



CITY OF HATTIESBURG

CIVIL SERVICE RULES AND REGULATIONS

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 TABLE OF CONTENTS

RULE 1 – THE CIVIL SERVICE COMMISSION ERROR! BOOKMARK NOT DEFINED.

1.1 AUTHORITY 3

1.2 POSITIONS INCLUDED IN THE RULES 3

1.3 PURPOSE 3

1.4 GENDER ASSOCIATED PRONOUNS 4

1.5 MANNER OF APPOINTMENT AND TENURE OF OFFICE 4

1.6 ORGANIZATION OF COMMISSION..... 4

 1.6.1 DUTIES OF CHAIRMAN..... 4

 1.6.2 DUTIES OF VICE CHAIRMAN..... 5

 1.6.3 DUTIES OF COMMISSION SECRETARY AND BOARD OF EXAMINERS..... 5

1.7 COMMISSION MEETINGS 5

1.8 DUTIES OF THE COMMISSION 6

RULE 2 – RULE PROVISIONS.....6

2.1 PURPOSE OF RULES 6

2.2 ADOPTION AND EFFECTIVE DATE OF RULES..... 7

 2.2.1 MEANING AND INTENT OF RULES 7

2.3 EXTENT OF COVERAGE 7

2.4 WAIVER OF RULES..... 7

2.5 AMENDMENT OF RULES 8

2.6 RULE DISTRIBUTION 8

RULE 3 – EMPLOYMENT PROCEDURES8

3.1 APPLICATIONS 8

 3.1.1 APPLICANT’S BACKGROUND 8

3.1.2 RECRUITMENT FOR POLICE OFFICER OR FIREMAN 8

RULE 4 – PROMOTIONS FOR POLICE OFFICERS AND FIREMEN9

4.1 APPLICATIONS 9

RULE 5 -- EXAMINATIONS AND ASSESSMENTS FOR POLICE OFFICERS AND FIREMEN.....9

5.1 PROCEDURE..... 9

5.2 RECORD RETENTION, NOTIFICATION, REVIEW.....10

RULE 6 – ELIGIBILITY LISTS (POLICE OFFICERS AND FIREMEN)11

RULE 7 – FILING A POSITION (POLICE OFFICERS AND FIREMEN)11

7.1 ENTRY/RECRUIT11

7.2 PROMOTIONAL.....12

7.3 TEMPORARY APPOINTMENTS.....12

7.4 PROBATIONARY PERIOD.....12

7.5 REGULAR STATUS EMPLOYMENT.....12

RULE 8 – RESIGNATION13

RULE 9 – REDUCTION IN FORCE.....13

RULE 10 – SERVICE IN THE MILITARY13

RULE 11 – DISCIPLINARY ACTIONS.....14

 11.1 GROUNDS.....14

 11.2 PROCEDURE.....16

 11.3 APPEALS HEARINGS.....18

 11.4 STANDARDS FOR APPEALS HEARINGS.....19

 11.5 HEARING PROCEDURE.....19

 11.6 WITNESS COMPENSATION.....20

 11.7 WITNESS SUBPOENA.....20

Rule 12 - EQUAL OPPORTUNITY.....20

1.1 AUTHORITY

A Civil Service Commission, hereinafter referred to in these rules as the “Commission,” exists in the City of Hattiesburg (“the City”) by virtue of *Miss. Code Ann.* § 21-31-1 et seq., and amendments thereto.

It is the duty of the Commission to make suitable Rules and Regulations (“Rules”) not inconsistent with the provisions of *Miss. Code Ann.* §§ 21-31-1 through 21-31-27, and amendments thereto. Such rules and regulations shall provide in detail the manner of conducting examinations, appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges within the Police and Fire Departments, and may also provide for any matter connected with the general subject of personnel administration within said departments, and which may be desirable to further carry out the general purposes of *Miss. Code Ann.* §§ 21-31-1 through 21-31-27, and amendments thereto.

Neither the Civil Service statutes (*Miss. Code Ann.* §§ 21-31-1 through 21-31-27, and amendments thereto), nor these Rules contemplate the Commission being involved in the day-to-day operations of the Police and Fire Departments, and the authority of the Commission is limited to those matters set forth in the Civil Service statutes.

The Commission recognizes that, as to transfers within the Police and Fire Departments, the respective Chiefs of those departments should be able to make personnel transfers that will benefit their respective departments and the City of Hattiesburg, and, therefore, the Commission will not review personnel transfers within the Police and Fire Departments.

1.2 POSITIONS INCLUDED IN THE RULES

These Rules shall apply to all full paid employees of the Police and Fire Departments, including the Assistant Chief(s) of the Police and Fire Departments. These Rules and Regulations shall not apply to positions subject to direct appointment, with Council approval, by the Mayor. Specifically excluded from application of these Rules and Regulations are the positions of Police Chief and the Fire Chief. However, career employees appointed into these positions shall be entitled to reassignment into protected positions upon completion of their service as Chief(s) upon request from the employee.

(*Miss. Code Ann.* § 21-31-13, and amendments thereto; *Miss. Code Ann.* § 21-8-23, and amendments thereto).

1.3 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 *Miss. Code Ann.* §§ 21-31-1 through Section 21-

31-27, and amendments thereto, and according to rules and regulations promulgated by the Commission under authority of law to accomplish such purpose.

1.4 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.

1.5 MANNER OF APPOINTMENT AND TENURE OF OFFICE

The governing body, as the appointing power of the City of Hattiesburg, appoints a Civil Service Commission composed of one citizen residing in each of the five wards of the City to serve the term as provided for by *Miss. Code Ann.* § 21-31-5, and amendments thereto. Removal of a Commissioner from office shall be for such cause or causes as are provided by *Miss. Code Ann.* § 21-31-5(2), and amendments thereto, and shall be by decision of the appointing power after a full hearing on charges preferred in writing. Further, any member being so removed shall have the right of appeal, anytime within thirty (30) days thereafter, to the circuit court and may demand a jury trial on the conditions specified under *Miss. Code Ann.* § 21-31-5(2), and amendments thereto.

1.6 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:

- Chairman
- Vice Chairman
- Commission Secretary

The City shall provide the commission with suitable and convenient rooms and accommodations and cause the same to be furnished, heated and lighted and supplied with all office supplies and equipment necessary to carry on the business of the commission with such clerical assistance as may be necessary as provided for by *Miss. Code Ann.* §21-31-11.

The commission meetings shall operate under the most recent edition of Robert's Rules of Order.

1.6.1 DUTIES OF CHAIRMAN

As delineated in 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:

- Preside at all meetings of the Commission.

- 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, including, but not limited to, subpoenas for disciplinary appeals.
- 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

1.6.2 DUTIES OF VICE CHAIRMAN

The Vice Chairman shall assume duties of Chairman as delineated in Robert’s Rules of Order in Chairman’s absence or at Chairman’s discretion.

1.6.3 DUTIES OF COMMISSION SECRETARY AND BOARD OF EXAMINERS

The Commission shall annually elect a Secretary and appoint a Board of Examiners, which Board shall consist of the fire chief (or a person designated by the fire chief from the fire department to serve in his absence), the police chief (or a person designated by the police chief from the police department to serve in his absents), and a third member to be named by the Commission, all of whom shall serve without compensation. The Board of Examiners shall conduct all Civil Service examinations at times and places acknowledged by the Commission. The Board of Examiners may opt to outsource this duty to an outside testing firm to actually administer said tests and examinations, provided however, the Board of Examiners maintain oversight of the process.

The Commission Secretary, in collaboration with clerical assistance provision, shall keep the records and preserve all reports made to the Commission, and also a record of all examinations held under the direction of the Board of Examiners, and perform such other duties as the Commission may prescribe. The members of the Board of Examiners and the Secretary are subject to suspension and discharge in the same manner as the Commissioners.

(Miss. Code Ann. § 21-31-7)

1.7 COMMISSION MEETINGS

The Commission shall hold one regular stated monthly meeting and such additional special meetings as may be required for proper discharge of duties. The place and time of the regular meetings shall be fixed by resolution of the Commission. Special meetings may be called at any time by the Chairman or a majority of the Commission, provided notice of at least twenty-four (24) hours has been given to all Commissioners. All meetings shall be open to the public and all notice of special meetings shall be given in accordance with *Miss. Code Ann. § 25-41-1 et seq.*, and amendments thereto.

(Miss. Code Ann. § 21-31-7, and amendments thereto).

1.8 DUTIES OF THE COMMISSION

In addition to those duties set forth in Section 1.1 of these Rules and Regulations, the Commission shall have the power to conduct investigations, and make reports on all matters touching the enforcement and effect of provisions of *Miss. Code Ann.* §§ 21-31-1 through 21-31-27, and amendments thereto, 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 Commission may request legal counsel as necessary.

Only full paid employees of the Hattiesburg Police Department and the Hattiesburg Fire Department having legal standing to request an investigation by the Commission. (*Aldridge v. West*, 929 So.2d 298 (Miss. 2006)).

The Human Resources Department of the City shall maintain the official employee files of all employees covered under Civil Service. The Commission office, which shall be located in the City's Human Resources Department, 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 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
- Acknowledge results from all entrance and promotional tests and examinations for competitive positions; provided, however, nothing herein shall prohibit an outside testing firm to actually administer said written tests and examinations and certifying the results to the Commission through the Board Examiners.
- Certify equitable appointments and promotions in the Police and Fire Departments.
- Review policies for transfers, demotions, suspensions, dismissals and reinstatements.

The fixing of the rate of compensation of every employee coming under the provisions of *Miss. Code Ann.* §§ 21-31-1 through 21-31-27, and amendments thereto, shall remain vested in those public officials authorized by law to fix the rate of such compensation, and nothing contained in said sections shall infringe upon the power and authority of any such public officials to so fix the rate of such compensation.

RULE 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 the Civil Service laws (*Miss. Code Ann.* §§21-31-1 through 21-31-27, and amendments thereto). The Civil Service laws were designed to give covered employees of the Hattiesburg Police Department and the Hattiesburg Fire Department a reasonable security of tenure and to protect them from removal, suspension, demotion or discharge for political or religious reasons, or for insubstantial grounds. Thus, “tenure, fairness and security are the statutes’ aims.” (Mississippi Attorney General opinion to Perkins, June 26, 1998, Opinion No. 98-0274).

2.2 ADOPTION AND EFFECTIVE DATE OF RULES

These Rules were adopted by the Civil Service Commission effective January 1, 2020, and 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 and after January 1, 2020, provided, however, that any rule violation or complaint occurring prior to the date of adoption of these rules shall be administered under rules in effect on the date of such violation or complaint.

2.2.1 MEANING AND INTENT OF RULES

Words used in these Rules shall have their ordinary, dictionary meaning, unless otherwise specified in these Rules. In the event of a question by an interested party concerning the meaning and intent of any rule, such question shall be submitted to the Commission, in writing, for clarification and interpretation. The judgment of the Commission shall be final.

2.3 EXTENT OF COVERAGE

All full paid employees of the fire and police departments of the City of Hattiesburg are covered by these Rules. (*Miss. Code Ann.* §21-31-13, and all amendments thereto). All appointments to and promotions in said departments shall be made solely on merit, efficiency and fitness, which may be ascertained by open competitive examination and impartial investigation. No person shall be reinstated in, or transferred, suspended, or discharged from any place, position or employment contrary to the provisions of Sections 21-31-1 through 21-31-27.

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 or the City’s Chief Administrative Officer may, in writing, petition the Commission for a rule waiver when the best interests of the City will be served. A minimum of five (5) working days following receipt of written notice by the Commission shall be required before any such waiver requests can be considered. 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 five-day notice requirement is not applicable.

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 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 vote at the next regular scheduled commission meeting. Such an amendment, repeal or supplement to the rules may only be adopted by a two-thirds (2/3) majority vote of the Commission present and voting in favor of the 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 Rule 2.4.

2.6 RULE DISTRIBUTION

A current copy of Commission rules shall be distributed to the Mayor, Chief Administrative Officer, Commission members, the Police and Fire Chiefs, the City Attorney, Human Resources Department and Civil Service Office, and shall be available to employees and the public on the City's website.

RULE 3 – EMPLOYMENT PROCEDURES

3.1 APPLICATIONS

All employment applications for all Police Officer or Firefighter positions or other covered employee shall be through the Human Resources Department of the City of Hattiesburg. 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 deemed required by the Commission, Board of Examiners, and the City of Hattiesburg.

3.1.1 APPLICANT'S BACKGROUND

The character and past conduct of applicants will be taken into account in evaluation for employment under Civil Service. Arrest and conviction records may be used in determining suitability for employment, but shall not be an automatic bar to employment.

3.1.2 RECRUITMENT FOR POLICE OFFICER OR FIREMAN

Openings will be announced in the local press by advertisement of the appropriate (Police or Fire) examination. The advertisement will appear at least twice: the first announcement will be

published not more than sixty (60) days before the final day of the recruitment of candidates/acceptance of applications cycle; the second announcement will be published not less than fourteen (14) days before the end of the recruitment/application cycle.

Advertisements will state the examination to be given, instruct interested individuals to apply in person at the Human Resources Department at City Hall, state the entry pay, and state the minimum qualifications for the position.

In addition to the procedure described above, identical announcements may be sent to selected institutions of higher learning and to other cities in the surrounding area. The appropriate Chief may authorize additional publications of wide circulation in the area, through public service announcements on local television and radio stations, and through any other media available and appropriate.

Recruitment may be waived and an individual currently certified in Mississippi to serve in the capacity to be filled (Police or Fire) may be appointed, when requested by the Police or Fire Chief, without civil service examination for lateral hires, pending Commission acknowledgement.

RULE 4 – PROMOTIONS FOR POLICE OFFICERS AND FIREMEN

4.1 APPLICATIONS

Competitive promotional opportunities will be announced and applications accepted by the Human Resources Department for up to thirty (30) days from the date of announcement. Announcements will state the minimum qualifications (which the employee must meet as of the examination/assessment date) of the position and state the areas that will be measured by examination/assessment and what study guides are available.

Announcements for promotions will be posted in the Human Resources Department of the City and in prominent locations throughout the department for which examination/assessment will be given. Employees who meet the minimum qualifications for the position (as of the day the examination/assessment is to be given) must apply through the Human Resources Department during the recruitment cycle.

There is no waiver of the recruitment application cycle or the examination/assessment to determine and rank eligibility for classified service promotions.

RULE 5 -- EXAMINATIONS AND ASSESSMENTS FOR POLICE OFFICERS AND FIREMEN

5.1 PROCEDURE

Examinations and assessments will be held for all classified service positions (including promotions) following appropriate recruitment. The examination/assessment will be conducted not more than fourteen (14) days after the recruitment/application cycle has ended.

Examinations will be conducted, at a site to be deemed appropriate by the Commission, by a Board of Examiners consisting of the Police Chief (or his/her designee from the police department), the Fire Chief (or his/her designee from the fire department), and a third member to be named by the Commission.

Examinations/assessments may consist of evaluation of related education, training and experience and any combination of oral, written, physical or analytical skills tests that have been authorized by the Commission and which suitably appraise the candidate's ability to perform the job duties.

At the time of making application, candidates will be given information that indicates the type(s) of test(s) to be given and the abilities to be measured. Candidates will also be given information about suitable materials that can be studied in preparation for testing.

The passing grade on entry level assessments/tests will be 60 points or a passing score will be set at the end of the promotional process by the third-party consultant after the data is reviewed for the following factors: natural breaks in the data, psychometrics of the test, distribution of the scores, and the utility the test is supposed to serve. Where there are multiple parts of the assessment/test, 60 points shall mean 60 points of the overall assessment/test.

The passing grade on promotional assessments/tests will be 70 points or a passing score will be set at the end of the promotional process by the third-party consultant after the data is reviewed for the following factors: natural breaks in the data, psychometrics of the test, distribution of the scores, and the utility the test is supposed to serve. Where there are multiple parts of the assessment/test, 70 points shall mean 70 points of the overall assessment/test.

5.2 RECORD RETENTION, NOTIFICATION, REVIEW

Application and examination materials of all candidates shall be retained for five (5) years. If a candidate is employed, these materials will become a part of his/her personnel record. Materials to be maintained shall include, but not be limited to, application form/background questionnaire, written test questions and answers, oral test questions/responses (using an audio or video recording), reference inquiry notes, and other relevant material.

Each applicant for competitive appointment or promotion shall be notified of his/her final grade on the examination/assessment, and, if successful, will be shown his/her ranking on the eligibility list upon his/her request.

Each application for a competitive promotion may file, in writing with the Human Resources Department, a request for a review of his/her examination/assessment and grade. Such request must be made within thirty (30) days of notification of the rating or the privilege is waived.

The Commission's review of examinations/assessments for entry level positions shall consist of (1) review and approval of the examination components prior to their being given, and (2) review of the results prior to certifying the eligibility list.

RULE 6 – ELIGIBILITY LISTS (POLICE OFFICERS AND FIREMEN)

At the next meeting, when practical, but not later than the second meeting following an examination/assessment, the Commission shall list, in order of their final average rating, the names of all individuals who passed the examination/assessment. This listing shall, as of the day of the meeting it is acted upon, become the Eligibles List for the specified position(s). When determining the rating, for entry level positions, all other factors being equal, preference shall be given to current residents of the City of Hattiesburg.

Eligibles Lists for entry positions shall be certified for one (1) year. Promotional Eligibles shall be certified for one (1) year, except that the Commission, upon recommendation from the Police/Fire Chief, may authorize an extension not to exceed one (1) year.

The Commission shall have the power to correct any error or amend any Eligibles list, or authorize another examination/assessment when it appears an error has been made. The reason for every such action shall be recorded in the minutes of the Commission. This may only occur following an investigation/inquiry arising from a timely raised review.

Eligibles Lists shall be available for the public's inspection at no charge, and the Human Resources Department shall make them available to a citizen who requests them in writing pursuant to the City's Public Records ordinance.

RULE 7 – FILING A POSITION (POLICE OFFICERS AND FIREMEN)

7.1 ENTRY/RECRUIT

The Commission will certify, in order of final rating, all candidates qualified for the vacancy.

The Fire/Police department will conduct background and polygraph examinations to determine the suitability of Eligibles. Such investigation will be conducted for the Eligibles in order of their rating, highest to lowest, with additional Eligibles participating in the process as may be necessary because of candidate elimination. When a sufficient number of candidates has successfully completed this process, an offer of employment may be made contingent upon a satisfactory medical examination, including a drug/alcohol test. Unsatisfactory results of a drug/alcohol test will cause elimination of an individual's candidacy.

The candidates who successfully complete the post-examination/assessment process will be enrolled in an appropriate academy class, offered at the City's facility or through a State Program. Individuals who successfully complete the required academy training will be sworn in to full service with the City as a police officer or firefighter or placed on a waiting list for available full

service position. All appointments into permanent positions are made subject to Civil Service Commission acknowledgement.

7.2 PROMOTIONAL

The Police Chief or Fire Chief (or his/her designee) will request from the Commission the names of the three (3) highest ranked Eligibles, if for a single vacancy; or of the three (3) highest ranked Eligibles plus an additional name for each additional vacancy that is to be filled.

Recommendation(s) will be made, by the Chief, to the Mayor outlining the merits of each candidate. The Mayor, after reviewing the Chief's recommendation, will appoint the individual to the position or reject the recommendation. If the recommendation of candidate is rejected by the Mayor, the recommendation process shall be repeated until a candidate is appointed.

The Commission shall then ratify or reject the Mayor's appointment. If the Commission rejects the Mayor's appointment, the Commission's reason(s) for its decision shall be recorded in the minutes of the Commission.

7.3 TEMPORARY APPOINTMENTS

For any competitive position, whether promotional or entry level, temporary appointments may be made to assure the continuation of necessary City services. Temporary appointments shall not exceed six (6) months, and appointees may seek permanent appointment/promotion through the examination/assessment process.

7.4 PROBATIONARY PERIOD

All individuals appointed or promoted will serve a probationary employment period of one (1) year. During probation following employment or promotion an employee shall be ineligible to initiate transfer or further promotion.

When probationary employment following a promotion is not deemed satisfactory by the Chief of the Police Department or the Fire Department (as the case may be), the employee may be demoted with the right to appeal the decision to the Commission as set forth herein. When probationary employment following an initial hiring is deemed unsatisfactory by the Chief of the Police Department or the Fire Department (as the case may be), the employee may be terminated without the right to appeal the decision to the Commission as set forth herein.

7.5 REGULAR STATUS EMPLOYMENT

When an individual has satisfactorily completed his/her probationary period, he/she will assume regular status employment/promotion without further Commission action.

RULE 8 – RESIGNATION

An employee wishing to resign shall do so in writing, giving at least two (2) weeks' notice of effective date. The Mayor or his/her designee may waive the notice requirement when it is in the best interest of the City. Such action will be recorded in the individual's experience and training record (personnel file) maintained in the Human Resources Department of the City.

An employee's unauthorized absence for a period of three (3) consecutive work days or more will be considered to have voluntarily resigned without notice. Employees who have been deemed resigned due to unauthorized absences shall be so notified by certified mail, with a copy to the Commission and the City's Human Resources Department. The employee's termination date shall be the date when such notice is mailed to the employee.

Effective dates of voluntary resignations and dates of unauthorized will be made known to the Commission at its next regular monthly meeting, and such information will be recorded in the Commission's minutes.

RULE 9 – REDUCTION IN FORCE

Should it become necessary to reduce the number of City employees because of position elimination, reorganization or lack of funding, the Mayor shall provide documentation to the Commission which will specify the reason(s) for the reduction in force and identify the number of position(s) to be eliminated.

When determining which individuals will be laid off, employees will be ranked by seniority, with the least senior employee listed first. The first name on the list will be the first person laid off. The Police Chief or the Fire Chief, as the case may be, may request that the Commission grant exemption from lay-off for specific employees who are determined to be functioning at a consistently outstanding level or who possess critical skills. Such requests must be thoroughly documented and clearly establish that the operational functions are essential and could not be satisfactorily assumed by any other personnel. The submission of such a request is not an assurance that the exemption will be granted, nor the extent to which such consideration will be given by the Commission.

RULE 10 – SERVICE IN THE MILITARY

During times when there is no armed conflict involving the United States, an employee who is a member of any reserve component of the United States Armed Forces, including the National Guard, is entitled to fifteen (15) days (120 hours) per calendar year leave of absence—without loss of pay, time, or annual leave—if ordered to active duty, training, encampments, field exercises, maneuvers, etc. The time need not be consecutive. Time needed beyond this allowance for fulfilling military obligations may be taken as paid leave by using compensatory time or vacation leave or may be unpaid leave time.

During times of armed conflict involving the United States, an employee who is a member of any reserve component of the United States Armed Forces, including the National Guard, who is called to active duty will, upon exhaustion of his/her military leave, be considered on inactive status with the City, without loss of seniority, accrued leave, or promotion eligibility.

Individuals on inactive status with the City due to military service may be replaced as necessary to assure the provision of City services. However, replacement employees shall not attain permanent status, although they may receive benefits.

Upon discharge (except in cases of dishonorable discharge) from the service or release from active duty, following an armed conflict, an employee may seek full restoration to his/her position within the time frames required by law, based upon length of active duty. Failure to so act within ninety (90) days following discharge or release shall be deemed a voluntary resignation as set forth in Rule 8.

RULE 11 – DISCIPLINARY ACTIONS

11.1 GROUNDS

The tenure of everyone holding an office, place, position or employment under the Civil Service statutes (*Miss. Code Ann.* §§ 21-31-1 through 21-31-27, and amendments thereto) shall only be during good behavior. Any such person may be removed or discharged, suspended without pay, demoted or reduced in rank, or deprived of vacation privileges or other special privileges, or any combination thereof, for any of the following reasons: incompetency, inefficiency, or inattention of duty; dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, or any other act of omission or commission tending to injure the public service. (*Miss. Code Ann.* § 21-31-21, and amendments thereto).

Civil Service Employees may be disciplined for infractions of city or departmental rules or for any act or omission that tends to injure the public service and/or causes a risk to people or property. Discipline may result from complaints by citizens, superiors, peers, or subordinate officers in the department.

When an incident or complaint (not involving an employee's arrest) may result in disciplinary action, the department shall make an internal investigation into the matter. This investigation may conclude, based upon the relevant facts, that no action is necessary, or that further investigation and a Pre-Action Conference should be scheduled. The employee who is the object of the investigation shall be notified of the investigation prior to the scheduling of a Pre-Action Conference. He/she shall be afforded an opportunity to present his/her response in the Pre-Action Conference. At the conclusion of the Pre-Action Conference and/or the investigation, one of the following shall be determined by the Chief of Police or Fire, as the case may be, that (1) no action is necessary; (2) a written letter of counseling or reprimand should be placed in the employee's file (and the employee shall receive a copy of this letter); (3) the employee should be deprived of vacation privileges or other special privileges; (4) the employee should be demoted

or reduced in rank (with or without a reduction in pay); (5) the employee should be suspended with or without pay; (6) the employee should be terminated; or (7) any combination of the above.

If the Pre-Action Conference provides cause for discipline, the action to be taken shall be provided in writing to the employee, a copy of which will be placed in the employee's personnel file.

If an employee is arrested for a felony, the employee shall be immediately reassigned from fire suppression or law enforcement. He/she will perform the reassigned work, until the case is presented to the grand jury. If indicted, the employee shall be placed immediately on administrative leave without pay until the matter is resolved. If convicted, the employee shall be terminated.

An employee covered by these Rules may be reprimanded, demoted and/or reduced in rank (with or without a pay reduction), deprived of vacation privileges or other special privileges, suspended with or without pay, terminated, or any combination of the above for any (or more than one of) the following reasons:

- (1) Conviction of a felony or misdemeanor involving moral turpitude.
- (2) Willful violation of any provision of the Civil Service law (*Miss. Code Ann.* §§ 21-31-1 through 21-31-27, and amendments thereto) and/or these Rules.
- (3) Willful violation of the AOM for the Police Department or the Code of Conduct for the Fire Department.
- (4) Willful violation of any lawful and reasonable regulation, order or directive made or given by a superior officer where such violation has amounted to insubordination or seriously breached proper discipline or has resulted in property loss or injury to the public.
- (5) Being arrested, indicted or convicted of a crime.
- (6) Intoxication or drinking intoxicating beverages, or possession, use or distribution of controlled substances while on duty.
- (7) Testing positive on an alcohol or drug test.
- (8) Incompetency or inefficiency in performing the job duties of the position to which he/she is assigned.
- (9) Excessive offensive conduct or language toward the public or fellow officers or employees.
- (10) Abuse of the property of the City, resulting in damage.

- (11) Any attempt to induce an officer or employee of the City to engage in or to commit an illegal act or acts in violation of any lawful or reasonable department regulation.
- (12) Failure to pay or make reasonable provisions for the payment of just debts.
- (13) The taking or receiving of any fee, gift or other thing of value in the course of work or in connection with such work for personal gain from any person when such fee or gift is given in the hope or expectation of receiving a favor or better treatment than that afforded to the general public.
- (14) Willful or excessive brutality or cruelty to a prisoner or a person under arrest or sentence, provided that the act committed was not necessary and/or was not done lawfully in self-defense to protect the lives of others or to prevent the escape of a person lawfully in custody.
- (15) Being absent without approved leave.
- (16) Conduct determined by the Police/Fire Chief to be unbecoming of an employee of the City either while on or off duty which did or reasonably could bring discredit to the City of Hattiesburg.
- (17) Engaging in prohibited political activity or use of a position within the service to influence politically a fellow officer or employee of the City.
- (18) Actively participating in political activity in any primary or election of the City of Hattiesburg. (*Miss. Code Ann.* § 21-31-27, and amendments thereto).
- (19) Engaging in any outside activity, for profit or otherwise, where such activity does or may distract the employee from performing his/her assigned duties or renders such employee physically unable to perform his/her assigned duties.
- (20) Any act to influence the Commission or department superior(s) regarding promotions, appointments or related compensation or other favors not afforded to other employees.
- (21) Any other act of omission or commission which does or may tend to injure the public service or bring discredit to the City.

11.2 PROCEDURE

No person covered by these Rules, 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 (3) days.

In the absence of extraordinary circumstances or situations, before any such employee may be removed or discharged, he 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 predetermination hearing and examination of witnesses, and if a hearing is to be held, the notice to the employee shall also set the time and 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 a 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 predetermination hearing as required by this section, but such employee shall be given written notice of the specific reasons for termination within twenty-four (24) hours after the termination, and shall be given an opportunity for a hearing similar to the predetermination hearing provided in this section within twenty (20) 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 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 (10) 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 of 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.

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, within thirty (30) days from the date of the entry of such judgment or order on the minutes of the Commission and notification to the accused and the municipality, appeal to the Circuit Court of Forrest County. Any appeal of the judgment or order of the commission shall not act as a supersedeas of such judgment or order, but the judgment or order shall remain in effect pending a final determination of the matter on appeal. Such appeal shall be taken by serving the commission and the appellee, within thirty (30) days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to such judgment or order, be filed by the commission with such court. The Commission shall, within thirty (30) days after the filing of such notice, make, certify and file such transcript with such court. The said Circuit Court shall thereupon proceed to hear and determine such appeal. However, such hearing shall be confined to the determination of whether the judgment or order of removal, discharge, demotion, suspension or combination thereof made by the commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds.

(Miss. Code Ann. § 21-31-23, and amendments thereto).

11.3 APPEALS HEARINGS

An appeal to the Commission must be filed within ten (10) days of the receipt by the employee of the notice of disciplinary action. Any appeal to the Commission must be received by the Human Resources Department of the City of Hattiesburg within the same time frame. The appeal shall be filed on the Notice of Appeal form attached to these Rules.

The Commission Secretary shall coordinate the scheduling of the appeal hearing in consultation with the Commission President. Prior to the hearing, the Human Resources Department shall provide to each Commissioner a copy of (1) the Notice of Disciplinary Action; (2) the Notice of Appeal; (3) the names of any counsel that will appear on behalf of the City and the employee; (4) a copy of the rule(s), regulation(s), policy or policies or standard(s) of conduct allegedly violated that caused the disciplinary action to be taken; (5) a copy of any other document(s) filed by the City or the employee before the hearing.

After an appeal hearing is scheduled, the City Attorney or his designee shall provide to the appealing employee or his/her representative, not later than fourteen (14) days prior to the hearing, a copy of the documentary evidence expected to be presented at the hearing. The appealing employee shall provide to the City Attorney, not later than seven (7) days prior to the hearing, a copy of the documentary evidence expected to be presented at the hearing.

The City and the employee may negotiate a settlement of the appeal prior to the hearing or the employee may withdraw the appeal prior to the convening of the hearing or the Commission deciding the matter. In either case, documentation detailing the negotiated settlement or withdrawing the appeal will be made a part of the Commission's minutes. If there is a negotiated settlement, documentation shall include the terms agreed to by the parties and the signatures of the

Department Chief and the Mayor and the employee. If the appeal is withdrawn, the documentation shall be in the form of a statement signed by the employee indicating that he/she is withdrawing the appeal. Where multiple issues are appealed, withdrawal by the employee may be of some or all of the issues. Where only some issues are withdrawn from appeal, the appeal of the remaining issue(s) will not be affected.

11.4 STANDARDS FOR APPEALS HEARINGS

The hearing shall be transcribed by a court reporter, and shall be conducted by the procedural rules set forth in these Rules and in *Miss. Code Ann.* §§ 21-31-1 through 21-31-27, and amendments thereto. In conducting a hearing, the Commission shall not be bound by common law rules of evidence applicable in Mississippi courts, or formal rules of procedure (such as the Mississippi Rules of Civil Procedure), but may conduct such hearing in such manner as best to determine the rights of the parties; however, hearsay evidence, if admitted, shall not be the sole basis for the determination of facts by the Commission.

The hearing is not designed to substitute the Commission's judgment for that of the Administration in the day-to-day operation of the City, particularly the discipline of the workforce. The Commission will limit itself to considering, deciding and acting on appeals based on a determination of whether the action being appealed was or was not made for political or religious reasons and was or was not made in good faith for cause. (*Phillips v. Hancock Cty. Sheriff's Dep't*, 203 So.3d 622, 626 (Miss. Ct. App. 2016).

11.5 HEARING PROCEDURE

The Chairperson or the senior member in attendance will preside at the appeals hearing. He/she is responsible for assuring that a decision is rendered on all relevant and material evidence and testimony by seeing that a full record is developed and by restricting the hearing to an examination of only the issues raised on appeal. The Commission may request that special counsel be employed to assist the Chairperson in ruling on evidentiary issues and advising the Commission on the law and procedure as set forth in these Rules and in the Civil Service statutes.

The employee or his attorney shall first give an opening statement outlining the issues on appeal, followed by the City's attorney.

The employee or his attorney shall present evidence, either in written or oral form, at the hearing in opposition to the City's disciplinary decision, followed by cross-examination by the City's attorney. The City's attorney shall then be afforded an opportunity to present evidence in support of the City's disciplinary decision, and the employee or his attorney shall be entitled to cross-examine any witness for the City, including the employee himself/herself. Following the presentation of evidence by the City, the employee may present evidence in rebuttal.

During the hearing, upon recognition by the Presiding Member, any Commissioner may ask question to clarify issues.

Each party may give a closing statement, beginning with the employee or his attorney, followed by the City's attorney. Following the closing statement by the City's attorney, the employee's attorney may speak in rebuttal to the City's closing statement.

After due consideration in executive session, the Commission shall issue its decision affirming, modifying or reversing the disciplinary action, and shall order such other relief, if any, authorized by these Rules or the Civil Service statutes. The Commission may, if it chooses, take the matter under advisement, but if it does so, it shall make a final decision within a reasonable time after the conclusion of the hearing.

11.6 WITNESS COMPENSATION

The City shall not be responsible for compensating witnesses by payroll or other compensation after regular working hours, who are subpoenaed, or otherwise called to testify by the opposing party at the hearing.

11.7 WITNESS SUBPOENA

For failure without just cause of a witness to comply with a subpoena duly issued and returned under authority of Miss. Code Ann. § 21-31-9, and amendments thereto, the Commission may by written order notify the Hattiesburg Police Department to bring non-compliant witness before the Commission for testimony at a time and place designated, and shall assess all costs to the Commission and the parties caused by failure to appear to the non-compliant witness, or impose such other sanctions as it deems proper and within Commission's authority.

RULE 12 – EQUAL OPPORTUNITY

12.1 EQUAL OPPORTUNITY

The City of Hattiesburg is an Equal Opportunity Employer. Decisions and actions made and/or taken by 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 Commission.