

**RULES AND REGULATIONS  
of the  
CIVIL SERVICE BOARD  
for the  
FIRE DEPARTMENT  
CITY OF BAKERSFIELD**

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## **RULE 1**

### **AUTHORITY AND PURPOSE**

#### **1.01 RULES PRESCRIBED.**

- A. Under the authority of Section (185) 3 of the Charter of the City of Bakersfield, the Civil Service Board for the Fire Department hereby formulates, prescribes and adopts these Rules and Regulations governing the selection and promotion of members of the Fire Department and governing procedure for hearings before said Board.
- B. The Civil Service Board does hereby affirm and repeat, by these Rules and Regulations, the Rules of the Fire Department respecting causes for dismissal of members of the Fire Department and the Charter provisions respecting suspensions and dismissals and other disciplinary actions which are therein authorized.

**1.02 PURPOSE.** These rules and regulations are adopted and formulated for the purpose of assuring the continuance of the Civil Service system for the Fire Department, of promoting efficiency in the dispatch of public business and of assuring all employees of the Fire Department fair and impartial treatment.

## **RULE 2**

### **DEFINITIONS**

**2.01 DEFINITIONS.** The following words and phrases as used in these rules and regulations, unless a different meaning is required by context, shall have the following meanings:

- 1. **APPLICANT** shall mean a person who has made application to take a Civil Service examination.
- 2. **APPOINTING OFFICER or APPOINTIVE POWER** shall mean the department head or authorized representative.
- 3. **APPOINTMENT** shall mean the acceptance by a person of a position in City service.
- 4. **BOARD** shall mean the Civil Service Board for the Fire Department of the City of Bakersfield.

5. **BUSINESS DAYS** Shall mean calendar days exclusive of Saturdays, Sundays and legal City holidays.
6. **CERTIFICATION** shall mean the submission of the top three (3) names from an appropriate eligible list to an appointing officer.
7. **CITY** shall mean City of Bakersfield.
8. **CITY PHYSICIAN** shall mean a medical doctor chosen by the City.
9. **CLASS** shall mean a group of positions which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, class specifications, salary range and the application of common standards of selection, transfer and promotion.
10. **CLASS SERIES** shall mean a number of classes of positions which are substantially similar as to the types of work involved and differ only in rank as determined by the importance of the duties and degree of responsibility involved and the amount of training and experience required. Such classes constitute a series.
11. **CLASS SPECIFICATIONS** shall mean a written description of a class or position which includes title, class number, a general statement of nature of work, duties, responsibilities and minimum or desirable qualifications.
12. **CLASSIFIED SERVICE** shall mean all officers and positions in the Civil Service as set forth in Section (185) 3 of the Charter of the City of Bakersfield.
13. **CONTINUOUS SERVICE** shall mean employment by permanent employees without interruption except for approved leaves of absence. Reinstatement or reemployment does not make service continuous.
14. **DEMOTION** shall mean the movement of an employee from one class or position to another class or position having a lower maximum rate of pay.
15. **DEPARTMENT** shall mean the Fire Department of the City of Bakersfield.
16. **DISMISSAL, REMOVAL OR DISCHARGE** shall mean termination from City service for cause.
17. **DIVISION** shall mean a separate unit or bureau within the department, such as ADMINISTRATION, OPERATIONS and SPECIAL SERVICES.

18. **ELIGIBLE** shall mean an applicant who receives a final passing rating and whose name appears on an eligible list.
19. **ELIGIBLE LIST** shall mean a list of persons who have been examined and approved by the Civil Service Board as eligible for appointment.
20. **EXAMINATION** shall mean the complete process involved in evaluation, investigating and testing the fitness and qualifications of applicants.
21. **LAYOFF** shall mean separation from a seasonal, part-time or permanent position because of work load, economy, lack of funds or because the position has been abolished.
22. **MINIMUM QUALIFICATIONS** shall mean the minimum qualifications of education, experience, ability, knowledge, licenses and other requirements set by the Board for entrance to examinations, for appointments or for promotion.
23. **OFFICIAL BULLETIN BOARD** shall mean the bulletin board on the main floor of City Hall, 1501 Truxtun Avenue, Bakersfield.
24. **OPEN EXAMINATION** shall mean an examination open to the public and not limited to applicants in City service.
25. **PERMANENT EMPLOYEE** shall mean an employee who has successfully completed their probationary period and has been appointed to permanent Civil Service status.
26. **PERSONNEL DIRECTOR** shall mean the City Manager or his authorized representative, who shall have the authority to appoint the Secretary of the Board.
27. **POSITION** shall mean a specific office or type of employment as set forth in the personnel and compensation ordinance, whether occupied or vacant, permanent or seasonal.
28. **PROBATIONARY PERIOD** shall mean a working test period of six months' duration during which employees are required to demonstrate their fitness for the position to which they are appointed by the actual performance of the duties of the position. This period is considered to be part of the examination process and as such may be extended for the amount of time not worked due to illness or injury.
29. **PROBATIONER** shall mean employees who are serving their probationary period.

30. **PROMOTIONAL EXAMINATION** shall mean an examination limited to permanent employees having Civil Service status.
  31. **RANK** shall mean the numerical position attained on an eligible list by an applicant as determined by the final grade attained by said applicant in a Civil Service examination.
  32. **REINSTATEMENT** shall mean reappointment after a break in service to a position within a class formerly held.
  33. **REMOVAL** shall mean demotion, discharge or dismissal.
  34. **SECTION** shall mean a unit of a Division.
  35. **SEPARATION** shall mean leaving a position for any reason; and where it refers to separation from a particular position to accept another position, it also includes transfer, reassignment, promotion and reduction.
  36. **SERVICE** shall mean employment with the City.
  37. **SUSPENSION** shall mean the temporary removal of an employee from duty without pay for disciplinary reasons.
  38. **TERMINATION** shall mean the separation of an employee from City service. Termination may be by death, discharge, layoff, resignation, retirement, work completion or by release of a probationary employee during the probationary period.
  39. **TIME IN SERVICE** shall mean the length of time permanent employees have served in continuous City service beginning with their probationary appointment to a permanent position.
  40. **TRANSFER** shall mean the change of an employee from one division, bureau or section to another but does not pertain to the reassignment of personnel from one platoon or station to another.
  41. **UNCLASSIFIED SERVICE** shall mean all elected officers, all members of boards, commissions and all temporary and seasonal employees.
- \* **NOTE:** For the purpose of interpreting the foregoing definitions and these rules and regulations, whether a word appears in its plural or singular form shall have no practical significance, and the use of any word referring to the masculine or feminine gender shall also refer to its opposite.

## **RULE 3**

### **CLASSIFIED SERVICE**

**3.01 PERSONS IN CLASSIFIED SERVICE.** In accordance with Section (185) 3 of the Charter, all personnel, except the Chief of the Fire Department, shall belong to the classified service and shall be appointed and promoted for no other grounds and for no other reason than their fitness for the position to be filled. For the further convenience in designation in carrying on examinations and in certifying for appointments and promotions, the safety classifications in the Fire Department are placed in grades as follows:

### **SCHEDULE OF GRADES**

GRADE 1 – Firefighter

GRADE 2 – Fire Engineer

GRADE 3 – Fire Captain

GRADE 4 – Battalion Chief  
Fire Marshal  
Training Officer

GRADE 5 – Deputy Chief  
Assistant Chief

Non-safety classifications shall be established by the Board as required.

## **RULE 4**

### **APPLICATIONS**

**4.01 WHO MAY FILE.** Any qualified applicant shall be admitted to examination who has personally filed an application with the office of the Board as prescribed in the public notices thereof, and upon the form furnished by the Board. The applicant shall be required to make application in writing and subscribe to same under oath.

#### **4.02 QUALIFICATIONS.**

- A. Applicants must be high school graduates or present the standard scores from a GED equivalency test with an overall average of not less than forty-five percent (45%), with a grade of not less than thirty percent (30%) in any one subject. Every applicant for entrance in the Fire Department shall be able to write legibly, have a fair knowledge of spelling and be able to read and write.
- B. Age requirements for original entrance examination shall be as follows: Applicants must have passed their eighteenth (18<sup>th</sup>) birthday on the date of examination.
- C. Applicants for entrance in the Fire Department must take such medical examination as the Board shall prescribe before appointment and at City expense.

**4.03 CAUSE FOR REJECTION.** The Board may reject the application of and may remove from any list the name of any persons who:

- A. Lack any of the minimum qualifications as stated in the announcement or in these rules.
- B. Are physically or mentally unfit to perform effectively the duties of the position to which they seek appointment.
- C. Are addicted to the habitual or excessive use of narcotics or habit-forming drugs or intoxicating liquors.
- D. Have been convicted of a felony or of any crime involving moral turpitude.
- E. Have been dismissed or has resigned in lieu of discharge from, or whose record of employment has been unsatisfactory in, any position, public or private, for any cause which would be a cause for dismissal from the Fire Department.
- F. Have made a false statement of any material fact, or practiced or attempted to practice any deception or fraud in their application or examination or in securing eligibility for appointment.
- G. Have willfully violated any of the examination requirements of the Board.

- H. Are candidates for a position requiring the driving of any vehicle and do not have a valid driver's license.

**4.04 NOTICE OF REJECTION – DEFECTIVE APPLICATIONS.** Whenever an application is rejected, notice of such rejection shall be mailed to the applicant. Defective applications may be returned to the applicant with notice to amend same, provided the time limit for receiving applications has not expired, but defective applications will not be returned a second time. Failure on the part of the applicant to make prompt return in such cases will be deemed sufficient cause for rejection.

**4.05 DATE OF RECEIPT – FAILURE TO APPEAR.** The date of receipt of applications shall be endorsed thereon. Applications of persons who fail to appear for examination shall not be used for any later examination.

**4.06 CORRECT ADDRESS.** All applicants for examination and all persons whose name appears on the eligible list must file with the Board written notice of change of address. Failure to report correct address may be grounds for disqualification. The Board shall not be bound to certify a person who has not reported a change of address.

## **RULE 4(A)**

### **FIREFIGHTER—LATERAL TRANSFER**

**4.01(A) PURPOSE.** This rule is intended to facilitate the orderly and cost-efficient transition of County of Kern fire stations to administration by the City of Bakersfield. It is anticipated the transition of Kern County fire stations to the City will create an urgent need for additional trained firefighters to insure continued fire services to annexed areas. The procedure set forth herein for lateral transfers shall be utilized on a case-by-case basis in the instance of acquisition by the City of a Kern County fire station(s).

**4.02(A) APPLICATION.** An applicant may qualify for a lateral transfer at the entry level for the position of Firefighter. The applicant must file an application as prescribed in the public notices thereof, and upon the form specified by the Board. The application shall be in written form and subscribed under oath. Announcement and advertisement of lateral transfer will be as specified in Rule 5 (Announcement and Advertisement of Examination).

**4.03(A) QUALIFICATIONS.** In addition to the qualifications for entry level Firefighters found in Rule 4.02, applicants for Firefighter—Lateral Transfer must possess the following qualifications:

1. Completion of Kern County/City of Bakersfield Joint Training Academy including Firefighter I State Certificate and Emergency Medical Technician (EMT) I Certificate;

2. Must have a minimum of one year's active service as a full-time, paid Firefighter with the Kern County Fire Department.

**4.04(A) EXAMINATIONS.** Applicants for Firefighter through lateral transfer shall not be required to take a written examination. Applicants shall be required to take an oral examination and such other medical and/or physical agility examination consistent with the entry-level position of a Firefighter as the Board may require. The oral examination will be weighed at 100 percent, and all other examinations will be rated as pass/fail only.

**4.05(A) PLACEMENT ON ELIGIBLE LIST.** A minimum grade on the oral examination of 70 percent is required for placement on the eligible list. Successful applicants for Firefighter through lateral transfer shall be placed on the eligible list for the position of Firefighter—Lateral, entry level, in the order of their final earned grade, provided they have passed all the requirements of the Department for the entry level position as provided in the Rules and Regulations of the Civil Service Board for the Fire Department, City of Bakersfield, except as modified by Rule 4(A).

**4.06(A) EXPIRATION OF LATERAL TRANSFER ELIGIBLE LIST.** The Lateral Transfer Eligible List shall expire upon appointment of the necessary positions required for each station transfer.

**\*[Rule 4(A) revised by Fire Civil Service Board: June 16, 1994]**

## **RULE 5**

### **ANNOUNCEMENT AND ADVERTISEMENT OF EXAMINATION**

**5.01 ANNOUNCEMENT OF EXAMINATIONS.** The Chairman of the Civil Service Board may call examinations to establish eligible lists for promotion and for employment in the Fire Department upon recommendation by the City Manager.

**5.02 NOTICE OF EXAMINATIONS.** The Examination Announcement shall be printed and shall contain:

- A. The title, nature of work and maximum and minimum rate of pay for the position to be filled;
- B. The period during which applications for examination will be received;

- C. The subjects of examination and their respective weights, if assigned;
- D. Any special physical or medical requirements and examinations and such special minimum qualifications as to education, training or experience required of applicants;
- E. Notice of the time, place and general scope of the examination shall be posted by the Board at least two (2) weeks prior to the date thereof on the Bulletin Board of the Civil Service Board and on the bulletin boards of each of the fire stations in the City of Bakersfield. For entrance examinations, such notice shall also be published once at least two (2) weeks prior to the date thereof in the official newspaper and shall be given to each person who registers under Section 6.01 of Rule 6.

## **RULE 6**

### **EXAMINATIONS**

**6.01 REGISTRATION FOR EXAMINATION.** After Notice of Examination has been posted in accordance with Section 5.02 E. of Rule 5, any person who desires to apply for any class of position may register at the location designated by the Board in the Notice of Examination. Upon registration, such person shall be furnished an application form which must be completed and filed with the Board during the period specified in the Notice of Examination for the position. Applicants will be notified by mail as to whether they qualify for the examination and the time and place of the examination.

**6.02 MEDICAL EXAMINATION.** The Board may determine by medical examination, at City expense, whether applicants for any desired position possess the prescribed standards of physical health and physique. Such examination should be given by a physician designated by the City. The results of such examinations shall be used to determine the fitness of the applicant to be examined further and need not be considered as a factor in the general average.

Where the results of such a medical examination would result in disqualification, an applicant may submit independent medical opinions for consideration before a final determination or disqualification is made. Independent medical opinions shall be received no later than 5:00 p.m. of the tenth working day after the date of notice to the applicant. Upon request to the Personnel Manager, an applicant may receive an extension if he/she is unable to obtain an independent medical opinion within the ten-day period. After disqualification, appeals may be taken pursuant to Rule 9.01 C.

Nothing in this section shall be construed to limit the power of the Board to include further medical examination and physical tests as a part of the competitive examination.

### **6.03 CONDUCT OF EXAMINATION.**

- A. The Civil Service Board shall be in charge of all examinations. The Board shall prepare or have prepared under its direction all written examinations, and no written examination shall be given until the Board has approved the questions or tests. All tests shall be practical in their character and shall consist only of subjects which will fairly determine the relative capacity of the persons tested to perform the duties of the position to which appointment is to be made. No questions which are misleading or unfair shall be asked. The Board may call on the Human Resources Division, or other persons, to prepare and submit questions, conduct or assist in conducting examinations, mark or grade examination papers and to maintain security and confidentiality of examination.
- B. All examinations shall be impartial and shall deal with the duties and requirements of the positions to be filled. No questions pertaining to religious or political opinions or affiliations shall be allowed at any examination or proceedings.
- C. Candidates in competitive written examinations shall be presented with a numbered identification sheet, on which they shall write their name, age, residence and any other information requested, after which they shall place it in an envelope, seal the envelope and thereafter they shall mark their papers with their identification number only. No identification envelope or sheet shall be opened until after the examination papers of all the candidates are marked and graded. Competitors in a written examination who place any identification mark, other than their identification number, upon any of their examination answer sheets may be deemed to have failed to pass. Answer sheets bearing any kind of identification mark, other than the examination number, need not be graded.
- D. In conducting written examinations, all necessary explanations shall be made to the whole class and none to any individual separately.
- E. Conversation or communication between competitors during written examination is prohibited.
- F. During written examinations, no competitor shall be allowed to leave the examining room, except in case of necessity and after notice to the examiner, and then only in company with someone selected by the examiner.

- G. No help of any kind shall be allowed during examination. Any written or printed matter that might be of aid in the examination must be handed in to the examiner before the examination is commenced. Any attempt to cheat or to copy from a competitor shall render the offender ineligible.
- H. Any applicant who withdraws from a written examination after filling out their identification sheets and receiving copies of the questions shall be considered as having failed the examination.
- I. The limit of time prescribed for each examination shall be announced at the beginning of each examination and shall begin when all announcements shall have been made and questions distributed.
- J. Conversation or communication between competitors regarding oral examinations is prohibited while such oral examinations are being conducted.

## **RULE 7**

### **PARTS, WEIGHTS AND FINAL GRADE**

**7.01 WRITTEN, PERFORMANCE AND ORAL EXAMINATIONS.** An examination may consist of written, performance/practical exercise and/or oral parts. The Board may set a minimum score or grade to be required in any part of the entire examination. Any applicant who fails to attain such minimum score shall be considered as having failed in the entire examination but shall be entitled to take any remaining part. The minimum score required and the part of the examination to which it is applicable shall be stated in the notice of examination.

**7.02 WEIGHTS AND GRADING.** The Board shall have the authority to weigh each part and category of the examination. Each part and category of every examination shall be graded independently, and the grade obtained shall be multiplied by the weight so assigned. The sum of the resulting products shall be divided by the total weights of all parts and categories of the examination, and the resulting quotient shall be the grade which shall be used in determining whether the name of the candidate shall appear on the eligible list. The grade shall be rounded off to the nearest tenth of a point. Unless otherwise provided in the notice published prior to holding the examination, or unless otherwise announced at the time of the examination, the minimum grade required for placement on the eligible list shall be a grade of seventy-five percent (75%). When necessary, the Board shall have the authority to adjust the final grades by using a standard curve method on all examinations to obtain a sufficient number of candidates for the eligible list.

Passing grades may be increased for candidates taking entrance level examination, for veterans, in accordance with Section 8.01, and for candidates taking promotional examinations by adding seniority points in accordance with Section 11.03. The resulting grade shall be used in determining the order in which the name of the candidate shall appear on the eligible lists.

## **RULE 8**

### **VETERAN'S PREFERENCE**

**8.01 A. ALLOWANCE.** In any open, entrance level examination, a veteran shall be allowed an additional credit of five (5) points after having attained the passing mark established for the examination.

**B. DEFINITION OF VETERAN.** For the purpose of this rule, "Veteran" means any person who has served full time for ninety (90) days or more in the United States armed forces during the following periods of time which are recognized for such credit:

A. **Korean War:** June 25, 1950 to January 31, 1955.

B. **Vietnam War:** August 5, 1964 to May 8, 1975.

## **RULE 9**

### **INSPECTION OF TEST**

#### **APPEAL NOTICE OF EXAMINATION RESULTS**

**9.01 A. INSPECTION.** Except in examinations where form tests are used by contract with an examining agency, a candidate may, within three (3) working days from the date of the written test, inspect a keyed copy of the questions and answers used in the examination. This inspection will be held in the office of the Human Resources Division and under the supervision of the City Manager's authorized representative.

**B. APPEAL.** Within five (5) working days after an examination has been held, candidates may appeal to the Board in writing any questions of the examination which they feel are unfair or unreasonable. Candidates shall state the item, page number and reasons or authority in support of their contention. Thereafter, no further appeals will be accepted which are concerned with the examination content or answers indicated as correct for items in said written test. An appeal which fails to set forth the reason or authority for a contention will not be considered. The Board shall make a ruling which shall be final. Thereafter, the examination papers will be graded according to its decision.

**C. MEDICAL APPEAL.** Upon disqualification for not meeting the minimum medical standards set forth by the City of Bakersfield, an applicant shall have the right to file an appeal of this determination to the Fire Civil Service Commission not later than 5:00 p.m. of the tenth working day after the date of mailing of notice of disqualification.

**9.02 NOTICE OF EXAMINATION RESULTS.** After the inspection period and after decision on any appeal taken under Section 9.01, candidates shall be given written notice by mail of their final written examination score, which notice shall be mailed not later than thirty (30) days after the written examination has been held and completed. Such notice shall state on its face the date of mailing, and it shall also contain the time and place of any further required examinations including oral examination of the candidate.

**9.03 NOTICE OF FINAL EXAMINATION RATING.** Within five (5) days after completion of the oral examination, candidates shall be given written notice by mail of their final score or rating and of their relative standing on the eligible list or of their failure to obtain a place on such list.

## **RULE 10**

### **REVIEW OF RATINGS AND EXAMINATION PROCEDURES**

**10.01 REVIEW.** Candidates who claim that their final rating in the examination is erroneous because of clerical error or error in the interpretation of any rule relating to the computation of their final rating or that there was irregularity, discrimination or fraud in the conduct of the examination may file with the Secretary of the Board not later than 5:00 p.m. of the tenth working day after the date of mailing of notice of their final rating, a written request for review by the Civil Service Board. The Board shall take into consideration all such objections therein made before passing finally upon the examinations.

**10.02 POWER OF BOARD.** If the consideration by the Board discloses facts which justify it, the Board may:

- A. Affirm the final rating of the candidate as determined after the review.
- B. Affirm the results of the examination as not involving any irregularity, discrimination or fraud as alleged.
- C. Modify the final rating of the candidate by correcting any clerical or other error in the computation of their final rating.

- D. If the Board finds that in the conduct there was irregularity, discrimination or fraud which resulted in substantial prejudice to any candidate, it may declare the entire examination, or any part of such examination, a nullity and cancel the eligible list created therefrom.

**10.03 EXAMINATION INSPECTION.** At a time and place designated by the Board, all candidates will be allowed to inspect the results of their examination for future study purposes. The time and place will be set by the Board after the appeal and review periods have lapsed, and no appeals will be allowed as a result of the examination inspection. This rule applies only to examinations where form tests are not used by contract with an examining agency.

## **RULE 11**

### **ELIGIBLE LISTS**

**11.01 OPEN EXAMINATIONS.** Candidates obtaining the required grade in any open examination shall have their names placed on an eligible list for the class for which they were examined in the order of their final earned grade including veteran's preference. Candidates of equal standing at the completion of all testing shall be certified as a tie score, and all such candidates shall have their names placed on the eligible list as a tie. When said candidates' names appear within the top three (3) positions on the eligible list, the appointing authority shall have the right to select any candidate from this group.

**11.02 PROMOTIONAL EXAMINATIONS.** The names of candidates who have obtained the required passing grade in a promotional examination shall be placed on a promotional eligible list for the class for which they were examined in the order of their final scores. Whenever two (2) or more employees shall have the same score, they shall be certified as a tie score and all such employees shall have their names placed on the eligible list as a tie. When said employees' names appear within the top three (3) positions on the eligible list, the appointing authority shall have the right to select any employee from this group.

**11.03 SENIORITY CREDIT.** The weight given to seniority in promotional examinations shall in no case exceed a total credit of ten (10) points. Credit shall be given for actual service in the grade from which promotion is sought, whether continuous or not. Where promotion is sought to a higher rank in the same grade, the next lower grade shall be deemed to be the grade from which promotion is sought.

Such credit will be allowed by adding to the grade qualifying the candidate for placement on the promotional eligible list, point credits as follows:

Each full year of the first two years of service – 2 points;

Each full year of the next six years of service – 1 point;

No seniority credit is given to any employee taken promotion examinations for positions in Grades 4 or 5.

Where seniority credit is given, the cut-off date for purposes of calculation shall be the closing date for filing applications for the examination.

**11.04 EFFECTIVE PERIOD – EXTENSION.** An eligible list resulting from an entrance examination shall be effective for one (1) year from the date of certification unless extended by the Board prior to the expiration date of the list.

An eligible list resulting from a promotional examination for the positions of Fire Engineer, Fire Captain and Fire Battalion Chief, shall be effective for two (2) years from the date of certification unless extended by the Board prior to the expiration date of the list. (See Section (186)4 of Charter.)

Examinations for other classified Fire Department positions will be given only as needed.

**\*[Rule 11.04 revised by Fire Civil Service Board: May 18, 1993]**

## **RULE 12**

### **REINSTATEMENT**

**12.01 REINSTATEMENT LIST.** In addition to the regular eligible lists, there shall be established for each class or position a reinstatement list containing the names of employees who have been laid off or demoted through no fault or delinquency on their part and have been duly reinstated by the Board.

**12.02 LAY-OFF.** Any employees having permanent status in the Fire Department who are laid off because of temporary or permanent abolishment of their position, provided their overall performance evaluation reports have been satisfactory, shall have their names placed on the reinstatement list for the position from which they have been laid off, and this list will take precedence over any other list. The names of employees laid off shall be placed on the appropriate reinstatement list in order of seniority as determined by length of service.

**12.03 IN CASE FIRE CHIEF DISMISSED.** In case the Chief of the Fire Department is dismissed from office and resumes rank or grade held prior to appointment as Chief, the last appointees in positions subordinate thereto and in line of promotion shall resume their former positions respectively. The name of the person in the lowest portion thus affected and whose service is necessarily terminated because of the reduction of the Chief shall be placed on the appropriate reinstatement list and take precedence over the eligible list for such position.

**12.04 RESIGNATION.** Employees having permanent status in the Fire Department and who have resigned in good standing may make application for re-employment within one (1) year after the date of resignation and if such request is granted, they will be placed on the eligible list for the entrance level position. Such application shall be referred to the appointing authority for recommendation. Upon favorable recommendation by the appointing authority, the name of an applicant may be placed on said eligible list in the order determined by the Board and shall remain on such list until its expiration date. If applicants are re-employed, they shall be entitled to all departmental seniority earned in their previous employment.

### **RULE 13**

#### **REQUISITION**

**13.01 TO FILL VACANCY.** When a vacancy in a position in the Fire Department is to be filled, the appointing officer may submit a requisition to the Civil Service Board. Such requisition shall be upon a form prescribed by said Board and shall specify the number of positions to be filled, the class title of such positions. The requisition shall also state whether the service is temporary or permanent, when the service must begin and other appropriate information.

## **RULE 14**

### **CERTIFICATION AND APPOINTMENT OF ELIGIBLES**

#### **14.01 ORDER OF CERTIFICATION.**

- A. The Board shall certify eligibles in the following manner and order:
1. The name of the person standing highest on the reinstatement list for the class or position shall be certified first in accordance with Sections 12.01, 12.02 and 12.03.
  2. If there is no such reinstatement list, the names of the three (3) persons standing highest on the appropriate eligible list shall be certified, subject to Sections 11.01 and 11.02.
  3. If the requisition requests certification for more than one (1) vacancy in the same class, the Board shall certify from those highest on the reinstatement list for the class up to as many names as there are vacancies. If for any reason all such vacancies are not filled from the reinstatement list, then, as to the remaining vacancies, the Board shall certify from the eligible list or, if the position is promotional, from the promotional eligible list as many names as there are vacancies and two (2) names in addition to the total number of remaining vacancies.
  4. When there are fewer than three (3) names on an eligible or a promotional eligible list, the Board may certify the number thereon, subject to the limitations of subparagraph 5 and the appointing officer may, at his/her option, accept such certification and appoint therefrom, or decline such certification and defer permanent appointment pending the creation of a new list.
  5. In the event there is a class for which there are both an eligible list and a promotional eligible list, certifications shall be made first from the promotional eligible list. If there are fewer than three (3) names on the promotional eligible list, the Board shall certify, in addition to such names, a sufficient number of names from the eligible list to complete the number required. When certification is for appointment to more than one (1) vacancy, those certified from the promotional eligible list shall be deemed of higher rating than any eligibles certified from the eligible list, regardless of their examination scores.

- B. The names of eligibles who are certified but not appointed shall remain in their relative positions on the list from which they were certified, provided such list or the eligible's right to remain thereon has not expired pursuant to other provisions of these rules.
- C. When there are only two names standing or remaining on an eligible list, the appointing officer may, at his option, make one or two appointments or promotions or defer such appointments or promotions pending the creation of a new eligible list.

**\*[Rule 14.01 revised by Fire Civil Service Board: August 14, 2000]**

- D. Where certification is made pursuant to Subsection A.3. hereof, the first vacancy shall be filled by the appointment of one of the three (3) highest eligibles certified. The second and each succeeding vacancy shall be filled by appointment from the three (3) highest then remaining eligibles.

**14.02 WAIVER OF APPOINTMENT.** An eligible on any list who has been certified for appointment may apply in writing to the Board for approval to waive the appointment, stating the reasons for the requested waiver. If the application is denied, the eligible's name shall be removed from the list; if approved, the Board shall determine the further placement of the eligible's name on the list.

**14.03 EMERGENCY APPOINTMENT.** Where there is a vacancy in a position and there is no list and it is not practicable to secure an appointee by certification from an eligible list or a promotional eligible list in time to meet an urgent need of the department as determined by the Fire Chief, temporary appointment may be made without examination or certification, by the appointing officer with the approval of the City Manager. No such temporary appointment shall continue longer than one hundred twenty (120) working days or seventy-two (72) duty shifts or after an appropriate eligible list shall have been created.

## **RULE 15**

### **PROBATION**

**15.01 PART OF EXAMINATION PROCESS.** The probationary period shall be an essential part of the examination process and shall be used for the effective adjustment of the employee and for the elimination of any probationary employee whose performance fails to meet the required standards of work.

**15.02 DURATION OF PROBATION.** All appointments from eligible lists or promotional eligible lists shall be subject to a probationary period of six (6) months. The probationary period shall date from the time of appointment after certification. It shall not include time served as a seasonal or temporary employee or any period of continuous leave of absence exceeding ten (10) working days. Time worked in a different class or position shall not be considered as a part of the probationary period.

**15.03 CONDITIONS TO PERMANENT APPOINTMENT.** The permanent appointment of a probationary employee shall begin on the day following the end of the probationary period provided that the Human Resources Office has received from the appointing officer an Employee Performance Evaluation stating that the retention of the probationary employee is desired, that service during the probationary period has been satisfactory and that the employee is, therefore, recommended for permanent appointment.

The appointing officer shall submit the Employee Performance Evaluation to the Human Resources Office at least thirty (30) days prior to the end of the probationary period.

**15.04 TERMINATION OF PROBATIONER DURING PROBATIONARY PERIOD.** A probationary employee may be terminated and released at any time during the probationary period without right of appeal or hearing, upon the recommendation of the appointing officer, with the approval of the City Manager. Promotional appointees may be reduced to the next lower rank during the probationary period without right of appeal or hearing, upon the recommendation of the appointing officer, with the approval of the City Manager.

**15.05 TESTING AND EVALUATION.** Prior to the end of such probationary period, employees may be tested in accordance with the rules of the Fire Department for the purpose of evaluating such employee's qualifications, merit, efficiency, fitness and responsibility. No formal test is required, unless so required by the Department regulations. During the probationary period, the employees shall be required to demonstrate their fitness for the position to which they are appointed by actual performance of the duties of the position.

## **RULE 16**

### **PROMOTIONS**

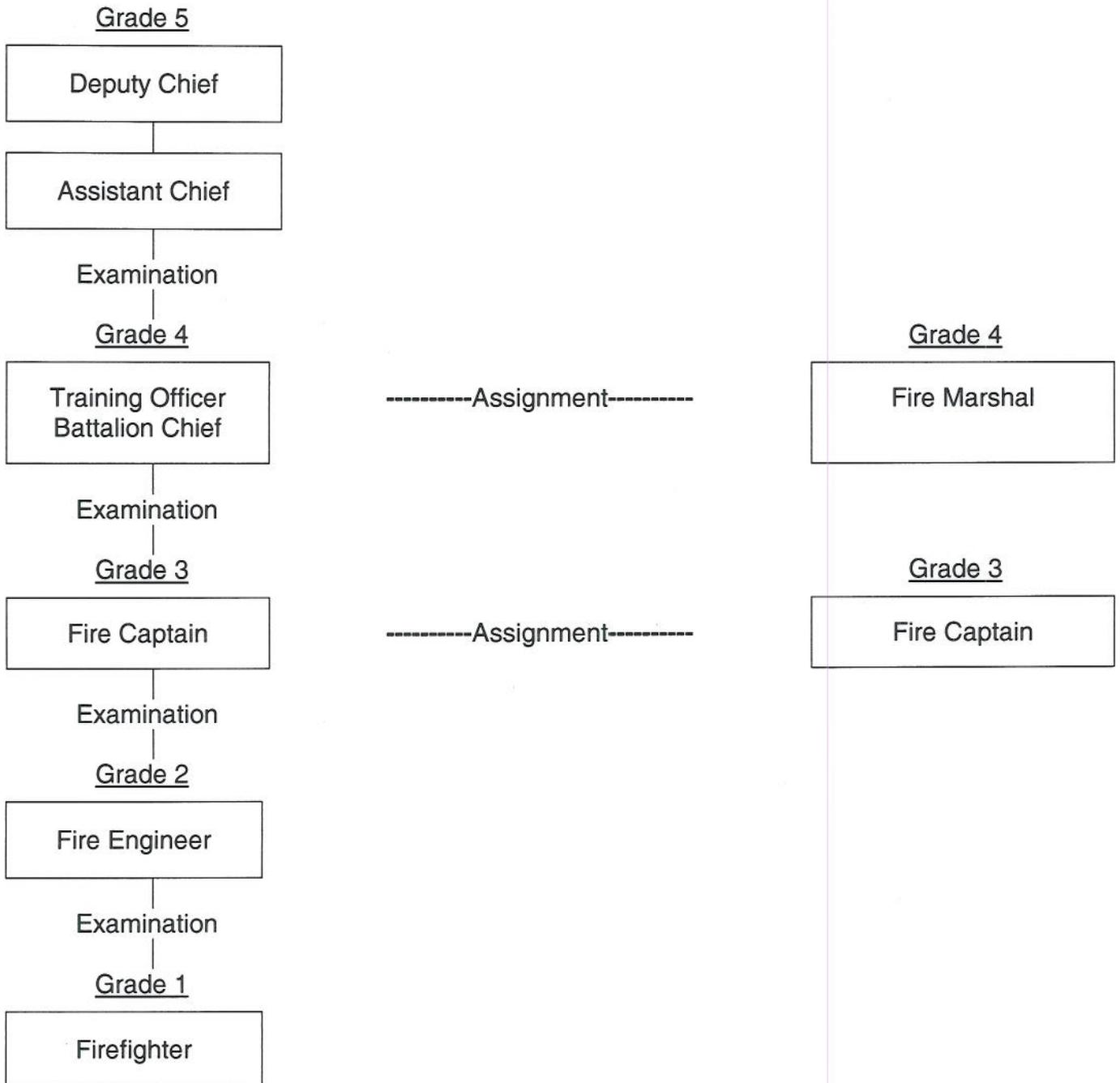
**16.01 CHARTER PROVISION.** In accordance with Section (185) 3 of the Charter, members of the Fire Department shall not be eligible for promotion until they have served at least three (3) years in the Department. For subsequent promotions, members must have held the rank from which they are seeking promotion at least one (1) year. Promotions shall be made only to the next higher grade in the service, and no grade shall be skipped; however, any member of the Fire Department who has served not less than three (3) years in such Department, may be appointed Chief of the Fire Department. The cut-off date for purposes of calculation of time served shall be the closing date for filing applications for the promotional examination.

**16.02 PROMOTIONAL EXAMINATIONS.** The rules governing promotional examinations shall be the same as for open examinations. Under no circumstances shall any promotional examination be administered to any applicant who is not eligible for promotion.

**16.03 PROMOTIONAL OPPORTUNITIES IN THE FIRE DEPARTMENT.** The diagram below demonstrates the promotional opportunities within the Fire Department.

FIRE SUPPRESSION DIVISION

FIRE SAFETY CONTROL DIVISION



Testing in Grades 2, 3 and 4 will include questions on Fire Prevention, Training and Fire Suppression.

The Board may certify the Assistant Chiefs for appointment to Deputy Chief with or without examinations.

## **RULE 17**

### **REDUCTION, SUSPENSION AND DISCHARGE**

**17.01 CHARTER PROVISIONS.** Reductions, suspensions, removals and hearings shall be in accordance with Sections (188)6, (189)7, (190)8, (191)9, (194)12, (197)15, (199)17, (200)18 and (202)20 of the City Charter.

**17.02 SUSPENSION NOT EXCEEDING THIRTY DAYS.** Upon the recommendation of the Chief of the Fire Department, any member of the Fire Department may be suspended from duty, for disciplinary purposes, for a period not to exceed thirty (30) days with the approval of the City Manager. Such suspension shall not be subject to review by the Board.

**17.03 SUSPENSIONS EXCEEDING THIRTY DAYS.** Any employee suspended for a period in excess of thirty (30) days shall be served with an order of suspension in the same manner as provided for orders of dismissal, and the same rights and procedures for answer and hearing shall apply.

**17.04 CAUSES FOR DISCIPLINARY ACTIONS.** Disciplinary action shall mean reduction, suspension for period exceeding thirty (30) days, dismissal or other penalty. Such disciplinary action may be taken against any employee in the Fire Department for any cause specified in the rules of the Fire Department. Such causes are herein affirmed and adopted as follows:

1. Fraud in securing appointment or promotion.
2. Incompetency.
3. Inefficiency.
4. Inexcusable neglect of duty.
5. Insubordination.
6. Dishonesty.
7. Drunkenness or intoxication on duty.
8. Intemperance.
9. Inexcusable absence without leave.

10. Conviction of a felony or conviction of any crime involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be conviction within the meaning of this section.
11. Discourteous treatment of the public or other employees.
12. Conduct unbecoming an officer or employee of the City.
13. Improper political activity.
14. Willful disobedience.
15. Misuse of City property.
16. Failure to maintain valid driver's license, where required.
17. Violation of any provision of the Charter or of any ordinance of the City or of any resolution adopted by the Council relating to conduct in office of persons employed in the classified service or failure to perform the duties of their positions or to observe the rules and regulations and department policies of the Fire Department in relation thereto.

It shall be the duty of employees of the Fire Department to maintain their physical condition so as to conform to the physical standards established for their positions, and failure by employees to so maintain their physical conditions shall be deemed a failure to observe the established rules and regulations in relation to their positions within the meaning of this rule.

18. Incompetence shall be deemed to include, for the purpose of this section, any permanent or chronic physical or mental ailment or defect which incapacitates employees for the proper, safe and efficient performance or the duties of their positions.
19. Other failure of good behavior either during or outside of duty hours which is of such a nature that, if known, would decrease the confidence of the public in the Fire Department.
20. Incompetence shall be deemed to include the use or possession of any substance which is a crime under the Health and Safety Code.

Due to public safety considerations, and due to the fact that all personnel in safety classifications, as set forth in Rule 3.01, are subject to reporting for

duty at any time when a public emergency arises, it shall be deemed neither a defense nor a mitigating factor that the use or possession of the controlled substance for which the individual is charged under this section occurred during a non-duty period.

**17.05 WRITTEN CHARGES.** If, upon recommendation of the Chief of the Fire Department, the City Manager determines that any permanent employee of the Fire Department should be dismissed for any cause set forth in Section 17.04 of these rules, the City Manager shall prepare or cause to be prepared written charges against the accused employee. The written charges shall be filed with the Trial Board herein created and served upon the accused employee. The accused employee may file with the Board within ten (10) calendar days after service of the written charges a written answer to such charges and a demand for hearing. If the accused employee does not file such answer and demand for hearing within ten (10) calendar days, the right to a hearing shall terminate, the accused employee shall be deemed guilty as charged and shall be dismissed from City employment.

**17.06 DESIGNATION OF PARTIES.** The person filing the charges shall be designated as the complainant, and the employee against whom the charges are filed shall be designated as the defendant.

**17.07 SETTING DATE FOR HEARING.** Within ten (10) days after the written answer to the charges and demand for hearing have been filed, the Trial Board, as herein provided, shall set a time and date for a hearing of such charges. Not less than six (6) days notice of such hearing shall be given to the complainant and to the defendant or to defendant's attorney at the last known address of each of such persons, and upon the date so fixed, they shall attend the hearing and may be heard and produce witnesses on their behalf.

**17.08 EXCHANGE OF NAMES OF WITNESSES.** At least four (4) days before the time set by the Board for hearing such charges, the complainant and the defendant shall furnish to the other party or to the Board for the use of the other party, the names and addresses of all witnesses who are to be called to testify at such hearing. No witnesses except those whose names are furnished shall be permitted to testify at such hearing, except that upon a proper showing made, the Board may permit the testimony of additional witnesses.

**17.09 FAILURE TO APPEAR AT HEARING.** If the defendant shall fail to appear, either personally or by an attorney, at the time and place described in the notice for the hearing, and if it shall appear that the notice was duly served as provided herein, the Trial Board may dismiss the case, and the defendant shall be deemed guilty as charged and dismissed from City employment.

## **RULE 18**

### **TRIAL BOARD – CONDUCT OF HEARING**

**18.01 TRIAL BOARD.** For the purpose of hearing and determining charges made against an officer or member of the Fire Department, the Trial Board shall be composed of the members of the Fire Department Civil Service Board. Such Board shall have authority to make orders of continuance and consolidation or severance of hearings.

**18.02 PUBLIC HEARING.** All hearings shall be private and closed to the public unless the defendant has, in writing, requested a public hearing at the time of the answer to the charges and Demand for Hearing or by mutual agreement by all parties.

**18.03 HEARING OFFICER OPTIONAL.** A Hearing Officer may be appointed by the Trial Board to preside over the proceedings and to rule on matters of procedure, including the admissibility of evidence. The Hearing Officer shall be a member of the State Bar of California.

**18.04 RIGHTS OF DEFENDANT.** When the Civil Service Board is sitting as the Trial Board, the defendant shall attend all sessions of the hearing unless excused by the Trial Board and shall be entitled to:

- A. Be represented by Counsel at all stages of the hearing;
- B. Take the witness stand and testify under oath;
- C. Subpoena witnesses;
- D. Cross-examine all adverse witnesses;
- E. Present such affidavits, documents, exhibits and other evidence as the Trial Board or the Hearing Officer deem pertinent to the charges;
- F. Argue the case, either personally or by counsel.

**18.05 EVIDENCE AT THE HEARING.** The hearing need not be conducted according to technical rules of evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a court.

**18.06 EXCLUSION OF WITNESSES.** The Civil Service Board, sitting as a Trial Board may, in its discretion, exclude witnesses or other persons not under examination. Persons not to be excluded are: Secretary to the Board, the defendant, defendant's counsel, the complainant and complainant's counsel.

**18.07 BURDEN OF PROOF.** The burden of proof shall be on the complainant in all disciplinary hearings.

**18.08 CROSS-EXAMINATION OF DEFENDANT.** The defendants shall not be required to testify, but may be cross-examined as to any matter relevant to the charge or charges if they take the stand voluntarily.

**18.09 CONDUCT OF HEARING.** The Trial Board or Hearing Officer shall regulate the conduct of hearings so that the same will not be unnecessarily prolonged and may confine witnesses in their testimony to the material matters under consideration and may refuse to hear cumulative testimony.

**18.10 REINSTATEMENT IF CHARGES NOT SUSTAINED.** If upon hearing of such charges, it is the judgment of the Trial Board that such reduction, discharge, suspension for more than thirty (30) days for other disciplinary action was without justification and such member is a fit and competent person to retain the position, he/she shall be reinstated and restored, and shall be entitled to receive compensation during the period of his/her suspension or reduction pending such hearing and reinstatement.

**18.11 AUTHORITY OF TRIAL BOARD.** In accordance with Section (200)18 of the Charter, if the defendant be found guilty of any charge, the Trial Board may dismiss the defendant from the service of the City or inflict such other punishment upon the defendant as in the judgment of the Board shall be adequate; provided, however, should any defendant be found guilty of a charge of drunkenness on duty, the Trial Board must dismiss that defendant from the service of the City. If any member of the Fire Department be convicted of a felony or malfeasance in office, be adjudged insane, or be absent from the City for more than thirty (30) days without leave, the Trial Board shall, upon the recommendation of the City Manager, declare that position or office vacant, and the vacancy shall be filled in accordance with applicable law.

**18.12 DECISION JUDGMENT.** The Trial Board may, upon conclusion of the hearing, take the matter under submission, and announce its decision within a reasonable time or may announce its decision after its deliberation upon conclusion of the hearing. Unless the decision shall provide otherwise, it shall be effective at once. Notice of the decision and judgment shall be mailed promptly to the defendant or delivered by personal service. Like notices of the decision and judgment shall be delivered to the complainant without delay. Except for the correction of clerical errors, such decision and judgment shall be final and conclusive.

**18.13 FINDINGS OF FACT.** Either party may request the Trial Board to issue written findings of fact. The request shall be in writing and shall be served upon the Trial Board and the opposing party within three (3) days after the final decision of the Trial Board has been announced. Either party may submit proposed findings of fact to the Trial Board within five (5) days after the request for written findings has been filed. The Trial Board shall adopt the proposed findings of either party or prepare, serve and file its own findings of fact within thirty (30) days after the announcement of its final decision.

## **RULE 19**

### **REPORTS**

**19.01 REPORTS FROM ELIGIBLES AND EMPLOYEES.** Such eligibles and employees shall promptly report to the Board:

- A. Any change of address, giving street and number and telephone.
- B. Any failure or refusal to accept appointment or promotion with the reason thereof.
- C. Each act of unusual bravery of conduct meriting special mention on the part of employees under him.

**19.02 REPORTS OF APPOINTING OFFICER.** The Chief of the Fire Department shall immediately report to the Board:

- A. Every application for reinstatement of a member.
- B. The creation or abolition of any office or place of employment in the Department.
- C. Each act of unusual bravery of conduct meriting special mention on the part Of employees under him.

## **RULE 20**

### **ADMINISTRATION**

**20.01 REGULAR MEETINGS.** Regular meetings of the Board shall be held on the second Monday of each month at the hour of 3:00 p.m. at the Fire Station #1, 2101 "H" Street, Bakersfield, California.

**\*[Rule 20.01 revised by Fire Civil Service Board: May 13, 1996]**

**\*[Rule 20.01 revised by Fire Civil Service Board: April 10, 2006 and City Council: April 26, 2006]**

**20.02 ADJOURNED MEETINGS.** The Board may adjourn any regular or adjourned meeting to a time and place specified in the order of adjournment. When so adjourned, the adjourned meeting is a regular meeting.

**20.03 SPECIAL MEETINGS.** A Special Meeting may be called at any time by the Chairman of the Civil Service Board or by a majority of the members of such Board, by delivering personally or by mail written notice to each member of the Board and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least twenty-four (24) hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the Board. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the Secretary of the Board a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

**20.04 EXECUTIVE SESSIONS.** The Board may hold executive sessions to consider individual personnel matters in accordance with the Brown Act.

**20.05 PUBLIC MEETINGS.** All meetings of the Board shall be open and public, except as otherwise provided in these rules.

**20.06 RULES OF ORDER.** Except as otherwise provided herein, Robert's Rules of Order shall guide the Board in its proceedings. Contrary to Robert's Rules of Order, the Chairperson of the Board shall be permitted to second motions, participate in discussion and vote on all matters before the Board.

**\*[Rule 20.06 revised by Fire Civil Service Board: November 13, 1995]**

**\*[Rule 20.06 revised by Fire Civil Service Board: May 11, 2006]**

**20.07 QUORUM.** Two (2) members of the Board shall constitute a quorum for the transaction of business.

**20.08 COMMUNICATIONS.** All communications and requests to the Board shall be in writing and shall be addressed to: Chairman of the Fire Civil Service Board, 1501 Truxtun Avenue, Bakersfield, California.

**20.09 AMENDMENT.** Amendment of these Rules and Regulations may be considered at any regular meeting of the Board provided such proposed amendment shall be submitted in writing at least one (1) week prior to such regular meeting.

**20.10 FURTHER DUTIES OF THE BOARD.** The Board shall:

- A. Keep minutes of all Board meetings, records of its examinations and such other records as desirable and necessary to administer the Civil Service System.
- B. The Secretary shall record in the minutes, the time and place of each meeting, the names of the Board members present, all official acts of the Board and the votes of the Board members except when the action is unanimous. When requested, a Board member's dissent or approval, and reasons, shall be recorded. The minutes shall be written and presented for approval at the next regular meeting. The minutes or a true copy thereof certified by the Secretary shall be open to public inspection, and copies will be made available to the public and such organizations as shall requested the same.
- C. Minutes of the Board meetings and findings of the Trial Board shall be considered public records. Other records of the Board shall be confidential by reason of public policy except as otherwise provided in these Rules and Regulations. All records of the Board shall be in custody of the Secretary, and disclosure to the public shall be at the discretion of the Board.
- D. At the first meeting of each calendar year, the Board shall elect from its members a Chairman and a Vice-Chairman who shall hold office until a successor shall be elected and qualified.
- E. Make an annual report to the City Council.