

**Civil Service Commission Recommendations on
PROPOSALS FOR AMENDMENTS TO ARTICLE VI, EL PASO CITY CHARTER**

Meeting held 1/17/13

NOTE: Elaine Hengen's notes are **highlighted in yellow**.

The recommendations of the Civil Service Commission are in **red text**.

Article VI CIVIL SERVICE.

Section 6.1 CIVIL SERVICE COMMISSION.

Section 6.1-1 GENERAL.

The Civil Service system exists to ensure a personnel system that is based solely on merit. The Civil Service Commission of El Paso exists for the purposes of performing the duties and responsibilities assigned to them under this Charter regarding ~~overseeing~~ the City's Civil Service system, the purpose of which system is to ensure ~~of ensuring~~ its fairness, economy and efficiency in the selection process and personnel system created for the ~~and of hearing grievances by or against~~ classified employees, and performing the duty of hearing grievances by or against the classified employees. The Commission shall establish its own procedures within the framework of this Charter to carry out these functions.

6.1-1 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: The second sentence modified to read: "The Civil Service Commission of El Paso exists for the purposes of overseeing the City's Civil Service system, the purpose of which is to ensure fairness, economy and efficiency in the selection process and personnel system created for the classified employees." No other changes.

Section 6.1-2 FUNCTIONS AND DUTIES OF THE CIVIL SERVICE COMMISSION.

The Commission shall hold regular meetings as may be prescribed by Commission procedures. Special meetings shall be held as required for the proper discharge of the duties of the Commission, due notice having been given. Five members of the Commission will constitute a quorum. It shall be the duty of the Commission to:

A. Recommend to the Council:

1. Adoption of Rules for the administration of the Civil Service provisions of this Charter, and
2. Thereafter, appropriate amendments.

B. Investigate matters concerning the enforcement and effect of the Civil Service provisions of this Charter in the manner prescribed by the Rules or by established Commission procedure.

C. Hear and determine appeals or complaints as may be further prescribed in the Rules.

D. Carry out any other duties prescribed by ~~Oversee~~ the Civil Service provisions of this Charter, the Rules or policies and procedures, ensuring fair and equitable treatment of all persons appearing before the Commission ~~classified employees~~.

E. Appoint hearing officers.

6.1-2 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: Subsection D modifications rejected; restore to original language.

Note: Both of the above sections were re-written in 2007 to better state the proper role of the Commission under the Council-Manager form of government adopted in 2004. The above amendments are needed to refine the language further clarify the true meaning of the provisions.

Section 6.1-3 APPOINTMENT

The Commission shall consist of nine persons, with each member of the Council appointing one member through a process established by resolution of the Council, which shall also provide for a process to fill a vacancy resulting from the failure of a Council member to make an appointment. ~~appointed by the Council.~~ All members serving on the Commission when this amendment takes effect will continue to serve until their terms of office expire. Appointments shall be for three-year terms, provided however, the terms of all members as established on the date on which this provision was approved by the voters shall be extended such that the terms shall end on August 31st. All terms thereafter shall commence on September 1st.

Commissioners serving consecutive terms shall be limited to two full successive three-year terms, regardless of the date of their original appointments. No person may serve as a member on the Commission for more than a total of ten years throughout their lifetime and no person may be appointed as a member on the Commission if, serving out the full length of the term to which they would be appointed would result in the person having more than a total of ten years of lifetime service. The one-time extension of a term under this section to provide for a uniform termination and commencement date shall not be included in the calculation of the lifetime service of a member of the Commission.

6.1-3 ACCEPTED RECOMMENDATIONS as proposed.

Note: This change, and the change to the removal process below in Section 6.1-10, will completely revise the method by which the CSC Commissioners are appointed and removed. Rather than having each Council member submit a nomination, each Council member will be responsible to appoint and remove their appointee on the Commission. Provisions are added to allow the entire Council to take action to appoint and remove, should a Council member fail to take action.

Over the years, the terms have been inadvertently moved and adjusted from the original dates established in 1984. This provision will restore the terms to a defined starting and ending date

and provide that the adjustment to the terms will not count for the calculation of lifetime service. The appropriate starting and ending date may need to be adjusted should the City move the regular elections from May to November.

Section 6.1-4 QUALIFICATIONS.

Members of the Commission must be residents of the City at the time of their appointment and remain a resident of the City throughout their term of office. No Commissioner may hold any salaried public office or other employment compensated by the City and any violation of this provision shall be deemed malfeasance in office and cause for removal therefrom. At least two Commissioners must hold or have retired from positions other than managerial or professional. No Commissioner shall be related in any manner described in Article III, Section 3.3 B to any employee of the City, the Public Service Board, or any entity that has a contract with the City to operate or manage any City facility or department. No more than three Commissioners may be former city employees, and any such Commissioners are not eligible for appointment until two years following separation from the City. Any Commissioner may be either actively employed or retired.

6.1-4 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: Proposed (underlined) sentence amended to read: “No Commissioner shall be related in any manner described in Article III, Section 3.3 B to any employee of the City, Public Service Board, or to any employee of an entity that has a contract with the City to operate or manage any City facility or department.”

Note: Adding this provision will eliminate an area of potentially significant conflicts of interest that can result in the need for a Commissioner to abstain from participation in Commission actions on a regular basis.

Section 6.1-6 RULES.

A. **Rules.** The Rules shall be consistent with the principles and practices of the civil service system incorporated in this Article. They shall be adopted by the Council by ordinance or resolution, after considering recommendations of the Commission.

B. **Procedures for Adoption.** The Human Resources Director shall submit to the Commission proposed Rules for its review and recommendation to the Council. Failure by the Commission to recommend approval, modification or disapproval of proposed Rules within sixty days after receipt shall constitute authority for the Council to proceed without a recommendation from the Commission.

C. **Changes, Additions or Deletions.** Proposed changes, additions or deletions to the Rules shall be processed through the Commission to the Council in the same manner and subject to the same standards as for the basic Rules as set forth in A and B above.

D. Council Action. The Human Resources Director shall submit the Commission's recommendations regarding proposed Rules to the Council without delay. Failure by Council to approve, amend and approve, or deny the Commission's changes within sixty days after the Commission's action Council's receipt shall result in their automatic adoption. In the event of disagreement, the Council may deny or amend the Commission's changes, additions or deletions only by a two-thirds majority vote of the Council.

6.1-6 ACCEPTED RECOMMENDATIONS WITH ONE MODIFICATION: In subsection D, rejected removal of "two-thirds" majority vote.

Note: This change (and an accompanying change in Section 3.9 of the Charter), will give the Council the flexibility to adopt the Rules either by ordinance or by resolution. Because of the lengthy review process for the Rules, the formalities and additional notice provided by using an ordinance are not needed. The change in D will clarify the process as to when the Rules are submitted to the Council.

Section 6.1-10 REMOVAL.

~~A m~~Members of the Commission may be removed by the member of the Council, or his successor in office, who appointed the member through a process established by resolution of the Council, or by a majority vote of the entire Council for cause as determined by the Council. ~~will not be removed from office except for incompetence or nonfeasance, misfeasance or malfeasance in office, such as neglect of duty or refusal to perform the duties imposed by this Charter. Action for removal by the entire Council may be initiated in writing by any member of the Council. or Commission. Any removal will require an affirmative vote of two-thirds of the Council.~~

6.1-10 REJECTED ALL MODIFICATIONS. Restore original language, and add a statement before the last sentence of the section to the effect that the City Attorney makes a determination of whether the complaint, on its face, meets the threshold set forth in the Charter (i.e., incompetence, nonfeasance, misfeasance, malfeasance).

Suggested that this language may be similar to that in the Ethics ordinance, but needs to be further vetted.

Note—see comment under Section 6.1-3.

Also Note: Former Civil Service Commissioner and current Hearing Officer Bill Ellis graciously agreed to review the recommendations and provide input. He has submitted the following comments regarding the above proposal to revise Section 6.1-10:

As we all know, the American model of governance envisions 3 branches of government. The Commission is a quasi-judicial body that carries out quasi-judicial functions. To be effective in that mission, it, and more specifically its members, need to enjoy a degree of independence in terms of their

security on the Commission. To leave their longevity of service to the whim of the member of Council who appointed them, would have a clearly destabilizing effect on the Commission. Imagine if, in the governance of the Nation or a State, the executive had the authority to remove a member of the judicial branch at will. The important checks and balances furnished by that branch would be rendered impotent. Still, a process needs to be in place for removal, such as the one provided in the current language of this subsection. Therefore, I would delete the language, "by the member of the Council who appointed him or his successor in office through a process established by resolution of the Council or" Further the present language constituting grounds for removal should remain intact. The current language is sufficiently broad to give Council wide discretion in these matters, without throwing the door open to "cause" meaning nothing more than the whim of the moment. Hence, the language, "for cause as determined by the Council" should not be included in the proposed amendment. (I am aware of the recent developments that probably gave rise to this proposed change, what with efforts to remove certain Commissioners for various reasons. However, the system in place worked as it was designed to. It was messy, to be sure, but the American model of governance can be messy at times. But it does endure. The circumstances giving rise to the developments to which I make reference have not manifested before and probably will not again any time soon.) Finally, removal from Office is an extraordinary remedy. It seems elemental to me a 2/3 majority should be required to work removal.

Section 6.1-11 NON-DISCRIMINATION.

The City shall afford equal employment and benefit opportunities to all qualified individuals in compliance with all applicable laws, without regard to their race, gender, gender identity, sexual orientation, marital status, color, religion, ethnic background or national origin, age, disability, or any other characteristic or status that is protected by federal, state, or local law. All personnel actions must be free of discrimination as is prohibited by law.

6.1-11 ACCEPTED RECOMMENDATIONS as proposed.

Note: This language was proposed by City Council members in 2010 to provide a broader and more inclusive provision requiring non-discrimination in the application of the City's employment procedures and the benefits that are provided to employees.

Section 6.2 DIVISION OF THE CITY SERVICE

Section 6.2-2 UNCLASSIFIED SERVICES.

The unclassified services shall include only the following positions:

- 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 the effective date of this amendment as allowed under this Article;
- G. The City Manager;

- H All executive level employees, Department Heads or Directors, Deputy City Managers, and executive staff or salaried professional employees reporting directly to the City Manager;
- I. Employees hired on or after ~~the effective date of this amendment~~ 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.

6.2-2 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: In subsection H, insert “as defined in the classification plan” after “All executive level employees” and/or define the term “executive level employee” in the definitions section.

Note: The above changes would allow employees hired to work under short-term grants to be unclassified without the necessity of hiring them by written contract, and would move all employees currently classified in the Executive Service (EX) and paid pursuant to the EX pay scale to the unclassified services. These are high level employees who are more appropriately assigned to the unclassified service. The change in Subsection I memorializes the correct date for this subsection.

Section 6.4 CLASSIFICATION AND COMPENSATION.

Section 6.4-1 CLASSIFICATION PLANS

The Human Resources Director shall update as necessary the classification and compensation plans of the City for the classified services and present such plans to the City Council as part of the annual budget. ~~The Director shall present such plans, and the recommendation of the Civil Service Commission, to the City Council for acceptance and approval.~~ Such plans shall include the annual sick leave and vacation benefits to be provided, and shall also include and address as necessary any reduction in compensation that is anticipated to occur during the next budget year, and establish the factors that are authorized for use in the payment of different rates within the grades or total compensation. The classification and compensation plans may be adopted as part of the budget or by separate resolution or ordinance in conjunction with the adoption of the budget.

6.4-1 ACCEPTED RECOMMENDATIONS as proposed.

Note: This section was inadvertently amended in 2007 to require that the classification and compensation plan (Ordinance 8064) go to the CSC for review. Prior to 2007, this plan did not go to the CSC as it covers financial matters such as the provision of benefits which are exclusively the decision of the City Council. This revision corrects this error and also puts all of

the decisions regarding benefits such as sick leave and vacation into the classification and compensation plan, rather than having some provisions in the Rules and others in the plan. It also requires the plan to address the matters being deleted below in Sections 6.4-3 and 6.4-4.

Section 6.4-2 APPOINTMENT OF CITY EMPLOYEES.

Appointment of City employees to classified positions shall be made at pay rates within the appropriate grade and in accordance with the Rules or administrative policies or procedures.

6.4-2 ACCEPTED RECOMMENDATIONS as proposed.

~~**Section 6.4-3 COMPENSATION REDUCTION.**~~

~~The pay of any City employee or group of employees may not be reduced, except when such reduction is necessary to equalize the pay according to the provisions of the classification and compensation plans for reasons of economy, or as otherwise provided in this Charter. If a pay reduction is for reasons of economy or pay equalization, it must be uniform throughout the classified service on a proportionate basis.~~

6.4-3 ACCEPTED RECOMMENDATIONS as proposed.

~~**Section 6.4-4 SALARY STANDARDIZATION.**~~

~~Grades for classes of positions having substantially similar requirements as to duties, authority, responsibility, training and experience must be uniform for all Civil Service positions.~~

~~Payment of different rates within grades must be based only on factors of: longevity, merit increases, step increases, shift differentials and hazardous duty, as defined under the Rules.~~

~~Provided that, the Commission shall provide in the Rules and Regulations an exception to salary standardization in cases where downgrading has occurred as a result of reclassification.~~

6.4-4 ACCEPTED RECOMMENDATIONS as proposed.

Section 6.5 CERTIFICATION AND SELECTION OF CANDIDATES

Section 6.5-1 CERTIFICATION PROCESS.

A. The Human Resources Director shall certify candidates eligible for hire or promotion based solely on their qualifications in accordance with established ~~departmental~~ administrative policies and procedures or by Rule, which may allow a preference for the hiring and promotion of former employees separated without fault or delinquency, or for other just and reasonable cause in conformity with the Charter and consistent with the principles of the civil service system and established policies.

B. When appropriate needed, the Human Resources Director will establish administrative procedures as necessary for the certification and selection process, including procedures to allow for a fair and competitive selection process designed to meet the needs of the departments while ensuring that the most qualified candidates are certified for selection. ~~compile lists of eligible candidates for job classifications and consolidate, revise and maintain them as necessary and appropriate, in accordance with established policies and procedures or by Rule.~~

C. ~~When an employee is eligible for appointment to a position, but there is no vacancy in that position, the employee may be certified to an appropriate lower grade position. If a vacancy occurs in the higher graded position, while the employee is in good standing on the eligible list, the employee may be appointed to that position in accordance with the procedures established for the order of certification.~~

D. ~~The Human Resources Director will permit persons on eligible lists to waive certification, reinstatement, or appointment two times, after which the person's name may be removed from such list in accordance with procedures established by Rule.~~

6.5-1 ACCEPTED RECOMMENDATIONS as proposed.

Section 6.5-2 RULE OF FIVE.

As necessary for the promotional process, the Human Resources Director shall certify the five highest names on ~~the proper~~ a promotional only eligible list for one a vacancy, and additional names one additional name (the next highest) for each additional vacancy except as may be provided by appropriate policies and procedures or in situations where eligible persons are serving in the department in which the vacancy exists and as authorized by Rule, ~~in cases where a certification for incapacity or a reinstatement from layoff is being made, where there are fewer than five names on the proper eligible list, and in situations where eligible persons are serving in the department in which the vacancy exists.~~

6.5-2 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: section proposed to read as follows: "As necessary for the promotional process only, the Human Resources Director shall certify the five highest names on a promotional eligible list for a vacancy."

Note: The revision under 6.5-1 will move the details regarding eligibility and appointment from the Charter into administrative policies and procedures, eliminating the need for the provisions in 6.5-1 C and D and all of the provisions below in Section 6.7. It also eliminates the need for the provisions in Rule 6.5-2 to apply to anything other than the promotional only eligible list process.

Section 6.6 APPOINTMENTS

Section 6.6-1 REGULAR APPOINTMENT.

~~Employees may be hired as regular full or part-time employees, provisional or temporary employees, or as contract appointments. The City Manager shall establish administrative policies and procedures for each category of appointment consistent with the provisions of this Article and all applicable federal and state employment laws. The Human Resources Director shall establish administrative policies and procedures for the entrance process consistent with the provisions of this Article and all applicable federal and state employment laws. Contracts for personal or professional services shall also be subject to any limitations and requirements for Council approval as set forth by ordinance or resolution. Upon receipt of a certification list from the Human Resources Director, the City Manager or designee will appoint any person or persons certified to be within the applicable number of highest names from the list to fill the applicable vacancies to which the list applies. Regular appointments may be either full time or part time.~~

6.6-1 ACCEPTED RECOMMENDATIONS as proposed.

Section 6.6-2 PROVISIONAL APPOINTMENTS.

~~In the absence of an appropriate certification list, a provisional appointment may be made by the City Manager or designee as provided by appropriate policies and procedures or by Rule. Any person so appointed must meet the minimum qualifications established for the position. A provisional appointment will be effective only until a regular appointment is made from a certification list. In no case shall a provisional appointment extend beyond twelve months from the date of the original appointment.~~

6.6-2 ACCEPTED RECOMMENDATIONS as proposed.

Section 6.6-3 TEMPORARY APPOINTMENT.

~~When services to be rendered are of a temporary character, a temporary appointment may be made by the City Manager or designee from one of the first three persons on a certification list who is willing to accept the appointment or as may be provided by appropriate policies and procedures or by Rule. The person appointed will retain all rights to certification for permanent appointment as though no temporary appointment had been made. The duration of a temporary appointment may not exceed one year.~~

6.6-3 ACCEPTED RECOMMENDATIONS as proposed.

Section 6.6-4 CONTRACTORS.

~~The City Manager shall have the authority to contract for professional services and personal services for reasons such as economy, efficiency, immediate or temporary need, when such contracts are in the best interest of the City and not contrary to the principles and practices of the~~

civil service system incorporated in this Article. Such contracts shall be subject to the limitations and requirements for Council approval as set forth by ordinance.

6.6-4 ACCEPTED RECOMMENDATIONS as proposed.

Note: The four subsections under this Section are being combined and the City Manager will be responsible to develop the criteria for when and how the different methods of appointment are utilized.

Section 6.7 ORIGINAL ENTRANCE EXAMINATIONS.

~~Section 6.7-1 EXAMINATION STANDARDS.~~

~~The Human Resources Director shall establish appropriate policies and procedures for the advertising of vacancies and the operation of the competitive process for selection including the administration of and standards for original entrance and related examinations such as oral examinations, practical tests, medical and physical examinations, and police investigations.~~

6.7-1 ACCEPTED RECOMMENDATIONS as proposed.

~~Section 6.7-2 PENALTY FOR DECEIT IN EXAMINATION.~~

~~An applicant in any examination who uses or attempts to use any unfair or deceitful means to pass the examination shall be excluded from further participation in the examination and the papers not rated, except as may be provided in the applicable Rules or policies and procedures.~~

6.7-2 ACCEPTED RECOMMENDATIONS as proposed.

Note: See the notation under Section 6.5 above as to why the first subsection is deleted. The phrase policies and procedures was added so as to include the provisions applicable to original applicants.

Section 6.8 PROMOTION.

Section 6.8-1 EXAMINATION AND ELIGIBILITY.

The Human Resources Director shall establish administrative policies and procedures for the promotion process, including examination and eligibility, consistent with the provisions of this Article and all applicable federal and state employment laws. Promotion to any position in the Civil Service shall be by examination weighed by seniority and performance record, except as otherwise provided in the Charter, ~~or~~ Rules or policies and procedures. Eligibility criteria and rating factors for promotions shall be established by Rule and shall include a credit for seniority.

6.8-1 ACCEPTED RECOMMENDATIONS as proposed.

Section 6.8-2 ELIGIBILITY.

A person will be eligible for promotion following successful completion of the initial probationary period and after meeting any criteria established in the Rules.

6.8-2 ACCEPTED RECOMMENDATIONS as proposed.

Note: The above amendment will require that administrative policies and procedures address the requirements of fairness and eligibility for a promotion which allows the specific details to be deleted from the Charter.

Section 6.9 SPECIAL PROVISIONS.

Section 6.9-5 DELEGATION ADMINISTRATIVE ACTION.

A. Policies and procedures utilized by the Human Resources Department shall be established administratively by the City Manager or the Human Resources Director as required or authorized by this Article or as necessary for the proper management and operation of the system.

B. The City Manager may delegate to appropriate individuals the execution of the functions, duties and responsibilities set forth in this Article, as he deems appropriate. Appropriate designees may include department directors and other persons able and assigned to execute the specific functions, duties or responsibilities.

6.9-5 ACCEPTED RECOMMENDATIONS as proposed.

Note: The new provision in subsection A serves to clarify the authority for the establishment of administrative policies and procedures. The revision to subsection B eliminates superfluous language.

Section 6.10 LAY-OFF; LEAVE OF ABSENCE; VACATIONS; RESIGNATION AND REINSTATEMENT

Section 6.10-1 CONDITIONS FOR LAYOFF.

Whenever it becomes necessary through lack of work or funds, or through the abolishment of a position or class, or for any other reason not involving delinquency on the part of the employee, to reduce the number of employees in any class, the City Manager may order a layoff. The reduction will be made in accordance with the principles established procedures set forth in the Rules and the administrative procedures established by the Human Resources Director, consistent with the provisions of this Article and all applicable federal and state employment laws.

6.10-1 ACCEPTED RECOMMENDATIONS as proposed.

Section 6.10-2 JOB RIGHTS.

Employees who are removed from their positions as the result of abolishment or a layoff (to include subsequent displacement action) will have the right to be appointed to any vacant position for which qualified, in accordance with the procedures established in the Rules or in policies and procedures.

6.10-2 ACCEPTED RECOMMENDATIONS as proposed.

Section 6.10-3 LEAVE OF ABSENCE; REINSTATEMENT.

The City Manager shall establish administrative policies and procedures regarding the eligibility of employees to take a leave of absence and to be reinstated, consistent with the provisions of this Article and all applicable federal and state employment laws.

~~Permanent employees may be granted a leave of absence by the City Manager or designee under conditions set forth in the Rules. Provisions regarding the reinstatement of an employee upon the expiration of a leave of absence and the separation from the service of an employee who fails to report at the expiration of a leave of absence will be set forth in the Rules.~~

6.10-3 ACCEPTED RECOMMENDATIONS as proposed.

~~**Section 6.10-4 SICK LEAVE.**~~

~~Classified employees are entitled to an annual sick leave, in accordance with the provisions set forth in the Rules. The City Manager may grant the same sick leave benefits to provisional appointees.~~

6.10-4 ACCEPTED RECOMMENDATIONS as proposed.

~~**Section 6.10-5 VACATIONS.**~~

~~Classified employees who have held a city position for a period of six months, and who have successfully completed their respective probationary periods, will be entitled to take accrued vacation with pay as specified in the Rules.~~

6.10-5 ACCEPTED RECOMMENDATIONS as proposed.

~~**Section 6.10-6 RESIGNATION.**~~

~~The resignation of a classified employee will be filed and accepted on behalf of the City in accordance with the provisions set forth in the Rules.~~

6.10-6 ACCEPTED RECOMMENDATIONS as proposed.

~~Section 6.10-7 REINSTATEMENT FOLLOWING RESIGNATION.~~

~~Any person who has held a classified position and has resigned from the service in good standing and without fault or delinquency may seek reinstatement in accordance with the provisions set forth in the Rules.~~

6.10-7 ACCEPTED RECOMMENDATIONS as proposed.

Note: The above amendment will require that administrative policies and procedures address the matters such as leave of absence, resignation, reinstatement which allows the specific details to be deleted from the Charter. The provisions relating to vacations and sick leave will be addressed in the compensation and classification plan, per Section 6.4-1

Section 6.11 TRANSFER AND REDUCTION.

~~Section 6.11-1 WHEN TRANSFER IS PERMISSIBLE AND REDUCTION.~~

~~The Human Resources Director shall establish administrative policies and procedures for the transfer and reduction process, including transfer and reduction for physical incapacity, consistent with the provisions of this Article and all applicable federal and state employment laws. Transfers may be made from a position in one department to a similar position, of the same class and grade, in another department, in accordance with the procedures set forth in the Rules.~~

6.11-1 ACCEPTED RECOMMENDATIONS as proposed.

~~Section 6.11-2 REDUCTION FOR PHYSICAL INCAPACITY.~~

~~An employee may be reduced from a higher to a lower class when physically unable to perform the duties of the higher position, in accordance with the provisions set forth in the Rules.~~

6.11-2 ACCEPTED RECOMMENDATIONS as proposed.

Note: The above amendment will require that administrative policies and procedures address transfers and reduction in force which allows the specific details to be deleted from the Charter.

Section 6.12 STANDARDS OF EFFICIENCY.

~~The City Manager, or by designation the Human Resources Director, shall establish by written policy appropriate standards of efficiency for all positions in each class and grade in the classified positions.~~

6.12 ACCEPTED RECOMMENDATIONS as proposed.

Note: Reference to the HR Director was eliminated, as that language was superfluous.

Section 6.13 DISCHARGE, APPEAL, HEARINGS.

Section 6.13-2 DISCIPLINARY ACTION; REDUCTION.

A ~~permanent~~ regular employee may be discharged, suspended or reduced in rank or position as provided in this Charter or further defined in the Rules.

6.13-2 ACCEPTED RECOMMENDATIONS as proposed.

Note: The change from “permanent” to “regular” is made here and a number of other places, including in the definitions section in Section 6.14, to establish uniformity in the use of terms.

Section 6.13-3 CAUSES OF SUSPENSION, REDUCTION OR DISCHARGE.

The following, which may be further defined in the Rules, may constitute causes for discharge, suspension or reduction in grade of ~~permanent~~ regular employees:

- A. Conviction of, ~~or deferred adjudication community supervision for,~~ a felony, a Class A or B misdemeanor, or ~~of a~~ Class C misdemeanor involving moral turpitude;
- B. Abusive, threatening, or coercive treatment of another employee or a member of the public, the provocation or instigation of violence, bBrutality to a City prisoner, or abusive treatment to an animal in the care or control of the employee;
- C. Being under the influence of intoxicants or drugs or the use thereof while on duty;
- D. Being physically or mentally unfit for City service to the extent permissible under federal and state laws;
- E. Being ~~wantonly~~ offensive in conduct or language;
- F. ~~Performance of duty consistently below established minimum standards~~ Inefficiency, incompetency, or negligence 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;
- G. Dishonesty, theft, violation of a law or policies relating to the handling or procurement of property, or nNegligence in care or misuse of City property;
- H. ~~Unexcused absence from duty for a period of three or more successive days~~ Abandonment of position, repeated unexcused absence or tardiness, abuse of leave privileges, or absence without notification or the provision of a valid or acceptable reason for absence;
- I. ~~Exerting improper use of political influence~~ Failure 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;
- J. Inducing or assisting another to commit an unlawful act;
- K. ~~Exerting improper influence on behalf of a relative~~ Deliberate or careless conduct endangering the safety of self or others;
- L. Engaging in improper political activity;
- M. Violates the City’s Ethics Ordinance;
- N. Refusal to follow the lawful order of a superior or supervisor;

- O. Subjecting a fellow employee or subordinate to unlawful intimidation, harassment or retaliation; and
- P. For just cause.

6.13-3 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: In paragraph A, remove “Class C misdemeanor involving moral turpitude;” in paragraph E, leave in “wantonly;” and in paragraph F, delete “Inefficiency.”

Note: The above revisions are proposed to make clarifications in the causes for disciplinary action so that the wording used is clear to City administration and the employees, and appropriately encompasses the actions for which disciplinary action is appropriate. Two provisions that are now encompassed in the City’s ethics ordinance are deleted (I and K) and new provisions are now included under these subsection letters.

Section 6.13-4 APPEALS.

A. Any permanent regular classified employee may appeal to the Commission any action taken pursuant to Section 6.13-2 order which is believed to violate the rights granted employees by this Charter. This appeal must be filed with the Commission within thirty days from the date of the action was taken, alleged violation and may be in any form clearly directing the attention of the Commission to the order complained of and the rights or provisions violated.

B. Any classified employee directly affected by the final decision made regarding a grievance filed by a classified employee may appeal to the Commission in the manner provided by the grievance policy and procedure established by Rule or by the City Manager.

6.13-4 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: Amend paragraph A to read as follows: “Any regular classified employee may appeal to the Commission any action taken or order which is believed to violate the rights granted employees by this Charter. This appeal must be filed with the Commission within thirty days from the date of the action was taken and may be in any form clearly directing the attention of the Commission to the order complained of and the rights or provisions violated.” And, delete paragraph B in its entirety.

Note: The revision to this section is made to more accurately state what actions can be appealed under the Charter and to specifically provide for an appeal under the grievance policy, which is a process that is provided for in the Rules rather than the Charter.

Section 6.13-8 SUBSEQUENT ACTION.

Upon receipt of the Hearing Officer’s opinion and recommendations where applicable, the Commission will review the written record of the hearing, review any written briefs or oral arguments which the parties are permitted by the Commission to submit in accordance with the Rules, and take one of the following actions:

- A. Accept or reduce ~~modify~~ the Hearing Officer’s recommendations; or

B. Remand the matter to the Hearing Officer for development of such additional facts and findings as the Commission deems necessary. Consistent with the remand, the Hearing Officer must conduct an additional hearing and render a further opinion or recommendations for its further action pursuant to this provision; or

C. Reject the Hearing Officer's recommendations and refer the matter to the Civil Service Commission for a de novo hearing.

6.13-8 ACCEPTED RECOMMENDATIONS as proposed.

Note: This revision is being made to clarify the language and procedures of the Commission in light of current practices and applicable law.

Section 6.13-11 PENSION PLANS.

A. The Council shall continue a pension plan for all ~~permanent~~ regular full time employees. ~~Permanent~~ Regular part-time and eligible contract employees may elect not to participate in the plan. Other employees of the City and employees of governmental agencies of the City, except policemen, firemen, and elected officials of the City, shall have the option of participating in the plan. Eligible employees of an adopting employer of the plan shall be participants of the plan.

6.13-11 ACCEPTED RECOMMENDATIONS as proposed.

Note: See the note under Section 6.13-2 regarding the change from permanent employee to regular employee in this section and the below section.

Section 6.14 DEFINITIONS OF TERMS

The following definitions apply to this article:

Abolishment: Either temporary or permanent discontinuance of a given office, service, or position, by reason whereof the functions and duties of the office, service or employment cease; generally evidenced by the deletion of a position from a departmental manning table.

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.

Class: A group of positions within the same title, so arranged because of similarity in duties and responsibilities and for which the same basic examination, compensation, and minimum qualifications apply.

Commission (when used by itself): The Civil Service Commission.

Dismissed, Discharged, and Removed: Actions under which employees are separated from their respective positions for cause.

Grade: Term representing a specific range of compensation.

Human Resources Director: The director of the Human Resources Department or designee.

Permanent Regular Employee: Any classified employee who has been regularly appointed after serving a probationary period to a position normally involving continuous year round service.

Promotion: A change from a position in a lower class to a position in a higher class. It involves a change of duties or responsibilities as well as an upward change in compensation.

Rules: When used by itself, the Rules of the Commission.

Suspension: Action under which an employee is for cause temporarily separated without pay for a definite or indefinite period.

6.14 ACCEPTED RECOMMENDATIONS as proposed.

Note: The addition of a definition for Human Resources Director will make it clear that she can delegate her duties, as appropriate.