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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 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, and performing the duty of hearing grievances by or against classified employees. The Commission shall establish its own procedures within the framework of this Charter to carry out these functions.

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

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. Oversee the Civil Service provisions of this Charter ensuring fair and equitable treatment of all persons coming before the Commission.
- E. Appoint hearing officers.

Section 6.1-3 APPOINTMENT.

The Commission shall consist of nine persons 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 effective date of this amendment shall be extended such that all terms shall end on January 31st of the next-following year, as applicable. All terms thereafter shall commence on February 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 the uniform termination and commencement dates of the terms shall not be included in the calculation of the lifetime service of a member of the Commission.

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 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, nor 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 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.

Section 6.1-5 COMPENSATION.

Members of the Commission shall serve without salary.

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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, 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 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.

Section 6.1-7 POWER TO SUBPOENA WITNESSES.

The Commission shall have the power to subpoena witnesses, require the production of evidence and administer oaths. The Council shall provide, by ordinance, penalties for contempt for failing or refusing to obey a subpoena or to produce evidence, and shall have the power to punish any of these acts of contempt in the manner provided in the ordinance. Costs incident to actions under this section shall be borne by the party requesting the subpoena.

Section 6.1-8 JURISDICTION.

The Commission will have jurisdiction over all employees in the classified service.

Section 6.1-9 ORGANIZATION.

The Commission shall elect from its members a Chairman and a Vice-Chairman, each for a term of one year. The Chairman may not be re-elected for successive terms.

Section 6.1-10 REMOVAL.

Members of the Commission 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 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.

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.

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Section 6.1-12 HEARING OFFICERS.

The Commission will appoint one or more compensated hearing officers to hear appeals made under [Section 6.13-4](#). The need for hearing officers in excess of one shall be determined jointly by the Commission and the City Manager. Hearing officers will perform those duties and functions necessary to render a recommendation to the Commission on the matter in dispute.

The hearing officers will serve at the Commission's pleasure, and will not be classified. Reasonable compensation shall be paid by the City.

Section 6.2 DIVISION OF THE CITY SERVICE.

Section 6.2-1 DIVISION.

All offices and positions of trust or employment in the service of the City are hereby divided into the unclassified and classified services.

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;
- 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.

Section 6.2-3 APPOINTMENT AND REMOVAL OF UNCLASSIFIED PERSONNEL.

- A. Except as otherwise provided in this Charter, appointments to the unclassified services shall be made by the City Manager solely on the basis of education and experience in the accepted competencies and practices of their field.
- B. Except as otherwise provided by law or in this Charter, unclassified personnel may be removed by the City Manager or designee, who may establish written procedures for removal, except for hearing

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officers and the Commission Recorder, who may be removed only by a majority vote of the commissioners.

Section 6.2-4 CLASSIFIED SERVICES.

The classified services include all positions not listed in [Section 6.2-2](#) of this Article.

Section 6.3 RESERVED.

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. Such plans shall include the annual sick leave and vacation benefits to be provided, establish the factors that are authorized for use in the payment of different rates within the grades or calculating total compensation, and shall also include and address as necessary any reduction in compensation that is anticipated to occur during the next budget year. 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.

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.

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 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, 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.

Section 6.5-2 RULE OF FIVE.

As necessary for the promotion process, the Human Resources Director shall certify the five highest names on a promotion-only eligible list for a vacancy, and additional names in situations where eligible persons are serving in the department in which the vacancy exists and as authorized by Rule.

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Section 6.6 APPOINTMENTS

Section 6.6-1 APPOINTMENTS.

Employees may be appointed 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.

Section 6.7 EXAMINATIONS.

Section 6.7-1 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.

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. Eligibility criteria and rating factors for promotions shall be established by Rule and shall include a credit for seniority.

Section 6.9 SPECIAL PROVISIONS.

Section 6.9-1 PROBATION PERIOD.

Probationary periods shall be established by Rule. Such Rule shall prescribe the procedures and consequences applicable to employees who fail to successfully complete probationary periods, and provide criteria for the extension of probationary periods.

Section 6.9-2 IMPACT OF STAFF REDUCTIONS.

The Human Resources Director is authorized and directed, subject to approval by the Council, to establish systems for reducing the impact on the Civil Service of staff reductions and layoffs caused by operating economies.

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Section 6.9-3 NEPOTISM PROHIBITED.

Except in the case in which the City Manager or other person making the appointment appoints the highest scoring individual certified from a proper eligible list, or from a reinstatement list involving the appointment of a former incumbent, no person may be appointed to or reinstated in any classified position or appointed to any unclassified position who, at the time of appointment or reinstatement, is related in the manner described in Article III, Section 3.3B, to any member of the Council, the City Manager or other person making the appointment, the Human Resources Director, or the direct superior of the position being considered.

Section 6.9-4 SPECIAL CREDIT FOR WAR VETERANS.

Veterans of any of the wars or other armed conflicts of the United States who are otherwise qualified, who have obtained a passing score on an original entrance examination, and who present an honorable discharge from military service, will have their ratings in the examination advanced five points.

Veterans who are suffering from disability traceable directly or indirectly to war service will have their original entrance examination rating advanced another five points.

Section 6.9-5 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. All administrative policies and procedures adopted by the City Manager or the Human Resources Director must be consistent with the provisions of this Article, the Civil Service Rules, and applicable state and federal laws.
- B. The City Manager may delegate to appropriate individuals the execution of the functions, duties and responsibilities set forth in this Article. Appropriate designees may include department directors and other persons able and assigned to execute the specific functions, duties or responsibilities.

Section 6.10 LAY-OFF; LEAVE OF ABSENCE; 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 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.

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.

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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.

Section 6.11 TRANSFER AND REDUCTION.

Section 6.11-1 TRANSFER 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.

Section 6.12 STANDARDS OF EFFICIENCY.

The City Manager shall establish by written policy appropriate standards of efficiency for all positions in each class and grade in the classified positions.

Section 6.13 DISCHARGE, APPEAL, HEARING.

Section 6.13-1 DISCHARGE DURING PROBATION.

A new employee may be discharged at any time during the probation period for any reasons but, for the record, a full statement of those reasons must be filed with the Human Resources Director within three days of the discharge.

Section 6.13-2 DISCIPLINARY ACTION; REDUCTION.

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

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 regular employees:

- A. Conviction of, or deferred adjudication community supervision for, a felony or of a Class A or B misdemeanor;
- B. Abusive, threatening, or coercive treatment of another employee or a member of the public, the provocation or instigation of violence, brutality 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;

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- F. 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 violation of policies relating to the handling or procurement of property, or negligence in care or misuse of City property;
- H. 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. 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. 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.

Section 6.13-4 APPEALS.

Any regular classified employee may appeal to the Commission any 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 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.

Section 6.13-5 HEARING OPTIONS.

Upon receiving notice of appeal, the Commission may in its discretion hear the appeal directly or refer it to a Hearing Officer.

Section 6.13-6 ACTION BY COMMISSION.

- A. If the Commission hears the appeal in a disciplinary case it will, by majority vote of its members present and voting, determine whether the evidence sustains the charges. If the Commission determines that the charges are sustained, in whole or in part, it will at once determine whether the good of the service requires that the appealed action be upheld or reduced. If the Commission determines that the charges are not sustained, the accused will be reinstated immediately and without prejudice, and will not be deprived of any salary for any period of suspension preceding the hearing.
- B. In cases involving matters such as denial of promotion, the Commission shall review all facts in the cases and direct appropriate corrective steps, if necessary.
- C. In conducting any hearing, the Commission must in all cases, afford full and free opportunity to all parties to present evidence relevant to the issue or issues involved. The burden of proving an alleged offense and of establishing just ground of discharge, suspension or reduction rests upon the

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City Manager or designee by whom the action was taken. A preponderance of the evidence is required to substantiate any charge.

- D. Decisions of the Commission shall be final.

Section 6.13-7 HEARING OFFICER.

- A. The Hearing Officer shall have the power to establish appropriate procedures for the conduct of the hearing, issue subpoenas to compel the attendance of witnesses, make appropriate findings during the course of a hearing, prepare written recommendations to the Commission, and such other powers and duties as set forth in the Rules.
- B. The principles established in [Section 6.13-6](#), will apply equally to hearing officers.

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 the Hearing Officer's recommendations;
- 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.

Section 6.13-9 RESERVED.

Section 6.13-10 CONSTITUTIONAL RIGHTS.

Nothing in this Charter shall be construed as denying or abridging any constitutional right of appeal.

Section 6.13-11 PENSION PLANS.

- A. The Council shall continue a pension plan for all regular full time employees. 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.
- B. Funding and Liability. The funds for the plan shall be provided in part by the City and in part by deductions from the salaries of employees; provided, that the amount paid into the fund by the City shall not exceed double the amount paid into the fund by the salary deductions; and provided further that the City shall not be liable to any beneficiaries of the fund except to the extent of its appropriations for the fund. The claims of all beneficiaries shall be limited to the available monies or securities in the pension fund.
- C. Pension Benefits. The Council may provide by ordinance for the retirement, disability or death benefits to be paid and persons to be entitled thereto, and the conditions under which payments of

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benefits or repayment of contributions may be made. The Council may make such changes and amendments as, in its judgment and discretion, conditions may require.

- D. Firemen and Policemen Pension Fund of El Paso. The City shall continue to augment the Firemen and Policemen Pension Fund of El Paso in a manner consistent with the laws of Texas. To augment the Firemen and Policemen Pension Fund, the Council shall in each fiscal year beginning after February, 1968, appropriate an amount equal to three times the amount paid into the fund by the participants therein; provided that the amount contributed by the City shall not exceed eighteen percent of the total amount expended for salaries of the participants; provided further, however, that in the event age limits for participation in the pension fund, or any division of the fund, are increased as permitted by law and the raising of the age limits causes an increase in funding costs as determined by an actuary, the City shall appropriate an amount equal to such cost increase notwithstanding that such increased appropriation may exceed eighteen percent of the total amount expended for salaries of the participants, but such increased appropriation shall in no case exceed eighteen and one-half percent of the total amount expended for salaries of the participants. Notwithstanding the foregoing, if the City elects to pick up participant contributions to the Firemen and Policemen Pension Fund of El Paso under Section 414(h) of the Internal Revenue Code of 1986, as amended (the "Code"), then the participant contributions picked up by the City shall be derived from a corresponding reduction in participant cash salaries and treated as a contribution by the City solely for determining tax treatment of such contributions under the Code. The picked up contributions by the City shall not be considered a contribution or required contribution by the City for any other purpose, including the limitations for the total amount expended for salaries of the participants designated in this Section 6.13-11.D. Notwithstanding the foregoing, the City shall have the authority to contract with the Firemen and Policemen Pension Fund to make a one-time contribution (either in lump sum or installments) to the Firemen and Policemen Pension Fund solely for an underfunded liability as of December 31, 2003 or the date of contribution, under such conditions as the City in its sole discretion may require and provided that (a) such authority, action and/or contribution complies with the Firemen and Policemen Pension Fund plan documents and all applicable statutes, laws, rules and regulations, and (b) a binding written agreement between the City and the Firemen and Policemen Pension Fund has been reached regarding (i) the amount of such under-funded liability, if any, (ii) the amount to be contributed by the City for such under-funded liability, and (iii) procedures (including, if necessary, amendments to the Firemen and Policemen Pension Fund plan documents) for managing the Firemen and Policemen Pension Fund on a going forward basis.

Section 6.13E CONSOLIDATION OF FUNCTIONS WITH OTHER POLITICAL SUBDIVISIONS.

If the City and any other political subdivision agree that the City will thereafter assume the responsibility for performing a governmental function which is at the time of the agreement being performed by employees of the other political subdivision, the employees of the other political subdivision who have been performing the function may be admitted into classified positions in the Civil Service without examinations, probationary periods, or loss of accrued leave. The seniority date for all such employees for purposes of layoff shall be the date of admission into the classified service. Any such employees going into lower compensated positions shall be protected from any loss of pay in accordance with the Civil Service Commission Rules as to Reclassification to Lower Grades. Any such consolidation of functions must be approved by City Council. Any question regarding the eligibility of any employee to be included in the consolidation is to be decided by the Civil Service Commission, whose decision shall be final.

Section 6.14 DEFINITIONS OF TERMS.

The following definitions apply to this article:

- CHARTER

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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.

Executive Level Employees: Those employees designated as executive level employees in their job descriptions and/or scope of duties based on the high level of management responsibilities and duties performed as determined by the Human Resources Director.

Grade: Term representing a specific range of compensation.

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

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.

Regular Employee: Any classified employee who has been regularly appointed service.

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.

Section 6.15 EXISTING LAWS AND CONSTITUTIONALITY.

All Civil Service Charter Amendments, including those of 1917, 1935, 1943, 1968, 1977, and 1981, respectively, and all existing Charter provisions pertaining to Civil Service are hereby repealed, and all ordinances, or parts thereof, in anywise conflicting or inconsistent with this Charter or any of the provisions hereof are hereby expressly repealed. However, the adoption of this Charter will in no way affect the rights of persons whose appeals are pending before the Commission or in the courts at the time of its adoption. Such appeals and other pending matters may be decided by the Commission or other appropriate tribunal in the light of the provisions of the previous Civil Service amendment or amendments.