

## **RULE 1 - THE CIVIL SERVICE COMMISSION**

### **1.1 AUTHORITY**

A Civil Service Commission, hereinafter referred to in these rules as the "Commission", exists in the City of Pass Christian by virtue of Section 21-31-1 et seq., Mississippi Code of 1972, as amended and supplemented, hereinafter referred to in these rules by Section, and the applicable sections of the Compiled Code of Ordinances of the City of Pass Christian et seq., as annotated and amended.

### **1.2 PURPOSE**

The purpose of the Commission is to provide a functional, orderly and uniform system for the administration of Civil Service in compliance with the duties of the Commission and the coverage afforded by the Civil Service laws according to Section 21-31-1 through Section 21-31-27, Mississippi Code Annotated, and amendments, and according to rules and regulations promulgated by the Commission under authority of law to accomplish such purpose.

#### **1.2.1 GENDER ASSOCIATED PRONOUNS**

Whenever gender associated pronouns, or the singular or plural form of job title or classification, are used in these rules it is understood that such references are meant to have equal application to all employees or others affected by these rules, male or female.

### **1.3 MANNER OF APPOINTMENT AND TENURE OF OFFICE**

The Mayor and Board of Aldermen as the governing body and the appointing power of the City of Pass Christian, appoints a Civil Service Commission composed of three persons, who must be U. S. Citizens, residents of the City for five years preceding their appointment and an elector of Harrison County, MS, all as provided for by Section 21-31-5, Mississippi Code Annotated, as amended, and effectuated by the City according to the applicable section of the Compiled Code of Ordinances of the City of Pass Christian, as amended. Each commissioner shall serve a term of six (6) years. Removal of a Commissioner from office shall be for such cause or causes as are provided by Section 21-31-5 Mississippi Code Annotated, as amended, and shall be by decision of the appointing power (Mayor and Board of Aldermen) after a full hearing on charges preferred in writing.

Further, any member being so removed shall have the right of appeal, anytime within thirty days thereafter, to the Circuit Court and may demand a jury trial on the conditions specified under Section 21-31-5, as amended.

## **1.4 ORGANIZATION OF COMMISSION**

The Commission shall elect from its members annually in January the following officers who shall serve for a term of one year as of the election date and until a successor is elected:

- Chairman
- Vice Chairman

The immediate past Chairman shall serve as Parliamentarian.

No officer shall serve in the same capacity more than one full term consecutively in office.

The Commission shall also appoint a Secretary that may be one of its members, in consultation with the Mayor, a City employee not working for the Police or Fire Departments, or some other suitable person who will serve without compensation.

### **1.4.1 DUTIES OF CHAIRMAN**

As delineated in the Revised Robert's Rules of Order and any amendments thereto, and restricted to those items as described for chairman only, unless otherwise stated in these rules, the Chairman shall:

- Appoint ad hoc committees which shall be ratified by the Commission prior to assumption of duties
- Sign, cosign or witness all official documents of the Commission
- Perform additional duties as may be assigned by the Commission.

The Chairman shall also serve as the official spokesman for the Commission in all matters dealing with governing authorities, appointing powers and the media.

### **1.4.2 DUTIES OF VICE CHAIRMAN**

The Vice-Chairman shall assume duties of Chairman as delineated in the Revised Robert's Rules of Order in the Chairman's absence or at Chairman's discretion.

### **1.4.3 DUTIES OF COMMISSION SECRETARY AND BOARD OF EXAMINERS**

The Commission Secretary will assume the duties of Secretary as delineated in the Revised Robert's Rules of Order and having the following responsibilities:

- Keeps the records and reports made to the Commission, and all records and examinations held by the Board of Examiners, and performs other duties as may be prescribed by the Commission.
- The Secretary shall comply with the requirements of Section 21-31-7, Mississippi Code Annotated, as amended. The Secretary is subject to suspension and discharge in the same manner as the Commissioners.
- The Board of Examiners shall conduct all Civil Service examinations at times and places designated by the Commission. The Board of Examiners shall consist of the Fire Chief (or a person designated by the Fire Chief from the Fire Department to serve in his absence), Police Chief (or a person designated by the Police Chief from the Police Department to serve in his absence) and a third member to be named by the Commission. The members of the Board of Examiners are subject to suspension and discharge in the same manner as the Commissioners.

### **1.5 COMMISSION MEETINGS**

Regular meetings of the Civil Service Commission will be scheduled once each month on the date and time fixed by the Commission as required by MCA Section 21-31-7, as amended; however, no meetings will be held unless required to transact business for that month. The Commission shall be authorized to hold such additional special meetings as may be required for proper discharge of their duties. The place and time of the regular meetings shall be fixed by resolution of the Commission. Special meetings may be called at anytime by the Chairman or a majority of the Commission, provided a reasonable (five days) notice is given to all Commission members to attend to pending business as the need arises. The Commissioners may execute a waiver of service of such notice and any such waiver must be filed in the Commission's minutes. If the Commission decides to conduct a meeting by teleconference or video means it may do so; however, the Commission must comply with the provisions of MCA Section 25-41-5, as amended. All meetings shall be open to the public and subject to the requirements of the Open Meetings laws provided in MCA Section 25-41-1, et seq.

All Commission meetings and business shall be conducted in accordance with the Revised Robert's Rules of Order and any amendments thereto, unless the Commission shall decide to suspend such rules at any such meeting.

## **1.6 DUTIES OF THE COMMISSION**

It shall be the duty of the Commission to make suitable rules and regulations not inconsistent with the provisions of Sections 21-31-1 to 21-31-27. Such rules and regulations shall provide in detail the manner of conducting examinations, appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges, and may also provide for any other matters connected with the general subject of personnel administration and which may be considered desirable to further carry out the general purposes of Sections 21-31-1 to 21-31-27. It shall have the power to conduct investigations, and make reports on all matters touching the enforcement and effect of provisions of Sections 21-31-1 to 21-31-27, and all rules and regulations adopted by the Commission. The Commission is empowered to investigate all complaints, which must be reduced to writing, subpoena witnesses, administer oaths and conduct hearings.

The City Clerk shall maintain the official employee files of all employees covered under Civil Service. The Commission office shall maintain all records pertaining to investigations undertaken, hearings, etc. The Commission, or any member thereof, shall have the authority to review any and all employment records as allowed by law needed in the course of Commission business.

The Commission shall also:

- Monitor job descriptions and personnel actions involving all Civil Service posts and employees covered under Civil Service and take such action when authorized by law. The Mayor and Board of Aldermen shall fix the duties and set the rates of compensation of all employees as provided in MCA Sections 21-3-5, 21-21-3, and 21-25-3, as amended.
- Select and administer through the Board of Examiners all entrance and promotional tests and examinations for competitive positions
- Certify equitable appointments and promotions in City departments for competitive employees, or other employees, as appropriate, or when requested to do so by Mayor or the respective Chiefs of the Police and/or Fire Departments.
- Review policies for transfers, demotions, suspensions, dismissals and reinstatements.

## **2. RULE PROVISIONS**

### **2.1 PURPOSE OF RULES**

The purpose of these rules is to provide an orderly procedure for the uniform administration and enforcement of Civil Service Laws and to assure all employees and citizens an equal opportunity for positions in the public service.

## **2.2 ADOPTION AND EFFECTIVE DATE OF RULES**

These rules adopted by the Civil Service Commission supersede any and all previous rules and regulations. All rules in conflict with the provisions of State Law are hereby repealed insofar as they are in conflict.

These amended rules shall become effective from the date of adoption, provided, however, that any violation or complaint occurring prior to the date of adoption of these rules shall be administered under the rules in effect on the date of such violation or complaint.

### **2.2.1 MEANING AND INTENT OF RULES**

In the event of a question by an interested party concerning the meaning and intent of any rule, such question should be submitted to the Commission, in writing, for clarification and interpretation. The judgment and decision of the Commission shall be final.

## **2.3 EXTENT OF COVERAGE**

The provisions of these rules shall apply to the Commission and to all full time employees of the City within the Police and Fire Departments and other positions decided by the City and spread upon its minutes, with the exception that coverage shall not extend to any employee excluded by State Law or not otherwise included within coverage by the governing authority.

## **2.4 WAIVER OF RULES**

Requests for a waiver of established rules are not encouraged and will not generally be considered by the Commission. Only the Mayor may, in writing, petition the Commission for a rule waiver when the best interests of the City will be served. A minimum of five working days following receipt of written notice by the Commission shall be required before any such waiver requests can be considered, unless emergency circumstances require otherwise. Such requests shall include complete justification and any other information necessary for the Commission to render an objective decision. Each request shall be considered on its individual merits. The commission may also initiate a request for

consideration of a waiver at any time when it is in the best interests of the commission to do so in order to effectively conduct its business. If the commission initiates the request, the ten day notice requirement is not applicable. The Commission may not grant a waiver of any right or procedure provided by State law, unless such statute provides otherwise.

No waivers granted by the commission shall be general in their application to other or similar requests. A two-thirds majority vote of those present and voting shall be required to grant a waiver.

## **2.5 AMENDMENT OF RULES**

These rules may be amended, supplemented or repealed by the Commission as allowed and provided by law provided that prior to such change being voted upon, the proposed change shall be first reduced to writing and presented before the full Commission for discussion and voted at the next regular scheduled commission meeting. Such an amendment, repeal or supplement to the rules may only be adopted by a two third's vote of the Commission present and voting in favor of same, and such a change will

not take effect at the meeting at which it is voted upon, but will take effect on a date following as determined by the Commission. The only exception to this rule is action taken in accordance with these Rules.

## **2.6 RULE DISTRIBUTION**

A current copy of Commission rules shall be distributed to the Mayor, Department Directors, Commission members and secretary, City Attorney, and City Clerk, and shall be open for inspection and copying by all employees and the public.

### **RULE 3 - CLASSIFICATION OF SERVICE**

## **3.1 ORGANIZATION**

The Classified Service of this City is divided into four classes:

- Competitive
- Noncompetitive
- Exempt

- Regular

### **3.2 COMPETITIVE CLASS**

The competitive class shall include all positions for which competitive or qualifying examinations are used.

### **3.3 NONCOMPETITIVE CLASS**

The noncompetitive class shall consist of all positions requiring unique and exceptional qualifications of a scientific, managerial, professional or educational nature.

### **3.4 EXEMPT CLASS**

The exempt class shall consist of those positions of employment that have been removed from Civil Service coverage by governmental authority.

### **3.5 REGULAR CLASS**

The regular class shall consist of all positions of employment in any department of the City that does not qualify as competitive, noncompetitive or exempt.

## **RULE 4 - APPLICATION FOR ENTRANCE**

### **4.1 GENERAL PROVISIONS**

It shall be the duty of the Commission to oversee the methods of determining the qualifications of persons seeking employment in the public service as provided by law, and to establish eligibility lists for competitive class positions.

#### **4.1.1 APPLICATIONS**

All employment applications shall be submitted to the City Clerk's office of the City of Pass Christian.

## **4.1.2 QUALIFYING PROCEDURES**

In addition to the information required on the forms of application, each applicant shall submit to other examinations, interviews, tests and other qualifying methods as shall be required by the Commission and City of Pass Christian.

## **4.2 QUALIFICATIONS OF APPLICANTS**

### **4.2.1 RESIDENCE OF APPLICANTS**

All applicants for a position of any kind under Civil Service must be a citizen of the United States and an elector of their county or parish of residence, and shall require final certification by the Commission prior to employment. Proof of the foregoing shall be furnished to the appointing authority by the employee no longer than six months following the date of employment.(amended 9\*3\*19)

### **4.2.2 APPLICANT'S BACKGROUND**

The character and past conduct of applicants will be taken into account in evaluation for employment under Civil Service. Unless otherwise prohibited by Federal or State laws, regulations or applicable judicial decisions concerning discrimination or employment, arrest and conviction records may be used in determining suitability for employment, but shall not be an automatic bar for consideration of employment. Nevertheless, any applicant not qualified to vote in Mississippi due to conviction of a disqualifying crime as provided in Article 12, §241 of the Mississippi Constitution or otherwise, shall be ineligible for Civil Service employment. All relative information, not otherwise excluded by law, shall be recorded in each individual's record and fully evaluated taking into account the position for which employment is sought.

## **RULE 5 - EXAMINATIONS**

### **5.1 GENERAL PROVISIONS**



The Commission is authorized to review, approve, modify or reject the necessary qualifications deemed essential for all positions as set by the City. These qualifications may vary, may be revised with time, and may include requirements as to education, training, experience and physical abilities deemed necessary for satisfactory performance in any particular position.

#### **5.1.1 DISQUALIFICATION OF APPLICANTS**

The Commission may refuse to examine competitive position applicants, or after examination refuse to certify as eligible, or after certification remove an applicant from the eligibility list. The reason shall be endorsed on the application.

#### **5.1.2 GIVING ENTRANCE AND PROMOTION EXAMINATIONS**

Entrance and promotion examinations for competitive positions shall be administered at times and for positions as, in the opinion of the Commission, and as otherwise provided for in these rules, the needs of the City may require. Request for examinations originating in the department involved are forwarded to the Commission through the Mayor's office or by the respective Chiefs of the Police and Fire Departments.

#### **5.1.3 QUALIFYING TO TAKE EXAMINATIONS**

Any person qualified under the Civil Service Laws and these rules may take examinations for positions under Civil Service and no fee or other assessment shall be charged.

#### **5.1.4 NOTICE OF EXAMINATIONS**

Notices for all promotional examinations shall be posted at the City Clerk's office and the department in which the position(s) is available for twenty-one calendar days prior to the examination date, unless the Commission shall decide otherwise for good cause shown.

#### **5.1.5 PUBLIC NOTICE OF POSITION OPENINGS & EXAMINATIONS**

With the exception of lateral candidate testing, public notice is required for entry level positions and examinations for the filling of such openings in competitive positions. All such tests shall be open and competitive with public notice being given for a minimum of twenty one calendar days prior to the examination date,

unless the Commission shall decide otherwise for good cause shown. The notice will include, but is not limited to:

- Title of position and compensation
- Date, time and place of examination
- Time period applications will be received
- That a current job description is available for review.

#### **5.1.6 CANCELLATION OR POSTPONEMENT OF EXAMINATIONS**

All examinations shall normally be held on the date stated in any notices. The Commission shall retain the right to postpone, cancel or otherwise change any examination for sufficient cause, including a change in personnel requirements. Any such postponed, canceled or changed examination shall be approved by the Commission and reflected in the minutes. All candidates will be notified of cancellations and rescheduling.

#### **5.1.7 SPECIAL OR SUPPLEMENTARY EXAMINATIONS**

No applicant shall be granted a special or supplementary examination, written, physical, oral or otherwise, unless the failure of an applicant to appear at a stated examination was due to clear error on the part of the Commission or some cause beyond the control of the applicant. A request for special or supplementary examination shall be submitted in writing by the applicant to the Commission. The Commission may order a special or supplementary examination and the reason there for shall be fully stated in the Commission minutes. An applicant may also request a special or supplementary examination, written, physical, oral or otherwise as an accommodation of any disability as provided by Federal or State laws, regulations or judicial decisions pertaining to discrimination in employment.

#### **5.1.8 EXAMINATION OFFENSES**

If, during an examination, an applicant is found to be using, without permission, any unauthorized extraneous means of information, written material or electronic device, unless otherwise as permitted as an accommodation for a disability as provided above, the examiner in charge shall take up the test papers of the applicant. The Commission shall in all such instances give the examination of the applicant a marking of zero and make an explanation of the marking on the paper. The applicant shall be barred from

taking any future examinations. This shall be noted in the minutes of the next meeting of the Commission. The offense of using examination aids, and the penalty as stated in this rule shall be explained to the applicant either by written instruction, or orally by the person administering the examination in advance of giving the examination. Any aggrieved applicant may seek a review of any such decision by an Examiner by submitting same in writing to the Commission within ten days of such action.

## **5.2 APPLICATION SUBMISSION FOR ENTRANCE EXAMINATIONS**

Applications for entrance examinations must be submitted in compliance with the public announcement from the Commission.

### **5.2.1 DISQUALIFICATION BY REASSIGNMENT PROHIBITED**

No reassignment or transfer shall be made of any employee who is eligible for an announced promotional examination when such transfer or reassignment will nullify eligibility to take the examination. This applies for the time period from the examination announcement date to the publishing of the examination results. The exceptions are voluntary employee requests and employees subject to disciplinary action.

## **5.3 PROCESS OF EXAMINATIONS**

The Commission shall approve the nature, type, sequence, and extent of examinations, if such are substantially modified from the usual and customary practices of the City. Written, oral, practical, physical and psychological examinations or any combination may be utilized. The Governing Authority, the City Clerk and Department Directors shall be given prior notice of the nature, type and extent of examination to be given.

### **5.3.1. TESTS ARE CONDUCTED BY COMMISSION**

All examinations shall be under the direction and supervision of the Commission, or its designee, through the Board of Examiners free from the presence, participation or influence of any person, group or agency other than those designated by the Commission. The Commission is solely responsible for determining and controlling the type of examinations utilized to ensure, insofar as practical, the integrity of the entire testing process.

### **5.3.2 CONFIDENTIALITY OF EXAMINATIONS**

The Commission shall conceal the identity of the candidates in all examinations until such examinations have been rated. No score of any kind, covering any

section of any examination, shall be released by the Commission until the final eligibility list rating has been completed.

### **5.3.3 EXAMINATIONS SHALL BE IMPARTIAL**

All examinations shall be impartial, equitable, and practical and designed to define the ability of the tested individual to perform the duties of the tested position. No question on any examination shall relate, directly or indirectly, to any political or religious convictions or affiliations of the individual.

### **5.4 LATERAL CANDIDATE EXAMINATIONS**

Applicants for competitive positions, who are, at the time of application, in one of the programs outlined below, are considered lateral candidates. A lateral candidate must make application for employment through the City Clerk's office for further standard entry level evaluations. Upon receipt of a passing rating, the lateral candidate will become eligible for immediate appointment by the appointing authority. Testing of lateral candidates, following receipt by the Commission of a request from the department involved, and the setting of a mutually agreeable time, shall not be more often than four times each calendar year and not more often than once every quarter for the Fire Department and the Police Department, separately, in addition to the regular entrance examination(s) for which public notice is given.

Testing of lateral candidates will be waived granted the following terms and conditions are met:

- Must be currently employed in a full time position as a sworn police officer with another police department and provide proof that he/she is currently under a civil service system.
- Must have position comparable to an entry level patrol officer for Pass Christian.

**POLICE DEPARTMENT:** Lateral candidates must qualify in one of the following programs:

#### **LATERAL ENTRY PROGRAM**

- Must be employed in a full time position as a sworn police officer with current Police department

- Must have successfully completed a state certified basic police academy
- Must have current law enforcement officer state certification
- Must have position comparable to or above Entry Level Patrol Officer for Pass Christian
- Candidate cannot be on probation, on any mandated leave resulting from any department disciplinary action, or have any pending disciplinary action.

### **CRIMINAL JUSTICE POLICE ACADEMY PROGRAM**

- Must be a graduate in the program prior to employment
- Must attend and successfully graduate from state certified basic police academy
- Must receive Mississippi law enforcement officer state certification.

(Graduate status from either of two Criminal Justice Programs shall satisfy eligibility for lateral entry. The two programs are: (1) USM, Gulf Coast or (2) the Police Corps Program at USM, Hattiesburg.)

**FIRE DEPARTMENT:** Lateral candidates must qualify in the following program:

#### **LATERAL ENTRY PROGRAM**

- Currently employed in a full time position with current Fire Department
- Must have position equal to or greater than Fire Fighter classification approved by the Fire Chief
- Candidate cannot be on probation, on any mandated leave resulting from any departmental disciplinary action, or have any pending disciplinary action.

## **5.5 EXAMINATION CONSULTANTS**

The Commission may occasionally designate employees of the respective municipal departments, other agencies or specialists to serve as examination consultants whose duties shall be assigned by the Commission.

### **5.5.1 SERVICE BY CONSULTANTS**

Consultants will serve subject to call and at the pleasure of the Commission. Each consultant shall execute an affidavit that the contents of any examination will not be revealed to any person, group or agency.

## **5.6 RATING OF EXAMINATION**

In all examinations and evaluations, the relative value through which eligibility on an entrance or promotional list may be earned shall be predetermined by the Commission.

### **5.6.1 FACTORS OF RATINGS**

Final ratings shall take into consideration all factors of examination and evaluation that were given.

### **5.6.2 FAILURE TO PASS INITIAL EXAMINATION**

The failure of the applicant to successfully pass an initial entrance or promotional examination or evaluation fully disqualifies the applicant. The applicant will not receive any consideration for the position applied for at that time.

### **5.6.3 MINIMUM RATINGS AND CHANGES**

The minimum rating needed for the passing of an examination shall be set by the Commission and recorded in the Commission minutes. Changes in the minimum ratings are not encouraged and will not generally be made. Any changes shall be made by the Commission and recorded in the minutes prior to the announcement of any examination for which the new rating would apply. The Commission shall consider any request in writing by a Department Director for a permanent change in the minimum ratings. The reason for such request shall be specified in writing by the Department Director.

Further, the Department Director shall be notified of any changes made by the Commission to the minimum ratings, and should be given an opportunity to respond to such changes before they become final.

## **5.7 RATING NOTIFICATION**

Each applicant, upon completion of a competitive examination, shall, upon request within a reasonable time frame, be notified of whether he/she passed or failed.

### **5.7.1 APPLICANTS ACCESS TO WRITTEN EXAMINATION**

An applicant shall, upon request, be shown his/her written examination after the eligibility list had been established and published according to procedure determined by the Commission.

### **5.7.2 REQUEST FOR CORRECTION OF RATING**

The Commission shall entertain no request for a review of a rating unless such request is made in writing within thirty calendar days after notice to the applicant of the rating and the applicant specifies the matters of objection. No change in rating shall be made unless some clear error appears in the face of the examination, provided, however, that no appointment previously made shall thereby be canceled.

### **5.7.3 CONFIDENTIALITY OF WRITTEN EXAMINATIONS**

No one shall have access to written examinations without permission of the Commission.

## **5.8 REEXAMINATION**

The Commission shall have the authority to order a reexamination, for any position where it appears that an error has been made. The reason for such action shall be recorded in the minutes of the Commission. Any entry-level applicant who fails to successfully pass an examination for any entrance position under Civil Service will not be eligible for reexamination for a period of two calendar months. Any second failure shall bar reexamination for a period of one year from the date of the second failure for the same position.

## **RULE 6 - CERTIFICATION AND APPOINTMENTS**

### **6.1 GENERAL PROVISIONS**

No appointing authority shall appoint, employ or engage any person under Civil Service except in accordance with these rules.

#### **6.1.1 FILLING COMPETITIVE POSITION VACANCIES**

Competitive position vacancies in the Civil Service, not filled by transfer, reinstatement or demotion, shall be filled from an eligibility list established for that position, or by lateral candidate transfer in an entry-level position.

#### **6.1.2 ELIGIBILITY LIST**

All vacant competitive positions shall be filled by an eligibility list established and resulting from competitive or qualifying examinations, or lateral candidate transfer in an entry-level position, as defined by these rules.

### **6.2 CERTIFICATIONS**

For the purpose of these rules there are two types of certifications to an appointing authority.

#### **6.2.1 PROBATIONAL APPOINTMENT**

Certification of eligibility for consideration for a Probationary Appointment; and

#### **6.2.2 REGULAR APPOINTMENT**

Certification of probationary appointees (employees) for induction into Civil Service under a Regular Appointment.

### **6.3 PROBATIONARY APPOINTMENTS TO COMPETITIVE CLASS**

Whenever a vacancy in the Competitive Class is to be filled, the appointing authority shall submit in writing to the Commission the title of the vacant position and a request that the Commission supply an eligibility list, as defined in these rules, with names of persons eligible for consideration for a Probationary Appointment.



### **6.3.1 SELECTION FROM ELIGIBILITY LIST**

Upon receipt of such request, the Commission shall give to the appointing authority the ranked names of eligible candidates. The appointing authority must select a candidate from the three highest ranked persons eligible for that vacancy, but at no time shall a candidate be passed over more than three times. Multiple vacancies will be filled one vacancy at a time for the purpose of selecting individuals from the certified eligibility list to satisfy this rule.

### **6.3.2 CREATION OF ELIGIBILITY LIST**

If a vacancy in a competitive position occurs and there is no eligibility list to select from, the Commission shall initiate the creation of an eligibility list as provided in these rules. For entry-level positions, individuals will be required to submit an application through the City Clerk's office for an entrance examination for such vacancy as required by these rules. The appointing authority shall be furnished the appropriate number of names certified as eligible for employment by the City following successful completion of required examinations and evaluations.

### **6.3.3 PROBATIONARY COMPETITIVE ENTRANCE APPOINTMENTS**

For probationary appointments to competitive entry-level positions, the appointing authority shall evaluate all persons certified as eligible in the manner as prescribed in these rules. Evaluation shall be accomplished without the knowledge of any entrance examination score. All evaluations of candidates shall be certified to the Commission by the appointing authority. The Commission shall then certify to the appointing authority the names of candidates with the highest scores for the vacancies in ranked order (eligibility list) after ascertaining there was no bias in the evaluations. The Commission shall void all scores if it is found any candidate has been favored or discriminated against because of political or any legally protected opinion, affiliation or belief. Following satisfactory completion of subsequent evaluations the appointing authority conditionally appoints individuals from the appropriate eligibility list in numbers equal to the number of vacancies, and shall immediately notify the Commission of the person(s) conditionally appointed.

**POLICE DEPARTMENT** - Probationary appointments to competitive entry-level positions shall be based on the same factors considered for regular appointments provided hereafter.

**FIRE DEPARTMENT** Probationary appointments to competitive entry-level positions shall be based on the same factors considered for regular appointments provided hereafter.

## **6.4 PROBATIONARY PERIOD**

Following the conditional appointment of any applicant into the employment of the City, a probationary period of one calendar year, from the date of employment, or six months for lateral transfers of certified applicants from other departments, exists during which time an employee must satisfy the requirements of the position as it relates to the performance of the duties of the position. Upon successful completion of the probationary period or extension thereof as provided herein, the employee shall be inducted into the Civil Service and entitled to the benefits thereof.

### **6.4.1 EFFECT OF PROBATIONARY PERIOD**

The probationary period is regarded as an intrinsic part of the examination and evaluation process and shall be utilized for closely observing the employee's work and adjustment to the requirements of the position, and for eliminating anyone whose performance may not meet the requirements or City's needs. During this period, the City may discharge a probationary employee with or without cause, and the employee shall have no rights under Civil Service.

### **6.4.2 DEFERRAL OF APPOINTMENT (EXTENSION OF PROBATION)**

If in the judgment of the appointing authority, the best interest of the City would be served in deferring a regular appointment, the appointing authority may defer such appointment for a period of ninety days. A maximum of two ninety-day extensions are allowed. Any such deferment, and reasons for the deferment, shall be given to the employee in writing, and recorded in the Commission minutes.

## **6.5 REGULAR APPOINTMENT**

Upon an employee successfully completing the probationary period, the probationary appointment becomes a regular appointment, and the employee becomes entitled to all the benefits of Civil Service.

## **6.6 TEMPORARY APPOINTMENT**

If there is no eligibility list from which appointments can be made, and the need for an appointment exists, a person meeting, as nearly as practical, the qualifications for a vacant position may be temporarily appointed after such interviews, investigations and other evaluations deemed needed are completed. Concurrent with the appointment of a temporary nature, the appointing authority will initiate any needed action to establish an eligibility list if a competitive position is identified. Any temporary appointee, prior to assuming any duties, must submit a completed application for entrance as provided in Rule 5.

### **6.6.1 TEMPORARY APPOINTMENT - CREDIT TIME**

Temporary appointees desiring consideration for a probationary appointment to the positions they are temporarily filling shall be required to take any examinations given for the positions. If successful, and conditionally appointed, time spent under the temporary appointment shall be credited to the probationary period.

## **6.7 NONCOMPETITIVE APPOINTMENTS**

In case of a vacancy in a position requiring specific qualifications of a scientific, managerial, professional or educational nature, written competition is impractical and the position can best be filled by selection of an individual of recognized abilities. The Commission will consider the need of the City or and Department Directors as allowed by state law to fill the vacancy in a noncompetitive manner. Noncompetitive appointments made by the City, Department Directors, or their designee as authorized by law must be approved by the Commission.

## **6.8 DECLINATIONS-NOTIFICATION TO COMMISSION**

When an applicant, certified for appointment, fails to notify the appointing authority of an answer to an offer of employment, made by mail or otherwise, within ten business days following the extension of an offer, the appointing authority will assume the position has been declined and notify the Commission in writing. The applicant's name will be removed from the eligibility list, if seeking a competitive position, and the position will be filled in accordance with these rules.

If, however, it shall be made known to the satisfaction of the Commission within thirty days of the extension of the employment offer, that the person was unavoidably, and without personal fault, prevented from accepting the offer, the person may be restored to his/her original position on the eligibility list and be qualified for the next available

appointment should a position become available.

### **6.8.1 CORRESPONDENCE CONCERNING DECLINATIONS**

The appointing authority shall forward to the Commission copies of all correspondence to and from any person declining an appointment.

## **RULE 7 - ELIGIBILITY LISTS**

### **7.1 COMPETITIVE POSITIONS GENERAL**

As soon as practical, following an entrance or promotion examination, the Commission shall establish an eligibility list. It will be a ranked list of aggregate ratings of the applicants with the highest rating being first on the eligibility list. Current eligibility lists shall be posted in the office of the City Clerk, and applicants shall, upon request, be shown their relative position on the lists.

#### **7.1.1 PUBLIC ACCESS TO ELIGIBILITY LISTS**

Eligibility lists shall be open to inspection and the Commission shall at any time submit the same to the public upon request.

### **7.2 COMPETITIVE PROMOTION LISTS**

All promotions in competitive positions will be handled in accordance with the Civil Service rules on examinations and the establishment of corresponding eligibility lists. Each promotion eligibility list shall remain in effect for one year from the date the list is established. When a promotional eligibility list expires, employees remaining thereon shall no longer be eligible for promotion unless they re-qualify and are included on a new eligibility list.

#### **7.2.1 REMOVAL FROM LIST AND EQUAL FINAL RATINGS**

The individuals declared eligible for promotion shall remain on the list, unless promoted, only during the existence of the list and while in good standing as a city employee. Any candidate, who is removed, suspended, demoted or otherwise the subject of established disciplinary action for cause, shall be removed from the current eligibility list. If suspended, the employee must re-qualify for the position sought.

If demoted, the employee will be required to qualify in the applicable positions(s) leading to normal promotion.

When two or more applicants for promotion to a competitive position have equal final ratings for placement on an eligibility list, their names shall be placed in order of department seniority with the City. If these are the same, their names shall be placed in alphabetical order.

### **7.2.2 ESTABLISH LIST WHEN VACANCY OCCURS**

Where there is a vacancy(s), the Commission shall establish an eligibility list in accordance with applicable rules.

## **7.3 COMPETITIVE ENTRANCE LISTS**

On the basis of entrance examinations, the Commission will prepare an eligibility list for probationary appointment to vacant positions. Eligibility lists shall be established as outlined in accordance with applicable rules.

### **7.3.1 ORDER OF APPLICANTS WITH EQUAL RATING**

When two or more entry level applicants have equal final ratings for placement on an eligibility list, their names shall be placed in order according to the dates of application. If those are the same, their names shall be placed in alphabetical order.

### **7.3.2 EXPIRATION OF ENTRANCE ELIGIBILITY LISTS**

Entrance eligibility lists expire one year after the date of written examination for the applicable classification. When an entrance eligibility list expires, applicants included thereon are no longer eligible for employment unless they re-qualify and are included on a new eligibility list.

### **7.3.3 CREATION OF NEW LIST**

When an eligibility list is reduced to such number as shall be determined by the Commission, the appointing authority may request, in writing, the Commission to

initiate the creation of another eligibility entrance list as outlined in these rules. However, a new eligibility list will not be in effect for use until the current list has expired or until all names have been approved.

## **RULE 8 - PROMOTIONS**

### **8.1 GENERAL PROVISIONS**

#### **8.1.1 COMPETITIVE CLASS PROMOTIONS**

Promotions in the Competitive Class shall be based on the competitive or qualifying examinations, as the Commission determines to be applicable, and records of efficiency, character, conduct and seniority. Eligibility lists shall be created and promotions made therefrom in the same manner as prescribed in Rule 7 and shall include the certification process.

Vacancies in positions shall be filled, insofar as practical, by promotion from among persons holding positions in the next lower classification in the department/division in which the vacancy exists. However, no promotion from one position to a higher one in the Competitive Class shall be made unless the applicant for promotion has demonstrated necessary qualifications and performance as reflected by previous service, due consideration being given to seniority, and whose qualifications meet the minimum requirements established for the vacant position.

#### **8.1.2 EXEMPT AND NONCOMPETITIVE CLASS PROMOTIONS**

Promotions to or within the Exempt Class are subject to the approval of the Mayor or his designee, and Board of Aldermen as appropriate for the position involved.

Due to the uniqueness and/or professional nature of positions, a candidate for promotion in the Noncompetitive Class is selected by the department supervising authority subject to approval by the Mayor, his designee, or department head, and Board of Aldermen as appropriate for the position involved. No promotion shall be made in the Noncompetitive Class unless the candidate is in good standing as a city employee and has demonstrated necessary qualifications and performance as exhibited by previous service. Qualifications must meet or exceed minimum requirements established for the vacant position. Non-competitive Class promotions shall include the certification process prior to being final.

#### **8.1.3 PROMOTIONS TO REGULAR CLASS**

Promotions in the Regular Class shall be based on department seniority. However, no promotion from one position to another shall be made unless the applicant has demonstrated necessary qualifications and performance as demonstrated by previous service, and whose qualifications meet the minimum requirements

established for the vacant position. A candidate shall remain eligible for promotion only while in good standing as a City employee. Any candidate, who is removed, suspended or otherwise the subject of established disciplinary action for cause shall be removed from current eligibility. If suspended, the candidate must re-qualify for the position. If demoted, the candidate will be required to qualify in the applicable position leading to normal promotion.

Promotions to Regular Class positions in the Police Department and Fire Department shall include the certification process prior to being final. Vacancies in such positions shall be filled, insofar as practical, by promotion from among persons holding positions in the next lower classification in the department in which the vacancy exists, within the City.

#### **8.1.4 CERTIFICATION OF ELIGIBILITY FOR PROMOTION EXAMS**

The City Clerk shall certify to the Commission that all applicants for promotion examination meet the eligibility requirements as set forth in these rules and as specified in the official job description on record prior to examination as officially announced.

#### **8.1.5 POSITIONS ARE ESTABLISHED BY THE MAYOR AND BOARD OF ALDERMAN**

No promotion examination shall be given by the Board of Examiners until the position has been created or a vacancy or a definite prospective vacancy approved by the Mayor and Board of Alderman of the City of Pass Christian and the Commission is notified that the position is available.

#### **8.1.6 PROMOTIONAL PROBATION**

The promotion of any eligible employee to any position in the classified service shall not be deemed complete until the appropriate probationary period shall have elapsed. During this probation period, the promoted person may be demoted to the previous position held or its equivalent as deemed proper by the appointing authority. This demotion shall be accomplished within the probationary period by the appointing authority in the department/division in which the probationer is employed and the commission shall be notified. In lieu of demotion and provided the appointing authority considers it to be in the best interest of the City, a probationary period may be extended for ninety days. A maximum of two ninety-day extensions are allowed. The employee and the Commission shall be notified of any extension of a probationary period.

#### **8.1.7 PROMOTION APPOINTMENTS TO COMPETITIVE POSITIONS**

For promotion appointments to competitive positions, the appointing authority shall evaluate all persons certified as eligible in the manner as prescribed in these rules.

Evaluations shall be accomplished without the knowledge of any examination rating. All evaluations shall be certified to the Commission by the appointing authority. The Commission shall certify to the appointing authority the name of the candidate with the highest rating for the vacancy after ascertaining there was no bias in the evaluations that were used. The Commission shall void the evaluation grades if it is found that a candidate has been favored or discriminated against because of political or any legally protected opinion, affiliation or belief.

The rating process for promotional examinations shall be as follows:

- a. Written examinations: If the candidate passes the civil service exam; their score will be certified by the commission and count as 60% of the overall score.
- b. Oral interview will be conducted and consist of a panel chosen by the Chief of the Department and will consist of at least two but not more than five persons. This will account for 25% of the overall score.
- c. Background review will be conducted by the Chief or Deputy Chief. The following will be evaluated:
  - i. Personnel files -5%
  - ii. Training files-5%
  - iii. Evaluations-5%

Disciplinary issues: Any Letter of Reprimands will be (1) point deduction; Suspensions - (2) point deduction; Demotions - (5) point deduction.

Accommodations and letters of recommendations (A maximum of 2 points can be given for these categories.)

Educational/ military credit: (2) bonus points for four years or more of military service will be awarded. An Associate Degree will be (2) points and a Bachelor Degree will count as (5) points. Maximum of (5) points will be allowed.

## **8.2 POLICE DEPARTMENT PROMOTIONS**

### **8.2.1 POLICE COMPETITIVE CLASSIFICATION ELIGIBILITY**

To be eligible for promotion to police competitive classifications Sergeant through Captain (Deputy Police Chief), and in order to take the promotion examination, an employee must not be under any probationary status. Additionally, any employee seeking a promotion must have served at the next lower rank for a minimum of twenty-



four months.

### **8.2.2 BASIS FOR POLICE DEPARTMENT COMPETITIVE PROMOTIONS**

Promotions to competitive positions in the Police Department shall be based on the competitive written examination, oral interviews, past performance, longevity and such other factors as the Commission shall deem appropriate.

### **8.2.3 POLICE ELIGIBILITY REQUIREMENTS FOR PROMOTION/RANKS**

Candidates for promotion must meet the eligibility requirements established below for the classification or rank indicated.

**PATROLMAN:** An applicant who has met all entrance requirements and has been accepted by the Pass Christian Police Department as a sworn officer.

- (COMPETITIVE EXAMINATION REQUIRED.)

**SERGEANT:** An employee who has two years service as a sworn member of the Pass Christian Police Department or has the equivalent of the same minimum years of experience as a sworn police officer with another law enforcement agency. Sergeants shall serve as Detectives or Shift Leaders.

(COMPETITIVE EXAMINATION REQUIRED.)

**CAPTAIN/DEPUTY CHIEF OF POLICE:** The rank of Captain/Deputy Chief shall be appointed by the Mayor and Board of Aldermen upon the recommendation of the Chief of Police. All appointments for this rank shall be made from within the Department, unless the Police Chief and the City governing authorities determine that it is not in the City's best interests to do so from the existing staff. To be eligible for appointment to the rank of Deputy Chief, officers must have already attained the rank of Sergeant through Civil Service competitive testing procedures.

The appointment shall be temporary, and the appointee shall serve at the will and pleasure of the Chief of Police and the City. The appointee shall retain Civil Service status at the rank already attained when appointed as Deputy Chief of Police.

The appointee must have administrative and command level experience. The appointee must have the ability to manage, supervise and coordinate the programs, activities and operations of the Pass Christian Police Department.

The appointing authority may reassign an appointee. Before reassignment, the appointee and the Civil Service Commission must be notified, in writing, at least thirty days before the effective date of the appointee being reassigned.

**CHIEF OF POLICE:** The Chief of Police according to MCA Section 21-21-1, as amended, shall be the chief law enforcement officer of the City and he/she shall have

control and supervision of all law enforcement officers employed by the City. The Police Chief shall be appointed by the Mayor and Board of Aldermen. If the Mayor and Board of Aldermen request assistance from the Commission, the Commission may, to the extent requested, administer a written examination and assist in other evaluations, and act in an advisory position to the City in locating a qualified nominee or nominees for the position of Chief of the Police Department.

#### **8.2.4 RANK AND WORKING TITLES**

The ranks set out above are the official, recognized ranks for sworn officers of the Pass Christian Police Department. These do not preclude working titles.

#### **8.2.5 SPECIALIZED ASSIGNMENTS**

Specialized assignments require personnel to have special abilities or interests. These assignments are not considered a promotion. Officers who do possess relative, pertinent, and special technical training and or/experience should consider applying. The Chief of Police makes specialized assignments.

#### **8.2.6 PSYCHOLOGICAL EXAMINATIONS**

A psychological examination may be required of all applicants for promotion as part of the examination process.

### **(8.3 FIRE DEPARTMENT PROMOTIONS**

#### **8.3.1 OFFICIAL POSITIONS/RANKS IN FIRE DEPARTMENT**

The positions following are the official, recognized ranks of the Pass Christian Fire Department:

- Fire Fighter Recruit (Not Certified)
- Fire Fighter One
- Fire Fighter Two

- Fire Fighter Three
- Lieutenant
- Fire Chief.

These ranks are for all sworn officers, but do not preclude working titles. Specialized positions within the department that are not of a finite time period shall be open for employees to express an interest through posting by the City. Prior to any action being taken to fill such a position, an approved job description must be on record and available for review, which lists desired experience, education and background

### **8.3.2 EXAMINATION FOR COMPETITIVE PROMOTIONS**

Promotions to competitive positions in the Fire Department shall be based on competitive written examinations, experience, past performance, and oral interviews.

Additionally the following factors may be considered: Abilities for leadership, problem solving, decision making, and initiative; skills concerning effective communication, management control, interpersonal relationships, resistance to stress, judgment, planning and organizing, innovation, and sensitivity and command presence.

### **8.3.3 FIRE DEPARTMENT ELIGIBILITY REQUIREMENTS FOR PROMOTIONS**

Candidates for promotion must meet the eligibility requirements established below for the classification or rank indicated.

## **REQUIREMENTS OF RANK AND FOR PROMOTIONS**

**RECRUIT FIRE FIGHTER:** An employee who has met all requirements and has been accepted as an employee of the Pass Christian Fire Department in accordance with Civil Service Rules and Regulations for the City of Pass Christian.

- (COMPETITIVE EXAMINATION REQUIRED).

**FIRE FIGHTER ONE:** An employee who has successfully completed the State Fire Academy within one year or any extension duly granted and received a certification of same and having completed such classes as shall be required by the Fire Chief for such position.

- (COMPETITIVE EXAMINATION REQUIRED).

**FIRE FIGHTER TWO:** An employee who has been a member of the Pass Christian Fire Department or other fire department for at least two years and completed such classes as shall be required by the Fire Chief for such position.

- (COMPETITIVE EXAMINATION REQUIRED).

**FIRE FIGHTER THREE:** An employee who has been a Fire Fighter Two of the Pass Christian Fire Department or equivalent rank with another fire department for at least two years and completed such classes as shall be required by the Fire Chief for such position.

- (COMPETITIVE EXAMINATION REQUIRED).

**LIEUTENANT:** An employee who has been a Fire Fighter Three of the Pass Christian Fire Department or equivalent rank with another fire department for at least two years and completed such classes as shall be required by the Fire Chief for such position.

- (COMPETITIVE EXAMINATION REQUIRED).

**CAPTAIN:** An employee who has been a Fire Fighter Three of the Pass Christian Fire Department or equivalent rank with another fire department for at least two years and completed such classes as shall be required by the Fire Chief for such position.

- (COMPETITIVE EXAMINATION REQUIRED).

**DEPUTY CHIEF:** An employee who has been a Fire Fighter Three of the Pass Christian Fire Department or equivalent rank with another fire department for at least two years and completed such classes as shall be required by the Fire Chief for such position.

**FIRE CHIEF:** The Fire Chief of the City of Pass Christian according to MCA Section 21-25-1, as amended, shall be the Fire Marshall and he/she shall have control and supervision of all firefighter personnel employed by the City. The Fire Chief shall be appointed by the Mayor and Board of Aldermen. If the Mayor and Board of Aldermen request assistance from the Commission, the Commission may, to the extent requested, administer a written examination and assist in other evaluations, and act in an advisory position to the City in locating a qualified nominee or nominees for the position of Chief of the Fire

Department.

### **8.3.6 APPLICANTS FROM OUTSIDE THE DEPARTMENT**

In the event that there are an insufficient number of eligible candidates for a position, applications may be received from outside the department. Applicants must meet other eligibility criteria stated in these rules and present documentation from other fire departments or similar organizations attesting to their skills and background. References must be verifiable.

## **RULE 9 - TRANSFER, REDUCTION IN FORCE AND REINSTATEMENT**

For the purpose of these rules, transfer will refer to the voluntary or involuntary movement of an employee from one position to another within the same pay grade. This movement may or may not be within the same department and does not mean a change in rate of pay will be automatic with the movement. Any upward movement in pay grade shall be considered a promotion and will follow applicable rules pertaining to promotions, except in cases where a position is reevaluated by the City as to correct placement in the compensation system or an overall increase in compensation within the Departments.

### **9.2 LAYOFF AND REDUCTION IN FORCE**

If the need to reduce the number of employees in positions arises, the reduction, and recall of employees, shall take place in accordance with the policy adopted by the City. Due regard will be given to seniority within employment status.

### **9.3 REINSTATEMENT**

Any person who has voluntarily, and through no personal misconduct, left employment of the City while covered under Civil Service, may be reinstated into the same or lower position at the option of the appointing authority. The reinstatement and assumption of duties must be within thirty calendar days from the last date of employment and there must be a vacant position for the person to occupy. Provided, however, any person in the Fire or Police Department who has voluntarily, and through no personal misconduct, left employment of the City while under Civil Service, may be reemployed in the same department following thirty calendar days and up to one year from the last date of employment if there is an approved entry level vacant position for the person to occupy and the reemployment is requested by the Fire Chief or Police Chief, as

applicable, and approved by the Mayor and Board of Aldermen. No reinstatement or reemployment evaluations are required.

Any employee so reinstated shall serve such applicable probationary period as shall be required and be certified by the Commission at the completion of the probation period.

## **RULE 10 - EQUAL OPPORTUNITY AND POLITICAL ACTIVITY**

### **10.1 EQUAL OPPORTUNITY**

The City of Pass Christian is an Equal Opportunity Employer. Decisions and actions made and /or taken by the City and the Commission shall be without regard to an applicant's or employee's race, creed, religion, sex, national origin, disability, age, gender, marital status, military obligation or any other characteristic protected by law. All laws relating to equal opportunity and employment will be adhered to and promoted by the City and the Commission.

### **10.2 POLITICAL ACTIVITY**

All employees have a civil duty to vote for candidates and issues as they choose. They have the right to support candidates and issues with their efforts and voluntary contributions. However, no such activities shall be conducted during working hours or at the expense of the City.

If any person holding office, place, position or employment subject to Civil Service actively participates in political activity in any primary or election in the City of Pass Christian where the person is employed, it shall be deemed just cause for removal.

## **RULE 11 - INVESTIGATIONS, HEARINGS AND APPEALS**

### **11.1 GENERAL PROVISIONS**

The Commission may conduct investigations and make reports on all matters

touching the enforcement and effect of the Civil Service Laws under their jurisdiction as provided under Section 21-31-1 to 21-31-27, Mississippi Code Annotated, as amended. The Commission may investigate all complaints which must be reduced to writing, subpoena witnesses, administer oaths, and conduct hearings, as provided in Section 21-31-9, Mississippi Code Annotated, as amended.

## **11.2 HEARINGS**

No person covered by Civil Service shall be removed, suspended, demoted or discharged, or any combination thereof, except for cause and as provided by MCA Section 21-31-23, as amended and these rules. If any disciplinary action, as provided hereinbefore, is taken against a covered employee, a copy of the notice of such action shall be furnished to the employee in accordance with Section 21-31-23, Mississippi Code Annotated, as amended, and shall be filed with the Commission within three working days of delivery of the notice to the employee. Any covered employee so removed, suspended, demoted, discharged or any combination thereof may, within ten days from the time of such disciplinary action, file with the Commission a written demand for an investigation, whereupon the Commission shall conduct such investigation or hearing. The employee's request must be in writing and include the reason or reasons for the requested action by the Commission.

### **11.2.1 DEFENSE BY DISCIPLINED EMPLOYEE**

At such time a hearing is held, after reasonable notice to all parties of the time and place, the disciplined employee shall be afforded an opportunity of appearing in person, with or without counsel, and presenting his/her defense.

### **11.2.2 LICENSED ATTORNEYS ONLY**

Only the covered employee or an attorney who is a member in good standing of the Mississippi Bar and licensed to practice law in the State of Mississippi will be permitted to represent the employee's interests at the hearing. Attorneys who are not licensed to practice law in the State of Mississippi will not be allowed to participate in any way in the hearing, except as otherwise provided by law.

### **11.2.3 ORDER OF PROOF**

The order of proof shall be as follows: The representatives of the appointing authority shall present its case, after which the disciplined employee shall present his/her case.

### **11.3 APPEALS**

Appeals from findings, judgments or orders of the Commission under Section 21-3123, Mississippi Code of 1972 Annotated, shall be taken to the Circuit Court of Harrison County in accordance with said Section 21-31-23.

## **RULE 12 - DISCIPLINARY ACTIONS AND PROCEDURES (REMOVAL, SUSPENSION, DEMOTION AND DISCHARGE)**

### **12.1 DISCIPLINARY ACTIONS**

No employee covered by the Civil Service Act shall be removed, suspended, demoted or discharged, or any combination thereof, except for cause, and only by compliance with the provisions of Section 21-31-23, Mississippi Code of 1972 Annotated, as amended, and which provides, as follows:

No person in the classified civil service who shall have been permanently appointed or inducted into civil service under the provisions of Sections 21-31-1 to 21-31-27, except for such persons as may be employed to fill a vacancy caused by the absence of a fireman or policeman while in service as a member of the armed forces of the United States, shall be removed, suspended, demoted or discharged, or any combination thereof, except for cause, and only upon the written accusation of the appointing power or any citizen or taxpayer, a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the Commission. The Chiefs of the fire and/or police department may suspend a member pending the confirmation of the suspension by the regular appointing power, which shall be within three days.

In the absence of extraordinary circumstances or situations, before any such employee may be removed or discharged, he or she shall be given written notice of the intended termination, which notice shall state the reasons for termination and inform the employee that he has the right to respond in writing to the reasons given for termination within a reasonable time and respond orally before the official charged with the responsibility of making the termination decision. Such official may, in his discretion, provide for a pre-termination hearing and examination of witnesses, and if a hearing is to be held, the notice to the employee shall also set the time and a place of such hearing. A duplicate of such notice shall be filed with the Commission. After the employee has responded or has failed to



respond within reasonable time, the official charged with the responsibility of making the termination decision shall determine the appropriate disciplinary action, and shall notify the employee of his decision in writing at the earliest practicable date.

Where there are extraordinary circumstances or situations which require the immediate discharge or removal of an employee, such employee may be terminated without a pre-termination hearing as required by this section, but such employee shall be given written notice of the specific reasons for termination within twenty-four hours after the termination, and shall be given an opportunity for a hearing similar to the predetermination hearing provided in this section within twenty days after the date of termination. For the purposes of this section, extraordinary situations or circumstances include, but are not limited to, circumstances where retention of the employee would result in damage to municipal property, would be detrimental to the interest of the municipal government or would result in injury to the employee, to a fellow employee or to the general public.

Any person so removed, suspended, demoted, discharged or combination thereof may, within ten days from the time of such disciplinary action, file with the Commission a written demand for an investigation, whereupon the Commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether such disciplinary action was or was not made for political or religious reasons and was or was not made in good faith for cause. After such investigation the Commission may, if in its estimation the evidence is conclusive, affirm the disciplinary action, or if it shall find that the disciplinary action was made for political or religious reasons, or was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position, or employment from which such person was removed, suspended, demoted, discharged or combination thereof, which reinstatement shall, if the Commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such disciplinary action. The Commission upon such investigation may, in lieu of affirming the disciplinary action, modify the order or removal, suspension, demotion, discharge or combination thereof by directing a suspension, without pay, for a given period and subsequent restoration of duty, or by directing a demotion in classification, grade or pay, or by any combination thereof. The findings of the Commission shall be certified in writing to the appointing power, and shall be forthwith enforced by such officer [i.e. the City].

All investigations made by the Commission pursuant to the provisions of this section shall be by public hearing, after reasonable written notice to the accused of

the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. The findings of the Commission shall be conclusive and binding unless either the accused or the municipality shall appeal as provided in MCA Section 21-31-23, as amended.

## **12.2 DISCOVERY**

After hearings are scheduled under Section 21-31-23, and upon written request fourteen days or more prior to the scheduled hearing date, the City Attorney's office, and the appealing employee or his representative shall receive from the opposite party no later than seven days prior to the scheduled hearing date, a list of witnesses who will testify at the hearing and the specific matter that each such witness is expected to testify about at the hearing, and the parties shall exchange copies of any tangible or documentary evidence to be presented at the hearing. The parties or their representatives will also provide a list of the witnesses and evidence to the Commission at the same time. Rebuttal or impeachment witnesses and tangible evidence are exempted from said discovery. Said discovery shall be supplemented, if it is determined that additional witnesses or documentation are needed, and provided that a reason is given why the supplemental information was not furnished within the time frame provided for the original discovery. Except in special circumstances and upon the discretion of the Commission, or evidence or special witnesses presented by or called by the Commission, upon objection no testimony and tangible evidence shall be admitted at the hearing, where such was not furnished in a timely manner as provided herein.

## **123 WITNESS COMPENSATION**

Neither the city, nor the appointing authority shall be responsible for compensating witnesses by payroll or other compensation after regular working hours, subpoenaed, or otherwise called to testify by the opposing party at the hearing.