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

DEPARTMENT: Human Resources

AGENDA DATE: 05/25/10 (Introduction); 06/01/10 (Public Hearing)

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

DISTRICT(S) AFFECTED: City Wide

SUBJECT: **An Ordinance Amending Ordinance 8065, Civil Service Rules and Regulations, amending Rule 1, (Civil Service Commission) Section 5, to provide for selection of the Chair of committees appointed by the Civil Service Commission; amending Rule 4 (Classification) Section 4, changing "an" to "a"; amending Rule 6 (Certification) decreasing the number of waivers from 5 to 3; amending Rule 13 (Leave of Absence, Resignation, Sick Leave and Vacations) to provide for special leave based on operational necessity, as determined by the City Manager, and to provide for required testing of uniformed employees requesting reinstatement to the Police Department; and amending Rule 25 (Driver Safety Standards) Section 3, to add the requirement to report an outstanding traffic warrant by employees with driving duties; as applicable to the Civil Service System of the City of El Paso and City employees.**

APPROVE:

BACKGROUND / DISCUSSION:

Upon approval, these amendments to Ordinance 8065, (Civil Service Rules and Regulations) will update, refine and clarify the language in various rules and regulations.

PRIOR COUNCIL ACTION:

Ordinance 8065 was last amended by City Council on August 25, 2009

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:
Enter appropriate comments or N/A

As per Civil Service Commission recommendation on April 8, 2010 and May 13, 2010.

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

LEGAL: (if required) JRB

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:** _____

CITY COUNCIL ITEM# 12C

ORDINANCE 8065
SYNOPSIS-(REVISIONS TO RULES)

RULE 1 – CIVIL SERVICE COMMISSION

Rule 1 Section 5. Committees.
Added language noting ranking member on Committee will serve as Chair.

RULE 4 – CLASSIFICATION

Rule 4 Section 4. Reassignment into a Different Job Classification
Added the word "regular" changing the wording "an employee" to "a regular employee"

RULE 6 – CERTIFICATION

Rule 6 Section 6. Objection by Department Head.

Changed to 3 times from 5 times for removal of applicants from eligible list when non-selected, or employee waives certification. Restores previous practice.

RULE 13 – LEAVE OF ABSENCE, RESIGNATION, SICK LEAVE AND VACATIONS

Rule 13 Section 5 Special Leave Based on Operational Necessity.

Added language reference special leave for operational necessity

Rule 13 Section 6. Resignations.

Section 5 changed to Section 6

Rule 13 Section 7 Reinstatement from Military Leave.

Section 6 changed to Section 7

Rule 13 Section 8 Reinstatement Following Resignation.

Section 7 changed to Section 8

a. Requisites for Reinstatement for Public Safety Employees

Added language reference reinstatement requirements for former uniformed employees in the Police Department

Rule 13 Section 9 False or Fraudulent Application for Leave.

Section 8 changed to Section 9

RULE 25 – DRIVER SAFETY STANDARDS

Rule 25 Section 3. Current Employees.

Added "have an outstanding traffic warrant" to list of reasons employees must notify supervisor

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 8065, CIVIL SERVICE RULES AND REGULATIONS, AMENDING RULE 1, (CIVIL SERVICE COMMISSION) SECTION 5, TO PROVIDE FOR SELECTION OF THE CHAIR OF COMMITTEES APPOINTED BY THE CIVIL SERVICE COMMISSION; AMENDING RULE 4 (CLASSIFICATION) SECTION 4, CHANGING "AN" TO "A", AMENDING RULE 6 (CERTIFICATION) DECREASING THE NUMBER OF WAIVERS FROM 5 TO 3; AMENDING RULE 13 (LEAVE OF ABSENCE, RESIGNATION, SICK LEAVE AND VACATIONS) TO PROVIDE FOR SPECIAL LEAVE BASED ON OPERATIONAL NECESSITY, AS DETERMINED BY THE CITY MANAGER, AND TO PROVIDE FOR REQUIRED TESTING OF UNIFORMED EMPLOYEES REQUESTING REINSTATEMENT TO THE POLICE DEPARTMENT; AND AMENDING RULE 25 (DRIVER SAFETY STANDARDS) SECTION 3, TO ADD THE REQUIREMENT TO REPORT AN OUTSTANDING TRAFFIC WARRANT BY EMPLOYEES WITH DRIVING DUTIES; AS APPLICABLE TO THE CIVIL SERVICE SYSTEM OF THE CITY OF EL PASO AND CITY EMPLOYEES.

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

WHEREAS, the City Council is the 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 revisions to the amendments proposed by the Human Resources Director; and

WHEREAS, both the Civil Service Commission and the City Council have determined that portions of Civil Service Rules should be amended.

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

1. That Ordinance 8065, Civil Service Rules and Regulations, is amended as follows:

RULE 1

Civil Service Commission

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)

RULE 4

Classification

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.

RULE 6

Certification

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)

RULE 13

Leave of Absence, Resignation, Sick Leave and Vacations

Section 5. Special Leave Based on Operational Necessity

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

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)

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)

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

Full time employees may be reinstated to full or part time positions at their request depending upon position availability. (Amended 2/07/06)

c. Approval for Placement on Reinstatement List After 18 Months

The City Manager or designee, may approve a request for reinstatement after more than 18 months in cases where professional training or specialized skill is required where the person desiring reinstatement has been 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. (Amended 8/11/87, 3/17/92, 9/21/93, 2/07/06, 8/21/07, 8/25/09)

Section 9. 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)

RULE 25

Driver Safety Standards

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)

PASSED AND APPROVED this _____ day of June, 2010

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
Municipal Clerk

APPROVED AS TO FORM:

John R. Batoon
Assistant City Attorney

APPROVED AS TO CONTENT:

Linda Ball Thomas
Human Resources Director

APPROVED BY THE CIVIL SERVICE COMMISSION ON APRIL 8, 2010 AND MAY 13, 2010.

By: _____
Secretary

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 Committee shall elect one of its members as Chair who shall preside over its meetings in the same manner as the Chair of the Commission presides over meetings of 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)

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 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)

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 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, and 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)

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)

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)

c. 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)

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)

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.

Section 4. Reassignment into a Different Job Classification

An 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.

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)

RULE 6

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)

Section 2. 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)

Section 3. 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)

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)

Section 5. 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)

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 ~~five (5)~~three (3) times may be removed from the eligible list.(Amended 8/21/07, 8/25/09)

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)

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)

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)

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)

RULE 13

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. The Department Head shall recommend grant or denial of the request 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 in writing grant or denial of the request 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 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)

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)

c. 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)

d. 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 Office of Management & Budget, Insurance & Benefits to make any such payments.

e. 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. (Amended 8/31/04, 2/07/06 and 8/21/07)

f. 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)

g. 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)

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)

f. Use of Sick Leave for Personal Business

1. Eligibility

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

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

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

2. Sick Leave Conversion Incentive

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)

g. When Paid Leave is Exhausted

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)

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):
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):
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):
40 hour per week employees - 6.16 hours per biweekly pay period

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

c. Such leave may be taken only in increments of half of a work day or more. (Amended 7/09/85, 10/08/85, 8/11/87, 2/07/06)

Section 4. Vacation Schedules.

a. Scheduling of Vacations

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

b. Forfeiture of Leave Balance Overage

Any vacation leave credit in excess of the maximum accrual authorized in Section 3 of this Rule shall be permanently withdrawn from the employee's vacation balance in the pay

period in which the employee's anniversary date of employment falls. An employee who has applied for, but was not granted, vacation leave during the pay period in which the employee's anniversary date fell, shall not forfeit any vacation leave overage provided that the employee is granted leave within 60 days of the employee's anniversary date, subject always to the operational needs of the department. (Amended 2/07/06)

Section 5. Special Leave Based on Operational Necessity

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

Section 65. 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 76. 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)

Section 87. Reinstatement Following Resignation.

a. Requisites for Reinstatement for Public Safety Employees

Those former uniformed employees requesting reinstatement to the Fire ~~and Police,~~ Departments 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.~~Persons requesting reinstatement to the Police Department will also be required and allowed one opportunity to take a psychological examination and polygraph examination, if required by the Chief of Police, prior to reinstatement to actual duty.~~ 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)

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

Full time employees may be reinstated to full or part time positions at their request depending upon position availability. (Amended 2/07/06)

c. Approval for Placement on Reinstatement List After 18 Months

The City Manager or designee, may approve a request for reinstatement after more than 18 months in cases where professional training or specialized skill is required where the person desiring reinstatement has been 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. (Amended 8/11/87, 3/17/92, 9/21/93, 2/07/06, 8/21/07, 8/25/09)

Section 98. 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)

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)