

CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: Human Resources

AGENDA DATE: Introduction: 02/28/2012
Public Hearing: 03/06/2012

CONTACT PERSON/PHONE: Human Resources Department, Linda Ball Thomas, (915) 541-4509

DISTRICT(S) AFFECTED: City Wide

SUBJECT: AN ORDINANCE AMENDING ORDINANCE 8065 (CIVIL SERVICE RULES), TO AMEND THE ENTIRETY OF OR VARIOUS SECTIONS OF RULES NOS. 1, 2, 5, 6, 11, 13, 14, 15, 19, 20, 23, 24 AND 29; TO DELETE RULES NOS. 3, 4, 7, 8, 9, 10, 12, 18, 21, 22, 25, 26, 27, 28 AND 30; AND TO RENUMBER ALL REMAINING AND REVISED RULES CONSECUTIVELY, INCLUDING THOSE RULES NOT OTHERWISE AMENDED (RULES 16 and 17).

APPROVE:

BACKGROUND / DISCUSSION:

Upon approval, the amendments will update Ordinance 8065 (Civil Service Rules and Regulations)

PRIOR COUNCIL ACTION:

Ordinance 8065 was last amended by City Council on October 26, 2010

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Per Civil Service Commission approval on 01/12/2012 and 02/16/2012

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required)



FINANCE: (if required) _____

OTHER: _____

(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 8065 (CIVIL SERVICE RULES), TO AMEND THE ENTIRETY OF OR VARIOUS SECTIONS OF RULES NOS. 1, 2, 5, 6, 11, 13, 14, 15, 19, 20, 23, 24 AND 29; TO DELETE RULES NOS. 3, 4, 7, 8, 9, 10, 12, 18, 21, 22, 25, 26, 27, 28 AND 30; AND TO RENUMBER ALL REMAINING AND REVISED RULES CONSECUTIVELY, INCLUDING THOSE RULES NOT OTHERWISE AMENDED (RULES 16 and 17).

WHEREAS, the Civil Service Commission is given the authority under Section 6.1-6 A of the City Charter to approve and recommend amendments to the City's Civil Service Rules; and

WHEREAS, the City Council is the final approving authority for amendments to the Civil Service Rules; therefore, the Civil Service Commission presented their recommended changes to City Council; and

WHEREAS, these recommendations contain several revisions to the amendments proposed by the Human Resources Director; and

WHEREAS, on January 12, 2012, the Civil Service Commission approved revised proposed amendments and deletions to Rules 1 through 12 (now renumbered as 1 through 5), and on February 16, 2012, the Civil Service Commission approved revised proposed amendments and deletions to and renumbering of Rules 13 through 30 (now renumbered as 6 through 15) and additional amendments to Rule 2 and renumbered Rule 3 relating to the definition of and compensation for working out of class.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That Ordinance 8065, Civil Service Rules and Regulations, Rule 1, is amended in part, amending only the sections listed below, as follows:

RULE 1

Civil Service Commission

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).

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:

- (2) A copy of such charges will be given to the Commissioner against whom they are brought.

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.

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.

2. That Ordinance 8065, Civil Service Rules and Regulations, Rule 2, is amended in part, by amending section A to add the below listed new definitions, as follows, to revise the definitions of "designated household member" and "household" as listed below as subsections 6 and 13, and to consecutively renumber the new and existing definitions under section A:

RULE 2

Definitions and Rules of Construction

A. Definitions

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.

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 Section 1e of Rule 6.

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 as allowed under this Article;
- G. The City Manager;
- H. All 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 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.

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.

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.

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.

15. **"Original Entry Date"**: The original employment start date.

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.

20. **"Regular Employee"**: A classified employee who has completed an original probationary period.

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.

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.

3. That Ordinance 8065, Civil Service Rules and Regulations, Rule 3, is renumbered from Rule 5, and is amended in its entirety, as follows:

RULE 3
Compensation

Section 1. Compensation.

a. Where graded scales of compensation have been established for positions in the City Service, appointment to such positions will normally be made at the lowest compensation rate, except as follows:

(1) Persons already in the service of the City shall have their salary set in accordance with paragraph (b) below.

(2) Persons hired under the Professional Managerial or Executive Compensation Plan, when the skills needed for the position are in short supply, or when recruiting efforts have failed to fill the position at the minimum rate or when candidates have exceptional qualification the employee may be started at a higher rate, not to exceed the top of the third quartile of the range unless approved by the Human Resources Director or City Manager.

(3) Persons hired to general services positions with certificates, licenses or exceptional qualifications that the Human Resources Director has determined are hard to recruit for, may be hired at other than the entry rate upon authorization of the Human Resources Director, City Manager or designee.

b. The salary of a person already in a regular position in the classified service of the City will not be reduced upon entry or promotion to another position in a higher graded class. If the minimum salary for the new classification is less than the employee's current rate of pay, salary advancement shall be five percent (5%) higher than the pay rate prior to entry or promotion.

c. A transfer from one position to another position in the same class will not deprive the person transferred of his credit for length of service in the former position.

d. Advancement in salary through a pay range will be made on the basis of meritorious service, efficiency, and length of service.

Section 2. Compensation Changes.

a. The wages and salaries of all persons in the Civil Service will be reduced by the same percentage whenever the budget set by the Council for all wages and salaries is less than that normally required by the classification and compensation plans. Reductions in wages and salaries, that are required due to economic conditions, will be made as determined by the City Manager, in accordance with Section 6.4-3 of the Charter.

b. Except for reclassification or similar study, or merit increases, general increase in wages and salaries will be applied uniformly to all persons in the Civil Service.

Section 3. 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 have received a "meets performance standards" or higher rating on their most recent scheduled performance evaluation and must have not been disciplined in the last 12 months. Persons on a transfer list will be eligible for certification for a period of 24 months provided they have not waived certification or have been non-selected a combination of three (3) times. The names of persons who waive certification or have been non-selected a combination of three (3)

times shall be removed from eligible list. The Employee shall retain his grade and pay rate, provided:

- 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.

Section 4. 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.

Section 5. Special Pay

Longevity, merit, shift differential, certification pay, and hazardous duty pay will be compensated in accordance with Ordinance 8064 and as specified in Collective Bargaining Agreements (CBA).

Section 6. Working Out of Class

The Human Resources Director is authorized to establish a policy and procedure as to when an employee received compensation and credit for working out of class.

4. That Ordinance 8065, Civil Service Rules and Regulations, Rule 4, is renumbered from Rule 6, and is amended in its entirety, as follows:

RULE 4

Certification

Section 1. Certification.

The order of certification will be:

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.

Section 2. Certification to Multiple Vacancies.

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.

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.

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.

5. That Ordinance 8065, Civil Service Rules and Regulations, Rule 5, is renumbered from Rule 11, and is re-titled and amended in its entirety, as follows:

RULE 5

Application and Promotional 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
- (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 seven (7) calendar days from the date of the notice. The seven (7) calendar 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.

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.

Section 3. Frequency and Examination.

Examinations will be given whenever needed to fill a vacancy for which an adequate list does not exist.

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 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.

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.

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.

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.

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 applicant denies the fact of deceit, or if the examiner in charge of the examination believes extenuating circumstances to exist, the applicant 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.

Section 8. Duration of Eligible Lists.

The Human Resources Director will compile lists of eligible candidates for job classifications and consolidate, revise 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 prior to the expiration date.

When a new list is required by these rules, the names of applicants remaining from the prior list will be consolidated with the new list. Those persons from the prior list who have not taken or passed the examination required for placement on the new list will be removed from the consolidated list upon the date of expiration of the prior list.

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.

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.

6. That Ordinance 8065, Civil Service Rules and Regulations, Rule 6, is renumbered from Rule 13, and is amended in its entirety, as follows:

RULE 6

Leave of Absence, Resignation, Sick Leave and Vacations

Section 1. Leave of Absence.

a. Procedures and Limitations

(1). Leave of Absence for Regular Employees with One Year or more of Service

A request for a Leave of Absence (LOA), not to exceed twelve consecutive months, together with the reason(s) therefore and the period of leave desired, and a full statement as to the desire or intention of the employee to return to the Civil Service, will be made in writing by the employee on the forms prescribed. Employees qualifying for FMLA leave must utilize all available FMLA leave before being eligible to receive an additional leave of absence. The Department Head shall recommend disposition of the request in writing to the Director.

(2). Leave of Absence for Regular Employees with less than One Year of Service

A request for a Leave of Absence, not to exceed three (3) months, together with the reason(s) therefore and the period of leave desired, and a full statement as to the desire or intention of the employee to return to the Civil Service, will be made in writing by the employee on the forms prescribed. The Department Head shall recommend disposition of the request in writing to the Director.

(3). When the Leave of Absence is necessary because of sudden serious health condition or injury, the request may be made by the Department Head without securing the signature of the employee and forwarded to the City Manager or designee.

(4). The employee shall submit all medical documentation upon request. The request for Leave of Absence will not be effective until approved by the City Manager or designee. In the case of a leave requested as an exception to length-in-service requirement policy, the request must be accompanied by such proof as the City Manager or designee may require.

(5). A Leave of Absence may not be granted or extended for a combined period in excess of 24 months within the most recent 7 years of an employee's tenure with the City. This subsection does not include authorized leave taken in accordance with the Family & Medical Leave Act, and shall not apply to the Leave of Absence granted for military service or upon acceptance of a position in the exempt class of the City's service for such time as the service continues.

b. Requesting Leave

Except as otherwise provided by law, no employee will be granted a leave of absence until the employee has been in the Civil Service for at least one year immediately preceding the date of leave except in case of military service, urgent necessity, as allowed in Section 1 a. (2) or in accordance with federal or state law, as determined and approved by the City Manager or designee. In these cases, an application for a leave will be accompanied by such proof as the City Manager may require, along with a recommendation from the Department Head.

To obtain a leave of absence based on an employee's own serious health condition, the employee must provide the Department Head such forms as may be required by the

Human Resources Director, completed by the employee's health care provider no later than the fifteenth calendar day of absence. The health care provider should indicate the date on which the serious health condition commenced, the probable duration of the condition, appropriate medical facts within the knowledge of the employee's health care provider regarding the condition, and that the employee is unable to perform the functions of his position because of the condition. The employee will be required to provide periodic updates from the employee's health care provider on the serious health condition, as well as a fitness-for-duty certification when the employee seeks to be reinstated. If, for medical reasons, the employee is unable to deliver any documentation required under this paragraph, the employee may have a friend, family member or health care provider deliver them.

To obtain a leave of absence so that an employee may care for a spouse, designated household member, child or parent of either with a serious health condition, the employee must provide his Department Head with the required forms completed by that individual's health care provider no later than the fifteenth calendar day of absence. The health care provider should indicate that the employee is needed to care for the individual and estimate the amount of time involved. The employee may be required to provide periodic updates on the relevant individual's condition and on the employee's continued need to care for that person.

To obtain leave based on the birth or the placement of a child for adoption or foster care with the employee or for planned medical treatment and such leave is foreseeable, an employee must notify the Department Head not less than 30 days before the employee plans to commence leave. If it is not possible to give 30 days' notice, the employee must give as much advance notice as is practicable.

c. Benefits During Leave

The City requires any employee taking leave to first utilize accrued but unused sick and vacation leave during the leave of absence provided that it is not used to receive more compensation than the employee would receive were the employee working.

Employees on unpaid leave of absence are not entitled to holiday pay for those holidays falling during the leave. Additionally, benefits such as vacation time and sick leave do not accrue during an unpaid leave of absence. A break in seniority will occur when an employee is on an unpaid leave of absence for thirty or more consecutive days.

During the portion of any paid leave of absence in which the employee is using accrued vacation or sick leave, the City will maintain its share of an employee's coverage under any group health or insurance plan on the same conditions as if the employee was not on leave. During any unpaid leave of absence, an employee must pay the cost of any insurance coverage that the employee has elected to make under the City's benefit program. The employee must make arrangements with the Human Resources Department Insurance & Benefits section to make any such payments.

d. When Leave of Absence shall not be Granted

No leave of absence, with or without pay, will be approved or granted when it appears to the City Manager that it is requested for the purpose of enabling the employment of a temporary employee to the same position; or because of political influence, or for cause contrary to the good of the Service.

e. Notices regarding Designated Household Members

Any employee may designate one person who resides in the employee's household, for whom the provisions in this Rule relating to a designated household member shall apply. The employee shall submit the name of such household member to the Human

Resources Department. In the event that the household member moves from the employee's household or the employee desires to change the designation of his household member, the employee shall immediately file a notice of termination of designation of household member with the Human Resources Department. The Human Resources Director shall develop appropriate forms for use by employees under this section.

f. Return after Leave

An employee must present an acceptable fitness-for-duty certification upon return from leave which was the result of the employee's own serious health condition. Any employee returning to work after a leave of absence for serious health condition or disability of 12 weeks or more may be required to take and pass a physical examination performed by a physician acceptable to the Director of Human Resources or designee.

If the employee has not returned to work at the expiration of the leave of absence, the employee will be considered to have voluntarily resigned his employment not in good standing.

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.

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.

Each such employee may accrue unlimited sick leave days.

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.

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.

(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.

(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.

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.

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:

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.

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.

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.

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.

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:

For 0 - 5 years of service (96 hours):
40 hour per week employees - 3.70 hours per biweekly pay period

For >5 to 15 years of service (136 hours):
40 hour per week employees - 5.24 hours per biweekly pay period

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

The maximum accrual for vacation leave is 400 hours.

c. Such leave may be taken only in hourly increments.

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.

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.

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 placed 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.

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.

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.

c. Filing of Notice of Resignation

The Department Head shall file the notice of resignation with the Human Resources Department.

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.

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.

Section 8. Unclassified Employees

Unless otherwise provided by Council or the provisions in the contract of an employee hired by contract, all employees in the unclassified service shall be governed by the provisions of this Rule with respect to the provisions in Section 6.10 of the Charter regarding the use of leave of absence sick leave, vacation, and the submission of a resignation.

7. That Ordinance 8065, Civil Service Rules and Regulations, Rule 7, is amended in its entirety, as follows:

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. 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. 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.

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.

8. That Ordinance 8065, Civil Service Rules and Regulations, Rule 8, is renumbered from Rule 15, and is amended in part, amending only the sections listed below, as follows:

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:

- a. Has been convicted of a felony, or a misdemeanor involving moral turpitude; 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
- 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. (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
- 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; or
- f. Is consistently inefficient in the performance of the duties of his position so that his general average of efficiency is below the minimum standards established, and the facts on which such general average is based are true and justify such average; or
- g. Is negligent in care or misuse of City property or
- h. Has an unexcused absence from duty for a period of three or more successive days; or
- i. Has used or threatened to use or attempted to use personal or political influence in securing promotion, leave of absence, transfer, change of grade, pay, or character of work; 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
- k. Has induced or attempted to induce any person, firm or corporation doing business with the City to give employment to any relative of the City officer or employee, or has induced or attempted to induce any such person, firm or corporation to show any material favor or consideration of any kind to the City officer or employee or any relative of the City officer or

employee, when the officer or employee holds a position in a department having direct contact with such person, firm or corporation; 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;
- (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;
- (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;
- (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.

m. Violates the City's Ethics Ordinance; or

n. Refusal to follow the lawful order of a superior or supervisor; or

o. Subjecting a fellow employee or subordinate to unlawful intimidation, harassment or retaliation; or

p. For just cause.

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.

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.

9. That Ordinance 8065, Civil Service Rules and Regulations, Rule 11, is renumbered from Rule 19, and is amended in its entirety, as follows:

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.

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.

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.

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.

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.

10. That Ordinance 8065, Civil Service Rules and Regulations, Rule 12, is re-titled and renumbered from Rule 20, and is amended in its entirety, as follows:

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.

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.

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 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.

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.

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 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.

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.

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.

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.

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.

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.

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.

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.

11. That Ordinance 8065, Civil Service Rules and Regulations, Rule 13, is re-titled and renumbered from Rule 23, and is amended in its entirety, as follows:

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.

12. That Ordinance 8065, Civil Service Rules and Regulations, Rule 14, is re-titled and renumbered from Rule 24, and is amended in its entirety, as follows:

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.

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.

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.

(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.

(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.

(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.

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.

13. That Ordinance 8065, Civil Service Rules and Regulations, Rule 15, is re-titled and renumbered from Rule 29, and is renumbered and amended in its entirety, as follows:

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.

15. That Rules Nos. 3, 4, 7, 8, 9, 10, 12, 18, 21, 22, 25, 26, 27, 28 and 30 are deleted in their entirety.

16. That Rules Nos. 16 and 17, are renumbered as Rules Nos. 9 and 10 respectively.

17. Except as set forth herein or provided for herein, Ordinance No. 8065, as amended, remains in full force and effect.

PASSED AND APPROVED this _____ day of March 2012.

THE CITY OF EL PASO

John F. Cook
Mayor

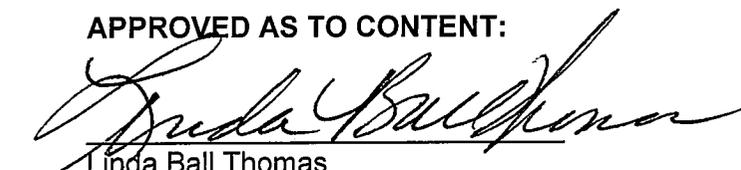
ATTEST:

Richarda Duffy Momsen
City Clerk

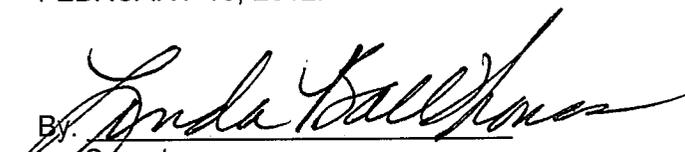
APPROVED AS TO FORM:


Elaine S. Hengen
Senior Assistant City Attorney

APPROVED AS TO CONTENT:


Linda Ball Thomas
Human Resources Director

APPROVED BY THE CIVIL SERVICE COMMISSION ON JANUARY 12, 2012 AND
FEBRUARY 16, 2012.

By: 
Secretary

**Track changes
for Ordinance
8065**

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)

Added: 's to public.

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.
- (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)

Added: Moved from Rule 21 in its entirety as new Section 14.

Section 15. Non Discrimination

~~Section 15. 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 and affirmative action. (Amended 7/31/07)~~

Added: Moved from Rule 27, Section 1 with the deletion of “and affirmative action” at the end of sentence as new Section 15.

Section 2. Responsibility.

~~The Human Resources Director shall develop and maintain an Affirmative Action Plan subject to review by the Civil Service Commission. Annual labor market and workforce analyses and evaluation shall be made by the Human Resources Department. (Passed 06/04/96)~~

Deleted: Not governed by Charter. The Affirmative Action Plan is submitted to Federal Government on September 30th of every even numbered year.

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.

Added: Moved from Rule 5, Section 1f.

32. **“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.

Renumbered to 3.

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

Renumbered to 4.

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

Renumbered to 5.

65. **“Designated Household Member”**: One person who currently lives in an employee’s household and who has been designated by the employee in accordance with Section 1e of Rule 613.

Renumbered to 6.

76. **“Director”**: As used in the Rules, the term Director shall mean the Human Resources Director.

Renumbered to 7.

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 as allowed under this Article;

G. The City Manager;

H. All 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 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.

Added categories of Civil Service Exempt Employees.

97. **"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)

Renumbered to 9.

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 a definition for "Good Standing"

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 14-24 of these Rules.

Added a definition for "Grievance".

128. **"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.

Renumbered to 12.

139. **"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 ~~613~~.

Renumbered to 13.

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 clarifying language. One-time increase as part of the performance evaluation system.

15. “Original Entry Date”: The original employment start date.

Added a definition for “Original Entry Date”.

1610. “Periodic Updates”: As directed by the Human Resources Director, but in no event more than once every (fifteen) 15 calendar days.

Renumbered to 16.

1711. “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.

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 an original 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)

Renumbered to 17.

1812. “Reclassification”: Means changing the allocation of a position to the same, higher, or lower graded job classification. (Added 8/25/09)

Renumbered to 18.

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 1119.

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 a definition for “Seniority”.

20. “Regular Employee”: A classified employee who has completed an original probationary period. (Added 1/12/12)

Added a definition for “Regular Employee”

2113. “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.

Renumbered to 21.

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 a definition for “Working Days

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 a definition for “Working Out of Class” (Added on 2/8/12)

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

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 employees' job specification shall constitute just cause for disciplinary action as described in Rule 15. (Passed 8/25/09)~~

Deleted: Moved to Rule 11 in its entirety as new Section 11.

RULE 4

Classification

Section 1. Class Specifications Interpreted:

The specifications of classes of positions in the classification plan have the following force and effect:

- a. They are descriptive and explanatory and are not restrictive. The use of a particular expression or illustration as to duties, qualifications, or other attributes will not be held to exclude others not mentioned if such others are similar in kind or quality.
- b. When a substantial change of duties is made, or duties are added that are incidental to the main employment, such changes will be reported to the Human Resources Director for the purpose of possible reclassification of the position. (Amended 07/11/06)

**Deleted: Information is already covered in Ordinance 8064 Section 2.
Classification Plan.**

Section 2. Classification of New Positions:

- a. The creation of a new position is subject to approval through the budgeting process based on needs demonstrated by the Department Head concerned. The Human Resources Director shall update as necessary the classification and compensation plans of the City for the classified services. The Director shall present such plans, and the recommendation of the Civil Service Commission, to the City Council for acceptance and approval. (Amended 7/31/07)
- b. Whenever a new position is proposed, the Department Head shall forward to the Human Resources Director a description of the proposed duties and responsibilities of the position. The Human Resources Director shall, after a review of the Department Head's proposal, make changes, if necessary, recommend the appropriate class and grade in the classification plan to which the position should be allocated, and submit for recommendation and approval in accordance with Section 2a. (Amended 7/31/07, 8/25/09)
- e. In determining the classification of a position consideration shall be given to the general duties and responsibilities of the position, the recommended minimum entrance qualifications, and relationship to other positions. (Amended 07/11/06)

**Deleted: Information is already covered in Ordinance 8064 Section 2.
Classification Plan.**

Section 3. Reclassification of Positions:

- a. The Human Resources Director may study of his own accord or will study upon the request of a Department Head, any change in the duties and responsibilities of a position from those upon which it was originally classified. Upon initiation of an investigation, the employee shall be provided written notice. If it is found that the duties and responsibilities of the position have changed so significantly that the former classification is a substantially inaccurate description of the current duties and responsibilities, the Human Resources Director will place the position in a proper class and grade, in accordance with Section 2a. (Amended 7/31/07, 8/25/09)

A change in compensation applying to all positions of the same class and grade will not affect the seniority or other rights of those in the Civil Service. The Human Resources Director may at any time secure from the Department Heads or employees involved, statements of the duties and responsibilities of the classification under review. The Department Heads and employees concerned will have an opportunity to be heard before the revised class is approved. (Amended 07/31/07, 8/25/09)

Deleted: Information is already covered in Ordinance 8064 Section 2.

Classification Plan.

~~b. Whenever the reclassification of a position has been authorized, the Human Resources Director, after conferring with the City Manager and Department Head concerned, will determine whether:~~
(Amended 07/31/07)

~~(1) the position in the new class will continue to be held by the incumbent of the position of the old class; or~~

~~(2) is to be filled through a non-competitive or competitive examination.~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~Section 4. Reassignment into a Different Job Classification~~

~~A regular employee or department head may request to change an employee's job classification to another job classification at the same or lower grade. It must be determined by the Human Resources Director that the employee is fully qualified for the new job classification. (Amended 6/1/10)~~

~~When needed, the Human Resources Director may reassign an employee who is fully qualified from one job classification into another job classification with an equal or lower grade. If the reassignment is to a lower graded classification the employee must agree to the reassignment in writing. The employee will serve a six (6) month probationary period. The employee's pay will be set in accordance with Ordinance 8064. The competency date will be adjusted to reflect the new job classification. (Added 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

RULE 35

Compensation

Section 1. Compensation.

a. Where graded scales of compensation have been established for positions in the City Service, appointment to such positions ~~from either original or promotional eligible lists~~ will normally be made at the lowest compensation rate, except as follows:

Deleted “from either original or promotional eligible lists”

(1) Persons already in the service of the City shall have their salary set in accordance with paragraph (b) below. (Amended 8/25/09)

(2) Persons hired under the Professional Managerial or Executive Compensation Plan, ~~shall additionally be compensated when the skills needed for the position are in short supply, or when recruiting efforts have failed to fill the position at the minimum rate or when candidates have exceptional qualification the employee may be started at a higher rate, not to exceed the top of the third quartile of the range unless approved by the Human Resources Director or City Manager in accordance with Sections 4 and 5 of this Rule. Subsections (g) and (h) of this section shall not apply to persons hired under the Executive Compensation Plan.~~ (Amended 12/18/84, 2/1/94, 11/1/94, 9/13/05, 8/25/09)

Added as per City Charter Section 6.4-4, *Salary Standardization*, must be defined in the Rules. Deleted language “shall additionally be compensated” and “in accordance with Sections 4 and 5 of this Rule. Deleted “Subsections (g) and (h) of this section shall not apply to persons hired under the Executive Compensation Plan.”

(3) ~~Persons~~ hired to general services positions with certificates, licenses or exceptional qualifications that the Human Resources Director has determined are hard to recruit for, may be hired at other than the entry rate upon authorization of the Human Resources Director, City Manager or designee. (Added 7/31/07) (Amended 8/25/09)

b. The salary of a person already in a regular position in the classified service of the City will not be reduced upon entry or promotion to another position in a higher graded class. ~~If the minimum salary for the new classification is less than the employee's current rate of pay, salary advancement shall be five percent (5%) higher than the pay rate prior to entry or promotion.~~ (Amended 3/22/88, 12/19/89, 9/17/91, 2/1/94, 11/1/94 and 7/31/07)

c. A transfer from one position to another position in the same class will not deprive the person transferred of his credit for length of service in the former position.

d. Advancement in salary through a pay range will be made on the basis of meritorious service, efficiency, and length of service. (Amended 3/22/88, 9/15/92 and 2/1/94)

~~e. An annual competency increase may be added to employee's current pay rate provided that it does not result in a salary which exceeds the maximum of the applicable pay range and the funds for such increases have been budgeted by City Council. Annual competency increases will be available to all regular full and part time employees earning an overall rating of “meets performance standards” or higher on his annual performance evaluation, upon recommendation of the Department Head or City Manager, as applicable, and approval of the Human Resources Director, in accordance with and at~~

~~such time and in such manner as specified in the budget resolution adopted for the fiscal year in which the increase is awarded. If no time or manner for competency increases is specified in the budget resolution, then any such increases will be given on the first day of the pay period following the pay period in which the employee's Annual Anniversary Date below falls. (Amended 9/13/05, 7/31/07, 8/25/09)~~

~~f. Annual Anniversary Date is defined as the month and day that the employee entered their current class and grade adjusted for periods of leave without pay in accordance with Ordinance 8064, as amended. (Amended 9/15/92, 2/1/94, 9/13/05, 8/25/09)~~

~~g. A merit increase for employees in the General Services and Professional/Managerial Plans shall be based on meritorious service in accordance with regularly scheduled performance evaluations as set forth herein. Meritorious service increases shall also include any increase based on acquisition of additional qualifications or certifications as set for in Ordinance 8064. Merit increases will not exceed the percentage of a department's regular workforce excluding employees in the Executive Compensation Plan, in each fiscal year, as set forth in the annual budget resolution. An employee shall become eligible for a merit increase after completion of 12 months of "Meets Performance Standards" or higher rating in the same class and grade, including probationary period, if applicable. The amount of the merit increase will be set in the budget resolution adopted for the fiscal year in which the increase is awarded. Advancement shall be made upon recommendation of the Department Head and approved on a quarterly basis in the manner designated by the City Manager, if funds for merit increases have been budgeted by the City Council for the fiscal year in which they are to be received. The award of merit increases may be delayed by the City Manager, when the City Manager determines that such action is appropriate for purposes of maintaining a balanced budget or as otherwise provided in the annual budget resolution. (Amended 9/15/92, 9/21/93, 2/1/94, 9/13/05, 7/31/07, 8/25/09)~~

~~h. An employee's eligibility for a merit or competency increase will be based on the employee's evaluations for the prior twelve months of service prior to the Annual Anniversary Date of the employee, or the acquisition by the employee of additional qualifications or certifications as set forth in Ordinance 8064. (Added 7/5/94) (Amended 9/13/05, 8/25/09)~~

Deleted: Section 1(e)(g)(h) not governed by Charter. This is included in the annual budget resolution

Deleted: Section 1 (f) moved to Rule 2 in its entirety as definition number 2.

Section 2. Compensation Changes.

a. The wages and salaries of all persons in the Civil Service will be reduced by the same percentage whenever the budget set by the Council for all wages and salaries is less than that normally required by the classification and compensation plans. -Reductions in wages and salaries, that are required due to economic conditions, will be made as determined by the City Manager, in accordance with Section 6.4-3 of the Charter. (Amended 8/25/09)

b. Except for reclassification or similar study, or merit increases, general increase in wages and salaries will be applied uniformly to all persons in the Civil Service.

Section 3. 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 have received a "meets performance standards" or higher rating on their most recent scheduled performance evaluation and must have not been disciplined in the last 12 months. Persons on a transfer list will be eligible for certification for a period of 24 months provided they have not waived certification or have been non-selected a combination of three (3) times. The names of persons who waive certification or have been non-selected a combination of three (3) times

shall be removed from eligible list. The 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 4. Executive Compensation Plan.

~~a. The Executive Compensation Plan and the salary schedules for the plan including the starting salary shall be as set forth in Ordinance 8064, as amended. (Amended 7/31/07, 8/25/09)~~

Deleted: Not governed by Charter.

~~b. Merit increases for employees in the Executive Compensation Plan shall be based on meritorious service in accordance with regularly scheduled performance evaluations. An employee shall become eligible for a merit increase after completion of 12 months of "meets performance standards" or higher rating in the same class and grade, including probationary period, if applicable. The amount of the merit increase for employees in the Executive Plan shall be set in the budget resolution adopted for the fiscal year in which the increase is awarded. Merit increases for employees covered by this plan will be made upon recommendation of the Department Head and approved on a quarterly basis in the manner designated by the City Manager. The award of merit increases may be delayed by the City Manager, when the City Manager determines that such action is appropriate for purposes of maintaining a balanced budget or as otherwise provided in the annual budget resolution. (Amended 2/1/94, 8/31/04, 9/13/05, 7/31/07, 8/25/09)~~

~~c. The starting salary for any person covered under the Plan shall normally be at the entry rate; however, in cases where the person is already a regular employee in the service of the City, or in cases where an applicant with exceptional qualifications, or where recruiting efforts have failed to fill a position at the minimum, the applicant or employee may be started at a higher rate, not to exceed the top of the third quartile of the range. A starting salary above the entry rate must be approved by the Human Resources Director and City Manager. (Amended 3/17/92, 2/1/94, 11/1/94, 8/31/04, 9/13/05, 7/31/07, 11/2/10)~~

~~d. Any provisions of these Rules relating to compensation which conflict with the provisions in this section shall not apply to those persons covered in the Executive Compensation Plan. (Section 4 passed 12/18/84) (Amended 7/31/07, 8/25/09)~~

Deleted (b) not governed by Charter. This is included in the annual budget resolution.

Deleted (c) embodied in addition to Rule 5, Section 1a.(2).

Deleted (d) Reference not needed because there will not be a conflict.

Section 5. Professional/Managerial Compensation

~~a. The Professional/Managerial Plan and the salary schedules for the plan including the starting salary shall be as set forth in Ordinance 8064, as amended. (Amended 8/25/09)~~

Deleted: Not governed by Charter.

~~b. At any time that any position in the Professional/Managerial Compensation Plan needs to be re-evaluated, re-evaluation will be investigated by the Human Resources Department, and reassigned to~~

~~the proper level in the Professional/Managerial Compensation Plan in accordance with the standards established in the Charter and Rules as to reclassification of positions, as recommended by Civil Service Commission and approved by City Council. (Amended 7/31/07)~~

~~e. The starting salary for any person covered under the Plan shall normally be at the entry rate; however, in cases where the person is already a regular employee in the service of the City, or in cases where an applicant with exceptional qualifications, or where recruiting efforts have failed to fill a position at the minimum, the applicant or employee may be started at a higher rate, not to exceed the top of the third quartile of the range. A starting salary above the entry rate must be approved by the Human Resources Director and City Manager. (Amended 3/17/92, 2/1/94, 11/1/94, 8/31/04, 9/13/05, 7/31/07, 11/2/10)~~

~~d. Any provisions of these Rules relating to compensation which conflict with the provisions in this section shall not apply to those persons covered in the Professional/Managerial Compensation Plan. (Passed 9/6/88 and 2/1/94) (Amended 8/25/09)~~

Deleted (b) embodied in Ordinance 8064 Section 2.2(e), 2.3, and 2.5.

Deleted (c) embodied in addition to Rule 5, Section 1a.(2).

Deleted (d) reference not needed because there will not be a conflict.

Section 46. 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)

Renumbered to 4

Section 5. Special Pay

Longevity, merit, shift differential, certification pay, and hazardous duty pay will be compensated in accordance with Ordinance 8064 and as specified in Collective Bargaining Agreements (CBA).

Added as per City Charter Section 6.4-4, *Salary Standardization*, must be defined in the Rules. Also, added "and as specified in Collective Bargaining Agreement (CBA)".

Section 6. Working Out of Class

The Human Resources Director is authorized to establish a policy and procedure as to when an employee received compensation and credit for working out of class.

Added: New Section 6 Working Out of Class. (Added on 2/8/12)

RULE 46
Certification

Section 1. Requisition.

~~To initiate the employment of any classified employee of the City, the Department Head will submit a requisition to the Human Resources Director for eligible applicants to fill all vacancies. Requisitions will be submitted as prescribed by the Human Resources Director and will specify the title and number of vacancies, the class, grade, salary, whether regular or temporary and any other information which will assist the Human Resources Director in making a proper certification. (Amended 8/21/07)~~

Deleted: Not governed by Charter. Policy not needed.

Section 21. Certification.

The order of certification will be:

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. ~~Applicant's must provide official proof of Education or other requirements, official transcripts, original or certified copies of diplomas, official certificates, and driver's license (if required), within three (3) working days of being contacted with a job offer. Applicants who fail to provide appropriate documentation will be removed from eligible list. Department Head may make another selection from the eligible list or request certification of an additional name. (Amended 7/14/87, 08/21/07, 8/25/09)~~

Deleted portion not governed by Charter. Renumbered to Section 1.

Section 32. Certification to Multiple Vacancies.

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)

Renumbered to Section 2

Section 4. Failure to Respond to Offer of Appointment.

~~The failure of an eligible person to report to the Department Head within five working days from the date notified of appointment, or within three working days of the date of sending the notice by special messenger to the last home address shown on the records of the Human Resources Director, will be considered sufficient cause for removal of the name of the person from an eligible list. If the person declines or does not respond to telephonic or email messages, certification of the next person eligible in order on the list will be made. (Amended 8/21/07)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

Section 5.3. Waiver.

~~The Human Resources Director will permit persons on eligible lists to waive certification, provided their name has been placed on hold prior to being contacted to fill a vacancy by the Human Resources Department. 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)~~

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)

Deleted portion not governed by Charter. Renumbered to Section 3.

Section 6. Objection by Department Head.

~~The Department Head will make a selection from the eligible list solely on the basis of merit and fitness. Applicants who are non-selected and/or waive certification a combination of three (3) times may be removed from the eligible list. (Amended 8/21/07, 8/25/09, 6/1/10)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

Section 7. Notice of Appointment and Separation.

~~Each Department Head shall submit his recommendation for each proposed offer of employment to the Human Resources Director, in a manner prescribed by the Director, in each case giving the name of the appointee, his address, the title of his position, the compensation grade, date of commencement of service, and recommended salary or compensation. The Human Resources Director will make all offers of employment unless alternate arrangements have been made with the Department Head. (Amended 8/25/09)~~

~~The Department Head will also notify the Human Resources Director immediately of any separation of a person from the service or any other change therein, and such additional information as the Human Resources Director may, from time to time require, in order to maintain the list of employees of the Civil Service. (Amended 8/21/07, 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

Section 8. Cancellation of Certifications

~~At any time after an eligible has been certified and the Department Head makes a decision not to make an appointment, the certification will be cancelled and the eligibles so notified and an entry made on the record by the Human Resources Director. (Added 8/21/07)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

Section 9. Notice of Certification.

~~The Human Resources Director will send an electronic notice of certification of a person's name for reinstatement or appointment to him at his last email address that is on file with the Human Resources Department. It is the applicant's responsibility to update his Personal Account Profile of any changes in contact information. (Amended 8/21/07, 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

Section 10. Nepotism:

~~It is the duty of every Department Head to inquire of all prospective appointees whether a relationship as defined in Article VI, Section 6.9-3 of the Charter exists and to report to the Human Resources Director the existence of such a relationship. The Human Resources Director shall refuse to certify the salary of any person appointed without compliance with these provisions. (Amended 9/7/04, 8/21/07)~~

Deleted: Covered under City Charter Section 6.9-3 NEPOTISM PROHIBITED.

RULE 7

Provisional and Temporary Appointments

Section 1. Provisional Appointments:

~~Provisional appointments may be made in accordance with Article VI, Section 6.6-2 of the Charter. The provisional appointment will terminate at the expiration of the period provided in Article VI, Section 6.6-2 of the Charter. (Amended 7/11/06, 8/21/07)~~

Section 2. Temporary Appointments:

~~Temporary appointments may be made in accordance with Article VI, Section 6.6-3 of the Charter, provided that any non-eligible person so appointed must possess the minimum qualifications required for the position as described and set forth in the classification plan.~~

Section 3. Privileges:

~~A provisional or temporary appointment will not confer upon the appointee any privileges of promotion, transfer or reinstatement to any other position in the service.~~

Section 4. Temporary Appointment Made Regular:

~~Any person who has been appointed temporarily from the appropriate eligible list, and who at the time of the appointment was one of the top five eligible applicants willing to accept the appointment under the conditions stated, may, in case the position is made regular, be regularly appointed in the position. This appointment is authorized regardless of the number of higher eligible applicants willing to accept regular appointment. (Amended 7/11/06, 8/21/07)~~

Section 5. Reappointment to Temporary Employment:

~~Any person who has been appointed to a temporary position from an eligible list, being one of the five persons highest on the list willing to accept appointment at this time, may be reappointed to another temporary position, provided such reappointment is requested by the Department Head and approved by the City Manager or designee. (Amended 7/11/06, 8/21/07, 8/25/09)~~

Deleted: As per Charter Section 6.2-2 (j), provisional and temporary appointees are Civil Service exempt. Administrative Policy created.

RULE 8

Applications

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 day specified in the job posting for the examination and in the manner prescribed in the job posting. Application forms for any examination will not be accepted after the close of the filing period, except for good cause as determined by the Human Resources Director, subject to review by the Commission. (Passed 11/25/03) (Amended 7/11/06, 8/21/07)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~a. The Human Resources Director will establish the filing period limits to accept applications but such period will normally be no less than 5 calendar days. When the need exists for a limited number of applicants the recruitment period will only remain open until a sufficient number of applications have been filed. Whenever it is required to fill positions and classes for which a constant need of qualified applicants exists, the Human Resources Director may establish an open filing period for those classes and accept applications for employment on a continuous basis until all anticipated vacancies are filled, or the need for continuous accepting and processing of applications no longer exists. In such cases, notification of the end of the filing period will be made in the same manner as the initial job posting. (Amended 12/6/88, 7/11/06, 8/21/07)~~

~~b. As needed, the Director may create an eligible list based on applications on file as of that date. (Amended 8/21/07)~~

~~Any false statement knowingly made by any applicant in his applications for admission to any examination or made at his request or with his knowledge in any certificate which may accompany his application or any other fraudulent conduct will cause the Commission to:~~

~~(1) Exclude him from such examination or;~~

~~(2) Remove his name from any register or eligible list or;~~

~~(3) Remove him permanently from his position if he has secured appointment from such examination. (Amended 7/11/06)~~

~~Any applicant who knowingly falsifies his application will be ineligible to reapply for any City position for a period of two (2) years from the date the falsified application was submitted. Additionally, that person's name will be removed from any eligible list(s) on which it currently appears. (Passed 2/14/89) (Amended 7/11/06)~~

~~e. In case of applicants for positions the duties of which require special qualifications, the Human Resources Director will require evidence of a sufficient degree of education, training, or experience. He may also demand such certificates of competency or licenses as the law may require for the practice of the profession, art or trade involved. (Amended 7/11/06)~~

Deleted: Section 1.(a)(b)(c), an administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~d. 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:~~

~~(1) He is found to lack any of the minimum requirements established in the classification for the position and grade for which he applies; or~~

~~(2) 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)~~

~~(3) He has been dismissed from public service, other than City employment, for delinquency or misconduct, which is determined to be job related to the position sought; or (Amended 8/21/07)~~

Deleted: Section 1(d)(3) that was an administrative process not governed by Charter. Administrative Policy created. Moved Sections 1(d)(1), 1(d)(2) and 1(d)(4) to Rule 11, as new Section 1 (a)(b)(c).

~~(4) 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; or~~

~~(5) He has submitted an incomplete application, thereby preventing full review of the applicant's qualifications for the position held. (Amended 7/11/06)~~

~~e. If the Commission determines that the applicant is eligible for a position in the same series they will be approved for other jobs in the same job series. (Amended 7/11/06; and 8/21/07)~~

~~f. Any individual who has been dismissed from City employment for delinquency or misconduct, which is determined to be job related to the position sought will not be qualified and/or his name will be removed from the eligible list. (Added 8/21/07)~~

~~When determining whether an applicant meets the minimum qualifications of a job class, the Human Resources Director will permit education to substitute for experience in accordance with Civil Service Commission policy regarding equivalencies. (Amended 7/11/06)~~

~~g. For purposes of determining if an applicant has met the minimum experience requirements established in the classification for the position and grade for which he has applied, experience will be counted from the first day of entry into a qualifying job, to the day of the first component of the examination for which they have applied.~~

~~h. Applicants lacking three (3) months or less of the required job related work experience at the time of list promulgation may be placed on the eligible list. However, applicants lacking the required experience will not be certified for appointment until after it is determined by the Human Resources Director that they have met the minimum experience required. (Added 8/25/09)~~

Deleted: Section 1.d.5(e)(f)(g)(h), an administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

Section 2. Applications On File.

~~Applications filed with the City will become the property of the City. An applicant may supplement his application to update contact information, such as address or phone number, or to expand on job entries already listed. (Amended 8/21/07)~~

~~Applications for one examination will not be used for any other or later examinations. An applicant who has been given notice that he fails to meet the minimum experience requirement in Section 1 will be given the opportunity within seven working days of the date of the disqualification notice to supplement his application and provide any relevant information not previously stated in his application.~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~Section 3. 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 seven calendar days and the 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.~~

~~e. 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)~~

Deleted: Moved to Rule11 in its entirety as new Section 2.

~~Section 4. Age:~~

~~a. Appointment to any position in the classified service shall be made without discrimination based on age, except where age constitutes a "bona fide occupational qualification"; or where state or federal law requires; or where the conditions of a grant program prescribe age qualifications. Age limits for classes of positions will be established by ordinance in the class specification.~~

~~b. When age limits for positions are set by ordinance, an applicant will be considered to be within the age limit if his birthday falls any time within the month in which the examination is held. If the examination has more than one component, the applicant must meet the age requirement in the month in which the first component of the examination is administered.~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

RULE 9

Examination, Marking and Rating

Section 1. Minimum Rating Required.

~~a. The method of determining minimum passing scores in each part of an examination will be determined by the Human Resources Director. The method of scoring and grading tests will be objective and applied uniformly to all candidates. Where an examination consists of two (2) or more parts, the Human Resources Director may set minimum scores to be required in any part of the examination. An applicant who fails to attain this minimum score will be considered to have failed the entire examination and will not be entitled to take the balance of the examination. (Amended 8/25/09)~~

~~b. The Human Resources Department shall establish a passing score on an examination for executive, professional and general service positions. Minimum passing scores may be established for each component where an examination consists of more than one (1) component and such scores shall be published in the notice concerning the examination. (Amended 8/21/07, 8/25/09)~~

~~c. Any applicant who has failed an examination will be allowed to retake an examination for the same class once every filing period. Practical tests of agility, speed, or strength are considered readiness tests, and may be taken as often as the test is offered. (Amended 8/21/07, 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

Section 2. Special Credit

a. 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)~~

~~1. 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)~~

~~2. 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.~~

Deleted: Moved Section 2 (a-1)(a-2), to Rule 11 as new Section 6.

b. Ratings for Seniority

~~One point will be added to the score of an applicant for each of the first four (4) complete and continuous years served in a regular Civil Service position to a maximum of four (4) points, and provided that the minimum passing grade is achieved on the examination or evaluation. Seniority will be computed from the date of the person's last promotion and to the date of the examination. If the employee has never received a promotion, seniority will be computed from the date of appointment to the position from which promotion is sought. (Added 8/21/07) (Amended 8/25/09)~~

e. ~~Ratings of Efficiency~~

~~1. A person may be eligible to take a promotion examination who has received an overall rating of "Meets Performance Standards" or higher for the most recent regularly scheduled rating period in the position from which promotion is sought. If an efficiency rating has not been filed for the person for the position from which promotion is sought, the most recent regularly scheduled evaluations in a prior position shall be used. Efficiency ratings must be on file for examination eligibility purposes no later than the last day of the pay period in which the employee's competency anniversary date falls. (Added 8/21/07) (Amended 8/25/09)~~

~~2. Points, to a maximum of three (3), 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. The overall or summary rating for the three (3) most recent regularly scheduled evaluations will be used, if available. The following formula will be used in computing the number of points to be added or subtracted:~~

~~Rating of 4 Consistently Exceeds Performance Standards (CEPS) = 3.0
Rating of 3 Meets Performance Standards (MPS) = 1.5
Rating of 2 Needs Improvement (NI) = minus 1.5
Rating of 1 Unsatisfactory (U) = minus 3.0~~

~~$$3 \times \text{Number of (CEPS)} + 1.5 \times \text{Number of (MPS)} - 1.5 \times \text{Number of (NI)} - 3 \times \text{Number of (U)}$$

(Divided by Total Number of Ratings)~~

~~Provided, however, that not more than seven points can be added to an applicant's score for a combination of seniority and efficiency. (Added 8/21/07) (Amended 8/25/09)~~

Deleted: Moved portions of Section 2(b)(c2), added to Rule 11 as new Section 5.

Deleted: Section 2(c1)(c2) an administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~Section 3. Penalty for Deceit in Examination.~~

~~Where deceit in an examination is alleged, and the applicant denies the fact of deceit, or if the examiner in charge of the examination believes extenuating circumstances to exist, the applicant 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, he may either cancel the examination papers of the applicant or may penalize him a certain number of points in the examination score. (Amended 8/21/07)~~

Deleted: Moved portions of Section 3, added to Rule 11 as new Section 7.

~~Section 4. Tie Ratings:~~

~~In case two (2) or more persons receive the same rating after the addition of seniority and efficiency credits, the resulting tie will be resolved by application, in succession, of the following procedure: (Amended 8/25/09)~~

~~a. If the persons tied are already in the classified service, the one having the greatest seniority in the City service will have precedence on the list.~~

~~b. If two (2) or more tied persons have the same seniority, the one (1) among this group with the highest overall efficiency rating in the last two (2) efficiency reports for each will have precedence. (Amended 8/25/09)~~

~~e. If the persons tied are not in the classified service or if a tie still exists after using paragraphs a and b above, the tie shall be broken by using a system of drawing by lot. (Amended 2/23/88)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~Section 5. Notice to Candidate of Result of Examination.~~

~~a. Each candidate will be notified of the rating he has received, and, if such rating is above the required minimum, he shall be given his comparative standing. (Amended 8/25/09)~~

~~b. Applicants who pass the examination will be ranked by their examination score, efficiency, seniority, or veteran points as applicable. (Amended 8/21/07)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~Section 6. Preservation of Examination Papers.~~

~~Examination papers of each examination shall be preserved for at least the length of the life of the resulting eligible lists. The examination papers written by an applicant certified for appointment will be open to the inspection of the Department Head during such time as the papers are on file with the Human Resources Director. (Amended 8/21/07)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~Section 7. Review of Examination and Appeals.~~

~~a. An examinee will be allowed to file a written protest from any portion of a written examination. Such protest should contain specific points or objection to specific questions, actions, or procedures. The Human Resources Director will schedule one one-hour period, for such protests to be filed, at the convenience of the Human Resources Department on the date of the examination. (Amended 8/21/07)~~

~~b. During the one-hour period, the following materials will be available to examinees: unmarked test booklet, correct answers to questions, and protest forms. Examinees may bring their own reference materials. At the end of one (1) hour, all protests must be turned in to the Human Resources Department staff. No protests regarding the examination will be accepted after this time. Any individual attending such session may write down the number of the test questions protested, and remove such written notations from the testing room. No other notes or papers shall be carried out by any individual attending such a session. (Amended 8/21/07, 8/25/09)~~

~~e. For all other types of examinations as specified in CSC Rule 10, Section 2(b-f), applicants may file a written protest immediately following the administration of the examination. No protests will be accepted after the date on which the administration of the examination is completed. Such protests must contain specific points or objections to specific questions, actions or procedures. Applicants filing protests will be notified of the disposition of their protests and if dissatisfied, can appeal to the~~

~~Civil Service Commission within five (5) days of notice in a manner consistent with the Rules and Regulations. (Amended 8/21/07, 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

RULE 10

Examination Standards

Section 1. Character.

All examinations will be job related and consist only of subjects which will fairly test the relative capacity of the person examined to discharge the particular duties of the class to which appointment is sought.

Section 2. Content.

Examinations held to establish a list of eligibles for any class will consist of one or more of the following components as determined by the Human Resources Director. (Amended 8/21/07)

a. ~~Written Test.~~ The written part, when required, will include a written demonstration designed to show the familiarity of competitors with the knowledge involved in the class of positions to which they seek appointment, their ability in the use of English (where job related), the range of their general information, or their general educational attainments. An essay upon one or more subjects may be required if advisable.

b. ~~Oral Interview/Assessment.~~ The oral interview, when required, will include personal interviews with the competitors for classes of positions where ability to deal with others, to meet the public, or other special personal qualifications or verification of special technical or professional knowledge are involved. Normally, such interviews will be given only to the upper group of candidates as ranked by the previous examination component.

c. ~~Performance Test.~~ The performance test, when required, will include tests to measure the skill or ability of competitors to perform the work involved.

d. ~~Physical Test.~~ The physical test, when required, will consist of tests of bodily condition, muscular strength, agility and the general physical fitness of competitors. The results either may be given a weight in the total examinations, or may be used to exclude from further examination applicants who do not achieve the minimum required physical standards.

e. ~~Psychological Tests.~~ The psychological test, when required, will include tests to determine mental alertness, the general capacity of applicants to adjust their thinking to new problems and conditions, or to ascertain their special character traits and aptitudes related to the job to be performed.

f. ~~Training and Experience.~~ An evaluation of training and experience, when required, will be based on the statements of education and experience contained in the application form or such supplementary data as may be required by the Human Resources Director. The Human Resources Director may investigate the truth of any statements by the applicant as to training and experience. If any such statement is incorrect, the Human Resources Director shall recommend to the Commission appropriate action as governed by these Rules.

Section 3. Subjects and Weights.

The Human Resources Director will determine subjects to be included in the examination and the weights to be ascribed each. The weights will represent reasonably the value of the associated subject in ascertaining the fitness of the applicants being examined.

Section 4. Special Examiners.

The Human Resources Director may use other persons qualified in a particular field to prepare, conduct or mark an examination. (Amended 8/21/07)

~~Section 5. Medical Examinations.~~

~~All eligibles for employment in the Civil Service may be required to pass a medical examination before physicians designated for such purpose by the Director to determine their physical fitness for the position for which they are applying.~~

~~Section 6. Notice of New Examinations.~~

~~A job posting will be prepared by the Human Resources Director and will be located on the official public bulletin board in City Hall and on the City web site. (Amended 8/21/07, 8/25/09)~~

~~Section 7. Current City Employees.~~

~~Current City employees may take original entrance examinations if an examination is given on an original entry basis for a position, except as provided for hereunder. An employee will not be allowed to take an original entrance examination if the examination is actually promotional for the employee, and the employee would otherwise be ineligible to take the promotional examination for any of the reasons relating to such an eligibility contained either in the Charter or Rules. An employee will not be allowed to take any examinations as an original entrant if the person would otherwise be ineligible to take the examination for any of the reasons relating to such eligibility contained either in the Charter or the Rules. Employees wishing to take original entrance examinations because of probationary status must further demonstrate that the completion of their probationary status is not necessary for the employee to meet the minimum experience requirements of the position. Employees who are allowed to take original entrance examinations, and are placed on an eligible list as a result thereof, if selected for positions based on such standing on the eligible list, must resign their current City position prior to starting employment in the new position. (Amended 8/21/07)~~

~~Current employees hired in this manner will be considered for all purposes as an original entrant. All other provisions of the Charter and these Rules relating to the resignation of City employees shall apply. (Added 12/18/84)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

RULE 511

Application and Promotional Process

Added “Application and” to title.

~~Section 1. Governing Provisions.~~

~~The provisions governing the character and content of examinations set forth in Rules 9 and 10 above will also apply to promotional examinations.~~

Deleted: Not governed by Charter. Policy not needed.

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.

Added: Moved Section 1.d.1, 1.d.2. and 1.d.4., from Rule 8, as new Section 1. (a)(b)(c)

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 seven (7) calendar days from the date of the notice. The seven (7) calendar 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)

Added: Moved Section 3 from Rule 8, as new Section 2. (a)(b)(c).

Section 23. 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)

Renumbered as 3.

Section 34. Eligibility.

a. 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 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)

Renumbered as 4.

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.

Added clarifying language that combines Section 2(b)(c) from Rule 9, as new Section 5.

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.

Added: Moved Section 2 (a-1)(a-2) from Rule 9 as new Section 6.

Section 7. Penalty for Deceit in Examination.

Where deceit in an examination is alleged, and the applicant denies the fact of deceit, or if the examiner in charge of the examination believes extenuating circumstances to exist, the applicant 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)

Added: Moved portion of Section 3 from Rule 9 as new Section 7.

Added: "the applicant will be disqualified"

Section 8. Duration of Eligible Lists.

The Human Resources Director will compile lists of eligible candidates for job classifications and consolidate, revise 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 prior to the expiration date. (Amended 1/24/89, 8/21/07)

When a new list is required by these rules, the names of applicants remaining from the prior list will be consolidated with the new list. Those persons from the prior list who have not taken or passed the examination required for placement on the new list will be removed from the consolidated list upon the date of expiration of the prior list. (Added 8/25/09)

Added: Moved portion of Section 1 from Rule 12 as new Section 8.

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.

Added: Moved Section 6 from Rule 12 in its entirety as new Section 9.

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)

Added: Moved Section 7 from Rule 12 in its entirety as new Section 10.

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 815. (Passed 8/25/09)

Added: Moved Rule 3 in its entirety as new Section 11.

~~b. If otherwise qualified, persons on leave of absence, or on reinstatement lists as a result of involuntary separation, through no fault or delinquency on their part, are eligible to take promotional examinations. (Amended 1/5/88, 8/21/07)~~

~~c. No person may take a promotional examination, or be certified for interview or appointment if he cannot physically perform the duties of the position to which he seeks promotion. (Amended 8/21/07, 8/25/09)~~

~~d. No employee who is demoted for disciplinary reasons and who does not file an appeal with the Commission, or whose appeal is not upheld by the Commission, is eligible for any promotional examination within two years of the effective date of his demotion. (Amended 8/21/07)~~

~~e. Any employee who resigns during the first 30 working days of his probationary period is eligible to take any Civil Service examination for which qualified. Employees who resign from the position within the first 30 working days will be placed in their former position if it is vacant. If the former position is not vacant, the Human Resources Director will attempt to place the employee at an equal or lower graded position for which qualified. The refusal of an employee to accept an offer to fill a vacancy will result in the employee being laid off and placed on a reinstatement list. (Added 8/21/07)~~

~~f. Any employee who is removed or who resigns during his probationary period after 30 working days is ineligible to take any Civil Service examination for a period of six months from the date of removal or resignation. If the former position is not vacant, the Human Resources Director will attempt to place the employee at an equal or lower graded position for which qualified. The refusal of an employee to accept an offer to fill a vacancy will result in the employee being laid off and placed on a reinstatement list. (Added 8/21/07)~~

Deleted: Section 3(b)(c)(d)(e)(f), an administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~Section 4. Promotion within City or Department.~~

~~a. Examinations for promotional positions will be open to all persons properly qualified, without regard to the department in which they are serving. However, upon request of a Department Head, city wide examinations may be limited to current city employees so long as it is anticipated there is a minimum of five qualified candidates. (Amended 8/21/07)~~

~~b. Upon request of a Department Head, promotional examinations for promotional positions may be limited to employees presently working within the requested department so long as it is anticipated there is a minimum of five qualified applicants. (Added 8/21/07)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~Section 5. Temporary Appointments~~

~~a. An interim or temporary appointment to a higher position may be authorized by the Human Resources Director without examination upon written request of the Department Head when any of the following conditions exists: (Amended 8/21/07)~~

~~1. when a position is vacant due to the sickness, disability or other absence of a regular employee (Amended 8/21/07)~~

~~2. when it is necessary to fill positions of a seasonal nature (Amended 8/21/07)~~

~~3. when a vacancy cannot be filled with an existing eligible list (Amended 8/21/07)~~

~~b. All such temporary appointments will continue only during the period of sickness or disability, seasonal circumstances, or other absence, or until certification from an eligible list can be made. In no event will such temporary appointment be effective for longer than six months without a new request being made by the Department Head and approved by the Human Resources Director. (Amended 7/20/93, 8/21/07)~~

~~e. An individual appointed in this manner must meet the minimum qualifications for the position. Such appointments are limited to individuals within the same department in which the vacancy exists. (Amended 5/26/92, 8/21/07)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

RULE 12

Eligible Lists

~~Section 1. Duration of Eligible Lists.~~

~~Eligible lists other than reinstatement and transfer lists, will expire automatically 6 months from the date they are certified unless extended by the Human Resources Director prior to the expiration date. Persons on a reinstatement or transfer list will be eligible for certification for a period of 24 months. (Amended 1/24/89, 8/21/07)~~

Deleted: Moved portion of first paragraph to Rule 11 as new Section 7.

~~When a new list is required by these rules, the names of applicants remaining from the prior list will be consolidated with the new list. Those persons from the prior list who have not taken or passed the examination required for placement on the new list will be removed from the consolidated list upon the date of expiration of the prior list. (Added 8/25/09)~~

Deleted: Moved second paragraph of Section 1 to Rule 11, as new Section 7.

~~Section 2. Change in Contact Information.~~

~~It is the applicant's responsibility to update his Personal Account Profile of any changes in contact information as indicated in Rule 6 Section 9. (Amended 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~Section 3. Impact of Changes.~~

~~Changes of rank, or addition or subtraction of names, made on lists of eligibles because of clerical errors or re-ratings, will not change the date of the adoption of such lists nor give any persons the right to claim any beginning date of eligibility other than the date of the adoption of the original eligible list that created their eligibility.~~

Deleted: Not governed by Charter. Policy not needed.

~~Section 4. Revocation of List.~~

~~An eligible list, other than a reinstatement list, may be revoked and another examination ordered when in the judgment of the Human Resources Director, such action is deemed advisable because of errors, fraud or inappropriate standards prescribed in connection with an examination. All competitors in the first examination will be given an opportunity to compete; and a new eligible list will be established except in the case of inappropriate minimum qualifications, in which event only competitors in the first examination who meet the new qualifications may be tested. No eligible list will be revoked except upon written notice to all persons whose standing may be affected. (Amended 8/21/07, 8/25/09)~~

Deleted: Not governed by Charter. Policy not needed.

~~Section 5. Removal from Eligible List Through Loss of Qualifications.~~

~~The name of any eligible that no longer fulfills any preliminary requirement in accordance with Rule 6, Section 2 (such as residence or the possession of a license, certificate, transcript, diploma, or etc.) will~~

~~be removed from eligible lists by the Human Resources Director. The name of an eligible that has not been certified from a reinstatement or transfer list within 24 months will be removed. (Amended 8/21/07, 8/25/09)~~

Deleted: Not governed by Charter. Policy not needed.

~~Section 6. 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.~~

Deleted: Moved Section 6 to Rule 11 in its entirety as new Section 8.

~~Section 7. 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)~~

Deleted: Moved Section 7 to Rule 11 in its entirety as new Section 9.

~~Section 8. Certification of Eligible Lists.~~

~~Eligibles may be referred for appointment from the list immediately upon certification. (Passed 12/17/85) (Amended 8/21/07)~~

Deleted: Information already embodied in renumbered Sections 1 and 2 of Rule 6.

~~Section 9. Removal from Eligible Lists for Failure to Pass Probationary Period.~~

~~The name of any person who does not pass a probationary period will be removed from any eligible list on which it appears, unless in the judgment of the Human Resources Director, the cause of the removal will not affect the employee's usefulness in the class or classes of positions on which eligible list(s) his name appears. (Passed 2/14/89) (Amended 8/21/07, 8/25/09)~~

Deleted: Not governed by Charter. Policy not needed.

RULE 613

Leave of Absence, Resignation, Sick Leave and Vacations

Section 1. Leave of Absence.

a. Procedures and Limitations

(1). Leave of Absence for Regular Employees with One Year or more of Service

A request for a Leave of Absence (LOA), not to exceed twelve consecutive months, together with the reason(s) therefore and the period of leave desired, and a full statement as to the desire or intention of the employee to return to the Civil Service, will be made in writing by the employee on the forms prescribed. Employees qualifying for FMLA leave must utilize all available FMLA leave before being eligible to receive an additional leave of absence. The Department Head shall recommend ~~disposition grant or denial~~ of the request in writing to the Director. (Amended 8/25/09)

(2). Leave of Absence for Regular Employees with less than One Year of Service

A request for a Leave of Absence, not to exceed three (3) months, together with the reason(s) therefore and the period of leave desired, and a full statement as to the desire or intention of the employee to return to the Civil Service, will be made in writing by the employee on the forms prescribed. The Department Head shall recommend ~~disposition in writing grant or denial~~ of the request in writing to the Director. (Added 8/25/09)

(3). When the Leave of Absence is necessary because of sudden serious health condition or injury, the request may be made by the Department Head without securing the signature of the employee and forwarded to the City Manager or designee. (Amended 8/25/09)

(4). The employee shall submit all medical documentation upon request.- The request for Leave of Absence will not be effective until approved by the City Manager or designee. -In the case of a leave requested as an exception to length-in-service requirement policy, the request must be accompanied by such proof as the City Manager or designee may require. (Amended 8/25/09)

~~_____~~ (5). A Leave of Absence may not be granted or extended ~~on or after February 7, 2006,~~ for a combined period in excess of 24 months within the most-a recent 7 years of an employee's tenure with the City. This subsection does not include authorized leave taken in accordance with the Family & Medical Leave Act, and shall not apply to the Leave of Absence granted for military service or upon acceptance of a position in the exempt class of the City's service for such time as the service continues. (Amended 11/13/84, 7/13/85, 8/31/04, 2/07/06, 8/21/07, 8/25/09)

Added: Portion from (b) to Section 1 (a)(1)

Added: "disposition" and "in writing" and deleted "grant or denial"

Added: "the most" and deleted "a"

b. Family and Medical Leave Act of 1993

~~All employees may take leave in accordance with the Family and Medical Leave Act (FMLA) of 1993, as may be amended and no provision of this Rule shall be construed to conflict with such Act. Employees qualifying for FMLA leave must utilize all available FMLA leave before being eligible to receive an additional leave of absence under section 1.a. All FMLA leave will run during a "rolling" 12-month period calculated forward. Such FMLA leave shall not be included within the twelve consecutive months of leave that an employee may be granted under section 1.a. (Passed 2/07/06)~~
(Amended 8/21/07, 8/25/09)

Deleted: An administrative process not governed by Charter, should be addressed in policy. Governed by Federal Law. Administrative policy created.

be. Requesting Leave

Except as otherwise provided by law, no employee will be granted a leave of absence until the employee has been in the Civil Service for at least one year immediately preceding the date of leave except in case of military service, urgent necessity, as allowed in Section 1 a. (2) or in accordance with federal or state law, as determined and approved by the City Manager or designee. -In these cases, an application for a leave will be accompanied by such proof as the City Manager may require, along with a recommendation from the Department Head. -(Amended 8/31/04, 2/07/06, 8/21/07, 8/25/09)

To obtain a leave of absence based on an employee's own serious health condition, the employee must provide the Department Head such forms as may be required by the Human Resources Director, completed by the employee's health care provider no later than the fifteenth calendar day of absence. The health care provider should indicate the date on which the serious health condition commenced, the probable duration of the condition, appropriate medical facts within the knowledge of the employee's health care provider regarding the condition, and that the employee is unable to perform the functions of his position because of the condition. -The employee will be required to provide periodic updates from the employee's health care provider on the serious health condition, as well as a fitness-for-duty certification when the employee seeks to be reinstated.- If, for medical reasons, the employee is unable to deliver any documentation required under this paragraph, the employee may have a friend, family member or health care provider deliver them. -(Passed 2/07/06) (Amended 8/25/09)

To obtain a leave of absence so that an employee may care for a spouse, designated household member, child or parent of either with a serious health condition, the employee must provide his Department Head with the required forms completed by that individual's health care provider no later than the fifteenth calendar day of absence. -The health care provider should indicate that the employee is needed to care for the individual and estimate the amount of time involved. -The employee may be required to provide periodic updates on the relevant individual's condition and on the employee's continued need to care for that person. (Passed 2/07/06) (Amended 8/25/09)

To obtain leave based on the birth or the placement of a child for adoption or foster care with the employee or for planned medical treatment and such leave is foreseeable, an employee must notify the Department Head not less than 30 days before the employee plans to commence leave. -If it is not possible to give 30 days' notice, the employee must give as much advance notice as is practicable. (Passed 2/07/06) (Amended 08/21/07)

Renumbered to b.

cd. Benefits During Leave

The City requires any employee taking leave to first utilize accrued but unused sick and vacation leave during the leave of absence provided that it is not used to receive more compensation than the employee would receive were the employee working.

Employees on unpaid leave of absence are not entitled to holiday pay for those holidays falling during the leave. -Additionally, benefits such as vacation time and sick leave do not accrue during an unpaid leave of absence. -A break in seniority will occur when an employee is on an unpaid leave of absence for thirty or more consecutive days.

During the portion of any paid leave of absence in which the employee is using accrued vacation or sick leave, the City will maintain its share of an employee's coverage under any group health or insurance plan on the same conditions as if the employee was not on leave. During any unpaid leave of absence, an employee must pay the cost of any insurance coverage that the employee has elected to make under the City's benefit program. The employee must make arrangements with the Human Resources Department~~Office of Management & Budget~~, Insurance & Benefits section to make any such payments.

Added: "Human Resources Department".
Deleted: "Office of Management & Budget".
Added: "section" after Insurance & Benefits.
Renumbered to c.

de. When Leave of Absence sShall not be Granted

No leave of absence, with or without pay, will be approved or granted when it appears to the City Manager that it is requested for the purpose of enabling the employment of a temporary employee to the same position; or because of political influence, or for cause contrary to the good of the Service. (Amended 8/31/04, 2/07/06 and 8/21/07)

Corrected to show lower case "s" instead of capital "S"
Renumbered to d.

ef. Notices regarding Designated Household Members

Any employee may designate one person who resides in the employee's household, for whom the provisions in this Rule relating to a designated household member shall apply.- The employee shall submit the name of such household member to the Human Resources Department. -In the event that the household member moves from the employee's household or the employee desires to change the designation of his household member, the employee shall immediately file a notice of termination of designation of household member with the Human Resources Department. -The Human Resources Director shall develop appropriate forms for use by employees under this section. -(Passed 2/07/06) (Amended 8/21/07, 8/25/09)

Renumbered to e.

fg. Return after Leave

An employee must present an acceptable fitness-for-duty certification upon return from leave which was the result of the employee's own serious health condition.- Any employee returning to work after a leave of absence for serious health condition or disability of 12 weeks or more may be required to take and pass a physical examination performed by a physician acceptable to the Director of Human Resources or designee.

If the employee has not returned to work at the expiration of the leave of absence, the employee will be considered to have voluntarily resigned his employment not in good standing. (Amended 2/07/06, 8/25/09)

Renumbered to f.

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. -(Amended 2/07/06 and 8/21/07)

e. ~~Duties of Department Heads; Authority to Investigate Sick Leave Use~~

~~The Department Head granting sick or Emergency Leave will immediately report the leave and subsequently, the individual's return, to the Human Resources Director. The Department Head or the Human Resources Director may at any time inquire or investigate into the use of sick leave or Emergency Leave and require medical certification for all subsequent absences, or take other~~

appropriate action consistent with the Charter or these Rules. ~~Reasons to inquire or investigate shall include, but are not limited to, the following:~~

~~(Amended 3/31/87, 9/17/96, 2/07/06 and 8/21/07)~~

~~(1) Habitual use of sick leave in single or partial day increments, without current medical documentation.~~

~~(2) A pattern of using sick leave on a payday, the first work day the employee is scheduled to work after a payday, the day before or after a scheduled day off or using sick leave as soon as it has been accrued.~~

~~(3) Using 40 or more hours of unplanned sick leave during a quarter of a calendar year, for two (2) or more consecutive quarters, without current medical documentation. (Added 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative policy created.

ef. 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)

Renumbered to e.

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 language for clarification.

~~A regular employee in the City Service is eligible to participate in the Sick Leave Conversion Incentive program. Two times each year, eligible employees may request up to eight (8.0) hours of sick leave to be converted to additional Sick Leave Personal Day (SPD), if the employee has not missed any scheduled shifts for the periods indicated below:~~

~~_____ September 1 February 28~~

~~_____ March 1 August 31~~

~~The total number of hours earned each fiscal year shall not exceed 16 hours. Absences due to a work related injury, qualified Americans with Disabilities Act (ADA) conditions, or for qualified military leave shall not be counted as absences for purposes of this program. (Added 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

fg. 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 language for clarification.

~~A regular employee who has served the required probationary period and suffers a life-threatening medical condition, and who has exhausted all available paid leave, may make a written application to become a shared leave recipient, in the manner prescribed by the shared leave policy and procedures.~~
(Added 9/22/98)

Deleted: An administrative process not governed by Charter, should be addressed in policy. Shared Leave Policy already exists.

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 (~~12 days~~96 hours):
40 hour per week employees - 3.70 hours per biweekly pay period
(Amended 8/11/87, 9/20/88, 2/07/06)

For >5 to 15 years of service (~~17 days~~136 hours):
40 hour per week employees - 5.24 hours per biweekly pay period
(Amended 9/20/88 and 2/07/06)

For >15 or more years of service (~~20 days~~160 hours):
40 hour per week employees - 6.16 hours per biweekly pay period

The maximum accrual for vacation leave is ~~fifty (50) days~~400 hours. (Amended 8/11/87, 2/14/89, 1/30/90, 2/07/06)

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)

Added number of hours for clarification

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 placed 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. 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. (Amended 2/07/06, 8/25/09)

Deleted: Moved to Rule 20 in its entirety as new Section 4.

Section 8. 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)~~

Deleted: Moved to Rule 20 in its entirety as new Section 5.

Section 79. -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)

Renumbered to 7.

Section 8. Unclassified Employees

Unless otherwise provided by Council or the provisions in the contract of an employee hired by contract, all employees in the unclassified service shall be governed by the provisions of this Rule with respect to the provisions in Section 6.10 of the Charter regarding the use of leave of absence sick leave, vacation, and the submission of a resignation.

Added language for clarification for unclassified employees.

RULE 7-4

Appeal of Efficiency Ratings

Appeal Process:

Subject to the provisions of this section, the employee has the right to appeal any 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 irregularly scheduled overall rating below the equivalent of "Successful" he considers unfair, discriminatory, or otherwise objectionable, ~~except for any A~~ probationary rating not recommending ~~that the employee for regular status be made permanent in a probationary position~~ 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. 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)

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)

Added language for clarification on appeal process.

RULE 815

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 a felony, or a misdemeanor involving moral turpitude; or
- b. Has willfully, ~~wantonly~~, 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 **Deleted "wantonly"**
- 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. (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; or (Amended 8/25/09) **Added "an official"**
- f. Is consistently inefficient in the performance of the duties of his position so that his general average of efficiency is below the minimum standards established, and the facts on which such general average is based are true and justify such average; or (Amended 8/25/09)
- g. Is negligent in the care or the ~~intentional~~ misuse of City property or (Amended 7/31/07) **Deleted "the" and "the intentional"**
- h. Has an unexcused absence from duty for a period of three or more successive days; or
- i. Has used or threatened to use or attempted to use personal or political influence in securing promotion, leave of absence, transfer, change of grade, pay, or character of work; 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. Has induced or attempted to induce any person, firm or corporation doing business with the City to give employment to any relative of the City officer or employee, or has induced or attempted to induce any such person, firm or corporation to show any material favor or consideration of any kind to the City officer or employee or any relative of the City officer or employee, when the officer or employee holds a position in a department having direct contact with such person, firm or corporation; 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 1017;
- (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 preferal 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, ~~any~~ formal counseling, ~~or a written reprimand issued before 8/25/09~~ shall ~~will~~ be removed from an employee's personnel file ~~as soon as practicable~~ after the expiration of twenty-four (24) months from ~~after~~ the date of the formal counseling, ~~is placed in their file~~ provided the employee has not received any other disciplinary action during ~~that~~ time period. ~~Any such formal counseling, once which qualifies to be removed from~~ shall not be used against the employee's file, shall not be considered against the employee for purposes of determining progressive discipline or for performance evaluations, ~~as of the expiration of the twenty-four (24) month period.~~ (Added 8/25/09)(Amended 11/2/10)

Added: "issued by the Department Head and".

Deleted: "or a written reprimand issued before 8/25/09"

Added: "upon an employee's request, a"

Deleted: "as soon as practicable"

RULE 916

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 1017

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 in accordance with Article VI, Section 6.10-7 of the Charter. (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 in accordance with Article VI, Section 6.10-7 of the Charter. (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 in accordance with Articles VI, Section 6.10-7 of the Charter, and these Rules. (Amended 08/07/07)

RULE 18

Unclassified Services

~~Unless otherwise provided by Council, all employees in the unclassified service shall be governed by the Charter and the Rules of the Civil Service Commission, except as provided in Article VI, Section 6.2-3 of the Charter.~~

~~Employees who hold positions funded or contracted for by state or federal grants, shall have no right to continue holding such positions when state or federal funding ceases. (Amended 7/31/07)~~

Deleted: Covered under City Charter Section 6.2-2 UNCLASSIFIED SERVICES.

RULE 119
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: Section for clarification to promulgate rules, regulations, and policies and procedures.

Section 43. 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)

Renumbered to 4.

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: Portions of Section 1 from Rule 28 as new Section 5 and added language for clarification.

RULE 120

Lay-offs, Job Rights, Reinstatement

Section 1. Lay-Offs.

Corrected lower case "o" to upper case "O" in 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 47. 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. (Amended 2/07/06, 8/25/09)

Added: Moved Section 7, from Rule 13 in its entirety as new Section 4.

Section 58. 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)

Added: Moved Section 8 (a)(b)(c), from Rule 13 in its entirety as new Section 5.

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)

Added: Moved Section 6, from Rule 26 in its entirety as new Section 6.

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 1220 will apply. (Amended 8/21/07) (NOTE: Rule number will be identified once approved)

Added: Moved Section 7 from Rule 26 in its entirety as new Section 7.

RULE 21
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)~~

Deleted: Moved to Rule 1 in its entirety as new Section 14.

RULE 22

Documentation to Employee's File

~~In order for memorandums, formal counseling, or other documentation of an employee's performance, to be made part of the employee's personnel file, such documentation must be received by the Human Resources Department no later than 120 days following the issue of such documentation. (Passed 12/11/84) (Amended 10/03/95, 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

RULE 123

Emergency Response by City Employees~~Residency~~

~~All City employees must reside within the United States of America as a condition of employment. Additionally, Anyall City employees, hired after the effective date of this Rule, whose jobs require that they respond to a civil emergency, must be able to respond to the emergency within a one hour ~~thirty~~ minute-time limit. (Passed 9/8/87) (Amended 8/31/04, 7/31/07, 8/25/09)~~

Title changed from “Residency” to “Emergency Response by City Employees”

Deleted: “All City Employees must reside within the United States of America as a condition of employment.”

Deleted: “Additionally all” and added “any.”

Deleted: “hired after the effective date of this Rule”

Added: “one hour” and deleted “thirty minute.”

RULE 124
Grievances Procedure

Deleted: "Procedure" from title.

Added "s" to "Grievance" in title.

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. ~~All regular employees have the right to voice grievances and to have them considered fairly. A grievance is any order which is believed to violate the rights granted employees by the City Charter (Charter, Section 6.13-4) excluding all disciplinary matters, which shall continue to be heard exclusively by the Commission. (Amended 7/31/07)~~

Added language for clarification.

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~~~~recommendations~~ within thirty working days after the receipt of the grievance. If the ~~determination~~~~recommendation~~ 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~~~~recommendations~~ 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)

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

Deleted “recommendations” and added “determinations”

Deleted “the” and added “a classified”

Added: “e-“ to mailed.

Deleted: “in person”

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)

Added: “except for good cause”

Global change “recommendation” to “determination”.

Added language for clarification on burden of proof in a non-disciplinary grievance.

RULE 25

Driver Safety Standards

Section 1. Applicability:

This Rule is adopted by the Commission for all City departments. (Amended 7/31/07, 8/25/09)

Section 2. Applicants:

~~A Motor Vehicle Record check will be required of all original and promotional applicants certified to positions which require driving a vehicle on public thoroughfares as a duty.~~

~~Applicants will be rejected and removed from the eligible list, subject to Civil Service Commission appeal, if the Motor Vehicle Record reveals they:~~

- ~~a. do not have a current valid driver's license issued by a state of the United States.~~
- ~~b. have had three moving violations in the preceding 18 months or one DWI in the preceding 24-month period (on or off the job) which resulted in placement or acceptance into a pre-trial diversion program, court supervised probation or conviction.~~
- ~~c. have had three accidents for which they received a ticket and were placed or accepted into a pre-trial diversion program, court supervised probation or convicted within the preceding 36-month period (on or off the job), or two or more within the last 12 months.~~
- ~~d. any combination of b and c.~~
- ~~e. have an outstanding Department of Public Safety and/or Municipal Court Arrest Warrant.~~
- ~~f. have any driving record which is not indicative of a responsible driver as determined by the Human Resources Department.~~

~~g. All applicants for uniformed Fire and Police, and other departments which require driving must comply with the higher standards determined to be necessary by the department. City employees must have an unexpired certificate of defensive driving before driving a city vehicle. (Amended 07/11/06, 8/25/09)~~

~~Applicants rejected for any of the above reasons may reapply as soon as they meet the standards or apply for positions not requiring driving duties.~~

Section 3. Current Employees:

~~Annual Motor Vehicle Record checks will be made on all current employees with driving duties. Employees may be subject to disciplinary action, including termination, if the Motor Vehicle Record reveals any of the reasons listed in Section 2 above for disqualification of applicants, exists. Current City employees with driving duties must immediately inform their supervisors if convicted, placed on probation, or placed or accepted into a pre-trial diversion program for any moving traffic violation, have an outstanding traffic warrant, or if there is a change in the status of the employee's driver's license. Failure to immediately notify the supervisor may result in disciplinary action including termination. All City employees must attend a defensive driving class within 30 days of being assigned to driving duties and must repeat such training every three years. (Amended 1/5/88, 05/26/92, 6/1/10)~~

Deleted: An administrative process not governed by charter, should be addressed in policy. Administrative Policy created.

RULE 26

Regular Part Time Employees

Section 1. Definition:

A regular part time employee is an employee who is regularly scheduled to work for no more than 29 hours per week, or for no more than 40 hours per week in a department with a 24-hour schedule. (Amended 8/21/07)

a. Regular part time employees may be regularly scheduled for hours which are predetermined and set by the department in advance, or (Amended 8/21/07)

b. Regular part time employees may be on call employees who are called to work when the department has special events, extra work or non regularly scheduled recurring work which is not being performed by regular full time employees. (Amended 8/21/07) Seasonal employees who work only part of the year are considered temporary employees and are not eligible for regular part time status.

Section 2. Promotional Exams:

Part time employees are eligible to take promotional examinations for full or part time positions after successful completion of original probation in a regular part time position. Seniority credits will be prorated based on full time service and in the same manner as prescribed in Rule 9, Section 2b, for promotional examinations. Efficiency credits shall be awarded in the same manner as prescribed in Rule 9, Section 2c. (Amended 8/21/07, 8/25/09)

Section 3. Transfers:

Regular part time employees may request transfer to another regular part time position of the same class and grade in a different department in accordance with Rule 5, Section 3, and within the order of certification. Regular part time employees may not receive a transfer to regular full time positions.

Section 4. Part time to Full time Status:

Part time employees who wish to be placed on a transfer list within the Certification Process for full time employment in the same classification, as provided in Section 6.5-1 of the Charter shall submit a written request to the Human Resources Director. Names will be placed on such list in the order in which received. (Amended 8/21/07)

Section 5. Full time to Part time Status:

a. A regular full time employee may request a reduction in status from full to part time. Such request must be in writing and will state the reason(s) for which the employee is requesting reduction to part time status. Requests will be granted on a case by case basis and in as timely a manner as practicable, subject to the operating needs of the City. Such requests shall be forwarded directly to the Human Resources Director who shall approve or deny. (Amended 8/25/09)

b. Full time employees who have been granted part time status may seek a return to full time status as described in Section 4 of this Rule. (Amended 8/25/09)

c. A status change from full to part time will not affect the employee's seniority for pay and benefit

accrual purposes.

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

Section 6. Reinstatements.

~~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)~~

Deleted: Moved to Rule 20 in its entirety as new Section 6.

Section 7. Layoff.

~~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 20 will apply. (Amended 8/21/07)~~

Deleted: Moved to Rule 20 in its entirety as new Section 7.

Section 8. Temporary Appointments/Provisional Appointments.

~~Regular part time employees may receive temporary promotions or provisional appointments to full time positions. (Amended 9/21/93 and 8/21/07)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

RULE 27
Non-Discrimination

~~Section 1. 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 and affirmative action. (Amended 7/31/07)~~

Deleted: Moved Section 1 to Rule 1 as new Section 15 with the deletion of “and affirmatitve action”.

~~Section 2. Responsibility.~~

~~The Human Resources Director shall develop and maintain an Affirmative Action Plan subject to review by the Civil Service Commission. Annual labor market and workforce analyses and evaluation shall be made by the Human Resources Department. (Passed 06/04/96)~~

Deleted: Not governed by Charter. The Affirmative Action Plan is submitted to Federal Government on September 30th of every even numbered year.

RULE 28

Safety

Section 1. Safety Procedures.

~~The City shall maintain a comprehensive manual of safety procedures for all employees. Each employee shall receive a copy of the manual. Changes in the contents of the manual will become final upon approval of the Director of OMB and the Human Resources Director. Each department may also promulgate safety procedures specific to their own operations, provided they do not conflict with the general safety procedures. (Amended 7/31/07)~~

Section 2. Compliance.

~~All employees shall comply with all procedures in the Safety Manual applicable to their job, and shall participate in safety training as directed by their supervisor or Department Head. (Added 11/19/96, Amended 7/31/07)~~

Deleted: Moved portions of Section 1 to Rule 19 as new Section 5. Remaining portions an administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

RULE 1529

Appeal Regarding Outside Employment Denial or Revocation

Added: "Appeal Regarding" and "Denial or Revocation" to title.

Section 1. Statement of Policy.

~~Regular full time members of the classified services shall be permitted to work part time for other employers subject to the provisions of this Rule. Regular part time employees, while covered by this rule, are not subject to the maximum allowable hours in Section 2. It is the policy of the Commission that full time employees recognize that their primary duties are to the City of El Paso. Employees are subject to call at any time for emergencies, special assignments, overtime, and the like, and the obligations of outside employment are always subordinate to the needs of the City Of El Paso. Regular part time employees are expected to work all scheduled shifts. (Amended 9/27/05, 7/31/07, 11/2/10)~~

Section 2. Maximum Allowable Hours; Conditions Disqualifying Applicants.

~~Requests for outside employment shall be granted by Department Heads; not to exceed twenty five (25) hours per week, except in the following circumstances:~~

- ~~a. Where it appears from the applicant's sick leave record or other evidence that outside employment would measurably impair the applicant's ability to discharge official duties and responsibilities with the City;~~
- ~~b. Where outside employment, or the place where it is performed, would likely bring either the City or the applicant into disfavor with the public, involve the employee in violation of the Rules and Regulations of the Commission or the employee's department, or present the employee with an actual or potential conflict of interest respecting city employment;~~
- ~~c. Where the employment, or the place where it is to be performed, are such as to measurably impair the employee's efficiency, capability, or availability as an employee of the City;~~
- ~~d. Where the outside employment requires the applicant to appear in the official uniform of the applicant's City employment where such practice would violate a rule of the applicant's department or where the outside employment would involve the service of civil process;~~
- ~~e. Where the outside employment of a public safety employee would involve the operation of, or employment in, an establishment where the principle business is the sale of intoxicating beverages;~~
- ~~f. Where the outside employment could affect their ability to make unbiased decisions or recommendations in the duties of their job with the City; or (Added 9/27/05)~~
- ~~g. Where the outside employment could compromise their independent judgment regarding recommendations or choice of vendors or services that are provided the City of El Paso. (Added 9/27/05, 7/31/07)~~

Section 3. Form of Application; Procedure for Approval.

~~An applicant must submit a request for permission to work at outside employment to the Department Head for approval. This request must be submitted on appropriate forms as provided by the Department of Human Resources and must include, inter alia, the specific type of employment. A Department Head may place reasonable limitations or conditions on the performance of any outside employment. Determination of limitations on outside employment will be based upon the best interest of the City in furthering professionalism, protecting the reputation of the employee and City and ensuring the City receives full and faithful service in return for its expenditure of resources. If the Department Head believes an employment request is inappropriate and does not meet the criteria established by this Rule, he must submit the request to a Deputy City Manager or the City Manager and obtain his concurrence prior to disapproving the request. (Amended 9/27/05, 7/31/07, 8/25/09)~~

Section 4. Duration; Subsequent Applications; Employee's Duties.

~~Applications that have been approved by the Department Head, or the Commission as hereinafter provided, will be valid for a period not to exceed two (2) years from the date of approval, and only for the specific type of employment approved. An original application must be submitted before an employee may change the type of employment for which he has been approved. (Amended 9/27/05, 7/31/07, 8/25/09)~~

Section 5. Duties of Department Head; Revocation of Approval.

~~Each Department Head shall periodically review outside employment within the department to ensure compliance with this Rule. It is the duty of each Department Head to revoke an employee's outside employment approval in the event the employee fails to comply with the provisions of this Rule, fails to conform to the conditions of qualifications as set forth in Sec. 2 (a-g) of this Section, or receives an overall rating of less than "Meets Performance Standards" on any regularly scheduled Performance Evaluation Report, provided further that a Department Head may give an employee notice and reasonable opportunity to cure their noncompliance or other deficiency prior to revocation. (Amended 9/27/05, 7/31/07, 8/25/09)~~

Deleted: Sections (1)(2)(3)(4)(5) An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

Section 6. Appeal; Burden of Proof; Miscellaneous Provisions.

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)

Deleted: Title of Section 6.

RULE 30
Working Out of Class

Section 1. When Employees May be Worked out of Class.

~~a. No classified employee may be worked out of their normal classification except in conformity with this Rule. Employees may be worked out of class for such limited periods of time, not to exceed one (1) year. (Amended 8/25/09)~~

~~b. Employees may be worked out of classification for any of the following reasons or purposes: (1) to work in a position because it is vacant or because the incumbent is on leave or for which a department has a temporary need, (2) for developmental assignment, or (3) because of a catastrophic event.~~

~~c. With the agreement of the employee, a Department Head may work a regular employee out of class for developmental assignments. In order to be considered for a developmental assignment, an employee must have received an overall rating of "meets performance standards" or higher on their last scheduled performance evaluation report and may not have been previously granted developmental assignments that are substantially similar in nature. Additionally, an employee must show that he would meet the minimum qualifications for the position within one (1) year from the date of the request. Request for continuations or extensions beyond one (1) year will not be approved. (Amended 7/31/07, 8/25/09)~~

~~d. Employees may be worked out of class by the City Manager during the course of a catastrophic event or a period of recovery following the occurrence of such an event. In these circumstances, employees required to work out of class shall not be eligible to receive additional compensation or credit as would otherwise be extended under this Rule.~~

Section 2. Approval Process by Department Head.

~~When it is expected or anticipated or when a significant potential exists that an employee will work out of class for 15 or more consecutive days and for all developmental assignments, a Department Head must complete the appropriate form to work an employee out of classification, stating the reasons therefore, the date the necessity arose or is reasonably anticipated to arise, the likely duration of the necessity, and the difference in compensation, if any, between the employee's current classification and that to which the new assignment relates. In cases arising out of developmental assignments, only the duration of the length of the assignment need be set forth, together with evidence of the employee's consent. The form shall be submitted to the Office of the City Manager for the approval of the City Manager or designee. (Amended 8/25/09)~~

Section 3. Compensation and Credit.

~~Except as otherwise provided in this Rule, an employee will be credited for each day of out-of-classification work for the purpose of calculating experience toward the minimum qualifications for a promotional examination related to the position. At the end of each calendar month, any employee who does not have a pending or approved working out of class application and who has performed one or more days of out-of-classification work during that month shall, before the 10th day of the following month, fill out a request to receive credit for such work and submit the request to their Department Head. If the Department Head fails to act upon the request within five (5) working days, the credit shall be automatically granted. If the Department Head denies the request, the employee shall be informed, and may appeal as provided in Section 5 of this Rule. No more than 30 total days of credit for out-of-classification work may be granted on an annual basis based on the calendar year to an employee pursuant to this self-reporting system. (Amended 8/25/09)~~

~~An employee who is authorized and assigned to work out of class for 15 or more consecutive days shall receive compensation retroactively, at the minimum salary for the out of class position, provided further, that in no event shall the adjustment in pay be less than five (5) percent higher than the employee's regular rate of pay. This additional compensation shall not affect the employee's eligibility for increases in accordance with normal pay practices, nor shall the additional compensation herein provided extend beyond the period for which the employee works out of class. (Amended 7/31/07, 8/25/09)~~

~~Section 4. Supervisory Duties:~~

~~Provided that there is no employee within the same department eligible for promotion or temporary promotion under the provisions of Rule 11, Sec. 10, an employee may be assigned temporary supervisory duties pursuant to a developmental assignment as provided in Sec. 1 of this Rule, otherwise, an employee may not be required to perform supervisory duties not contained within the job description he was working before being worked out of class.~~

~~Section 5. Appeals:~~

~~An employee may appeal to the City Manager any perceived violation of this Rule within 10 days after the employee knew or should have known of the purported violation. If the matter remains unresolved to the employee's satisfaction, the employee may appeal to the Commission not later than five (5) days after the denial of the City Manager, or 25 calendar days after the initial appeal, whichever is later. (Amended 8/25/09)~~

~~Section 6. Definitions:~~

~~As used herein, the following terms, in their various configurations, are defined. All terms not defined shall have their ordinary meaning.~~

- ~~(1) Working Out of Class(WOC) 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. (Amended 8/25/09)~~
- ~~(2) Days Unless the context requires otherwise, days that an employee actually works.~~
- ~~(3) Department Head The department director. (Amended 8/25/09)~~
- ~~(4) Catastrophic Event The occurrence of a sudden emergency or other incident affecting public health, safety or welfare in the City which necessitates the immediate use or mobilization of a large number of employees to respond to and deal with the incident. (Added 8/23/05)~~
- ~~(5) Scheduled Evaluation For purposes of this rule probationary evaluations will be considered scheduled. (Added 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

Ord. 8065

Porras, Sandra J.

10A

From: Thomas, Linda B.
Sent: Thursday, March 01, 2012 12:43 PM
To: Porras, Sandra J.
Subject: FW: CSC Rule Changes

Attachments: Ord. 8065 Rules 1-30 Amended (1-12-12)(2-16-12) WITH Track Changes.doc; Ord. 8065 Rules 1-15 with ACCEPTED Track Changes Amended (2-16-12).doc; Ord 8064 Class Comp-Sec 1-8 WITH Track Changes-Synopsis Section (Rev(10-11-11)(2-8-12).doc; Ord 8064 Class Comp-Sec 1-8 WITH ACCEPTED Track Changes 2-16-12.doc



Ord. 8065 Rules 1-30 Amended (... 1-15 with ACCE... Comp-Sec 1-8 W...Comp-Sec 1-8 W...

Please post as back up to the item.

-----Original Message-----

From: Wilson, Joyce A.
Sent: Wednesday, February 29, 2012 11:54 AM
To: Mayor and Council and Staff
Cc: Thomas, Linda B.
Subject: FW: CSC Rule Changes

Here is the original email I had sent two weeks ago outlining the process for vetting these rule changes internally. I asked Ms. Thomas to make sure your staffs downloaded these for you in advance of your discussion next Tuesday if you needed hard copies prior to agenda posting. I also have asked her to make sure that we have a list of all employee committee participants available for that meeting.

City Manager

-----Original Message-----

From: Wilson, Joyce A.
Sent: Wednesday, February 22, 2012 10:48 AM
To: Mayor and Council and Staff
Cc: Deputies; Firth, Sylvia B.; Thomas, Linda B.
Subject: FW: CSC Rule Changes

At their January and February meetings, the Civil Service Commission adopted changes to Ordinance 8064 and 8065 as proposed by the Human Resources Director with slight modifications. These ordinances will be introduced on February 28, with Council action on March 6. This culminates a nearly two year process commencing in Summer 2010 as part of the FY 2011 budget process where we were asked to better align the CSC rules with the City Charter.

The process included a 41-member employee committee with representation from all city departments, police and firemen's labor associations, AFSCME and the El Paso Municipal Employees Associations - to assure broad representation. The review process also included Mr. Bill Ellis, whom we asked to participate, in order to ensure that the rights and protections of city employees were not unduly compromised as a part of this process and proposed changes. Mr. Ellis is a respected labor attorney, former member and Chairman of the Civil Service Commission, and a current hearing officer. He has been an advocate for streamlining and clarifying rules, policies and procedures to minimize ambiguity and ensure clarity and simplicity where possible.

The changes merge 30 rules into 15 by consolidating and re-ordering some so that they flow better and are grouped most logically. The changes also remove some of the proscriptive language that represents processes and procedures and should be addressed through administrative policies and not be codified in an ordinance. A detailed breakdown of those changes is attached for your information and review. We have provided a red-lined

version as well as the final ordinance so you can specifically see the changes.

This has been one of the most grueling undertakings in my seven plus years of service to this organization and community. Numerous employee meetings were held from August through February. Most meetings went for several hours. The rules were broken into two groups to make the reviews manageable. Rules 1-12 were tackled first. Once the committee met and discussed and/or amended the proposed changes, they were posted electronically for 30 days to allow for employee comments. Department representatives were responsible for ensuring all department employees were familiar with the changes and had an opportunity to comment. At the conclusion of the 30-day posting period, amendments were made based on feedback and then sent forward to the Civil Service Commission for their independent review and action. The second group Rules 13-30 and Ordinance 8064 went through a similar internal process as outlined for the first group. In summary these were vetted for nearly one year prior to bringing forward to City Council for final action.

While on first review, these changes may seem substantial; in reality they are not significant and in no way reduce or eliminate employee rights or protections in those situations where their status may be adversely affected. As you read the new ordinance and compare with current, you should agree that it provides for a better framework to govern the civil service system. I would also suggest that you view the CSC meetings on January and February to see the public vetting process, should you feel the need to assure yourselves that employees had ample opportunity for input.

My staff and I will be available to discuss these recommendations with you either individually or at the public hearing. I have specifically requested that Linda Thomas, Human Resources Director, schedule meetings with each district office to go over the changes and answer any questions you might have. I've also asked her to provide you a summary of the general employee feedback we compiled as part of this overall process.

Per Sec. 6.1-6 of the City Charter, failure by Council to approval, amend and approve, or deny the Commission's changes within 60 days after Council's receipt shall result in their automatic adoption. In event of disagreement, Council may deny or amend the Commission's changes, additions or deletions only by a two-thirds majority of the Council.

Also per Sec. 5.5 of the City Charter, City Council is restricted in its direct dealings with city employees on personnel matters. This is the basis for the process as outlined above in Sec. 6.1-6. I'm sharing this provision with you as I am aware that some of you have been contacted by city employees and it is important that you and your staff understand these distances in order to avoid any conflicts or charter violations. I've also copied the City Attorney so you can confer with her in the event you wish clarification beyond what I have provided relative to these charter provisions.

Thank you for your attention to the above.

Joyce Wilson
City Manager

Porras, Sandra J.

10A

From: Thomas, Linda B.
Sent: Thursday, March 01, 2012 12:45 PM
To: Porras, Sandra J.
Subject: FW: Legal opinion relating to the consideration of the Rules
Attachments: 104224.pdf

Ord. 8065

Sandy,
 Please post this as back up for 8064 & 8065. Thanks.

From: Wilson, Joyce A.
Sent: Wednesday, February 29, 2012 11:51 AM
To: Mayor and Council
Cc: Thomas, Linda B.; Hengen, Elaine S.; Firth, Sylvia B.
Subject: FW: Legal opinion relating to the consideration of the Rules

I received a copy from the Human Resources Director of a letter sent to you from the three employee associations – police, fire, and AFSCME. I am resending you my earlier email outlining our process because this letter infers that these entities were not aware nor involved in this extensive process and that is literally not true. I have asked Ms. Thomas to provide a list of all employee participants prior to the discussion next Tuesday. Furthermore, the inference that these rule changes somehow violate the terms of the collective bargaining agreements is also not correct, as outlined in the attached legal opinion. When a collective bargaining agreement is executed, the CSC rules in effect at the time of that agreement remain in effect until the new contract. Therefore, both police and fire will continue to operate until the old rules until their contracts expire and are renewed. This has been the practice for as long as we have had collective bargaining and it has not impeded our ability to amend the rules periodically throughout the years. The concerns about suppressing the voice or any democratic process are also baseless as the process extensively engaged the organization and solicited input. Simply 'not wanting any changes' is not sufficient to stop internal process improvements that do not limit employee due process. As I stated earlier in my initial transmittal, anyone who reasonable looks at the new rules vs. the current rules should be able to draw that conclusion.

Also, I want to note that the City does not recognize any organization for purposes of representation or collective bargaining other than the police and firefighters associations, as it is prohibited by state law – excluding police and fire. We do, however, permit employees to have representation of their choice during any disciplinary action or grievance procedure. There presently are less than 140 dues paying members to AFSCME; and 290 dues-paying members of the EPMEA (Municipal Employees Association) – out of a total 3500 non-sworn work force.

Again our purpose was to address those areas that are codified in an ordinance that are in fact procedures and applications of the policy that should be addressed as such and then reorganize the rules so they are simpler and flow more readily. Also, because of our sensitivity about any changes to these rules, we retained Mr. Bill Ellis to assist with the committee review. Mr. Ellis has been a member of the CSC and is presently a hearing officer and can attest at the meeting next week that the process was extensive, inclusive and reasonable. Otherwise he would not have publicly supported the outcome.

Finally I want to re-emphasize that the City Charter lays out the process by which Council can adopt, amend or reject the rules.

3/1/2012

Per Sec. 6.1-6 of the City Charter, failure by Council to approval, amend and approve, or deny the Commission's changes within 60 days after Council's receipt shall result in their automatic adoption. In event of disagreement, Council may deny or amend the Commission's changes, additions or deletions only by a two-thirds majority of the Council. The attached legal opinion also outlines the timeline upon which Council action must occur.

Also per Sec. 5.5 of the City Charter, City Council is restricted in its direct dealings with city employees on personnel matters. This is the basis for the process as outlined above in Sec. 6.1-6.

Thank you for your attention to the above.

City Manager

From: Hengen, Elaine S.
Sent: Tuesday, February 28, 2012 6:59 PM
To: Wilson, Joyce A.
Cc: Firth, Sylvia B.; Martinez, Lupe (Legal); Ruhmann, Elizabeth M.
Subject: Legal opinion relating to the consideration of the Rules

Joyce;

As you requested, attached please find my opinion on issues pertaining to the consideration of the CSC Rules.

Elaine S. Hengen
Senior Assistant City Attorney
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Environmental Services	Patrick Ross
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El Paso International Airport	Jimmy Hicks Carolyn Wright
El Paso Water Utilities	Ricardo Carrizales Eulalio Martinez
Financial Services	Guadalupe Vlck
Fire	Orlando Arriola Ruben Camacho Maria Robles
General Services	Luis Sandoval Alejandro Vaquera
Health	Elsa Segura
Information Technology	Delia Lopez
International Bridges	Tom Cook
Legal	Josie Aranda
Library	Araceli Astorga
Mayor & Council	Amy Morales
Museums & Cultural Affairs Dept.	Misty Castaneda Jeffrey Romney
Metropolitan Planning Organization	Christina Stokes
Municipal Court	Maria Corral Jacqueline Harper
Parks & Recreation	Ruben Ocampo
Planning & Economic Development	Todd Taylor David Samaniego
Police	Brian Odell Henry Rivera
Sun Metro	Joe Acosta Joseph Gaines Oduma Louis

Employee Advisory Committee

Dept	Name
Tax	Eduvijes Rocha Bertha Vazquez
Zoo	Victoria Milne Genaro Soriano