

**CITY OF MAUMELLE**

**CIVIL SERVICE COMMISSION**

**RULES & REGULATIONS**

**ADDRESS**

**CIVIL SERVICE COMMISSION  
CITY OF MAUMELLE  
550 EDGEWOOD DRIVE  
MAUMELLE, ARKANSAS**

**TELEPHONE**

**City Hall 851-2500  
Human Resources 851-2784 Ext. 233**

**ADOPTED**

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## **I. INTRODUCTION**

On November 8, 1994 a majority of the voters of the City of Maumelle, Arkansas passed an initiative petition to establish a Civil Service Commission for the uniformed employees of the City. On December 5, 1994, the Maumelle City Board of Directors passed Maumelle Ordinance 245 establishing the Civil Service Commission. Five Civil Service Commissioners were appointed by the City Board to serve varied length terms as provided for in the State Statute. The Civil Service Commissioners met for the first time on February 28, 1995.

Reference: MCC 2-652; Ark. Code Ann. § 14-51-201

## **II. MISSION STATEMENT**

The Mission of the Maumelle Civil Service Commission is to establish and implement rules and regulations to insure equitable treatment in hiring, promotion, and disciplinary actions for uniformed officers within the Departments of Police and Fire in accordance with federal, state, and local laws and regulations.

## **III. EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER**

The City of Maumelle is an Equal Employment Opportunity employer. Discrimination regarding employment of any person, on the basis of race, color, national origin, political affiliation, religion, sex, age, physical handicap (except where the condition impairs the ability of the employee to perform the required work) or veteran status, will not be allowed. Certain positions may make requirements of age, sex, or physical characteristics based on bona fide occupational qualifications necessary for proper and efficient work performance.

## **IV. CITY AND DEPARTMENTAL RULES AND REGULATIONS**

All uniformed employees of the Department of Police and the Department of Fire are governed by the rules and regulations of the City of Maumelle and the respective Department of Police and the Department of Fire. The Civil Service Commission shall prescribe, amend, and enforce its own rules and regulations. Any rules and regulations established by the Civil Service Commission shall be in addition to or supplemental to the existing City and Departmental rules and regulations.

## **V. AUTHORITY**

### **LIMITED AUTHORITY**

The powers and duties of the Civil Service Commission shall be and are expressly limited. The Commission shall not have any control nor shall any Commissioner attempt to exercise any control over the normal and routine day-to-day operations of the Department of Police or the Department of Fire, directly or indirectly. None of the rules and regulations established by the Commission shall be construed to provide authorization to have such authority.

*Reference: Ark. Code Ann. § 14-51-212*

SUPERCEDING AUTHORITY

These rules and regulations are intended to coincide with the Maumelle City Code and the Arkansas Code provisions which govern many of the same topics and or situations. In the event of a direct conflict, the more restrictive provision shall govern. Any conflict between these rules and regulations and either State or Local law does not have the effect of repealer of the entire rules and regulations herein but rather only those portions which are in direct conflict.

**VI. RULES AND REGULATIONS**

CHAPTER ONE: NEW APPOINTEES

Reference Generally: Ark. Code Ann. § 14-51-301.

Qualifications for Appointment

Appointment to a position with civil service rank shall first require that the applicant (1) meet the minimum requirements for that rank and (2) be certified by the Civil Service Commission as eligible for appointment. Certification shall be based on competitive examinations.

Minimum Requirements

Each applicant shall be a citizen of the United States who has arrived at the age of twenty-one (21) years as of the date of the offer of employment.

Notice of Examination

The Director of Human Resources shall give public notice of all open competitive examinations at least ten (10) days in advance of the closing dates for receipt of applications by posting notices thereof in or near the Department of Human Resources and in a newspaper having a bona fide circulation in the city.

Examination Dates

The Commission may authorize examinations to be held once per year and such examinations may be held more often if deemed necessary by the Commission. The Department of Human Resources is authorized to advertise and hold entrance testing on the fourth Saturday in January of each year, and more often if necessary. The Department of Human Resources is given the discretion to make adjustments on testing dates within the recommended time frame as necessary.

*Reference: MCC 2-663.*

### Competitive Examination

State law requires fair and impartial examinations for applicants to positions. The Civil Service Commission shall determine or approve the examination instrument or instruments to be used.

### Admission to Examinations

Each applicant, whose application has been accepted for any examination shall be notified, by mail, of the time, date and place of the examination and such notice shall be his/her authorization to take an examination. Without such authorization or other satisfactory evidence of the acceptance of his/her application by the Director of Human Resources, applicants shall not be admitted to examinations. A driver's license or other identification may be required for admission to an examination.

### Eligibility Lists

As soon as is practical after any examination, the Civil Service Commission shall complete its review of the examination process and approve the entrance list. The Commission shall enter the names of successful applicants upon the appropriate list in order of their final score. The list shall then be certified. The original of this list shall be placed on file with the Director of Human Resources. All lists for appointments as certified by the Civil Service Commission shall be and remain in force and effect for the period of one (1) year from date of certification. At the end of this period, all right of priority under the list(s) shall cease. A list may be deemed by the Civil Service Commission to be exhausted if fewer than three available eligible candidates remain on the list.

### Notification

Each applicant passing the examination shall be notified by mail by the Director of Human Resources of their final score and their numerical position on the list as soon as the list has been certified. An applicant who fails the examination shall be notified of their failure. To the extent possible, an applicant may review his/her answer sheet in the office of the Department of Human Resources and seek confirmation as to their performance on the test. Answer sheets for each applicant will be maintained during the period that the entrance list is certified for appointment and thereafter will be destroyed. A manifest error on the test paper or in any phase of an examination shall be corrected by the Civil Service Commission, if the error is proven by the weight of the evidence, but such correction shall not invalidate any appointment previously made.

### Certification

After the entrance list is certified, the Department of Human Resources shall, upon request, provide to the respective Chief of Police or Chief of Fire the names of the three (3)

applicants standing highest on the certified entrance list for appointment for that rank of service.

*Reference: Ark. Code Ann. § 14-51-301(6)*

### Selection

When a position in an entry level civil service rank becomes vacant, the Chief of the Department of Police or the Department of Fire will be provided the top three (3) names remaining on the certified list. The Chief may select for appointment one (1) of the three (3) applicants on the entrance list certified by the Commission. If the list provided to the respective chief is deemed fully exhausted without an appointment being made, then prior to the transmission of a new list of the next three (3) eligible applicants, the City Human Resources Director will verify to the Commission that written reasons for rejection of previous applicants have been received. This procedure shall be repeated until a selected applicant accepts appointment.

The applicant selected for appointment shall be given written notice and shall have ten (10) days to accept the appointment. Upon failure to accept the appointment, that applicant shall forfeit all rights under the entrance list. Unless the applicant makes written application to the respective Chief of Police or Chief of Fire within the ten (10) day period and receives, at the discretion of the Chief, additional time in which to accept the appointment, the Chief may select from the remaining applicants from the certified entrance list. After appointment of an applicant to fill a position, all remaining applicants for appointment, including those certified but not selected, shall remain on the entrance list.

The Director of Human Resources shall notify the Commission of the person appointed.

### Probationary Period

An applicant appointed to a position from an entrance list must serve a probationary period of twelve (12) months before the appointment is complete. Time taken off from work for personal or medical reasons during the probationary period shall be added to the end of the probationary period, having the effect of lengthening the probationary period. This is because the probationary period is designed to offer an opportunity for the head of the department and other supervisors to fully evaluate an individual's performance on the job. The respective Chief of Police or Chief of Fire may discharge the appointee during the probationary period by written notice. An appointee is not entitled to the hearing or appeal process before the Maumelle Civil Service Commission and as specified by these rules until the appointment is complete.

*Reference: Ark. Code Ann. § 14-51-301 (7)*

### Adequacy of List

When it is determined by the Civil Service Commission that the entrance list is inadequate or shall become inadequate in a short period of time, the Civil Service Commission may order an examination for new appointees.

## CHAPTER TWO: PROMOTIONS

### Minimum Requirements

No person shall be eligible for examination for advancement from lower ranks to higher ranks until that person shall have served at least one (1) year in the lower rank, except in case of emergency, which emergency shall be determined by the Civil Service Commission. The Civil Service Commission shall determine the rank or ranks eligible to be examined for advancement to the higher rank. Eligibility shall be determined as of the closing date of the promotional exam as set forth by the Civil Service Commission and as advertised by the Department of Human Resources. Unless otherwise specified, the closing date shall be 30 days prior to the examination.

*Reference: Ark. Code Ann. § 14-51-301*

### Internal Applicants

It is the policy of the Civil Service Commission to provide promotional opportunities whenever possible to qualified employees. Employees are encouraged to take advantage of these opportunities by qualifying themselves for advancement through further education and study, and by a high level of job performance, service, interest, and loyalty.

### External Applicants

A. If there are two or fewer applicants for a specific vacancy, the Civil Service Commission may open the promotional examination to qualified applicants currently employed by police and fire departments other than the Maumelle Police or Fire Department.

B. Such external applicants must satisfy all requirements for the vacancy, provided, however, in lieu of the Departmental performance reviews, an external applicant must consent to release of his or her personnel file from present and former employers.

### Description of Rank/Positions - Department of Police

- Police Officer II:** Individuals, who have satisfactorily served a probationary period of one year in an entry level Police Officer I position and with the concurrence of the Chief of Police, shall be promoted to Police Officer II.
- Corporal:** No person is eligible for examination for advancement to the rank of Corporal until the person has at least three years of continuous experience within the police department with at least the last year served in the rank of Police Officer II or equivalent law enforcement experience.
- Sergeant:** No person shall be eligible for examination for advancement to the rank of sergeant until the person has at

least four years of continuous experience within the police department with at least the last year served in the grade of Corporal or Police Officer II or equivalent law enforcement experience.

**Lieutenant:** No person shall be eligible for examination for advancement to the rank of lieutenant until the person has at least five years of continuous experience within the police department with at least the last year served in the grade of Sergeant or equivalent law enforcement experience.

Descriptions of Rank/Positions -- Department of Fire

**Firefighter II:** Individuals, who have satisfactorily served a Probationary period of one year in an entry level Firefighter I position and with the concurrence of the Fire Chief, shall be promoted to Firefighter II.

**Fire Apparatus Engineer:** No person shall be eligible for examination for advancement to the rank of Fire Apparatus Engineer until the person has at least two years of continuous experience within the fire department with at least the last year served in the grade of Firefighter II. Required certifications must have been obtained and prescribed training must have been successfully completed.

**Fire Captain:** No person shall be eligible for examination for advancement to the rank of Fire Captain until the person has at least four years of continuous experience within the fire department with at least the last year served in the grade of Fire Apparatus Engineer.

**Fire Marshal:** No person shall be eligible for examination for advancement to the rank of Fire Marshal until the person has at least five years of continuous experience within the fire department with at least the last year served in the grade of Fire Captain or equivalent fire experience.

*Reference: Ark. Code Ann. § 14-53-112—Fire Marshal may be armed if a licensed peace officer.*

Promotional Examination

A promotional competitive examination may be limited to current members of the respective Maumelle Department of Police or Department of Fire. The Civil Service Commission shall determine and specify in the notice of promotional examinations the closing date and the rank or ranks in the Department which are eligible to compete.

### Notice of Examination

A. When a promotional examination is to be given, the Director of Human Resources shall give public notice of the competitive examination at least ten (10) days in advance of the closing date for receipt of applications by posting notices thereof in or near the Department of Human Resources and the applicable Department of Police or Fire so that eligible employees in the City service shall have an opportunity to take the examination. When there are two or fewer applicants, the promotional exam may be open to external applicants.

B. When a promotional examination is to be open to external applicants, the Director of Human Resources shall give public notice of all open competitive examinations at least ten (10) days in advance of the closing dates for receipt of applications by posting notices thereof in or near the Department of Human Resources and in a newspaper having a bona fide circulation in the city.

### Suspension of Competition

In the case of a vacancy in a position requiring peculiar or exceptional qualifications of a scientific, professional, or expert character, upon satisfactory evidence that competition is impractical and that the position can best be filled by the selection of some person designated who is of recognized attainment, the Civil Service Commission may, by a majority vote, suspend competition in this case. However, the suspension shall not be general in its application, and each case must be handled on its own merits.

### Examination Dates

The Commission may authorize examinations to be held once per year and such examinations may be held more often if deemed necessary by the Commission.

The Department of Human Resources is authorized to advertise and hold promotional testing on the second Saturday in January of each year, and more often if necessary. The Department of Human Resources is given the discretion to make adjustments on testing dates within the recommended time frame as necessary. Further, certain positions may be exempted from the annual testing if the Commission determines that there is no need for the establishment of an eligible list because a vacancy in said positions is unlikely to occur except for in unforeseen emergencies.

*Reference: Ark. Code Ann. § 14-51-301(3)(B); MCC 2-663(3).*

### Competitive Examination

Lists for promotion shall be based on results from written examinations and may include, but not be limited to, employee performance evaluations, a departmental promote-ability review, self-development, and a Civil Service Commission interview.

*Reference: Ark. Code Ann. § 14-51-307.*

### Promotional Lists

As soon as is practical after any examination, the Civil Service Commission shall complete its review of the examination process and approve the promotional list(s). The Commission shall enter the names of applicants upon the appropriate list in order of their final numerical ranking according to their total score received in the promotional testing and evaluation. The list(s) shall then be certified by the Commission. The original(s) of this list shall be placed on file with the Director of Human Resources. All lists for promotions as certified by the Commission shall be effective for the period of one (1) year from date of certification unless the Commission designates a longer effective period that is no more than two (2) years. At the end of this period, all right of priority under the list(s) shall cease. A list may be deemed by the Civil Service Commission to be exhausted if fewer than three available eligible candidates remain on the list.

### Notification

The Director of Human Resources shall notify each applicant taking the examination of their final score and their numerical position on the list as soon as the list has been certified. Within two weeks of final ratings being sent, an applicant is permitted to inspect his/her examination in person at the Department of Human Resources during business hours. They shall be permitted to check his/her examination with the answer sheet. There can be no attempt to copy or memorize tests questions. Examinations or score sheets shall be maintained during the period of certification of the promotional list and shall be destroyed thereafter. A clear and unmistakable error on the test paper or in rating of any phase of an examination shall be corrected if called to the attention of the Director of Human Resources and the Civil Service Commission and the individuals' final rating adjusted. Such correction shall not invalidate any appointment previously made. Allegations of errors of subjective judgment in the interviewing or rating process will not be entertained.

### Certification

Following certification of the promotional list, the Director of Human Resources shall, upon request, provide to the appropriate Chief of Police or Chief of Fire the names of the three (3) applicants standing highest on the certified promotional list for promotion for that rank of service.

### Selection

When a position in a civil service rank becomes vacant, the respective Chief of Police or Chief of Fire will be provided a list containing the names of the next three applicants on the list certified by the Commission for promotion. The Chief may select for appointment one (1) of the three (3) applicants on the entrance list certified by the Commission. If the list provided to the respective chief is deemed fully exhausted without an appointment being made, then prior to the transmission of a new list of the next three (3) eligible applicants, the City Human Resources Director will verify to the Commission that written

reasons for rejection of previous applicants have been received. This procedure shall be repeated until a selected applicant accepts appointment.

The applicant selected for promotion shall be given written notice and shall have ten (10) days to accept the promotion. Upon failure to accept the promotion, that applicant shall forfeit all rights under the promotional list. Unless the applicant makes written application to the respective Chief of Police or Chief of Fire within the ten (10) day period and receives, at the discretion of the Chief, additional time in which to accept the promotion, the Chief may select from the remaining applicants from the certified list. After selection of an applicant to fill a position, all remaining applicants for promotion, including those certified but not selected, shall remain on the promotional list.

The Director of Human Resources shall notify the Commission of the person promoted.

#### Probationary Period

An applicant promoted to a rank from a promotional list must serve a probationary period of six (6) months before the promotion is complete. Time taken off from work for personal or medical reasons during the probationary period shall be added to the end of the probationary period, having the effect of lengthening the probationary period. This is because the probationary period is designed to offer an opportunity for the head of the department and other supervisors to fully evaluate an individual's performance on the job. The respective Chief of Police or Chief of Fire may, during the probationary period, reduce the appointee to the previously held rank by written notice. Appointees are not entitled to the appeal process before the Maumelle Civil Service Commission as specified herein for any such reduction during the probationary period because the promotion is not yet complete during that time.

#### Adequacy of Lists

When it is determined by the Civil Service Commission that a list(s) is inadequate or shall become inadequate in a short period of time, the Civil Service Commission may order an examination for that rank(s) based on need.

### CHAPTER THREE: REJECTION OF APPLICANTS

The respective chief may remove the name of an applicant from the entrance or promotional list if:

- A. The applicant declines the appointment when offered.
- B. The applicant cannot be located by the postal authorities; that is, when a communication mailed to the applicant at the applicant's last known address is returned unclaimed.
- C. The applicant is physically unfit to perform effectively the duties of the position in which he/she seeks employment.

D. The applicant is addicted to the use of narcotics or the excessive use of intoxicating liquors.

E. The applicant has been convicted of a felony or has exhibited conduct which would tend to undermine the public confidence in the City government.

F. The applicant has made a false statement of material fact in his/her application.

G. The applicant has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment.

H. The applicant has directly or indirectly obtained information regarding examinations to which, as an applicant, he/she was not entitled.

The preceding listed causes for removal are not all inclusive.

*Reference: Ark. Code Ann. § 14-51-301 (5) (A).*

#### CHAPTER FOUR: TEMPORARY APPOINTMENTS

In cases where the Chief determines that an emergency exists, the respective Chief of Police or Chief of Fire may make a temporary appointment without examination including a change in pay, rank or position for up to sixty (60) days without bringing the appointment before the Civil Service Commission provided that any increase in pay does not go beyond the appointed employee's existing pay grade.

If any temporary appointment, regardless of duration, involves an increase in pay beyond the appointed employee's existing pay grade, the temporary appointment shall require the consideration and approval of the Civil Service Commission prior to any increase in pay.

No temporary appointment, regardless of pay implications, may continue for more than sixty (60) days without approval of the Civil Service Commission.

Successive temporary appointments to a position, whether involving the same or a different employee, are not allowed without approval of the Civil Service Commission.

Any employee granted a temporary appointment requiring Civil Service Commission approval will receive written notification as to the timing and temporary status of each appointment and pay. Chiefs of the respective departments are encouraged to provide similar notice upon any temporary appointment which does not require Commission approval.

*Reference: Ark. Code Ann. § 14-51-301 (8) (A).*

## CHAPTER FIVE: DISCIPLINARY PROCEDURES

### Right to Hearing Before the Commission.

After successful completion of their probationary period, no civil service employee shall be discharged, reduced in rank or in compensation, or suspended for any duration with or without pay, without being notified in writing of such discharge, reduction or suspension and the cause of same at the time such action is taken. Within ten calendar (10) days after written notice is served upon the employee, the employee may request a trial before the Civil Service Commission on the charges alleged as the grounds for discharge, reduction or suspension. In the event a request for a trial is made, the Commission, within fifteen (15) days of the request, shall set a date for the trial. The hearing date will not be within this fifteen (15) calendar day period. However, if the request for trial is not made within ten calendar (10) days from the date of service of notice, the discharge, reduction or suspension shall become final and no trial shall be granted thereafter.

In the event of a trial, the employee requesting such trial shall be notified in writing of the date and place of the trial at least twenty calendar (20) days prior to the date thereof and shall have compulsory process to have witnesses present at such trial. When scheduling hearing dates, the Commission will take into consideration the schedules of the employee, the employee's attorney, City management and the City's attorney. However, if the schedules are unable to be coordinated, a date will be set at the convenience of the Commission. All requests for a continuance of a scheduled hearing must be in writing and presented to the Director of the Human Resources Department, who will refer the request for continuance to the Chair of the Commission. A continuance will be permitted for good cause only, at the discretion of the Commission. In no case will an agreement by the attorneys for a continuance be recognized except by consent of the Commission.

### Chairman Shall Preside

The chairman of the Civil Service Commission shall preside at all trials and shall determine and decide all questions relative to pleadings and the admissibility of evidence. The decision of the Commission shall be by a majority vote.

### Right to Appeal Decision of the Commission

A right of appeal by the City or employee is hereby given from any trial decision of the Commission to the circuit court of the county. Such appeal shall be taken by filing with the Commission, within thirty (30) days from the date of such decision a notice of appeal whereupon the Commission shall prepare a written order containing its decision, ensure that the transcript and evidence be made available for filing in the circuit court once the appealing party has paid the cost of preparing the transcript and send to the circuit court all pertinent documents and papers, together with a complete transcript of all evidence and testimony adduced before the said Commission as well as all findings and orders of the Commission. The responsibility of filing an appeal and paying for the transcript of the proceedings before the Commission shall be borne by the party appealing the

Commission's decision. The circuit court shall review the Commission's decision on the record and may, in addition, hear testimony or allow the introduction of any further evidence upon the request of either the City or the employee, provided such testimony or evidence is competent and otherwise admissible. However, if the court determines that the party appealing the Commission's decision took the appeal in good faith and with reasonable cause to believe they would prevail, the Commission shall reimburse the appealing party for the cost of the transcript. A right of appeal is also given from any action from the circuit court to the Supreme Court of the State of Arkansas, and such appeal shall be governed by the rules of procedure provided by law for appeals from the circuit court to the Supreme Court.

#### *Rights of Employee upon Reversal of Decision*

In the event that it is finally determined that there was a wrongful discharge or reduction in rank or in compensation of any civil service employee, such employee shall be entitled to judgment against the city for whatever loss the employee may have sustained by reason of such action, taking into consideration any remuneration which such employee may have received from other sources pending the final determination of this case.

*Reference: Ark. Code Ann. § 14-51-301 (11); 14-51-308.*

#### *Manner of Conducting Appeal Hearings Before the Commission*

The hearing will be conducted in accordance with the procedures outlined in Ark. Code Ann. § 14-51-308 (Michie, Repl. 1998), as amended from time to time.

#### **Burden of Proof:**

The Maumelle Police Department or Maumelle Fire Department has the burden of proof by a preponderance of the evidence to establish that the employee appealing a disciplinary action violated the rules, regulations, or general orders upon which the disciplinary action is based.

#### **Court Reporter:**

All proceedings in such hearings shall be reported by a certified court reporter.

#### **Authority of the Commission:**

The Commission, based upon the evidence presented at the hearing, may uphold, reverse or modify the disciplinary decision of Chief of the relevant department. In the event that it decides to modify the penalty imposed by the Chief, the Commission is authorized by law to impose a suspension for up to a maximum of thirty (30) calendar days, order demotion to a lower rank, a combination of demotion and suspension, or termination of employment. The Commission is further authorized to reduce any disciplinary action imposed by the Chief of the respective departments to a lesser form of punishment within the levels of punishment listed in the preceding sentence.

#### **Majority Vote required:**

The decision of the Commission shall be by a majority vote of the entire membership.

Effect of Recusal of Commissioner(s):

If a Commissioner recuses from an appeal hearing, the remaining Commissioners shall constitute a quorum. In the event four (4) Commissioners remain to consider an appeal, and the vote results in a tie, the decision of the Maumelle Police Department or Maumelle Fire Department will be considered upheld and the employee shall have the immediate right to file a notice of appeal to Pulaski County Circuit Court. If, due to multiple recusals, fewer than three (3) Commissioners are available to consider an appeal, the decision of the Maumelle Police Department or Maumelle Fire Department shall be considered final, and the employee may proceed with a notice of appeal to Pulaski County Circuit Court. In either case, the Chairman of Commission shall enter an Order evidencing the tie vote or fewer than three (3) commissioners and the effects of these events according to this rule. Such order and any transcript of evidence or testimony taken by the Civil Service Commission, if any, shall constitute the record on appeal to Circuit Court.

Right to Appeal:

Both the City and the affected employee have the right to appeal the decision of the Commission. Any appeal taken from the Commission’s decision to the Pulaski County Circuit Court shall be pursuant to procedures set forth in Ark. Code Ann. § 14-51-308, as well as any other applicable statutes or court rules, as may be amended from time to time.

Scheduling Order:

In order to facilitate appeal hearings before the Commission, the Commission has adopted a scheduling order which is issued on each case to come before the Commission. At the discretion of the Commission, this scheduling order may be amended from time to time. Attorneys and employees not represented by counsel, are expected to strictly follow the scheduling order. An example of a standard scheduling order is included hereinafter for reference but said sample scheduling order shall not be binding upon the Commission in each case.

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**SAMPLE SCHEDULING ORDER**

**BEFORE THE MAUMELLE CIVIL SERVICE COMMISSION**

**EMPLOYEE**

**PETITIONER**

**V.**

**NO. CSC-\_\_\_\_\_**

**MAUMELLE \_\_\_\_\_ DEPARTMENT**

**RESPONDENT**

**SCHEDULING ORDER**

**1. HEARING DATE**

This case is scheduled for a hearing before the Maumelle Civil Service Commission to commence at **1:00 p.m. on \_\_\_\_\_, 20\_\_.**

**2. FILING AND NOTICE REQUIREMENTS**

The Director of the Department of Human Resources serves as the Secretary for the Commission. The City Attorney serves as the Attorney for the Commission. All pleadings and notices must be filed with the Secretary of the Commission, the Attorney for the Commission by mail at 550 Edgewood Drive, Suite 590, Maumelle, Arkansas 72113 and served upon all opposing parties by mail and or other reasonable and reliable means of communication.

### **3. DISCOVERY**

The Commission directs that the attorneys for the parties meet to determine the discovery needs of each party. This includes identifying witnesses who will be called and documentary exhibits which will be introduced at the hearing. All City employees whom the attorneys anticipate may be needed as witnesses should be notified immediately in order to avoid scheduling conflicts.

If either attorney desires a deposition be taken for purposes of presentation at the hearing in lieu of live testimony, the attorneys are urged to work cooperatively to schedule such deposition. Although the Arkansas Rules of Civil Procedure do not apply to hearings before the Commission, because employees have compulsory process to have witnesses present at the hearing pursuant to Ark. Code Ann. § 14-51-308(c)(2), the Commission will exercise its authority pursuant to Ark. Code Ann. § 14-51-209 to issue a subpoena for the appearance of a witness at an evidentiary deposition.

All requests for evidentiary depositions must be in writing, directed to the Office of the Commission's Secretary, and must specify that the deposition is being taken in lieu of the witness appearing at the hearing. The request must also contain a statement by counsel for the party that the witness to be deposed will be unavailable to appear at the hearing. Evidentiary depositions, which must be taken no later than twenty-one (21) calendar days before the scheduled hearing date, shall be videotaped for presentation at the hearing or they will not be received into evidence. The Commission will not issue subpoenas for "discovery" depositions.

### **4. MOTIONS**

All motions shall be filed no later than twenty-one (21) calendar days before the hearing date. Responses shall be filed no later than seven (7) calendar days after the date the motion is filed. Copies of all motions and responses shall be served on the Commission's counsel, the Maumelle City Attorney, 550 Edgewood Drive, Suite 590, Maumelle, Arkansas 72113. Motions filed after the deadline may be denied solely on that ground. The Chair of the Commission will render a decision on the motion by submitting a written order with a copy to both parties. The Commission's Secretary shall maintain the original order in the Commission's file. The Chair's decision will be based on the motion and response; there shall be no other written filings nor shall there be a hearing held on motions. In the event the non-prevailing party disagrees with the Chair's decision, the party can note such objection for the record at the beginning of the hearing and, if necessary, make an offer of proof on the record outside the hearing of the Commission at the conclusion of the hearing as described in Section 7 of this Order.

### **5. WITNESSES**

The Commission directs the parties to provide to the Commission's Secretary a list of all witnesses each party proposes to call to testify, along with a short synopsis of the anticipated testimony of each witness, no later than thirty (30) calendar days prior to the scheduled hearing date. Failure to timely identify witnesses may result in a witness not being permitted to testify.

The Commission shall receive in evidence any written statement given by a witness, provided that the witness is available at the hearing to be cross-examined. In the event of an evidentiary deposition, a written statement of the witness who was deposed shall be received in evidence, provided that the statement was available at the time of the deposition and opposing counsel was given the opportunity to cross-examine the witness about the statement.

**6. STIPULATIONS AND EXHIBITS**

The parties are directed to submit to the Commission a list of all stipulated facts and exhibits no later than ten (10) calendar days prior to the scheduled hearing date. In addition, each party is directed to present a brief statement of its position with respect to the appeal. In the event that the parties cannot stipulate to any facts, it shall be noted in the position statements submitted by the parties. Either party is free to include in its position statement a list of facts to which it would agree to stipulate. However, the parties should not submit exhibits to the Commission prior to the hearing unless both parties agree to stipulate to their admission.

**7. OFFER OF PROOF**

In the event the Chair excludes the admission of evidence, either by granting a motion in limine or sustaining an objection during the appeal hearing, the party offering the excluded evidence may make an offer of proof after the Commission has announced its decision on the appeal and prior to the adjournment of the hearing. The party or his counsel desiring to make an offer of proof shall do so by stating the substance of the excluded testimony or documentary evidence on the record outside the hearing of the Commission. The procedure of making the offer will not involve a question and answer format; the party or attorney shall simply make a record of the substance of the excluded evidence. The offer of proof shall be a part of the transcript of the hearing in the event either party appeals the Commission's decision to the Pulaski County Circuit Court.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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CHAIR  
MAUMELLE CIVIL SERVICE COMMISSION

**CHAPTER SIX: OTHER RULES**

**Preparation of a Record**

A public record of meetings shall be prepared by the secretary of the Commission and approved by the Commission at a subsequent meeting. A transcript of any disciplinary hearings and other similar proceedings before the Commission shall be stenographically reported.

**Transfers Prohibited**

No uniformed employee of the Departments of Police and Fire shall be transferred from one department (e.g., firefighter), to another (e.g., police officer). Any uniformed employee wanting to change departments must apply and go through the examination process.

*Reference: Ark. Code Ann. § 14-51-310.*

*Reduction in Personnel*

In the event it becomes necessary to have a reduction in personnel within the Departments of Police and Fire, reduction shall begin at the lowest rank with the least amount of seniority. Those employees affected shall have re-employment priority in order of reduction (i.e., last out, first back), for a period of one year from date of their removal.

*Reference: Ark. Code Ann. § 14-51-309.*

*Employee Participation in Political Campaigns*

No employee in the Departments of Police and Fire shall receive special consideration or be discriminated against in any way because of their political opinion or affiliation.

As public professionals, civil service employees must maintain objectivity in their on-duty functioning and must take into account potential conflicts of interest or the appearance of any conflict of interest that political campaigning may entail. Employees are expected to take precautions to avoid these conflicts and appearance of conflicts. The first and foremost precaution is that when in doubt, ask. Employees contemplating political campaign activities that may be questionable are expected to consult with their respective Department Chief for guidance.

While on duty, civil service employees are restricted from active or passive campaigning for any particular candidate or political issue being placed before the public for a vote. This restriction includes the wearing of or displaying of any campaign buttons, logos, or advertising of any nature.

While on duty, civil service employees must exercise due caution when associating with individuals or groups that may be actively campaigning to avoid the appearance that they are involved in campaign activities while on duty.

These rules should not be construed to prohibit employees from participation in on or off duty lobbying efforts before governmental or other agencies and organizations on issues of importance to the departments or profession. On duty lobbying efforts must be approved by the respective Department Chief.

Employees shall not wear uniforms or any City issued or provided clothing while engaging in off duty political campaigning.

Employees may not use any City or departmental materials, properties, assets, or resources for any political campaign activities.

After working hours, employees are free to campaign and support candidates in federal, state and local campaigns. This specifically includes displaying yard signs

at the employee's home and/or placing bumper stickers on the employee's personal vehicle.

Candidates for public office shall be discouraged from campaigning in Department offices during work hours.

*Reference: Ark. Code Ann. § 14-51-303; 14-51-311; 14-52-109.*

#### Resignation and Leave of Absence

Procedures for resigning or requesting a leave of absence by Civil Service covered employees are included in the City of Maumelle Employee Handbook.

#### Reappointment and Reinstatement

A. A non-probationary employee with a good record who has resigned or who has been approved for a leave of absence may be reinstated, without qualifying in a competitive examination within a year of the date of resignation or leave. Depending on positions available, the person may be placed in the same rank or a lesser rank position by the same department from which they resigned or took a leave of absence.

B. The Chief of Police or Chief of Fire must submit in writing a request for approval to the Director of Human Resources, giving name, title, salary, grade, date of separation, date of proposed reinstatement, and cause of vacancy that the reinstatement will fill.

C. The employee may not assume their duties until the Director of Human Resources has submitted the information in paragraph C, and the Civil Service Commission has approved the reinstatement and the same has been recorded in the minutes of their meeting.

D. Pay and benefits retention are not provided for in these rules. Placement on the pay scale and benefits from prior service will be in accordance with established City policy.

E. Should any changes in qualification(s) occur during the period of absence, the person must satisfy these new conditions prior to being considered for re-instatement.

F. The person requesting reinstatement shall have the eligibility listed above for a period of one (1) year from date of separation. At the end of the one (1) year period, all right of this eligibility shall cease.

G. Nothing in this section shall require that the person be reappointed if no position is available or if the person is deemed not qualified for the position by the respective Department Chief.

#### Certification for Compensation

A. The secretary of the Commission shall file with the treasurer or disbursing officer of the City of Maumelle a certificate of those entitled to compensation from the city under Civil Service coverage.

B. No compensation shall be allowed to any member of the police or fire department of Maumelle unless their names shall be so certified by the secretary.

*Reference: Ark. Code Ann. § 14-51-305.*

## VII. GLOSSARY

The following terms when used in these rules shall have the following meanings unless the context clearly requires otherwise:

APPLICANT - A person who has filed application for examination for Civil Service Rank or promotion.

APPOINTMENT - Means the designation of a person, by due authority, to Civil Service Rank,

CIVIL SERVICE RANK - The combined rights acquired by appointment and successful completion of the probationary period in a Civil Service position.

COMMISSION - Means the Civil Service Commission.

COMMISSIONER - Means a member of the Civil Service Commission.

DAYS - reference to a number of days shall mean calendar days unless otherwise specified herein.

DEMOTION - Change of employment to a lower civil service rank having a lower pay grade. May be voluntary or involuntary.

DEPARTMENT - Maumelle Department of Police or the Department of Fire.

CHIEF - When used alone means the respective Chief of Police or Chief of Fire.

DISCHARGE - Termination of an employee's employment.

ELIGIBLE - A person whose name has been placed on an employment or promotional list for a given rank.

EMPLOYEE - CIVIL SERVICE - Any person holding a Civil Service Rank in the Departments of Police or Fire.

EVALUATION - The system that has been established for evaluating an employee's performance by his or her supervisor.

EXAMINATION - All the tests that are applied to determine fitness of applicants for a Civil Service Rank.

EXAMINATION - COMPETITIVE - An examination in which the applicants are in competition and from which the entrance or promotional list is promulgated.

LIST - ENTRANCE - A list of applicants arranged in order of merit as provided by these rules, who have been found qualified for entry-level appointment to civil service rank.

LIST - PROMOTIONAL - A list of applicants arranged in order of merit as provided by these rules, who have been found qualified for promotion in civil service rank.

PERSONNEL FILE - The file that is maintained in the City of Maumelle Department of Human Resources.

POSITION - A titled, numbered entity authorized by appropriate authority, having assigned to it a specific job, pay grade and an organizational location.

POSITION - CIVIL SERVICE - A position with civil service rank and subject to the authority of the Civil Service Commission.

PROBATIONARY PERIOD - The designated period of time after an applicant is appointed or promoted during which time the employee is required to demonstrate their fitness for the position by the actual performance of the duties.

RESIGNATION - The voluntary separation from the City service at the request of the employee.

SENIORITY - The status of an employee required by continuous service with the City.

SEPARATION - Any type of action whereby an employee is removed from the City payroll.

SUSPENSION - A forced leave of absence with or without pay for disciplinary purposes or pending investigation.

## VIII. ADOPTION OF RULES

The Commission shall adopt and amend rules after giving public notice and holding a public hearing. The Director of Human Resources shall give public notice at least ten (10) days in advance of the hearing date by posting notices thereof in or near the Department of Human Resources and in a city-wide circulated publication.

### Effective Date of These Rules and Regulations

The effective date of these rules and regulations shall be after a public hearing and upon the adoption of the same by the Civil Service Commission. Said date shall be affixed hereinafter.

### All Prior Rules Superseded

These rules and regulations shall be the Maumelle Civil Service Commission Rules and Regulations and shall supersede all prior Civil Service Rules.

### Severability

If any provision of these rules is held to be invalid by a final judgment of a court of competent jurisdiction, then in that event the judgment of the court shall be abided by, concerning any specific rule or rules. However, all other rules shall remain valid and in effect until a new rule or regulation is promulgated, and adopted by the Civil Service Commission.

Adoption of Rules

Pursuant to Sections 14-51-101 et seq. of the Arkansas Code Annotated, the Statutes, and public notice having been given and public hearing having been held in accordance with the provisions of said Statutes, the Maumelle Civil Service Commission has made and does hereby promulgate the foregoing rules and regulations applicable to and governing the administration and enforcement of the provisions of said Statute. The rules and regulations may be changed or amended from time to time by the Civil Service Commission as in the judgment of the Commission may seem desirable or necessary. This authority is granted under the Statutes after notice is given and the Civil Service Commission holds public hearings.

Revised and Adopted at the \_\_\_\_\_ meeting of the Maumelle Civil Service Commission.

\_\_\_\_\_  
John Chapman, Chairman

\_\_\_\_\_  
Billy Herrington, Secretary