests for subpoenas to compel the attendance of a witness shall be coordinated through the Director's office or the organization supplying the hearing examiner with copies of same being provided to the opposing party. Each party is responsible for serving his/her own subpoenas.

11.43 The Commission may subpoena or depose witnesses in accordance with Section 143.009.

11.44 The parties are encouraged to complete the exchange of exhibits and the identity of all potential witnesses to the other party prior to the beginning of the scheduled hearing so as to avoid the necessity of use of subpoenas.

<u>HEARING PROCEDURES Conducted by the Commission or by a Hearing Examiner</u>

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

11.46 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.

11.47 All disciplinary appeal proceedings shall be public hearings save and except the deliberations of the Commission, which may be conducted in executive session.

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

11.49 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 postpone his/her decision as to any pre-hearing motions until the hearing is completed and all factual evidence has been presented.

11.50 Both parties may be allowed to make brief opening statements.

11.51 The hearing shall proceed with the introduction of the statement of charges of a joint exhibit in the record.

11.52 The Commission or hearing examiner shall then proceed to develop the evidence and testimony as to those contested matters.

11.53 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 its 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 closely related to the issue(s) as is possible. Throughout the proceedings, Commission members or the hearing examiner may also ask questions as needed in order to aid their consideration of the testimony or evidence. In disciplinary appeals, the department shall have the burden of proof.

11.54 Witness testimony shall be taken under oath or affirmation. Witness(es) are subject to reasonable and relevant cross-examination by the opposing party.

11.55 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 City and the employee may designate a witness as an advisory witness who shall then be exempt from "The Rule". The head of the employee's department shall also be exempted from "The Rule".

11.56 The Commission or hearing examiner shall exercise reasonable control over the questioning of witnesses and the 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.

11.57 The parties and their respective representatives shall cooperate in keeping all presentations focused on the relevant issues before the Commission. Long drawn-out sessions shall be discouraged.

11.58 All hearings must remain business-like and focus upon resolution of factual matters. Hearings shall not include accusations, threats, speeches or arguments. The Commission shall have the discretion to adjourn any meeting which becomes disruptive or where meaningful or productive dialogue ceases.

11.59 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, and other procedural matters.

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

11.61 Thereafter, the Commission may adjourn to executive session for deliberation and determination of the issues. Thereafter, the Commission shall reconvene in open session and shall make and announce its findings and rulings. Thereafter, a written order containing same shall be prepared and signed by the Commission.

<u>HEARING PROCEDURES - Rules of Evidence</u>

11.62 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.

11.63 The scope of evidence 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.

11.64 Either party may offer such relevant evidence as he/she may desire to aid in the

determination of material disputed issues.

11.65 It shall be the province of the Commission to ultimately determine:

a. the admissibility and/or consideration of any particular evidence or testimony;
b. the relevance of any particular evidence or testimony;
c. the credibility of any particular evidence or testimony; and
d. the materiality or “weight” to be given to any particular evidence or testimony.

11.66 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 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 pursuant to these Rules.

11.67 The Commission may receive and consider the evidence of witnesses by affidavit and assign such weight as it deems proper after consideration of objections, if any, made to its admission.

11.68 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, and other demonstrative evidence.

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

<u>HEARING PROCEDURES - Issues To Be Determined In Disciplinary Appeals</u>

11.70 Generally, the determinative issues to be considered 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. Was the degree of disciplinary action imposed by the department "reasonable" under the circumstances?;

c. Has the hearing process developed evidence which justify or compel modification of the department head's disciplinary action?; and

d. Compensation to the employee, if any.

11.71 A party is only required to establish its factual assertions by a "preponderance of the evidence." A "preponderance of the evidence" means the greater weight and degree (51% or more) of credible testimony or evidence admitted into the record.

11.72 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 or termination. Progressive discipline need not always apply and the seriousness of a single offense may negate a previously unblemished record.

11.73 The employee shall have the right to present evidence and/or testimony supporting:

a. that the employee did not commit the misconduct as alleged; 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.

11.74 An employee's mere disagreement or difference in opinion in regard to the department actions or reasoning therefore, without more, shall not constitute grounds to overturn or modify the disciplinary action.

11.75 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.

HEARING PROCEDURES - Findings And Orders Of The Commission

11.76 Upon conclusion of the hearing, the Commission shall make a just and fair resolution of the matter in a written statement sustaining 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 other issues addressed in the same final order.

11.77 In the event that the specific charge(s) of misconduct against the employee are all found to be "not true", then the final order and ruling shall promptly restore the employee to the employee's proper position or status without penalty.

11.78 In the event that any of the 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. Temporarily suspended from the department, and shall then set forth the time period and conditions of suspension which shall be imposed; or

b. Indefinitely suspended from the Fire or Police Department

11.79 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; and

c. whether the documents relating to the disciplinary action should be modified or removed from the employee's personnel file per Section 143.089(c).

11.80 If the Commission or hearing examiner modifies the disciplinary action of the department head, the final order shall clearly state in writing the factors and reasons for doing so. If affirming the disciplinary action of the department head, it shall be presumed it was for the same reasons and facts as presented by the department head unless otherwise indicated.

11.81 The final ruling and order of the Commission may be made by the majority vote of the Commissioners. If only two Commissioners are present, then the employee may request a continuance beyond the 30 days from the appeal until such time as all three (3) Commissioners may be present. However, in the case of a suspension,
the Commission shall hold a hearing and render a decision within 30 days after the date it receives notice of the appeal unless all parties otherwise agree.

11.82 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. These records may be cited as reference material in subsequent determinations by the Commission.

<u>HEARING PROCEDURES - Findings And Orders Of The Hearing Examiner</u>

11.83 An employee's right to appeal to an independent third party hearing examiner in lieu of the Commission is set forth in Section 143.057. However, regardless of the forum used, the rules and criteria for the resolution of disciplinary actions should remain the same. All hearing examiners must become familiar with and must follow these Rules.

11.84 Only disciplinary actions concerning an indefinite suspension, a suspension, a promotional pass-over or a recommended demotion are appealable to hearing examiners.

11.85 The rule-making power and authority of the Commission is in no way conferred upon and/or delegated to any hearing examiner.

11.86 In every disciplinary appeal conducted under Section 143.057, 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 witnesses.

11.87 A hearing examiner's authority and jurisdiction shall be the "same" as the Commission's meaning no more, no less and no different from that which is applicable to the Commission pursuant to Chapter 143 and Chapter Twelve of these Rules.

11.88 A disciplinary proceeding conducted by a hearing examiner instead of the Commission shall not be conducted or resolved via arbitration nor 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 nor shall it constitute a waiver of the application of these Rules.

11.89 All hearing examiners shall also make and maintain a record of the hearing which is capable of clear and accurate reproduction or transcription. The Director may coordinate with the hearing examiner for possible use of City facilities for this purpose.

11.90 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 Section 143.057(g) and (h).

11.91 If the hearing examiner fails to act in accordance with these Rules, any decision by the hearing examiner shall have no effect or authority, and by failing to follow these Rules, the hearing examiner shall be deemed to have exceeded his/her authority.

11.92 LAST CHANCE AGREEMENT (FIREFIGTHERS)
(Amended through Meet and Confer negotiations, March 23, 2015)

In the event a firefighter commits a serious violation of a policy, rule or statute, the use of a last chance agreement provides the Department Head with an alternate to indefinite suspension. The use of the last chance agreement will be at the Department Head's discretion.

In considering appropriate disciplinary action, the Department Head may require that a firefighter be evaluated by a qualified professional designated by the Department Head. The designated qualified professional must be an in-network provider under the City's current health plan. If that professional recommends a program of counseling and/or rehabilitation for the firefighter, the Department Head may offer the firefighter, as an alternative to indefinite suspension, the opportunity to enter into a last chance

agreement. The agreement may include the following provisions in addition to any other provisions agreed upon by the firefighter and the Department Head.

a) The firefighter shall successfully complete the program of counseling and/or rehabilitation recommended by the qualified professional designated by the Department Head.

b) The program of counseling and/or rehabilitation will be completed on the firefighter's off duty time, unless the Department Head approves the use of accrued vacation leave or sick leave. The firefighter shall be responsible for paying all costs of the program of counseling and/or rehabilitation, which are not covered by the firefighter's health insurance plan.

c) The firefighter shall agree to a probationary period not to exceed one (1) year, with the additional requirement that if, during the probationary period, the firefighter commits the same or a similar act of misconduct, the firefighter will be indefinitely suspended without right of appeal.

d) If the firefighter’s misconduct involves alcohol or substance abuse related behavior, the Department Head may require that the firefighter submit to mandatory alcohol or drug testing, upon order by the Department Head, during the probationary period.

e) If the firefighter accepts the opportunity for a last chance agreement, the firefighter may not appeal any terms of the agreement. Successful completion of a counseling and/or rehabilitation program will be specifically defined in the agreed alternative discipline document. If the firefighter fails to successfully complete the agreed upon program, the firefighter may be indefinitely suspended without right of appeal, nor right to bring any contract dispute regarding the suspension, before any administrative or judicial body.

The Use of a last Chance Agreement does not prohibit the Department Head from imposing discipline for violation(s) of other unrelated infractions as described in Section 143.051.

## CHAPTER TWELVE

## ADMINISTRATIVE ACTIONS

### ADMINISTRATIVE INTERPRETATIONS AND APPLICATIONS OF CHAPTER 143

12.01 Whenever an employee or department head is in doubt as to whether a situation or issue is subject to determination by the Commission, the person is

encouraged to promptly file his/her written request with the Director. The Director will review the matter for jurisdictional purposes. If the Commission has no jurisdiction over the matter the Director will inform the party. If the request is appropriate for the Commission to consider the Director will arrange to have the matter placed on the Commission's agenda.

12.02 A scheduled meeting may be canceled and rescheduled for good cause or by mutual agreement. A timely request for rescheduling shall be coordinated by the Director.

12.03 A scheduled meeting shall be canceled and rescheduled whenever circumstances arise whereby Commission members are unable to convene a quorum at the originally scheduled time.

## CHAPTER THIRTEEN

## OTHER APPLICABLE RULES AND REGULATIONS

13.01 All other Personnel Rules and Regulations, including operational manuals, Rules and Regulations and orders adopted by the City of Watauga, and which are not in conflict with Chapter 143 or these Rules shall also be applicable to civil service employees. Additionally, the Administrative Rules pursuant to the City of Watauga Personnel, Administration and Financial Policies and Procedures Manual and Department Rules and Regulations and Operating Manual (to include department orders, procedures, operating guidelines, etc.), also apply if not in conflict.

## CHAPTER FOURTEEN

## SAVINGS CLAUSE

14.01 The provisions of these Rules are declared to be severable. If any rule, section, sentence, clause, phrase or word of these Rules shall for any reason be held to be invalid or unconstitutional by a Court of proper jurisdiction, such decision shall not affect the validity of the remaining rules, sections, sentences, clauses, phrases and words, but they shall remain in effect, it being the Commission's intent that these Rules shall stand notwithstanding the invalidity of any subpart.

## END OF CIVIL SERVICE RULES AND REGULATIONS