

(1) **CAUSE FOR REJECTION FOR ENTRY LEVEL FIREFIGHTER**

- (a) The City may reject an applicant for one or more of the reasons as outlined in the "Suitability for Employment" standards listed below.
- (b) An applicant will be deemed unsuitable for appointment to a beginning position whenever the applicant loses any of the minimum qualifications set forth in these Rules.
- (c) **Note:** Suitability for appointment to a beginning position in the New Braunfels Fire Department includes the applicant hold a minimum certification as a Basic Firefighter in good standing with the Texas Commission of Fire Protection prior to the written examination date.
- (d) Suitability for appointment to a beginning position in the New Braunfels Fire Department includes the applicant hold a minimum certification as a Basic Emergency Medical technician in good standing with the Texas Health and Human Services prior to the written examination date.
- (e) In addition to the minimum qualifications, the following are established causes for determining an applicant's suitability for appointment to a beginning position in the Fire Department. The City may reject an applicant for one or more of the following reasons listed below. Time calculations for an action that constitutes rejection for a specified period of time shall be calculated from the date the application for employment is submitted by an applicant.

- (1) Failure of the applicant to pass any part of the entrance examinations;
- (2) Conviction of and/or admission to conduct which constitutes a Class A and/or B Misdemeanor under the Penal Code or equivalent under federal law, to include the Uniform Code of Military Justice (UCMJ) ~~except for marijuana use~~, within the past seven (7) years may result in a temporary rejection. Applicant cannot have formal criminal charges above a Class C misdemeanor pending before a Grand Jury or District Attorney's office. Crimes involving moral turpitude may result in permanent disqualification and shall be considered on a case-by-case basis with appropriate consideration of circumstances and recency. Applicant must not be on court-ordered community supervision; or probation for any misdemeanor offense above the grade of a Class C misdemeanor. Applicant will be rejected if he/she is subject of any arrest warrant above the grade of Class C misdemeanor. All Class C misdemeanor warrants must be cleared within fourteen (14) days of notification of existence of warrant(s). If an Applicant has been convicted of any family violence offense, it is cause for automatic and permanent rejection.
- (3) Applicant has been convicted of or admitted to conduct which constitutes a felony under state or federal law to include the Uniform Code of Military Justice (UCMJ) on or after the applicant's seventeenth (17th) birthday regardless of the date of the offense shall result in permanent disqualification; conviction of or admission prior to the applicant's seventeenth (17th) birthday shall result in a five (5) year disqualification

period starting on the date of application with the New Braunfels Fire Department.

Note:

Conviction of an offense is not necessary to establish the commission of an offense. "Commission" of an offense is established by Police reports and/or other law enforcement documents or other evidence that gives rise to a reasonable conclusion that the offense was committed by the applicant.

The designation of offenses by titles or grades refers to the titles and grades established under Texas Law. For offenses in jurisdictions other than Texas, the offense most similar to the one defined by Texas Law and the grade for that offense under the law of that jurisdiction will be used.

- (4) An applicant shall not be considered for employment while charges are pending for any criminal offense or while he/she is currently on probation or deferred adjudication for any offense;
- (5) Applicant ~~shall~~ may be permanently rejected if found to have been convicted of or admitted to any of the following:
 - Criminal Negligent Homicide
 - Public Lewdness
 - Indecent Exposure
 - Perjury
 - Tampering or fabricating physical evidence
 - Impersonation of a Public Servant
 - Official Oppression
 - Theft by a Public Servant
 - Prostitution or Promotion of Prostitution
 - Illegal Gambling
 - Family Violence (Class A, B, or felony conviction)
 - Non-Payment of Taxes, or other just debts
 - Proven abuse of Workers Compensation benefits
- (6) Making or knowingly attempting to make a false statement in any material fact in the application, examination, or appointment;
- (7) Failure to make application in the manner prescribed in the notice of examination, and/or failure to file the application with the Director within the time limits prescribed in the notice of examination;
- (8) If employment of the candidate would result in a violation of the City's Personnel Policy on Nepotism, City Personnel Policies Handbook;

- (9) Applicant is not a citizen of the United States of America by birth or naturalization;
- (10) Applicant fails to demonstrate his/her ability to read, write, and fluently speak the English language.
- (11) Applicant is unable to perform, to an acceptable level, the essential functions of the position to which he/she seeks appointment, with or without reasonable accommodation;
- (12) Failure to complete or satisfactorily meet the employment process requirements of the Fire Department, including missed appointments, failure to return necessary paperwork, failure to provide written notice to the Department of changes in address or telephone numbers, failure to properly complete any or all application materials, or who otherwise fails to complete application process, including failure to return personal history statement on the prescribed date; failure to withdraw from another agency's hiring process, if requested.
- (13) Failure to meet minimum requirements expressed in the rules of the Texas Commission on Fire Protection and the Texas Department of State Health Services for firefighter candidates;
- (14) Applicant has been dismissed or resigned in lieu of dismissal from any employment for inefficiency, delinquency, or misconduct. Dismissal or termination shall be considered on an individual basis. Rejection under this provision ~~shall~~ may be considered permanent;
- (15) Applicant has a history of unstable work, i.e., including short terms of employment over his/her employment history; difficulty receiving orders or working with coworkers, etc. Due to the variables involved, each situation shall be considered on an individual basis. Rejection under this provision shall be temporary in nature and an applicant shall be eligible for reapplication after a three (3) year period from the date of application;
- (16) Applicant has a history of employment in an illegal occupation. Due to the variables involved, each situation shall be considered on an individual basis. Rejection for employment in an illegal occupation ~~shall~~ may be permanent;
- (17) Applicant has exercised poor judgment skills within the past seven (7) years. The applicant has demonstrated either immaturity or poor judgment in the applicant's decision-making process. Examples of such conduct would include but is not limited to: attendance at a party or social function at which controlled substances or dangerous drugs are consumed, and such activity is known or should have been known by the applicant; silent acceptance of known illegal conduct by others in his/her presence; workplace behavior/decisions that adversely affect the business or associates, with little or no objectively justifiable need for such behavior. This shall be considered on an individual basis and rejection for this shall be temporary and an applicant shall be eligible for reapplication after a three (3) year period from the date of application or

shall be permanent;

- (18) Applicant has a financial background that indicates a failure to pay just debts. Due to the variables involved, each situation shall be considered on an individual basis. Factors which shall be considered include, but are not limited to: type and number of debts, reasons for the bad credit, extenuating circumstances, and the potential for the credit-related problems impacting the applicant's judgment and integrity;

- (19) Applicant has been discharged from any military service under less than honorable conditions, including but not limited to:

- (a) Other than honorable conditions;
- (b) Bad conduct;
- (c) Dishonorable; or
- (d) Other characterization of service indicating bad character;

"General, under Honorable Conditions" is an acceptable discharge from the military. Applicants with military service must be eligible for re-entry into the military. If a waiver is required to re-enter the military, the applicant must obtain the waiver prior to the date of the examination before the City will consider the applicant for employment.

- (20) Dismissal from public service for delinquency, misconduct, conduct unbecoming, or inefficiency;

- (21) Applicant has used illicit substances as indicated by the following guidelines:

- (a) An applicant may be temporarily or permanently disqualified if it has been determined by the City that he/she has admitted to conduct which constitutes excessive and/or recent use of illicit substance(s) or excessive use of intoxicants. Conduct involving excessive and/or recent use of illicit substance or excessive use of intoxicants shall be considered on an individual basis.
- (b) An applicant may be temporarily or permanently disqualified if it has been determined by the City that he/she has admitted to conduct which constitutes abuse of legally obtained prescription medication(s), or illegal use of the prescription medication(s) of another person. Conduct involving the abuse and/or misuse of prescription medication(s) shall be considered on an individual basis.

~~(c) An applicant shall be permanently disqualified if it has been determined by the City that he/she has admitted to conduct which constitutes illegal use of felony grade substances as defined in the Texas Penal Code; or~~

- ~~(d)~~(c) The suitability of an applicant will be evaluated based on, in part the following Drug Use Disqualifications:

- ~~Marijuana in any form including marijuana derivatives, or synthetic marijuana used in the last three (3) years from the date of application.~~
- Hashish used in the last ten (10) years from the date of application.
- ~~Anabolic steroids used in the past three (3) years (except by prescription) from the date of application.~~
- The use of Methamphetamine at any time.
- The use of Heroin at any time.
- The use of LSD (Acid or lysergic acid diethylamide) at any time.
- The use of Cocaine in the last ten (10) years from the date of application.
- The use of PCP (Angel Dust or phencyclidine) at any time.
- The use of XTC (Ecstasy or ethylenedioxymethamphetamine) in the past ten (10) years from the date of application.
- The use of hallucinogenic mushrooms, "Magic" mushroom, or any derivative in the past ten (10) years from the date of application.
- The unlawful use of any Texas Health and Safety Code Penalty Groups I and II drugs (excluding marijuana) shall be considered permanent; unlawful use of any Texas Health and Safety Code Penalty Groups III, IV, or V drugs within the last ten (10) years shall be temporary or permanent.
- The intentional use or abuse of solvent-based chemicals, but not limited to inhaling, sniffing, bagging, dusting or any other introduction of any paint, gas or chemical into or around the person body in order to cause a deliberate reactionary state of intoxication or "high" as a result within the last ten (10) years shall be considered temporary or permanent.

- (22) Applicant has admitted to receiving deferred adjudication or pre-trial diversion for, or has been convicted of Driving While Intoxicated, Boating While Intoxicated, Flying While Intoxicated or Driving Under the Influence (DWI/BWI/FWI/DUI) ~~within the past five (5) years;~~ and/or three (3) moving violation convictions within the past twelve (12) months.

Fewer, but more severe violations which tend to indicate driving habits that are not compatible with the operation of emergency vehicles and present potential liabilities to the City will be considered on an individual basis. Rejection under this provision will may be considered permanent.

(23) Applicant is a member of, have belonged to, or been closely associated with:

1. Any organization which advocates the overthrow of any level of government in the United States including, but not limited to, Federal, State or local, by force or violence.
2. Any organization which advocates or engages in unlawful conduct directed at individuals or groups based upon the individual's or group's race, sex, religion, national origin, age, skin color, sexual preference, disability, or conduct otherwise commonly known as "Hate Crime". Rejection under this provision will be considered permanent.

~~(24) Applicant is a frequent user of alcoholic beverages which demonstrates unsuitability for the position.~~

~~(25)~~(24) _____ Applicant has an unsatisfactory driving record.

~~(26)~~(25) _____ Compelling negative evidence regarding the applicant's dependability, situational reasoning ability, interpersonal skills, and integrity or oral communications skills.

~~(27)~~(26) _____ Evidence that the applicant has inappropriate attitudes towards minorities and/or supervision.

~~(28) Evidence that the applicant has difficulty working with co-workers in a team setting.~~

Arrest Record:

An arrest record will not necessarily be a bar to employment. Factors such as the date of the offense, the seriousness and nature of the violation, subsequent rehabilitation and work record may be taken into account in making the suitability decision.

Physical Fitness:

Applicants must possess the physical ability necessary to perform the rigorous physical demands of the position and to professionally accomplish the assignments of a Firefighter without undue risk of injury or fatigue. Applicants must demonstrate they possess an efficient cardiovascular, respiratory system and adequate levels of muscular strength, flexibility and endurance by their successful completion of the physical fitness evaluation in which they meet or exceed the physical fitness standards approved by the Commission.

Withdrawals:

Applicants desiring to withdraw from consideration must submit a signed written statement indicating this desire to the Civil Service Director. In the event no written statement is presented, the applicant will continue in the process subject to the conditions specified in these rules.

Applicants withdrawing their applications are eligible to reapply for subsequent entrance examinations.

Request to Deem an Applicant Unsuitable:

When the Fire Chief or his/her designee determines that such cause exists which renders an applicant unsuitable for appointment to a beginning position, the Fire Chief or designee shall notify the Civil Service Director of such cause(s) and request that the applicant be deemed unsuitable. Such notification and request shall be made in writing.

The Civil Service Director shall cause a written notice to be sent to each applicant deemed unsuitable.

Such notice shall inform the applicant of the specific rule and cause for which the applicant was deemed unsuitable, the applicant's ability to reapply for subsequent entrance examinations and that the applicant may discuss the findings of unsuitability with the appropriate authority.