

RULES AND REGULATIONS OF THE
CIVIL SERVICE COMMISSION FOR THE
CITY OF FORT SMITH, ARKANSAS
FIRE DEPARTMENT

December 2, 2021

Section 1: Civil Service Rules - Examination Policy

- 1:01 All examinations and interviews referred to in these rules shall be open and competitive, and shall be designed to test the qualifications of applicants for employment and candidates for promotion.
- 1:02 Examinations for employment and promotion may be given for the Fire Department on the first Monday in April and/or the first Monday in October of each year. Special written examinations may be given: (i) at any time(s) deemed necessary by the Civil Service Commission in which case the Civil Service Commission shall meet sufficiently in advance of the date for such examinations so as to give the notice required by Section 1:03 of these rules; or (ii) unless prohibited by law, at any other time upon written notice, in the manner described below, by the Fire Department as approved by the Fire Chief. If a written examination for employment or promotion is held pursuant to date specifically set by the Fire Department: (i) the Fire Department shall confirm with the City Attorney's Office that the examination date proposed is consistent with the requirements of law; (ii) the Fire Department shall promptly provide written notice of the date for such written examination to the Civil Service Commission by delivering such written notice to the Human Resources Director, or his/her designee, who shall then promptly deliver the notice (preferably electronically but by any other means of providing actual notice) to all Civil Service Commissioners; (iii) upon request of any Civil Service Commissioner, a special meeting of the Civil Service Commission shall be called and the Civil Service Commission shall either approve such examination date or shall direct that such examination shall not occur, but in the absence of any such request by a Civil Service Commissioner made within five (5) business days after written notice of such examination date to the Human Resources Director, or his/her designee, such examination date shall be conclusively deemed to be approved by the Civil Service Commission.
- 1:03 At least ten (10) days before the date of any such examination that will have an effective period of one year, and at least sixty (60) days before the date of any examination that will have an effective period of longer than one year, a notice of such examination stating the date, time, location, and purposes thereof, shall be published in a newspaper having a bona fide circulation in the City of Fort Smith, and shall be posted at the Fort Smith Fire Department, the Municipal Office Building of the City of Fort Smith, and such other location(s) as may be required by law at such time. Such notice may, but is not required to be, posted at any additional location(s), including on one or more internet websites, deemed prudent by the Department of Human Resources of the City of Fort Smith or by the Chief of the Fire Department.

- 1:04 The same written examination shall not be given for promotion on two successive occasions nor shall identical examinations be used for examining different positions.
- 1:05 All examinations shall be conducted impartially, and instructions pertaining to the examinations shall be made available to all candidates.
- 1:06 At least one member of the Civil Service Commission shall be present during the administration of all written employment and promotional examinations given by the Commission. The Commission shall bear sole responsibility for grading all written employment and promotional examinations. The Commission may delegate the administration of written examinations and/or the duty to have a proctor present during the administration of all written employment or promotional examinations to the Department of Human Resources of the City of Fort Smith or the Human Resources Director, or his/her designee, of the City of Fort Smith.
- 1:07 Following the administration of a promotional examination process, an applicant may review his or her own test results. Requests to review the results must be made, in writing, within Three (3) days of the date of completion of the promotional examination process, to the Human Resources Director, or his/her designee, of the City of Fort Smith. During the review process, the applicant may not copy any test question in any form whatsoever.
- 1:08 As soon as is practicable after the examination, the Commission shall complete its review of the examination process and prepare the appointment or promotional eligibility list. The list shall be certified and such list shall be in full force and effect from the date of certification for such time frame as may be established by the Commission. Unless the Commission designates a longer effective period for eligibility lists that is not less than one (1) year, nor more than two (2) years, all lists for appointments or promotions as certified by the Commission shall be effective for the period of one (1) year. If, upon the date of certification, a prior eligibility list is still effective, then the certified eligibility list shall not supersede the prior list until such prior list has been exhausted for any one rank or for all ranks, or expires.
- a. If the Commission designates an effective period for the eligibility lists of more than one (1) year under this section, a person shall be eligible for examination for advancement from a lower rank to a higher rank if the person is within twelve (12) months of meeting the time in service requirements for eligibility. However, if that person takes the examination and then is placed on the eligibility list for promotion, the person shall not be promoted from the eligibility list until the person meets the minimum service time requirement in the lower rank as established by the Commission.

- b. If the period of the eligibility list is for more than one (1) year, the extended time period shall be established and certified at least ten (10) days before a component of the test is administered to an employee.
 - c. After the eligibility list is certified, the effective time period for that list shall not be extended.
 - d. At the expiration of this period, all right of priority under the list(s) shall cease.
 - e. In the event of a tie in score for the probationary appointment list between one or more individuals, the tiebreaker will be as follows to determine seniority: 1st tiebreaker - Civil Service written test score; 2nd tiebreaker, Physical agility examination time; 3rd tiebreaker - Fire Review Board score; 4th tiebreaker -- coin flip.
 - f. In the event of a tie in score for the promotional list between one or more individuals, the tiebreaker will be as follows: 1st tiebreaker - Time in current rank; 2nd tiebreaker - seniority as established in the probationary appointment list.
 - g. For ranks where there may not be openings during the effective period of a list, the Civil Service Commission may establish rules to create an eligibles list on an as-needed basis. To determine an eligibles list, the Civil Service Commission shall authorize special examinations per these rules.
 - h. If the Civil Service Commission creates an eligibles list on an as-needed basis and a vacancy is created as a result of death, termination, resignation, demotion, retirement, or promotion, the Fire Chief shall notify the Civil Service Commission within five (5) business days, and the Civil Service Commission shall schedule an examination to establish an eligibles list from which an appointment or promotion shall be made unless the position is determined to be eliminated or not funded.
- 1:09 The certified eligibility list shall be posted within ten (10) days of the certification at the Fort Smith Fire Department and the Municipal Office Building of the City of Fort Smith.
- 1:10 Any applicant for employment or any candidate eligible for promotion who has attempted any fraud, deception, or who otherwise attempted to gain an unfair advantage with reference to the examination process shall be ineligible for appointment or promotion respectively and shall be removed from the eligibility list. If the person attempting to commit fraud, deception, or gain an unfair advantage is a member of the Fire Department, that person shall be subject to

additional disciplinary action. The Fire Chief shall be charged with making a finding of a violation of this rule. His/her decision regarding possible disciplinary action and/or removal from the eligibility list shall become final unless the applicant requests a hearing as established by these rules.

- 1:11 During the testing process for any probationary position within the Police Department or Fire Department, no hatwear, hat(s), cap(s), glove(s), digital or smartwatch, or sunglasses shall be allowed to be worn for any purpose unless necessary for medical purposes as unquestionably documented by medical records of the applicant or as documented by a written and signed statement from a medical or osteopathic physician, physician's assistant, advanced practice registered nurse, chiropractor, psychologist, counselor licensed by the Arkansas Board of Examiners in Counseling, Licensed Clinic Social Worker, or other licensed medical professional within the State of Arkansas providing treatment or medical services to the applicant for a probationary position that is satisfactory within the judgment of the Human Resources Director, or his/her designee. Documentation supporting the need for such above item(s) shall be delivered in writing (by email, in person delivery, or through other means of actual delivery within the designated time period) to the Human Resources Director, or his/her designee, no later than three business days before any scheduled probationary examination in which the individual submitting the documentation desires to participate. It is not the intention of the Civil Service Commission to deny to any person having a medical need for such above item(s) the right to use such item(s) for medical purposes in order to take the Civil Service Examination and any doubt as to the adequacy of such documentation shall be resolved by the Human Resources Director, or his/her designee, with any doubts resolved in favor of the applicant and whose decision shall be final and unappealable. All applicants for any probationary position for the Police Department or Fire Department shall be made aware, in writing, of this requirement within an adequate time to permit compliance with this rule.
- 1:12 Any person applying for any probationary position with either the Police Department or Fire Department shall be required, as part of the application process in order to be qualified to take the Civil Service Examination, to state under oath that such applicant is not presently a member of, nor has he or she ever been a member of, or monetary contributor to, any organization, association, group, or other entity that advocates or promotes the unlawful or violent overthrow of the United States Government or any State Government, the unlawful use of violence or force against any United States citizen(s), or the unlawful killing of any law enforcement officer(s) or firefighter(s).

Section 2: Probationary Appointment Policy - Application for Employment

- 2:01 (1) No person shall be eligible for appointment to the Fort Smith Fire

Department who has not arrived at the age of eighteen (18) years or who, except as provided in subdivision (2)(a), 2(b), 2(c) of this section, has arrived at the age of thirty-five (35) years.

- (2) Provided, however, the maximum age limit for appointment to any position with a fire department in subdivision (1) of this section shall not apply to:
- a. Any person who has at least two (2) years of previous experience as a paid firefighter with another fire department and whose years of experience as a paid firefighter when subtracted from the person's age leaves a remainder of not more than thirty-two (32) years; or
 - b. Any person who is applying for a position with a fire department in which the primary functions of the job involve duties which are administrative, managerial, or supervisory in nature. (Act 1597)
 - c. A current or former service member of the regular or reserved component of the uniformed services of the United States as defined under 10 U.S.C. § 101 who is within three (3) years of separation or retirement from the regular or reserve component of the uniformed services of the United States.

2:02 Applications for employment to the Fort Smith Fire Department must be received by the City of Fort Smith's Human Resources Department at least thirty (30) days prior to the date of the written Civil Service Examination. Applicants must furnish with their application the following information:

- A. A copy of their birth certificate,
- B. A copy of their high school diploma or certificate of General Education Development (GED),
- C. Military discharge papers, if applicable,
- D. Valid driver's license, and
- E. Social Security Card

2:03 Once the requirements of section 2:02 have been completed the applicants will be notified of the date, time, and location of the written Civil Service entrance examination and physical agility examination.

2:04 All applicants must successfully achieve a score of at least seventy (70) percent on the written entrance examination administered by the Civil Service Commission. ***Failure to complete successfully this examination will disqualify the applicant from further consideration for employment.*** The score will be valued at 40% of the overall cumulative score for the Civil Service Hiring Eligibility List.

- 2:05 All applicants must successfully complete the Fort Smith Fire Department's physical agility examination. This examination shall replicate tasks and activities typically required to be performed by a firefighter. All applicants shall receive a score based on their completion time of the physical agility examination. The score will be valued at 40% of the overall cumulative score for the Civil Service Hiring Eligibility List. Failure to complete the physical agility examination in the allotted time will disqualify the applicant from further consideration for employment.
- 2:06 In effort to attract qualified applicants, and as deemed necessary by the Fire Chief, the physical agility examination may be held prior to a written examination.

Section 3: Probationary Appointment Policy - Background Investigation

- 3:01 No person who has been convicted of a felony shall be considered for appointment to the Fort Smith Fire Department.
- 3:02 No person shall be considered for appointment to the Fort Smith Fire Department who has been convicted of a misdemeanor that involves a crime of theft, of violence (including domestic violence), or of drug usage.

Section 4: Probationary Appointment Policy - Fire Review Board Oral Interview

- 4:01 Applicants will submit to an oral interview conducted as designated below. The purpose of the oral interview will be to determine such things as the applicant's motivation, appearance, demeanor, attitude, character, reputation, social adaptability, alertness, judgement, adequacy of background, ability to communicate, and suitability for the rigors demanded of a police officer. The panel will consist of five (5) Fire Department representatives at the rank of Captain or higher appointed by the Fire Chief.
- 4:02 A record of the oral evaluation process shall be made that is adequate and in conformity with the practicalities of the situation in showing the basis of rating the interview.
- 4:03 All applicants must achieve a score of at least seventy (70) percent during the oral interview conducted by the Fire Review Board. Failure to achieve this score will disqualify the applicant from further consideration of employment. The score will be valued at 20% of the overall cumulative score for the Civil Service Hiring Eligibility List.

Section 5: Probationary Appointment Policy - Civil Service Commission Oral Interview

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Section 6: Probationary Appointment Policy - Civil Service Hiring Eligibility List

- 6:01 All applicants who successfully complete all phases of the Civil Service hiring process, consisting of the written examination, physical agility examination, and Fire Review Board oral interview, shall have their names placed on a hiring eligibility list. The applicant's names shall be listed in descending order from the highest total aggregate score to the lowest score.

Section 7: Probationary Appointment Policy - Appointment

- 7:01 When a position for probationary firefighter becomes vacant, the Civil Service Commission shall certify to the Fire Chief the three (3) candidates standing highest on the eligibility list.
- 7:02 The Fire Chief will select for appointment one (1) of the three (3) candidates standing highest on the eligibility list certified by the Civil Service Commission unless the position is not to be filled as determined by the Fire Chief or governing body of the City of Fort Smith due to the position being eliminated or not funded by the City or there is insufficient time to appoint a probationary firefighter before the next scheduled Arkansas state mandated firefighter standards and/or certification class.
- 7:03 After selection of an applicant, all remaining applicants, including those certified but not selected by the Fire Chief, will remain on the eligibility list.
- 7:04 The applicant selected for employment will be given notice that he or she is being tendered a *conditional offer of employment*. If unable to reach the candidate by any other means, they will be notified by certified mail. The applicant will also be informed that he or she has three (3) business days from receipt of the first notice to accept the conditional offer of employment and, upon failure to accept the offer, that applicant shall forfeit his or her rights under the eligibility list, unless the applicant makes written application to the Civil Service Commission within such three (3) business day period and receives, at the discretion of the Commission, additional time in which to accept the offer.
- 7:05 Upon failure of an applicant to accept a conditional offer of employment, the Fire Chief will select one (1) of the three (3) names standing highest on the eligibility list. This procedure shall be repeated until a selected applicant from the eligibility list accepts the conditional offer of employment. The Commission shall be notified

of the person accepting the offer.

Section 8: Probationary Appointment Policy - Conditional Offer of Employment

- 8:01 Once an applicant has accepted the conditional offer of employment, the applicant shall undergo a physical examination furnished by the City of Fort Smith. The physical examination shall be conducted by a licensed physician who must certify that the applicant is in good health and is physically capable of performing the essential job functions of a firefighter. The physician must also certify that the applicant meets all medical standards of NFPA 1582 (National Fire Protection Association Medical Qualifications for Firefighters). Failing any part of the physical examination shall disqualify the candidate from consideration for appointment.
- 8:02 Once an applicant has accepted the conditional offer of employment, the applicant shall submit to a drug test provided by the City of Fort Smith. The drug test may be administered at the time of the pre-employment physical examination described in section 8:01. Refusal by the applicant to submit to the drug test will disqualify the applicant from consideration for appointment.
- 8:03 A confirmed positive drug test indicating illegal drug use will disqualify the applicant from consideration for appointment. Re-testing procedures will be consistent with the Fort Smith Fire Department's Drug Free Workplace policy.
- 8:04 Once an applicant has accepted the conditional offer of employment, the applicant will be administered a polygraph examination. Examination results may disqualify the applicant from consideration for appointment.
- 8:05 An applicant appointed to a position must serve a probationary period of twelve (12) months before the appointment is complete. The Chief of the Fire Department may discharge the appointee during the probationary period, for any reason, by written notice of such discharge. All such discharged appointees may have an exit interview with the Department of Human Resources of the City of Fort Smith.

Section 9: Promotional Policy

- 9:01 No firefighter shall be eligible for examination for advancement to the rank of Driver until he or she has served no less than three (3) consecutive years' service from the last date of hire. Such three years shall consist of one (1) year in probationary status and two (2) years in rank of firefighter. In addition, he or she must also be certified as Firefighter I and Firefighter II as well as Fire Apparatus Driver/Operator as outlined in the National Fire Protection Association (NFPA) Standards NFPA 1001 & NFPA 1002 and Hazardous Materials Awareness & Operations as outlined in NFPA 472.

- 9:02 No Driver shall be eligible for examination for advancement to the rank of Captain until he or she has served no less than two (2) years in the rank of Driver, such two (2) years consisting of six (6) months in probationary status and eighteen (18) months in rank as Driver. In addition, he or she must possess the following certifications: Instructor I as outlined in NFPA 1041 and Fire Officer I & Fire Officer II as outlined in NFPA 1021; Hazardous Materials Awareness & Operations as outlined in NFPA 472; and U.S. Department of Homeland Security ICS 300: Intermediate Incident Command for Expanding Incidents and ICS 400: Advanced Incident Command.
- 9:03 No Captain shall be eligible for examination for advancement to the rank of Battalion Chief, Training Chief, or Fire Marshal until he or she has served no less than two (2) years in the rank of Captain, such two (2) years consisting of six (6) months in probationary status and eighteen (18) months in rank as a Fire Captain. In addition, he or she must possess the following certifications: Fire Officer III & Fire Officer IV or the equivalent as outlined in NFPA 1021 or have completed the Arkansas Fire Academy's Chief Fire Officer Course or have a minimum of an Associate's Degree in Fire Administration or related field as determined by the Fire Chief; and U.S. Department of Homeland Security ICS 300: Intermediate Incident Command for Expanding Incidents and ICS 400: Advanced Incident Command.
- 9:04 No Battalion Chief, Training Chief, or Fire Marshal shall be eligible for examination for advancement to the rank of Division Chief until he or she has served no less than one (1) year in the rank of Battalion Chief, Training Chief, or Fire Marshal, such one (1) year consisting of six (6) months in probationary status and six (6) months in the rank as a Battalion Chief, Training Chief, or Fire Marshal. In addition, he or she must possess the following certificates: Fire Officer III & Fire Officer IV or the equivalent as outlined in NFPA 1021 or have completed the Arkansas Fire Academy's Chief Fire Officer Course or have a minimum of an Associate's Degree in Fire Administration or related field as determined by the Fire Chief; and U.S. Department of Homeland Security ICS 300: Intermediate Incident Command for Expanding Incidents and ICS 400: Advanced Incident Command.
- 9:05 No Battalion Chief, Training Chief, Fire Marshal, or Division Chief shall be eligible for examination for advancement to the rank of Assistant Fire Chief until he or she has served no less than one (1) year in the rank of Battalion Chief, Training Chief, Fire Marshal, or Division Chief consisting of six (6) months in probationary status and six (6) months in the rank as a Battalion Chief, Training Chief, Fire Marshal, or Division Chief. In addition, he or she must possess the following certificates: Fire Officer III & Fire Officer IV or the equivalent as outlined in NFPA 1021 or have completed the Arkansas Fire Academy's Chief Fire Officer Course or have a minimum of an Associate's Degree in Fire

Administration or related field as determined by the Fire Chief; and, U.S. Department of Homeland Security ICS 300: Intermediate Incident Command for Expanding Incidents and ICS 400: Advanced Incident Command.

- 9:06 Service in the lower rank on the basis of temporary appointment shall not be considered service for the purpose of determining whether an individual has served for the requisite period in the lower rank.

Section 10: Promotional Policy - Request for Testing

- 10:01 An eligible firefighter desiring to be examined for promotion shall submit a request to the City of Fort Smith's Human Resources Department, in the form and manner required by Human Resources personnel, by the deadline specified in the testing announcement.

Section 11: Promotional Policy - Physical Examination

- 11:01 Although a physical examination is not generally required as a prerequisite to promotion, the Civil Service Commission reserves the right to require any candidate for promotion to undergo a reasonable, suitable physical examination to determine whether the candidate can fulfill the physical functions and obligations of the rank to which such person has applied for promotion. Such examination may be required either before or after the promotional examination, or during the probationary period after the promotion has been made.

Section 12: Promotional Policy - Examinations

- 12:01 Promotion shall be based upon open, competitive examinations, approved and administered by the Civil Service Commission. Such examinations may include all or any combination of written examinations, oral interviews or practical examinations, including assessment centers.
- 12:02 The candidate must attain a score of at least seventy (70) percent on each portion of the approved open competitive examination process. If on any portion of the examination process the candidate's score is below seventy (70) percent, the candidate will be disqualified from the current promotional testing and the candidate's name will be precluded from being placed on the current promotional eligibility list. For assessment center testing, the company hired shall utilize its own validated scoring process to rank qualified candidates.

- 12:03 Any oral interview that may be given, except for the position of Assistant Chief, shall be conducted by an evaluation board comprised of a minimum of three (3) firefighters appointed by the Fire Chief and senior in rank to the examinee. Any oral interview that may be given for the rank of Assistant Chief shall be conducted by an evaluation board comprised of evaluators selected by the City's Human Resources Department or the Fire Chief. If an oral interview is being conducted as part of an assessment center promotional process, then the City's Human Resources Department or company hired to complete the assessment center testing shall facilitate the oral interview panel. The purpose of the oral interview will be to determine the suitability for the promotion sought.
- 12:04 A record of the oral evaluation process shall be made that is adequate and in conformity with the practicalities of the situation in showing the basis of rating the interview.
- 12:05 The candidate's aggregate score shall be the total of all open competitive examinations as determined by the Fire Chief.
- 12:06 A record of the assessment testing process shall be made that is adequate and in conformity with the practicalities of the situation in showing the rating of the candidate.

Section 13: Promotional Policy - Promotional Eligibility List

- 13:01 All promotional candidates attaining a score of at least seventy (70) percent on each portion of the open competitive examination shall have their name placed on a "Promotional Eligibility List". Those names on this list will be ranked in order, according to the highest total examination and/or assessment process scores and service credits (service credits earned at the rate of two (2) points per year of service through the rank of Captain up to the maximum of fifty (50) service credits) to the lowest total examination scores.
- 13:02 When a position becomes vacant and subject to being filled by promotion, the Civil Service Commission shall certify to the Fire Chief the three (3) candidates (and ties) standing highest on the eligibility list for appointment to that rank of service. The Fire Chief will then select for promotion one (1) of the three (3) persons so certified. The Civil Service Commission will be notified of the selection. After promotion of the individual all remaining candidates for promotion, including those certified but not selected, will remain on the eligibility list.
- 13:03 Promotions shall be made from the eligibility list in effect on the date the vacancy occurs, unless such list has been exhausted. Once a vacancy occurs, promotions shall be made within a reasonable period of time, giving due consideration to the administrative duties of the Fire Department.

- 13:04 If a promotion has not been made within thirty (30) days after a vacancy occurs, any member of the Fire Department on the current eligibility list for promotion may present a grievance to the Civil Service Commission. The grievance will be adjudicated according to the grievance procedures outlined in these rules.
- 13:05 A promotion to any rank in service other than the Fire Chief shall not be deemed complete for a period of six months, and the Fire Chief may reduce to his or her previously held rank any promoted member of the Department during that six months period for any reason. A written notice of such reduction in rank shall be given by the person making the reduction and such notice shall state the reasons for such action; provided, however, that such notice and accompanying reduction in rank shall not be considered as granting to the member so reduced in rank a right of hearing or trial before the Civil Service Commission or appeal therefrom nor shall the requirement of stating the reasons therefor be considered as a requirement that reduction only be for good cause. Any promoted member subsequently reduced in rank by the Fire Chief pursuant to this rule shall be removed from the current eligibility list. However, nothing shall preclude the member from participation in future promotional testing so long as the member meets the minimum requirements at that time.
- 13:06 Except as provided in subsection (b) below, a temporary promotion or appointment for a vacancy created by death, termination, resignation, demotion, retirement, or promotion shall not be made for longer than sixty (60) days when there is a current eligibles list.
- a. Except as provided in subsection (b) below, in the absence of a current eligibles list, a temporary promotion or appointment may be allowed for a vacancy created by death, termination, resignation, demotion, retirement, or promotion until an eligibles list is certified unless the position is determined to be eliminated or not funded by the governing body of the City of Fort Smith. A temporary promotion for a vacancy created by death, termination, resignation, demotion, retirement, or promotion shall not last longer than sixty (60) days.
 - b. If an appeal is filed in connection with a vacancy that is created by a termination or demotion, the vacancy may be filled by a temporary promotion until all appeals in connection with the termination or demotion are exhausted.
 - c. A vacancy that is created by vacation, bereavement leave, medical leave, military leave, or suspension on a day-to-day basis may be filled by the Fire Chief by a temporary promotion on a day-to-day basis as vacancies occur.
 - d. An increase in salary beyond the limits fixed for the grade by the rules of the Civil Service Commission may be allowed while an employee is working

outside of his or her grade while temporarily promoted to fill a vacancy under this rule.

Section 14: Civil Service Rules - Discipline or Grievance Procedures

- 14:01 Members of the Fire Department may be disciplined by the Fire Chief for violations of the Rules of the Civil Service Commission, the Rules and Regulations of the Fort Smith Fire Department and for any other lawful purposes. Disciplinary action taken in regards to the Fire Chief shall be taken by the City Administrator.
- 14:02 Disciplinary action may include any of the following: oral reprimand; written reprimand to be placed in the employee's employment record; suspension for not longer than thirty (30) calendar days, with or without pay; reduction in rank or compensation, or discharge.
- 14:03 Any member reduced in rank or compensation (a suspension without pay shall not be considered a reduction in pay); suspended for three (3) days or more; or discharged after promotion or appointment is complete, shall first be presented with the reasons for such discharge or reduction in writing signed by the Fire Chief. In the event of disciplinary action with reference to the Fire Chief, such notice shall be signed by the City Administrator.
- 14:04 Any member of the Fire Department who has a grievance relating to the matters covered by these Rules and Regulations may present such grievance in writing to the Civil Service Commission by the close of business on the third business day after the date on which the alleged grounds for the grievance arose and request a hearing thereon.
- 14:05 The person so discharged, suspended, or reduced shall have the right within ten (10) days from the date of such written notice to request a trial before the Civil Service Commission. The Civil Service Commission shall within fifteen (15) days after a request for trial is made, fix a date for the trial. If a request for trial is not made within ten (10) days from the date of service of notice, the discharge, reduction or suspension shall become final and no trial shall be granted pursuant to the provisions of Ark. Code Ann. §14-51-301 and §14-51-308.
- 14:06 The Civil Service Commission shall hold a hearing on any such grievance or upon any such request for trial. The written notification of disciplinary action, the reply to such notice, and/or the request for hearing shall constitute a part of said hearing and shall be filed with the record of the hearing. The Department of Human Resources of the City of Fort Smith shall make arrangements to have such hearings stenographically reported. No hearing provided for herein shall be construed as giving the individual involved any right of appeal to the judicial system other than is provided by law.

- 14:07 Any request that any member of the Civil Service Commission recuse from participating in any hearing or trial shall be submitted in writing to the Commission no later than ten (10) days prior to the scheduled hearing or trial. The written request shall state the reasons for the requested recusal and the factual basis for the request. A copy of this rule shall be provided to the grievant or their representative at the time notice is received requesting a hearing or trial before the Civil Service Commission.
- 14:08 After such hearing or trial the Civil service Commission shall vote publicly in open session and announce its decision and as soon as is practicable after such hearing or trial, the Civil Service Commission shall announce its decision and notice thereof shall be presented in writing to the person requesting the hearing or to such person's representative and to the City of Fort Smith's Human Resources Department. Both the City and the affected employee have the right to appeal the decision of the Commission. Any appeal taken from the Commission's decision to the Sebastian County Circuit Court shall be pursuant to the procedures set forth in Ark. Code Ann. § 14-51-308, as may be amended from time to time.
- 14:09 Ark. Code Ann. § 14-51-308 requires the Civil Service Commission to ensure that the transcript and evidence of any proceeding being appealed from the Civil Service Commission to the Circuit Court will be made available for filing in the Circuit Court once the appealing party has paid the cost of preparing the transcript. The Civil Service Commission finds that requiring the prompt posting of a monetary deposit in an amount equal to the total estimated charges of the Court Reporter for preparing the transcript of proceedings before the Civil Service Commission will expedite the appeal process and will otherwise serve the interests of justice.
- 14:10 Upon the filing of a notice of appeal from any decision of the Civil Service Commission to the Sebastian County Circuit Court or an appeal to any other court, by a party other than the City of Fort Smith, immediate notice shall be given to the Court Reporter in the proceeding by the Department of Human Resources. The Court Reporter shall have the right, within three (3) business days thereafter, to provide a written estimate of the Court Reporter's total charges for preparing the transcript and exhibits in such proceeding and such estimate shall be the amount of the deposit required by Section 14:11 of these Rules and Regulations. In the absence of a specific estimate from the Court Reporter within the three (3) business day time period set forth above, the amount of the deposit required by Section 14:11 of these Rules and Regulations shall be equal to One Hundred Twenty-Five Dollars (\$125.00) for each hour of trial or hearing proceedings that were held or conducted before the Civil Service Commission in the matter being appealed. The number of hours of the trial or hearing proceedings that were held before the Civil Service Commission shall be determined by the Human Resources Director, or

his/her designee, of the City of Fort Smith. The appealing party shall be promptly notified, by the Department of Human Resources of the City of Fort Smith, of the amount of the deposit upon determination of the amount of such deposit in accordance with these Rules and Regulations.

- 14:11 Within ten (10) days after being notified of the amount of the deposit required by Section 14:10 of these Rules and Regulations from any action or decision of the Civil Service Commission, the appealing party, unless such appeal is taken by the City of Fort Smith, shall post a monetary deposit in the amount determined by the Department of Human Resources in the amount determined in accordance with Section 14:10 of these Rules and Regulations with the Department of Human Resources of the City of Fort Smith. The monetary deposit shall be made payable to the City of Fort Smith and may be paid by cash, cashier's check, money order, or any other form of cash equivalent deposit acceptable to the Human Resources Director, or his/her designee, of the City of Fort Smith. The Court Reporter shall have no obligation to begin preparation of the transcript until the deposit is posted as set forth in these Rules and Regulations unless he or she is otherwise required to do so by law or regulation of the State of Arkansas.
- 14:12 The deposit required by Section 14:11 shall be held in a bank account overseen by the Department of Human Resources or as may be otherwise required by ordinance or other policies of the City of Fort Smith. In the event of any interest being earned on such deposit, the interest shall be retained by the City of Fort Smith for its services in overseeing and disbursing the funds from the deposit.
- 14:13 At the time that the transcript and evidence are fully prepared and available to be filed with the Circuit Court, the Court Reporter shall promptly notify the appealing party's attorney or the appealing party, if not represented by an attorney. In the event that the deposit is insufficient to pay the total cost of preparing the transcript, the appealing party shall be responsible for paying the deficiency prior to receiving the transcript. In the event that the deposit is greater than the cost of preparing the transcript, as determined by the actual charges of the Court Reporter when the transcript is completed, the excess amount shall be promptly refunded to the appealing party's attorney or directly to the appealing party, if the appealing party is not represented by an attorney, or as is otherwise specifically directed in writing by the person posting the deposit required by these Rules and Regulations at the time that the deposit is posted.
- 14:14 Any person aggrieved by the requirements of Section 14:10 and/or Section 14:11 of these Rules and Regulations may request a hearing before the Civil Service Commission by filing a written grievance, in accordance with Section 14:04 of these Rules and Regulations, within ten (10) days after being notified of the

amount of the required deposit determined pursuant to Section 14:10 of these Rules and Regulations.

- 14:15 In any trial or hearing before the Civil Service Commission lasting more than eight (8) total hours, the Court Reporter may request to receive, from the monetary deposit required by Section 14:11, an amount equal to up to one-half of such deposit upon his or her certification to the Human Resources Director, or his/her designee, of the City of Fort Smith that he or she is promptly commencing the transcribing of the trial or hearing. Upon such certification, one-half of the deposit required by Section 14:11 of these Rules and Regulations shall be delivered by the Department of Human Resources to the Court Reporter. All amounts otherwise due from the deposit to the Court Reporter shall be paid from the deposit at the time that the transcript is finalized and, if such deposit is insufficient to pay the full charges of the Court Reporter, all remaining charges shall be promptly paid by the appealing party to the Court Reporter prior to delivery of the transcript to the appealing party.
- 14:16 The provisions of Section 14:09 to 14:15 of these Rules and Regulations shall have no impact upon any required appearance fee or other fee due from the City of Fort Smith, or its attorneys, to the Court Reporter for his or her appearance or services at any hearing or trial before the Civil Service Commission.

Section 15: Civil Service Rules - Reinstatement Policy

- 15:01 Before any member of the Fort Smith Fire Department is reinstated to the Department following a leave of absence without pay for ninety (90) days or more, whether the leave of absence shall have been based upon a physical disability or otherwise, such member shall submit himself or herself to a physical examination by a licensed physician provided by the City and obtain from the physician certification that the member is capable of performing the functions of the position to which he or she would be reinstated.

Section 16: Civil Service Rules - Miscellaneous Provisions

- 16:01 Unless otherwise required by law, the Secretary of the Civil Service Commission shall be the Human Resources Director, or his/her designee, of the City of Fort Smith. The Secretary shall be charged with the responsibility of maintaining records of all proceedings, including examinations, of the Civil Service Commission. All documents that are required to be filed with the Civil Service Commission shall be personally delivered to the Human Resources Director, or his/her designee, City of Fort Smith, 623 Garrison Avenue, Suite 310, Fort Smith,

Arkansas 72901 or such future address that is actually utilized for the office of the Human Resources and which is published on the official internet website of the City of Fort Smith as the location for the Department of Human Resources for the City of Fort Smith. Documents may also be filed by sending through mail, courier, facsimile, or electronic mail but are considered filed only if they are actually received in a timely fashion by the Human Resources Director. Any person wishing to file a document through such means should contact the Human Resources Director to verify actual receipt of the document sent by mail, courier, facsimile, or electronic mail.

16:02 The number of positions within the Fire Department, the pay policies, and fringe benefit policies are all matters which the Civil Service Commission considers to be within the scope of authority of the governing body of the City of Fort Smith.

16:03 As used throughout these rules and regulations, the terms "Chief," "Fire Chief," and "Chief of the Fire Department" are synonymous. In the event of a vacancy in the office of the Chief of the Fire Department, such terms (insofar as they impose a duty or obligation under these rules and regulations on the Chief of the Fire Department) shall be deemed to include, in the following order: (i) the Acting Fire Chief, if any; (ii) the Assistant Fire Chief, if any; or (iii) the Fire Department official handling the responsibilities and duties imposed on the Chief of the Fire Department under these rules and regulations.

Section 17: Civil Service Rules - Amendment and Adopt of Rules

17:01 The Rules of the Civil Service Commission shall be adopted and amended only after a majority vote of the Commission.

17:02 Prior to the adoption of the Rules or Amendments hereto, a public hearing shall be held on such proposal. Notice of the public hearing shall be given by publication at least ten (10) days prior to the date of such public hearing in a newspaper having a bona fide circulation in the City of Fort Smith, and by posting such notice in the Fort Smith Fire Department and in the Municipal Office Building of the City of Fort Smith. Such notice, as published and posted, shall state the date, time, place, and purpose of such public hearing and shall state that copies of the Rules to be considered may be inspected at the City of Fort Smith's Human Resources Department, during business hours, prior to the date of such hearing.

Section 18: Attestation, Certification, and Recording of Minutes, Records, and Orders

- 18:01 Unless otherwise required by law, the approval or attestation of any minutes, records, or orders of the Civil Service Commission by individual Commissioners may be made by in-person signature (including an actual signature scanned into an electronic document and transmitted by electronic mail), electronic signature, or facsimile signature on one or more approval or signature pages. All such approval or signature page counterparts shall be considered a single document and shall be made part of the official records of the Civil Service Commission.
- 18:02 The Secretary of the Civil Service Commission shall sign any minutes, records, or orders of the Commission and make a handwritten notation of the date that such minutes, records, or orders were made an official part of the records of the Civil Service Commission. All minutes, records, and orders shall become an official part of the Commission's records on the date that such written minutes, records, or orders are prepared by the Secretary, or provided to the Secretary by the Commission or Chairman of the Commission, without regard to whether attestation or approval by a majority of the Commissioners (in accordance with Section 18:01) has occurred.
- 18:03 The Commission may, but is not required to, utilize a file stamp to note the date of filing of any minutes, records, or orders with the Commission. The Secretary shall be charged with the duty to select a file stamp, if he or she desires to utilize a file stamp. If and when a file stamp is selected, it shall be the official file stamp of the Civil Service Commission until changed by a majority vote of the Commission. Even if a file stamp is utilized, the Secretary shall comply with the provisions of Section 18:02 regarding signing and making a handwritten notation of the date that any minutes, records, or orders become part of the official records of the Commission.
- 18:04 The Commission may, but is not required to, use an official seal to comply with any request to certify its records, minutes, or orders. The Secretary shall be charged with the duty to select a seal if he or she desires to utilize a seal for certification purposes. If and when a seal is selected, it shall be the official seal of the Civil Service Commission until changed by a majority vote of the Commission. In the event that a seal is not used to certify records, minutes, or orders, the Secretary shall certify any such records, minutes, or orders with his or her signature and a notary seal along with a statement from the Secretary indicating that the Civil Service Commission does not have a seal that it uses to certify its records, minutes, or orders.