ITEM 8

ORDINANCE 8065
RULES AND REGULATIONS
(RULES 1-15)

RULES 2, 3, 4, 5, 6, 8, AND 10
WITH ACCEPTED CHANGES

REVISED 7/30/13

RULE 1

Civil Service Commission

Section 1. Appointment.

At such time as vacancies occur in the Civil Service Commission, City Council, will, in accordance with Article III, Section 3.7B of the City Charter, appoint such members as are required to fill Commission vacancies. (Amended 6/21/94; 7/31/07)

Section 2. Officers.

a. Chair. The Chair shall be elected from the Commission by majority vote. The Chair shall preside over all meetings of the Commission; call the meetings to order at the time they are scheduled to convene; ensure that a quorum is present; put to vote all motions that are in order; initiate general consent when appropriate; recognize Commissioners and others present at the meeting who desire to speak; enforce such statutory provisions and rules affecting the Commission's meetings, including rules of debate; maintain order and decorum; rule on parliamentary inquiries, points of order, and any other motions that require action by the Chair; appoint committees of the Commission as needed, and perform such other duties as naturally inhere in that office. When, in the judgment of the Chair, it is necessary to limit the time that members of the public may address the Commission, he shall impose reasonable time limits to ensure economy of time while allowing those who wish to address the Commission adequate opportunity to voice their views. (Amended 7/11/06)

b. Vice Chair. The Vice-Chair shall be elected from the Commission by majority vote. The Vice-Chair shall enjoy the same duties as the Chair in the absence of the Chair or upon the inability or refusal of the Chair to exercise its duties, and shall be governed by the same constraints as the Chair.

c. Secretary. The Secretary, who need not be a member of the Commission, shall supervise the Commission recorder, and shall review and assist the Commission Recorder with the preparation of all minutes of Commission meetings, which minutes shall record the time and place of each meeting of the Commission, the names of those Commissioners present and absent, summaries of discussion on matters before the Commission and the votes given by the Commission, except when acts are unanimous. The Secretary will cause the minutes to be written and presented for approval or amendment. The minutes or a copy certified by the Chairman will be open to public inspection and filed with the Municipal Clerk in accordance with City ordinance. The Secretary shall also prepare the agenda for all meetings of the Commission and receive all requests from members of the public or groups who seek in writing to address the Commission and place those matters on the Commission's agenda as soon as practicable, taking into account the urgency of the request; sign all documents as required by statutory provisions or the Rules of the Commission; prepare reports as required by law, or these Rules and as otherwise directed by the Commission; post meetings of the Commission or its committees as required by law; require the assistance of the Director of Human Resources and Commission Recorder in the discharge of the duties specified in this paragraph; and perform such other duties as naturally inhere in that office.(Amended 7/31/07)

Section 3. Election.

The Chair and Vice-Chair will be elected at the regular meeting in May of each year, and will serve until their successor assumes the office. The Secretary is appointed by the Commission and serves at the pleasure of the Commission. In the event any officer's position becomes vacant for any reason, the Commission will immediately designate a replacement to serve the unexpired portion of the term. The

filling of an unexpired term does not constitute a term for purposes of Sec. 6.1-9 of the City Charter. (Amended 7/11/06 and 7/31/07)

Section 4. Removal of Officers.

The Chair and Vice-Chair may be removed from office for any cause specified in Article VI, Section 6.1-10 of the Charter or for substantial failure to perform the duties of their office. The procedure for removal will be the same as provided for the removal of Commissioners as set forth in Sec. 12 of this Rule, provided that the Commission will sit in lieu of Mayor and Council. In such action, the officer involved will not preside or participate as a voting member in the proceeding. No other Commissioner will be disqualified from voting. Removal will be effected by a two-thirds vote of the voting members of the Commission present at the meeting at which removal is considered. (Amended 7/31/07)

Section 5. Committees.

Committees shall be appointed as provided in this Rule and shall remain constituted until the completion of the assigned task. The ranking member of the Committee shall serve as Chair unless otherwise appointed by the Commission. The Chair shall have the responsibility of reporting to the Commission, as needed or required, concerning the mission tasked to the committee. (Amended 7/31/07, 6/1/10)

Section 6. Procedural Rules.

a. Action by the Commission. All actions by the Commission shall be upon Motion, duly made and seconded. (Amended 7/31/07)

(1) Any Motion before the Commission may be amended with the consent of the Commissioner making the motion, or in the refusal of such consent, upon Motion to Amend, duly made and seconded. The Motion to Amend must be given priority over the main motion. Thereafter, discussion shall proceed on the main motion, as stated or amended. A second to any motion is a prerequisite to discussion and action on the motion. A Motion to reconsider any action by the Commission may be made at anytime in accordance with the Charter, provided however, that such motion may not be made or seconded by a Commissioner who voted with the minority on the matter the subject of the Motion to Reconsider. Discussion on any motion may be closed with unanimous consent by the Chair, and, failing unanimous consent, upon motion calling the question, duly seconded and without discussion. (Amended 7/11/06)

(2) The following matters are privileged and must be taken up by the Commission when they are raised: Motions to Adjourn or Recess, Points of Order, and Appeals to the Ruling of the Chair or Presiding Officer.

b. Voting. Any member of the Commission may vote on any Motion, provided, however that the Chair or presiding officer shall vote only in the event of a tie. No member of the Commission may vote upon any motion involving himself. Motions shall pass upon a majority vote of Commissioners present, provided further, that any Motion to Reconsider a prior action of the Commission shall only be made and seconded by Commissioners who voted with the majority in the original action.

c. Appeal from a Ruling by the Chair. Any Commissioner may appeal any ruling by the Chair as to any point of order or any other matter ruled upon by the Chair on its own initiative. The appeal is appropriate for discussion which, in the absence of unanimous consent, may be terminated by motion, duly seconded, calling the question, upon which the issue before the Commission shall be whether the ruling of the Chair shall be sustained. The ruling of the Chair shall be sustained in the absence of a majority vote against the ruling.

Section 7. Robert's Rules of Order.

Although not adopted as the Rules of the Commission, Robert's Rules of Order may be considered as advisory authority in resolving any issues related to any of the provisions of Sections 2-7 of this Rule. (Amended 7/31/07)

Section 8. Suspension of Rules.

Except as prohibited by law, the Rules set forth in Section 6 of this Rule may be suspended temporarily by the Chair or by a majority vote of the Commission, to facilitate the flow of discussion, or for other purposes. No vote may be taken on any pending motion while the Rules are suspended. The suspension shall be effective only for the duration of the agenda item during which they were suspended, provided further that at any time after the Rules have been suspended, the Chair may invoke their applicability, subject to the provisions of Section 6c of these Rules. (Amended 7/31/07)

Section 9. Commission Recorder.

The Commission Recorder serves at the pleasure of the Commission. Disciplinary action, other than termination, may be taken against the Commission Recorder by the Secretary of the Commission only with the concurrence of two thirds of the Commission present and voting. If the Commission Recorder position becomes vacant, the Human Resources Director shall advertise the position for two weeks. The Human Resources Director shall review and pre-qualify all applicants. All applications will be referred to the Civil Service Commission for their review. The Commission shall select from the applications the top five for interviews and shall make their selection after the interview process has been completed. (Amended 5/31/05, 07/11/06 and 7/31/07)

Section 10. Public Employee's Right to Privacy

The public's interest in public meetings and disclosure of minutes of open meetings is expressly recognized; however, the employee's rights to or interests in privacy are also acknowledged. There are those limited instances when a public employee's individual interest in confidentiality might outweigh the public interest in disclosure. The Commission can, on its own motion, hear any proceedings in Executive Session in accordance with Section 551.074 of the Texas Government Code (Open Meetings Act). (Amended 7/31/07, 3/6/12)

In any proceeding before the Commission which has been posted for public discussion by the Commission, the City or any employee under the jurisdiction of the Commission may request that the Commission hear the matter in Executive Session, as may be permitted under Section 551.074. An employee who is the subject of any deliberation or hearing before the Commission may request and receive a public hearing on the matter, as provided in Section 551.074. (Amended 7/31/07)

Section 11. Removal of Commissioner for Cause.

a. Removal of a Commissioner for any cause specified in Article VI, Section 6.1-10 of the Charter will be effected only in the following manner: (Amended 07/31/07)

(1) Written charges specifying the acts or omissions complained of will be filed with the City Clerk and the Secretary of the Commission.

(2) A copy of such charges will be given to the Commissioner against whom they are brought. (Amended 3/6/12)

(3) Such written charges will be sworn to and open to inspection by the public.

(4) After a period of not less than five days nor more than thirty from the date such charges are filed, the City Council, at a meeting previously announced, will hear the charges. (Amended 8/31/04)

(5) The accused Commissioner will be permitted to be present throughout the proceedings in person and by counsel, and will be given a full and fair opportunity to be heard in his defense. (Amended 8/25/09)

(6) At the conclusion of the hearing, if the Council by affirmative vote of at least two thirds of the entire Council, except as may be limited in "c" below, finds the charges sustained, the accused Commissioner will be removed. (Amended 7/31/07)

b. Upon presentation to the Mayor of a written complaint signed and sworn to by not less than ten members of the classified service of the City, specifying the acts or omissions which are the basis (in accordance with Article VI, Section 6.1-10 of the Charter) for the requested removal of a Commissioner it will be the duty of the Mayor to file charges against the accused Commissioner, who will thereupon be entitled to a hearing in the form and manner prescribed above.

c. Where charges are preferred against a Commissioner by the Mayor (unless being filed by the Mayor as set forth in "b" above) or by a Representative, the Mayor or Representative, will be disqualified to sit as a member of the Council in the hearing of the charges so preferred. In such case the remaining members of the Council will hear and determine the charges.

Section 12. Hearing Officers.

a. Hearing Officers will be selected by the Commission on the basis of their knowledge, skills, training and experience in the field of labor relations. (Amended 7/11/06, 7/31/07, 9/02/08))

b. A former Commissioner may not be hired as a Hearing Officer for a period of twelve (12) months after serving on the Civil Service Commission. (Added 9/02/08)

c. A former Hearing Officer shall not, during the twelve (12) months after having served as a Hearing Officer for the Commission, represent any classified employee of the City before the Commission or before a Hearing Officer appointed by the Commission on a disciplinary matter or grievance. Further, a former Hearing Officer, after having served as a Hearing Officer for the Commission, shall not represent a classified employee on any matter, before the Commission or Hearing Officer appointed by the Commission, that was before such person during the time he served as a Hearing Officer. (Added 9/02/08)

Section 13. Restriction on Representation of Employees by Former Commissioners.

A person shall not, during the twelve (12) months after having served and left the Commission, represent any classified employee of the City before the Commission or before a Hearing Officer appointed by the Commission on a disciplinary matter or grievance. Further, a Commissioner, after leaving the Commission, shall not represent an employee on any matter, before the Commission or a Hearing Officer appointed by the Commission, that was before the Commission during the time that such Commissioner served on the Civil Service Commission. (Added 7/29/08)

Section 14. Ex Parte Communications

Commissioners or Hearing Officers, may not initiate, permit, or consider ex parte communications or other communications to be made outside the presence of the parties, concerning the merits of a pending complaint or appeal. Pending is defined as a complaint or appeal that Commissioners or Hearing Officers know has been filed or should reasonably foresee will be filed. Commissioners or Hearing Officers shall not participate in rendering the decision in a case where they have participated

in the case in an advocacy role. This Rule does not prohibit either the Commission or Hearing Officer from communicating with the legal advisor to the Commission. (Amended 7/13/04)

Section 15. Non Discrimination

The City shall administer the Civil Service Rules and charter provisions in a manner consistent with federal, state and local laws concerning equal employment opportunity. (Amended 7/31/07, 3/6/12)

Section 16. Policy Creation

Any Civil Service Rule that is being removed and replaced as a Human Resource policy that is subsequently amended, added to, or deleted will be posted for notation on both the Civil Service Commission and City Council agenda. (Added 3/6/12)

RULE 2

Definitions and Rules of Construction

A. Definitions

1. **"Allocation":** The means by which an individual position is assigned to an appropriate job classification based on the duties and responsibilities of the position. (Added 8/25/09)

2. **"Annual Anniversary Date":** The month and day that the employee entered their current job classification and grade, adjusted for periods of leave without pay in accordance with Ordinance 8064, as amended.

3. **"Certification":** The process by which the names and addresses of persons on a proper eligible list are placed in the correct order in which vacancies are to be filled and thereby become entitled to be considered to fill a vacancy.

4. **"Child":** A biological, adopted or foster child, a stepchild, a legal ward, including a child of a spouse or the designated household member.

5. **"Department Head":** As used in the Rules, the term Department Head includes City Manager or designee, Deputy City Managers and Department Directors.

6. **"Designated Household Member":** One person who currently lives in an employee's household and who has been designated by the employee in accordance with policy.

7. **"Director":** As used in the Rules, the term Director shall mean the Human Resources Director.

8. **"Employees Not Covered by Civil Service":** As per Charter Section 6.2-2 the following employees are exempt from Civil Service:

A. The City Attorney, Assistant City Attorneys, law clerks and paralegal personnel;
B. The Mayor's executive secretary(s) and Executive Assistant(s);
C. Hearing officer(s) and the Commission Recorder;
D. All elected officials;
E. Members of all City boards, commissions, and committees who serve without compensation;
F. Employees hired by contract and short-term or limited-funding grant-funded employees as designated by the City manager and hired on or after May 20, 2013;
G. The City Manager;
H. All executive level employees, and executive staff or salaried professional employees reporting directly to the City Manager;
I. Employees hired on or after May 18, 2007 who work at the Metropolitan Planning Organization; and
J. Persons given provisional and temporary appointments who are not classified employees at the time of such appointment.
K. A person hired solely as a District Representative's legislative aide for the limited period of the term of office for that District Representative.

9. **"Full-time":** As used in the Rules, the term full-time refers to an employment status of an employee that is regularly scheduled to work 40 hours per week. (Added 8/25/09)

10. **"Good standing":** As used in the Rules, "good standing" refers to a) an employee who has received the most recent performance evaluation rating, equating to meeting the expectations of one's job classification for matters such as a promotion or transfer or b) an employee who has provided appropriate notice of their intent to leave City service. A person serving a suspension, who has not appealed the suspension, is not considered in good standing. (Added 3/6/12)

11. **"Grievance":** A formal complaint made on the basis of a violation, by whatever means, of a statute, City, departmental or Civil Service rule or policy, but excluding all disciplinary matters, which subjects an employee to loss, detriment or disadvantage, as provided in Section 6.13-4 of the Charter. This shall not include any complaint not alleging a violation of a statute, City, departmental or Civil Service rule or policy. This definition shall be construed so as to fulfill the purpose and intent of Rule 14 of these Rules. (Added 3/6/12)

12. **"Health Care Provider":** A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or a person meeting the definition of health care provider under the Family and Medical Leave Act and applicable regulations to include podiatrists, dentist, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse-midwives and clinical social workers. All health care providers must be authorized to practice in their state of practice and be performing within the legally-defined scope of practice, and if the health care provider practices in a country other than the United States, is licensed to practice in accordance with the laws and regulations of that country.

13. **"Household":** A unit composed of persons living together in the same dwelling, without regard to whether they are related to each other as referred to in Rule 6.

14. **"Merit Increase":** An increase in a regular employee's base pay that is awarded for outstanding performance, meritorious service or achievement. Such increases may be granted for a specific act or achievement or as a part of the City's performance evaluation system. (Added 3/6/12)

15. **"Original Entry Date":** The original employment start date. (Added 3/6/12)

16. **"Periodic Updates":** As directed by the Human Resources Director, but in no event more than once every (fifteen) 15 calendar days.

17. **"Probationary Period":** As used in the Rules, the term probationary period means: 1) original probation for a period of six (6) months. Uniformed employees' original probation is a period of twelve (12) months or as otherwise provided in the Collective Bargaining Agreement (CBA); 2) promotional probation is a six (6) month period immediately following a promotion from a lower graded classification to a higher graded classification; or 3) a probationary period of six (6) months following a change in classification as described in these Rules.

The Human Resources Director may extend the ending date of the probationary employee's probationary period: (1) to ensure that the probationary employee serves a full probationary period as set forth above; or (2) if necessary to determine if retention of the probationary employee is in the best interest of the City; or (3) if an investigation is pending into the probationary employee's conduct at the time the probation would otherwise end. The probationary period can be extended for no longer than 90 days.

During an employee's probationary period the employee is allowed up to (3) three weeks of medical leave without affecting their probationary status.

For employees who need to exceed the (3) three weeks of medical leave during their probationary period, requests to extend a probationary period will be made by Department Head for a period not to exceed three (3) months for documented medical reasons, unless otherwise covered by the CBA. The Human Resources Director will only consider extension requests that are the result of a medical absence of three (3) weeks or more. (Added 8/25/09)(Amended 11/2/10)

A probationary rating not recommending an employee for regular status is not subject to appeal. In the case of such probationary ratings, the employee has the right to place a written statement in his personnel file stating any objections to the rating.

18. **"Reclassification":** Means changing the allocation of a position to the same, higher, or lower graded job classification. (Added 8/25/09)

19. **"Seniority":** As used in the Rules, the term seniority refers to the calculation used in ranking candidates. A point value is provided for each complete year of continuous service an employee has served in a regular Civil Service position.

Nothing in this Rule shall prevent Departments from using an internal seniority system in determining vacation requests or scheduling; Departments utilizing an internal seniority system must promulgate such a rule as outlined in Rule 11.

In the event of a lay-off, seniority refers to the length of service with the City and is not dependent upon the amount of time in a position or Department. (Added 3/6/12)

20. **"Regular Employee":** A classified employee who has completed an original probationary period. (Added 3/6/12)

21. **"Serious Health Condition":** An illness, injury, impairment, or physical or mental condition that involves: (A) in-patient care in a hospital, hospice, or residential medical care facility, or (B) continuing treatment by a health care provider.

22. **"Working Days":** Means business days as established by a resolution of City Council, but excluding city observed holidays and days in which more than 50% of employees assigned to work at City Hall are not working. In the absence of such a resolution, it shall mean Monday through Friday, but excluding city observed holidays, and days in which more than 50% of employees assigned to work at City Hall are not working. (Added 3/6/12)

23. **"Working Out of Class":** The temporary assignment of an employee to daily perform duties of a significant and distinct nature allocated to a higher graded job class other than work performed in response to a catastrophic event or as defined in Section 2.2c of the Classification and Compensation Ordinance 8064. (Added 3/6/12)

B. Rules of Construction

1. **"Gender":** The masculine gender shall include the feminine and the neuter.

2. **"Headings and Subheadings":** The headings and subheadings in the Rules are for convenience in searching only, and are not intended to limit or expand the meaning of the text. (Passed 07/31/07) (Amended 8/25/09)

RULE 3

(RESERVED)

RULE 4

Certification

Section 1. Certification.

The Human Resources Director or designee shall certify candidates based solely on their qualifications. Certification of qualified applicants will be in accordance with the City's Certification Policy.

Applicants will be certified by the candidate's standing on the eligible list. Upon request of Department Head, a person on the reinstatement or transfer list may be certified ahead of or in conjunction with the names on the eligible list. (Amended 7/14/87, 08/21/07, 8/25/09, 3/6/12)

Section 2. Certification for Promotion.

If more than one vacancy exists for a given position, the Human Resources Director shall certify the five highest names on the proper eligible list for one vacancy, and one additional name (the next highest) for each additional vacancy. (Amended 8/25/09)

Section 3. Waiver.

Applicants are only allowed to waive certification or appointment a combination of two (2) times, after which the person's name shall be removed from such list. (Amended 8/21/07, 8/25/09, 3/6/12)

Requests for waivers for appointment must be filed with the Human Resources Director by the next working day after having been notified of selection by the Human Resources Department. (Amended 1/9/90, 12/6/90 and 8/21/07)

RULE 5

Application and Promotional Process and Lateral Transfer Process

Section 1. Filing of Applications.

Except as otherwise provided for herein, applicants for all positions, must file an application with the Human Resource Department not later than the date specified in the job posting and in the manner prescribed in the job posting.

The Human Resources Director, subject to appeal to the Commission, will refuse to examine an applicant, or after examination to certify him as eligible and will remove his name from the eligible list for any of the following reasons, in each case to be fully documented:

(a) He is found to lack any of the minimum requirements established in the classification for the position and grade for which he applies; or

(b) He has been convicted of a felony, or a misdemeanor within seven (7) years from date of conviction, end of parole, or release from prison, which is determined to be job related to the position sought; or (Amended 8/25/09,11/2/10)

(c)He is found by the Commission to have committed any act, either while in the service of the City or otherwise, or to have any deficiency or disqualification which, in the judgment of the Commission, would be sufficient to constitute a just cause for discharge from the Civil Service as defined in Article VI, Section 6.13-3 of the Charter.

Section 2. Appeals from Disqualification from Examination.

a. Applicants who are disqualified from taking an examination may appeal to the Civil Service Commission provided they appeal within three (3) working days from the date of the notice. The three (3) working day period begins the date the notice was emailed. Individuals who appeal must file a written rebuttal in a format prescribed by the Human Resources Director. If the applicant fails to update their contact information or respond within the timelines set, no further action will be taken. (Amended 8/21/07, 8/25/09)

b. Untimely appeals will not be accepted.

c. If the examination is held before the appeal is heard and determined by the Commission, the Human Resources Director may allow the applicant to take the examination conditionally pending the Commission's determination. If a conditional applicant fails to achieve a passing grade on an examination, the appeal shall be administratively dismissed and the appeal will not be forwarded to the Commission and no further action will be taken. (Amended 8/25/09)

Section 3. Frequency and Examination.

Examinations will be given whenever needed to fill a vacancy for which an adequate list does not exist. (Amended 12/11/84, 1/24/89, 8/21/07)

Section 4. Eligibility.

A person is eligible to take promotional examinations after actual service in a regular position for six months and when he fully meets the qualifications for the class as specified in the job description. The six months of actual service will be deemed to have been met if the employee successfully completes the six months of service by the date the first component of the examination is administered, and the employee is recommended for regular status. (Amended 10/21/97, 8/21/07, 8/25/09)

Section 5. Seniority and Efficiency Points

Seniority points will be awarded to the score of City Employees provided that the minimum passing grade is achieved on the examination or evaluation. Efficiency points will be added to or subtracted from, the examination score of applicants passing promotional examinations based on the employee's most recent regularly scheduled evaluations. City Employees may receive a maximum of seven additional points that can be added to their score for a combination of seniority and efficiency points. (Amended 3/6/12)

Section 6. Special Credit

Ratings for Veterans

A veteran, who has obtained a passing score, shall have his rating on an original entrance examination advanced five points. A veteran is defined as any person who has served on active duty in the Armed Forces of the United States, or any division thereof, including the Coast Guard, for a period of 180 days and presents a DD 214 indicating an honorable discharge from said service. (Amended 8/21/07, 8/25/09)

a. To qualify for an additional five-point increment based on disability, such disability must be at least 30 percent, certified by the most recent letter from the Veteran's Administration. (Amended 8/21/07)

b. Nothing in this provision will be construed to authorize or direct the placing of the name of any person on any eligible list who does not meet the physical standards set by the Human Resources Director for the position for which the eligible list has been created.

Section 7. Penalty for Deceit in Examination.

Where deceit in an examination is alleged, and the examinee denies the fact of deceit, or if the examiner in charge of the examination believes extenuating circumstances to exist, the examinee will be permitted to finish the examination, and a full report shall be submitted immediately to the Human Resources Director, who will conduct an appropriate investigation. Should the Director find that the applicant engaged in deceitful conduct in connection with the examination, the applicant will be disqualified. (Amended 8/21/07)

Section 8. Duration of Eligible Lists.

The Human Resources Director will compile lists of eligible promotional candidates for job classifications and maintain them as necessary and appropriate. Eligible lists other than reinstatement and transfer lists will normally expire 6 months from the date they are certified unless extended by the Human Resources Director.. (Amended 1/24/89, 8/21/07)

Section 9. Removal from the Promotional List of Persons Permanently Separated from Service.

The names of persons permanently separated from the service on account of resignation, discharge or other cause, will be removed from all promotional applicant lists by the Human Resources Director.

Section 10. Removal from Lower List if Appointed from Higher List.

Regular employees whose names are on promotional eligible lists of different grades or lists with different salary schedules will be removed from the lower grade promotional eligible lists or promotional lists with a lower salary schedule upon promotion to a higher grade position or one with a higher salary schedule. (Passed 3/28/91 and Amended 8/21/07)

Section 11. Required Licenses or Certificates

All employees who are required to have a license or certificate as a condition of employment shall maintain such licenses or certificates in a current status as long as their job specification requires it.

Failure to maintain or obtain such license or certificate as required by the employee's job specification shall constitute just cause for disciplinary action as described in Rule 8. (Passed 8/25/09)

Section 12. Transfer to Same Class and Grade.

Whenever an employee in any department of the City wishes to transfer to a position in another department, the employee must be recommended by the transferring department and must have not been disciplined or placed on a performance improvement plan in the last 12 months. Employee shall retain his grade and pay rate, provided: (Amended 7/31/07, 8/25/09)

a. The position is in the same class and grade as the one from which transfer is made; or

b. The employee has been performing services substantially similar in nature and having similar requirements as to education and experience to those of the new position, as determined by the Human Resources Director. Seniority credit where applicable will be given to the employee for the number of years he has been performing similar work in the former department. (Amended 2/1/94 and 7/31/07)

Section 13. Transfer During Probationary Period.

a. In order to have a request for a transfer approved, a person must have completed a probationary period in the class to which transfer is being requested, except as provided in paragraph b.

b. In cases where a position is abolished, a transfer request may be made by either the employee or the City. In such cases, a transfer may be approved while the employee is still serving in a probationary period for the class to which transfer is requested, provided that the balance of the employee's probationary period not yet served be retained by the employee in the new department, and that the rules regarding transfer and the order of certification and all provisions regarding transfers are met. (Passed 1/2/85) (Amended 9/13/05)

RULE 6

Leave of Absence, Resignation, Sick Leave and Vacations

Section 1. Leave of Absence.

The Human Resources Director shall establish a Family and Medical Leave Act ("FMLA") leave of absence policy and a Non-FMLA leave of absence policy that is consistent and in conformity with all applicable federal and state employment laws. The policy shall set forth the procedures for requesting FMLA and non-FMLA leave, requirements for approval, benefits during leave, and other matters related thereto.

Section 2. Sick Leave

a. Accrual

All regular and probationary employees who are regularly scheduled to work a minimum of forty (40) hours per week are entitled to an annual sick leave, with full pay in the amount of 120.0 hours per year or 4.62 hours per pay period. (Amended 7/09/85,8/11/87, 6/28/88, 1/30/90, 2/07/06, 8/25/09)

Part-time employees who are regularly scheduled to work a minimum of twenty (20) hours per week shall accrue sick leave at a pro-rated amount of full-time entitlement based on the number of hours that they are scheduled to work. Employees covered by collective bargaining agreements shall accrue sick leave as provided in the applicable agreement. (Amended 2/07/06, 8/25/09)

Each such employee may accrue unlimited sick leave days. (Added 8/25/09)

b. Sick Leave Verification

No sick leave of three (3) or more consecutive work days will be granted to any person without a certificate verifying that the leave is necessary for medical reasons. Additionally, no sick leave the day before, the day of, or the day after a City designated holiday will be granted to any person without a certificate. Such certificate must be from a health care provider, and verify that the leave is necessary for medical reasons. (Amended 7/09/85, 2/14/89, 9/17/96 and 2/07/06)

c. Emergency Leave

Emergency Leave may be granted under the sick leave clause for the following reasons:

(1) A quarantine established by the Health Authority. (Amended 8/25/09)

(2) Death of mother, father, child, grandchild, brother or sister, or spouse or designated household member, or their child, or parent. A maximum of five (5) days of sick leave may be granted for this purpose per event. Employees shall provide written documentation of the funeral or death. (Amended 8/25/09)

(3) Death of other relatives or other person with whom the employee has a significant familial relationship. Leave with pay in such cases may be for not more than one (1) day to permit attendance at the funeral.

(4) Illness of the employee's immediate family. "Immediate family" is defined as the spouse, designated household member, children, the grandparents, or parents of the employee or of the employee's spouse or designated household member. No more than two days per pay period may be authorized to permit necessary arrangements for care unless the employee takes leave under the Family and Medical Leave Act. (Amended 3/31/87, 8/11/87, 6/28/88, 2/14/89, 8/5/93 for employees not

covered by the Collective Bargaining Agreement, 2/4/94 for employees covered by the Collective Bargaining Agreement, 2/7/06) (Amended 8/25/09)

d. Application for Sick Leave or Emergency Leave

Application for Sick Leave or Emergency Leave will be made to the employee's Department Head. When an application for such leave is denied by the Department Head, the applicant may appeal to the City Manager who will investigate and uphold or reverse the denial, consistent with provisions of this Rule. (Amended2/07/06 and 8/21/07)

e. Use of Sick Leave for Personal Business

1. Eligibility

A regular employee in the City Service is entitled to use part of his sick leave for personal business as follows: (Amended 8/21/07, 8/25/09)

40 hour per week employees - 32.0 hours per year
Regular part-time employees - 16.0 hours per year

Such personal business leave may be taken either on an hourly, half day, or full day basis. All personal business leave must be taken by the end of the last pay period beginning within the fiscal year and may not be accrued into subsequent fiscal years. (Amended 1/30/90, 8/09/94, 9/22/98, 2/07/06, 8/25/09)

2. Sick Leave Conversion Incentive

The Human Resources Director is authorized to create a policy that allows regular employees in Civil Service to participate in a Sick Leave Conversion incentive program. (Added 3/6/12)

f. When Paid Leave is Exhausted

The Human Resources Director is authorized to establish a Shared Leave Policy to be used when paid leave is exhausted. (Added 3/6/12)

Section 3. Vacation Leave

a. Eligibility

All regular employees who are regularly scheduled to work on an average, a minimum of twenty (20) hours per week, who have completed original probation, shall be eligible for vacation allowance as hereinafter set forth. Part-time employees shall accrue vacation leave at a pro-rated amount of full-time entitlement based on the number of hours that they are scheduled to work. Employees covered by collective bargaining agreements shall accrue vacation as provided in the applicable agreement. (Amended 8/11/87, 1/30/90, 2/07/06, 08/21/07, 8/25/09)

b. Accrual

All regular employees in the City Service as defined in (a.) above, shall accrue vacation credit at the following rates per pay period for each pay period completed by the officer or employee in the City Service, calculated from the date of employment of each employee: (Amended 7/09/85, 8/11/87, 1/30/90, 2/07/06, 8/21/07)

For 0 - 5 years of service (96 hours):
40 hour per week employees - 3.70 hours per biweekly pay period
(Amended 8/11/87, 9/20/88, 2/07/06, 3/6/12)

For >5 to 15 years of service (136 hours):
40 hour per week employees - 5.24 hours per biweekly pay period
(Amended 9/20/88 and 2/07/06, 3/6/12)

For >15 or more years of service (160 hours):
40 hour per week employees - 6.16 hours per biweekly pay period
(Amended 3/6/12)

The maximum accrual for vacation leave is 400 hours. (Amended 8/11/87, 2/14/89, 1/30/90, 2/07/06, 3/6/12)

c. Such leave may be taken only in hourly increments. (Amended 7/09/85, 10/08/85, 8/11/87, 2/07/06, 11/2/10)

Section 4. Vacation Schedules.

a. Scheduling of Vacations

Vacation schedules will be arranged by Department Heads with particular regard to seniority of employees and the needs of the Service, and insofar as reasonable, with regard to the wishes of the employee. The Human Resources Director will be notified of all vacations granted and will have the right to deny such vacation when the employee is not entitled thereto. (Amended 8/21/07)

b. Forfeiture of Leave Balance Overage

Any vacation leave credit in excess of the maximum accrual authorized in Section 3 of this Rule shall be permanently withdrawn from the employee's vacation balance in the pay period in which the employee's anniversary date of employment falls. An employee who has applied for, but was not granted, vacation leave during the pay period in which the employee's anniversary date fell, shall not forfeit any vacation leave overage provided that the employee is granted leave within 60 days of the employee's anniversary date, subject always to the operational needs of the department. (Amended 2/07/06)

Section 5. Special Leave Based on Operational Necessity

The City Manager may declare special leave time for operational efficiency to close some facilities and or operations for a period of time during the period between the beginning of the last week in December and the end of the first week of January each year, which would require affected employees to use their accrued vacation or personal leave balances. Should an affected employee have no available leave balances, he will be place on leave without pay. Any affected employee who does not wish to take such leave may request a temporary assignment to another position subject to availability during such time. Such special leave shall not exceed 5 days each year. (Added 6/1/10)

Section 6. Resignations.

a. Effect of Resignation

Whenever an employee of the Civil Service resigns, he severs his connection with the City and loses such seniority, including seniority rights following reinstatement from resignation, as he had at the time of his resignation. (Amended 8/21/07, 8/25/09)

b. Form of Resignation

The notice of resignation must be tendered by the employee in writing through the Department Head to the Human Resources Director not less than ten (10) working days prior to its effective date, excluding

holidays. It is the intent of this provision to require at least two calendar weeks notice of separation. Employees on approved medical leave shall be excluded from this provision. (Amended 8/21/07, 8/25/09)

c. Filing of Notice of Resignation

The Department Head shall file the notice of resignation with the Human Resources Department. (Amended 8/21/07, 8/25/09)

d. Withdrawal of Notice of Resignation

The resigning employee will be permitted to withdraw the notice of resignation within ten (10) working days after its filing with the Human Resources Department or up to the last actual day of work, whichever is sooner. (Amended 11/19/91, 2/07/06, 8/25/09)

Section 7. False or Fraudulent Application for Leave

Any employee who falsely or fraudulently requests leave to which he is not entitled or provides false or fraudulent documents suggesting eligibility for any leave provided for in this Rule is subject to appropriate disciplinary action including termination. (Amended 8/21/07)

Section 8. Unclassified Employees

Unless otherwise provided by Council or the provisions in the contract or letter of agreement of an employee hired by contract or letter of agreement, all employees in the unclassified service shall be governed by the provisions of this Rule.

RULE 7

Appeal of Efficiency Ratings

Appeal Process:

Subject to the provisions of this section, the employee has the right to appeal an evaluation that results in the creation of a Performance Improvement Plan, or that is given upon the completion of a Performance Improvement Plan with an overall rating below the equivalent of "Successful" he considers unfair, discriminatory, or otherwise objectionable. Any appeal must be made to the Commission within twenty calendar days after the employee has had final review on the rating with his Department Head, or person designated. For purposes of any appeal under this section, it shall be presumed by the Commission that the Efficiency Rating accurately reflects the performance of the employee. This presumption may be rebutted by the employee by a preponderance of the evidence. On appeal the Commission will consider only the rater's possible prejudice, the rater's failure to take into consideration facts or factors which should have affected the rating, the rater's considering facts or factors which should not have affected the rating. (Amended 8/25/09, 3/6/12)

Step 1. One or more members of the Commission shall meet and review the appeal. The employee and the Department Head or representative thereof shall present evidence in support of their respective positions. The hearing may be recessed to allow either side an opportunity to gather additional evidence in the event of a claim of surprise. After the hearing is concluded, no further evidence may be received from either party. In cases where less than the Commission as a whole has conducted the hearing, a report shall be submitted to the Commission setting forth all findings adduced at the hearing.

Step 2. Upon consideration of the matters adduced at the hearing, the Commission will render an order denying the appeal, sustaining the appeal and ordering a re-rating of specific factors, the summary evaluation, or the entire evaluation. It shall also set forth in its order the reasons in support thereof.

Step 3. If a re-rating is ordered by the Commission under Step 2, it must be submitted to the Human Resources Director by the Department Head within 60 days, accompanied by a memorandum signed by the Department Head summarizing the changes made to the original evaluation. The memorandum will explain any failure to re-rate according to the Commission's order. In cases where the Commission's order was not followed, in whole or in part, the Human Resources Director shall place an item on the next Commission agenda, and the Department Head shall appear before the Commission to respond to questions from the Commission. After hearing the Department Head, and any response on the part of the Employee, the Commission may take such appropriate action as it deems necessary to determine the appeal. No new evidence may be received by the Commission under this Step.

Resignation Before Hearing:

If an employee resigns employment with the City of El Paso during the pendency of any appeal under this section, the appeal shall be deemed withdrawn, and no further action shall be taken. (Amended 08/21/07)

RULE 8

Suspension, Reduction, Discharge

Section 1. Causes of Suspension, Reduction or Discharge.

The following may constitute causes for discharge, suspension or reduction of regular employees: That an officer or employee in the Civil Service: (Amended 7/31/07)

a. Has been convicted of, or entered a period of deferred adjudication with community supervision for,a felony or Class A or B misdemeanor; or

b. Has willfully, or through culpable negligence been guilty of brutality or cruelty to an inmate or prisoner of a city institution or to a person in custody, provided the act committed was not necessarily or lawfully done in self defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody; or (Amended 3/6/12)

c. Has been under the influence of intoxicants or drugs or the use thereof while on duty; or

d. Has contracted a disease or has some physical or mental ailment or defect which makes him unfit for Civil Service, to the extent permissible under federal and state laws. (This subsection may not be availed in any case to effect the discharge of an employee where such employee is entitled to and intends in due course to seek leave of absence for the purpose of procuring proper treatment for such disease if it is curable within the maximum of 12 month time allowed hereunder for leave of absence. Action hereunder will not in anywise affect the right of one suffering physical injury or disability arising from course of employment in the Civil Service to retirement or disability payments under any existing retirement or disability payments, or to participate in any retirement or disability plan adopted by the City); or (Amended 11/13/84, 8/25/09)

e. Is wantonly offensive in his conduct or language towards the public, an elected or appointed official, the head of any department, or his fellow employees; is abusive, threatening, or uses coercive treatment to another employee or a member of the public, or provokes or instigates violence; or abusive to an animal in the care or control of the employee; or (Amended 8/25/09, 3/6/12)

f. Is incompetent or negligent in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner; or (Amended 8/25/09)

g. Is dishonest, commits theft, violates a law, or violates policies relating to the handling or procurement of property, or negligent in care or misuse of City property; or (Amended 7/31/07, 3/6/12)

h. Abandons his position, has repeated unexcused absences or tardies, abuses leave privileges, or is absent without notification or without the provision of a valid or acceptable reason for the absence; or

i. Fails to meet or maintain qualifications, including but not limited to, failing to obtain or maintain required certificates, licenses or other credentials established for the employee's position or classification; or

j. Has induced, or has attempted to induce an officer or employee in the service of the City to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order; or has taken

any fee, gift, or other valuable thing in the course of his work or in connection with it, for his personal use from any person, when such fee, gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than accorded other persons; or (Amended 8/25/09)

k. Deliberately or carelessly acting in a manner that endangers the safety of self or others; or

l. After the date of the adoption of these Rules, engaging in the following political activity is prohibited and the employee will be subject to disciplinary action for the following conduct:

(1) actively engaging in the management or organizational committee of any municipal campaign;

(2) acting as a worker at the polls in a municipal election;

(3) participating in the solicitation of money in a municipal election;

(4) contributing money or other valuables for any political purpose in connection with municipal elections;

(5) while on duty, engaging in the distribution of any political material;

(6) while on duty, promoting or engaging in the candidacy of any candidate or political party during any election period, whether it be a partisan or municipal election;

(7) using city time or resources for any political purpose;

(8) while wearing a city uniform, engaging in any political activity;

(9) attempting to influence the vote or political action of any city employee whether superior or subordinate, while on duty;

(10) attempting to influence, through threat or coercion, the vote or political action of any city employee whether superior or subordinate, while on or off duty;

(11) recruiting or encouraging other city employees to support or participate in municipal elections;

(12) seeking political office without first resigning as provided in Rule 10; (Amended 3/6/12)

(13) accepting political paraphernalia while on duty or on city property;

(14) using your city title or position in an endorsement for any political election.

Anything not prohibited above is permitted, to include the following:

(1) engaging in the organizational efforts of partisan elections;

(2) participating in partisan election steering committees;

(3) demonstrating their political preference in partisan or municipal elections by displaying political paraphernalia representative of their political preference, so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his city position or title; (Amended 8/25/09)

(4) participating in the dialogue of community forums in any election;

(5) endorsing the candidate of their choice in any elections so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his city position or title; (Amended 8/25/09)

(6) participating in all matters related to their candidate's election in partisan elections;

(7) joining political clubs and organizations;

(8) participating in all partisan activities related to the election process.

(Amended 05/07/02)

m. Violates the City's Ethics Ordinance; or (Added 7/31/07)

n. Refusal to follow the lawful order of a superior or supervisor; or (Added 7/31/07)

o. Subjecting a fellow employee or subordinate to unlawful intimidation, harassment or retaliation; or (Added 7/31/07)

p. For just cause. (Added 7/21/07)

Section 2. Disciplinary Notice.

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a regular employee, other than at the end of a probationary period, will not become effective until the Department Head has first served upon such employee a written notice of discipline. The notice must contain one or more statutory reasons or grounds for discipline, together with such specifications of fact as will enable the employee to make an explanation and place him fairly upon his defense. The specifications of fact shall be of sufficient specificity so as to preclude the possibility of disciplinary action for the same act or omission in the future. Nothing contained herein shall prohibit the Department Head from using an employee's prior acts or omissions resulting in discipline in determining future disciplinary action against the employee. An employee may be disciplined for other acts or omissions not specified in the notice even if such acts arise from the same incident or event. A Department Head may not unilaterally reduce the discipline given once notice of discipline has been provided to the employee, without the employee's consent. A copy of such notice of discipline, together with the employee's explanation, if any, will be filed with the Human Resources Director. (Amended 06/24/03, 7/31/07, 8/25/09)

Section 3. Notice of Proposed Disciplinary Action, Procedure and Limitation of Action.

a. When disciplinary action in the nature of a five (5) day suspension or greater, a reduction, or discharge is being contemplated by the Department Head, the employee must be served with a notice of proposed disciplinary action which shall conform with the notice requirements set forth in Section 2 and Section 3 (b) of this Rule. In addition to the notice of proposed disciplinary action, the employee shall be furnished with the written materials and tangible things in the possession of the Department Head that form the factual and evidentiary basis for the proposed disciplinary action. No matter may be withheld from the employee that is inconsistent with the theory of discipline or that could tend to mitigate the contemplated sanction. (Amended 8/25/09)

b. Within ten (10) working days of receipt of the notice of proposed disciplinary action, the employee may request a conference with the Department Head. Within five (5) working days of receipt of the employee's response, the Department Head shall meet with the employee, provided further that this period may be extended with the mutual consent of the Department Head and the employee. No witnesses may be called to testify as part of the employee's explanation or response. During the conference, the employee, their representative, and the Department Head shall engage in discussions with a view toward reaching a consensus and agreement relative to the proposed disciplinary action. No part of the discussions that take place during the conference may be offered into evidence at any subsequent hearing, except for the limited purpose of determining compliance or non-compliance with the provisions of this Rule as provided in paragraph "e" and for impeachment purposes. In the event such a consensus is reached, the execution by the employee of documents finalizing the settlement agreement shall constitute a waiver of the employee's right to appeal to the Commission, and the employee shall be so advised in plain language. (Amended 09/09/03, 01/06/04, 8/25/09)

c. Respecting discharge, those departments currently using a pre-termination hearing shall not be required to have a conference as contemplated hereinabove provided that the time between notification

and hearing shall be at least five (5) days and further provided that there shall be no change to current practices regarding violations of applicable federal laws. (Amended 09/09/03, 01/06/04, 8/25/09)

d. The employee is entitled to have a representative of their choice assist them in the preparation and presentation of their response, provided further that in the event the representative is an employee of the City, he shall use vacation leave or personal days for such time as may be required for the representative to attend the conference. If the employee does not have any accrued vacation or personal days, the employee will be placed on unpaid administrative leave for such time as may be required for the representative to attend the conference. The employee must provide his Department Head with two days notice of the request to take the above leave. The Department Head may disapprove the request if the leave significantly interferes with the operational needs of the department. (Amended 09/09/03, 01/06/04, 8/25/09)

e. Disciplinary action must be taken against an employee within 80 working days after the occurrence of the incident giving rise to the discipline or from the date that the Department Head knew or should have known that disciplinary action is appropriate, whichever is later, provided however that this period of limitation shall be tolled if an investigation is being conducted by a law enforcement authority into criminal charges against the employee arising out of the same incident. Once a Department Head receives notice from the employee that charges have been preferred, through an indictment or information, or that the criminal investigation has been concluded without the preferral of charges, then the time period will resume running. (Amended 09/09/03, 01/06/04, 8/25/09)

f. Any issue of non-compliance with these provisions will be considered by the hearing officer and/or Commission upon the appeal of the disciplinary action. (Amended 01/06/04)

g. In computing any time periods set forth in this Rule, Saturdays, Sundays, and City Holidays shall not be included. (Amended 01/06/04)

h. Nothing in this Rule shall prevent suspension of the employee from service without pay in appropriate circumstances. (Amended 01/06/04)

i. A copy of this Rule shall be attached to each notice of proposed disciplinary action. (Passed 1/6/04)

Section 4. Resignation Before Appeal Decision.

The acceptance by Department Head of the resignation of a person discharged before final action on the part of the Commission will be considered a withdrawal of the charges and the separation of the employee concerned will be recorded as a resignation and the proceeding will be dismissed without judgment.(Amended 7/31/07)

Section 5. Disqualification for Reappointment.

Any employee who is dismissed for cause or who resigns while not in good standing will be disqualified from taking a Civil Service examination for two years thereafter. His name will be removed from all eligible lists, unless, in the judgment of the Commission the cause of his dismissal or resignation under charges will not affect the possibility of his usefulness in some other position. (Amended 8/25/09)

Section 6. Non-Certification of Suspended Persons.

The names of persons suspended will not be certified from eligible lists during the period of suspension.

Section 7. Election to Forfeit Annual Leave.

Regular employees suspended for not more than ten (10) working days may elect to forfeit annual leave for a period equal to the suspension, or to the extent of the employee's annual leave balance, subject to

the approval of the Department Head. The election provided for herein, shall work a waiver of the employee's right to appeal the disciplinary action to the Commission, and the employee shall be so advised in plain English on a suitable form upon which the election shall be made, as developed by the Human Resources Director and appended to the notice of suspension. The Department Head shall not unreasonably withhold approval of the employee's election. (Added 05/11/04, Amended 7/31/07)

Section 8. Formal Counseling.

Formal Counseling is not within the type of disciplinary action specified in Section 6.13-2 of the Charter which may be appealed to the Civil Service Commission. A formal counseling is issued by the Department Head and considered a written counseling to address employee workplace conduct. Employees receiving a formal counseling shall have the right to place responses to the formal counseling into their personnel files which shall remain in the file so long as the formal counseling to which the response relates remains in the file. Upon an employee's request, a formal counseling shall be removed from an employee's personnel file after the expiration of twenty-four (24) months from the date of the formal counseling, provided the employee has not received any disciplinary action during that time period. A formal counseling, once removed from the employee's file, shall not be considered against the employee for purposes of determining progressive discipline or performance evaluations. (Added 8/25/09)(Amended 11/2/10, 3/6/12)

RULE 9

Hearings

Section 1. Scheduling of Hearings

Recognizing that the prompt hearing and disposition of appeals is in the interests of affected employees and the City, and that there are often inherent financial implications therein, it is the policy of the Commission that hearings proceed as expeditiously as possible, consistent with the interests of fairness.

Section 2. Expedited Hearings in Certain Disciplinary Appeals

Hearings of appeals from termination, reduction or suspensions in excess of 15 days shall be convened within 45 days of the date the case is referred to a hearing officer unless the hearing is continued upon the request of either party as hereinafter provided. In no event may a hearing be scheduled so as to commence more than 90 days after the date aforesaid, except with leave of the Commission.

Section 3. Continuance of Appeals Hearings

a. When either party requests a continuance, that party shall file a written motion with the hearing officer or Commission. The Motion shall be identified as the party's First Motion, Second Motion, and so forth and shall set out the grounds upon which the motion is made. Any motion shall also state that the motion is not made merely for purposes of delay. Except for good cause shown, any such motion shall be made not less than seventy-two hours prior to the scheduled time of the hearing. In the case of a motion for continuance on account of an absent witness, the moving party shall establish that it has used reasonable means to secure the attendance of the witness.

b. Upon receipt of a motion for continuance, the hearing officer or Commission may schedule a hearing on the matter to consider the testimony and position of both parties with respect to the motion. The granting of a motion for continuance shall be within the sound discretion of the hearing officer or Commission which shall not be bound by the agreement of the parties with respect to the motion.

c. No motion for continuance shall be denied for reasons of form without first giving the moving party the opportunity to cure any defects as to form. (Amended 8/18/04)

Section 4. The Rule as to Witnesses

Any party to Commission proceedings may invoke the Rule as to witnesses as known to the practice in the District Courts of the State of Texas, and the Commission or Hearing Officer may, on their own motion, impose such rule, the effect of which will be to exclude from the hearing room all witnesses, except the Department Head or their representative and the appellant, while other witnesses are being questioned or other testimony given. (Amended 08/30/05)

RULE 10

Employees Seeking Public Office

No employee of the Civil Service shall seek election for a public office, as listed below, without having first resigned from his position in the Civil Service: (Amended 8/25/09)

a. Employees can declare, file and seek elective offices that are not financially compensated, such as elected positions to college boards, school boards, school districts, hospital boards and elected offices that are necessary to party function and process. If an employee wishes to seek an elective office that is financially compensated, the employee must first resign before declaring, filing or seeking the elective office. Employees who resign to seek an elective office that is financially compensated are eligible for reinstatement following their resignation. (Amended 7/31/07)

b. Employees are prohibited from declaring, filing or seeking municipal elective office unless the employee first resigns. Employees who resign to seek a municipal office are eligible for reinstatement following their resignation. (Amended 05/07/02, 7/31/07)

c. Any public office in a jurisdiction which has direct or indirect contractual relations with the City and which would present a conflict of interest to the employee's position in the City. (Amended 5/27/08) Such employee shall be eligible for reinstatement following resignation. (Amended 08/07/07)

RULE 11

Departmental Rules

Section 1. Any Department Head shall have the right to promulgate rules and regulations regarding the operation of his department, and the conduct of the employee therein, subject to the consent and approval of the City Manager, provided that such rules do not conflict with the Civil Service Charter or the Rules promulgated thereunder. (Amended 07/11/06)

Section 2. Large departments having various sub departments may, in their rules, have rules and regulations pertaining to said sub departments in addition to general rules and regulations regarding the department. (Amended 7/31/07)

Section 3. The Human Resources Director may promulgate, rules, regulations and policies and procedures, that apply to all or some city departments, as may be specified by the Director, regarding any requirements applicable to the employees of such departments, subject to the consent and approval of the City Manager, provided that such rules, regulations, or policies and procedures do not conflict with the Civil Service Charter or the Rules promulgated hereunder. (Added 3/6/12)

Section 4. Any Department Head may, as provided in the Charter, suspend, discharge or demote any employee for insubordination, for failure to comply with departmental rules and regulations, for failure to comply with the Rules of the Commission or for failure to obey any lawful order of a superior officer. (Amended 07/11/06)

Section 5. The Human Resources Director is authorized to maintain a comprehensive manual of safety procedures and driver safety standards for all employees. Each employee shall receive a link to a copy of the manual. (Added 3/6/12)

RULE 12

Lay-Offs, Job Rights, Reinstatement

Section 1. Lay-Offs.

a. When a lay-off of employees is necessary in accordance with Article VI, 6.10-1 of the Charter, notice of such proposed lay-off will be provided to the Human Resources Director immediately. The Human Resources Director will certify to the appropriate Department Head the names of the employees to be laid off, and

will coordinate all procedures to effect the lay-off. (Amended 7/31/07)

b. In certifying the names of the employees to be laid off, in the case of a tie in the amount of seniority of regular, classified employees in the affected positions, the Human Resources Director will certify for lay-off the employees with the lowest regularly scheduled efficiency ratings based on an average of the last three rating periods. If a tie still exists, the Human Resources Director will certify for lay-off the employees with the most recent date of regular appointment to the current class. If a tie still exists, the Human Resources Director will certify for lay-off by using a system of drawing by lot. (Amended 9/8/87 and 6/3/97, 7/31/07)

c. At least thirty calendar days prior to the actual lay-off date, the Human Resources Director will freeze the filling of all City vacancies in the same occupational group at or below the class grade of the affected employees. No such vacancy will be filled without first considering the eligibility of affected employees for the vacant positions. The Human Resources Director will attempt to place affected employees in such vacancies in accordance with Section 2 of this Rule within the thirty day period. This procedure will not affect vacancies which occur after the thirty days.

d. The Human Resources Director will counsel all affected employees to insure that all such employees are aware of their rights and obligations during the lay-off.
(Section 1.e eliminated 7/31/07)

Section 2. Job Rights.
A regular employee who is to be removed from a position as the result of abolishment or lay-off, has the right, within the order of certification, to be appointed to a vacant position. (Amended 7/31/07)

One opportunity to be appointed to a vacant position at or below the employee's class grade at the time of removal will be offered to each employee to be laid off in the order of the employee's seniority with the City. In the event of multiple lay-offs, the Human Resources Director will ensure that the most senior employees receive the greatest rights hereunder.

Any budgeted and authorized vacancy which exists in the Civil Service for which the person meets the minimum qualification requirements as set forth in the job classification that is at or below the current position held at the time of lay off will be evaluated for possible placement. The Human Resources director may order a qualifying examination be given to determine if the individual possesses all the minimum qualifications.

The refusal of an employee to accept an offer to fill a vacancy made under this section will result in the employee being laid off and placed on a reinstatement list.

If no vacancy exists in any of the above categories, the employee will have the right to displace a person in a position in a lower class in the same class series in which the employee is currently serving. If no such position exists, then the employee will have the right to displace a person in a class series in which the employee to be laid off has previously served. Displacement rights will be given to employees in order of their seniority. Persons who are displaced as a result of the above procedure shall then have the same right to displace persons serving in positions as outlined above. No person may be displaced in any action if the person holding the position has greater seniority than the employee claiming the right to displace.

If a person accepts a position, either through filling a vacancy or displacement, at a lower grade, the person, if otherwise qualified, may take promotional examinations for any class above the new grade in which he is now placed. No person who accepts appointment to a vacant position or displaces another person under this section shall be placed on a reinstatement list for the position from which the person was removed. (Amended 7/31/07)

Section 3. Reinstatement From Lay-Off.

Individuals on reinstatement lists as a result of a lay-off who are interested in reinstatement to a specific position in any City department must notify the Human Resources Director in writing of such interest. If the Human Resources Director has already certified the names to a vacancy when such notification arrives, that certification will not be canceled, but the individual will be contacted prior to certifying names for future vacancies in which the individual has expressed in an interest. If an examination announcement for the vacancy has been posted, the individual must notify the Human Resources Director of his interest in the position no later than the last day of the filing period for the examination. (Amended 8/25/09)

The Human Resources Director will determine whether or not the position in question is of a similar nature, evaluate the individual's qualifications for the position, and determine whether or not the individual must take a qualifying examination or be determined eligible based on his possession of the minimum qualifications and similarity of previous job duties. (Amended 8/3/04, 7/31/07, 8/25/09)

Section 4. Reinstatement from Military Leave

Any employee granted leave of absence for the purpose of entering the armed forces of the United States, including the Coast Guard, or the state service as a member of the Texas National Guard or Texas State Guard or as a member of any reserve components of the armed forces of the United States shall be reinstated to his position, if the position has not been abolished and if the employee has all the qualifications requisite to an original appointment to the position, as determined by the Commission, and in accordance with Chapter 613, Texas Government Code. Employees who have lost the requisite qualifications to an original appointment while on active military service shall have ninety (90) days to reacquire the requisite qualifications, which time period shall commence from date of reinstatement. (Amended 2/07/06, 8/25/09, 3/6/12)

Section 5. Reinstatement Following Resignation.

a. Requisites for Reinstatement for Public Safety Employees

Those former uniformed employees requesting reinstatement to the Fire Department must take and pass the medical examination and a physical agility test prior to the reinstatement to actual duty. One additional attempt at the physical agility test will be permitted after a one-month waiting period for persons failing the agility test on the first attempt. Additional attempts will not be offered for any of

the other components. Those former uniformed employees requesting reinstatement to the Police Department must take all applicable tests in accordance with Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) standards, to include the medical and psychological examinations, and physical agility test prior to the reinstatement to actual duty. The Chief of Police may require a polygraph examination. (Amended 2/07/06, 8/21/07, 6/1/10)

b. Reinstatement to Full or Part Time Positions for Former Full Time Employees

Full time employees may request be reinstated to full or part time classifications that they have previously held within 18 months of their date of separation. Such reinstatement will depend upon the availability of a vacant position. (Amended 2/07/06, 11/2/10)

c. Approval for Placement on Reinstatement List After 18 Months

The City Manager or designee, may approve a request for reinstatement to full or part time position in a classification previously held after more than 18 months, but no more than 30 months from the date of separation, in cases where professional training or specialized skill is required, where the person desiring reinstatement has been continuously engaged either in study to benefit himself for his duties, or was in an occupation or position tending to increase his value in the position, or where the person demonstrates that he was unable to apply for reinstatement within the 18 month period due to an extraordinary or unusual hardship and reinstatement will not have a detrimental effect on the City. For the purpose of this section, substantially similar or revised job classifications may be used in determining such reinstatement after 18 months. (Amended 8/11/87, 3/17/92, 9/21/93, 2/07/06, 8/21/07, 8/25/09, 11/2/10)

Section 6. Reinstatement of Regular Part-Time Employee

Regular part-time employees who resign and request reinstatement, and who are approved for reinstatement, shall be placed on an eligible list only to regular part-time positions in the same class and grade from which they resigned. (Amended 8/21/07)

Section 7. Layoff of Regular Part-Time Employee

Regular part-time employees who are laid off in accordance with Article 6.10-11 shall have their names placed on a reinstatement list only to part time positions. In all other respects the provisions of Rule 12 will apply. (Amended 8/21/07, 3/6/12)

RULE 13

Emergency Response by City Employees

Any City employees, whose jobs require that they respond to a civil emergency, must be able to respond to the emergency within a one hour time limit. (Passed 9/8/87) (Amended 8/31/04, 7/31/07, 8/25/09, 3/6/12)

RULE 14
Grievances

An employee has the right to file and process a grievance as provided in this Rule. Any employee disciplined for failure to comply with any rules, regulations, policies, or procedures as promulgated hereunder, shall have the right to appeal as set forth in the City Charter or the Civil Service Rules and Regulations. Employees shall have the right to file a grievance that meets the requirements of Rule 14 regarding any rule, regulation, policy or procedure promulgated hereunder. (Amended 7/31/07, 3/6/12)

The Human Resources Department will counsel and advise employees and supervisors in utilizing this grievance procedure by interpreting City policies and procedures, lending objectivity to the process, preventing delays in the process, and resolving conflicts between employees and supervisors, if possible. Complaints concerning possible sexual harassment are to be investigated in accordance with the City's Sexual Harassment Policy. Complaints involving discrimination may be resolved under a separate grievance procedure available from the Human Resources Department.

Any written grievance shall contain a precise statement of the complaint, including any departmental or Civil Service Rule which is alleged to be violated, a statement of the facts and parties involved and the specific remedy which the employee is seeking. (Amended 7/31/07)

Grievances shall proceed as follows:

(1) The employee should discuss the problem with the immediate supervisor within ten working days of the incident giving rise to this grievance. The supervisor shall then gather all the facts, analyze the facts and make a decision. He should then notify the employee verbally, not later than five working days following the initial discussion, of the supervisor's decision.

(2) If the employee is dissatisfied with the supervisor's response, he should submit the grievance in writing on an appropriate form to be provided by the Human Resources Department within five working days to the next level supervisor. That supervisor will then review the grievance, have the immediate supervisor complete the immediate supervisor's statement, complete the next level supervisor's statement on the form, and notify the employee of his decision within five working days. The next level supervisor shall also return the completed form to the employee and send a copy of it to the Department Head. (Amended 8/25/09)

(3) If the employee is still dissatisfied with the response to his grievance, he shall submit the grievance to the Department Head within ten working days. The Department Head or designated manager shall investigate the grievance and schedule a meeting with the employee within five working days to discuss the grievance. After the meeting, the Department Head has ten working days to notify the employee and the supervisor of his decision. The Department Head should complete the appropriate statement on the grievance form, return it to the employee and forward a copy to the Human Resources Department. (Amended 8/25/09)

(4) If the employee is still dissatisfied with the Department Head's decision he should file the grievance form with the Human Resources Department within ten working days of receiving the decision from the Department Head. The Human Resources Director or assignee will then gather all facts, review policies and procedures, and meet with the employee and people in the department if necessary. The Human Resources Director shall ordinarily complete his findings and determinations within thirty working days after the receipt of the grievance. If the determination cannot be completed within the thirty days, the Human Resources Director may notify the grievant in writing of an extension of fifteen working days. The Human Resources Director will then communicate

findings and determinations on the grievance, by completing the form and returning it to the employee, and forwarding a copy to the Department Head. (Amended 8/25/09, 3/6/12)

(5) If a classified employee is not satisfied with the findings and determinations, he may appeal to the Civil Service Commission within ten working days from the date the Human Resources Director's determination is e-mailed or delivered to the grievant. The Secretary of the Civil Service Commission will place the grievance on the next available agenda for the Civil Service Commission. (Amended 3/6/12)

This grievance procedure applies only to those employees who are not covered under collective bargaining agreements. Employees covered under such agreements shall use the grievance procedures specified by the terms of their contract. This grievance procedure is not in addition to the grievance procedure in the Collective Bargaining Agreements.

The time limits set forth herein are jurisdictional and may be extended by mutual agreement of the parties at any time. Failure by the grievant to comply with the prescribed time limits or the mutually agreed extensions, except for good cause, will result in denial of further processing of the grievance. Failure by management to comply with its prescribed time limits or the mutually agreed extensions will allow the grievant to avail himself of the next higher level in the process. The burden of proof in a non-disciplinary grievance is upon the employee by a preponderance of the evidence. (Passed 02/23/88) (Amended 01/9/96, 8/25/09, 3/6/12)

RULE 15
Appeal Regarding Outside Employment Denial or Revocation

An employee whose original or subsequent application for outside employment has been denied by the Department Head or whose approval has been revoked, may appeal the denial or revocation to the Commission within ten (10) working days of his notification thereof. The Secretary will promptly docket the appeal on the Commission's agenda. Upon the hearing of the appeal, the Department Head and the employee will state their respective positions in writing to the Commission which shall consider the same, receiving testimony as it deems appropriate. The Commission will then determine the appeal. The burden of proof in an appeal from a denial of an original or subsequent application shall be upon the Department Head by a preponderance of the evidence; an appeal from a revocation of approval shall be sustained in the absence of substantial evidence. An employee whose appeal from a revocation of outside employment has been denied shall be ineligible to reapply for outside employment for a period of six months from the date of such denial. Revocation of approval shall not be considered disciplinary action. Copies of all outside employment documents will be kept on file in the employee's department. (Amended 9/27/05, 7/31/07, 8/25/09, 3/6/12)