

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

DEPARTMENT: Human Resources

AGENDA DATE: 07/24/07

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

DISTRICT(S) AFFECTED: City Wide

SUBJECT: Introduction of Amendments to Ordinance 8065, (Civil Service Rules and Regulations)

APPROVE:

BACKGROUND / DISCUSSION:

Upon approval, these amendments to Ordinance 8065, (Civil Service Rules and Regulations) will update Rules 1, 2, 3, 4, 5, 15, 17, 18, 19, 20, 23, 24, 25, 27, 28, 29 and 30.

PRIOR COUNCIL ACTION:

Ordinance 8065 was last amended by City Council on July 11, 2006 (Ordinance 016399 thru 16401)

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

As per Civil Service Commission recommendation on July 11, 2007

*****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: _____

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ORDINANCE NO. _____

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AN ORDINANCE AMENDING ORDINANCE 8065, CIVIL SERVICE RULES AND REGULATIONS, RULE 1, CIVIL SERVICE COMMISSION; TO ADD RULE 2, DEFINITIONS AND RULES OF CONSTRUCTION; RULE 3, DEPARTMENT HEADS; RULE 4, CLASSIFICATION; RULE 5, COMPENSATION; SECTION 1, 1d 1g, 1m, 1n, 1o, 1p, SECTION 2, 4, 6, RULE 15, SUSPENSION, REDUCTION, DISCHARGE; RULE 17, EMPLOYEES SEEKING PUBLIC OFFICE; RULE 18, UNCLASSIFIED SERVICES; SECTION 2, RULE 19, DEPARTMENTAL RULES; SECTIONS 1a, 1b, 1e, 2 and 3, RULE 20, LAY-OFF, JOB RIGHTS, REINSTATEMENT; RULE 23, RESIDENCY; RULE 24, GRIEVANCE PROCEDURE; SECTION 1, RULE 25, DRIVERS SAFETY STANDARDS; SECTION 1, RULE 27, NON-DISCRIMINATION; RULE 28, SAFETY; RULE 29, OUTSIDE EMPLOYMENT; SECTION 1d and SECTION 3, RULE 30, WORKING OUT OF CLASS

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 1, 2, 3, 4, 5, 15, 17, 18, 19, 20, 23, 24, 25, 27, 28, 29 and 30 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 in its entirety as follows:

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.

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.

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.

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 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.

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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.

Section 5. Committees.

Committees shall be appointed as provided in this Rule and shall remain constituted until the completion of the assigned task. 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.

Section 6. Procedural Rules.

a. Action by the Commission. All actions by the Commission shall be upon Motion, duly made and seconded.

(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.

(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.

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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.

Section 8. Suspension of Rules.

Except as prohibited by law, the Rules set forth in Section 7 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.

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.

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).

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.

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:

- (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.
- (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 or her defense.
- (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.

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.

Hearing Officers will be selected by the Commission on the basis of their knowledge, skills, training and experience in the field of labor relations.

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RULE 2

Definitions and Rules of Construction

A. Definitions

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

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

3. “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 3.

4. “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 1f of Rule 13.

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

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

7. “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.

8. “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.

B. Rules of Construction

1. “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 text.

2. “Gender”: The masculine gender shall include the feminine and the neuter. (Added 7/31/07)

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RULE 3

Department Heads

1. That the title of Rule 3 be held and marked as "Reserved."

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.

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.
- 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 study 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.
- 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 relationships to other positions.

Section 3. Reclassification of Positions.

- a. The Human Resources Director may investigate of his own accord or will investigate 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

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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 its proper class and grade, and submit for recommendation and approval in accordance with Section 2a.

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 position under review. The Department Heads and employees concerned will have an opportunity to be heard before the revised class is approved.

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:

- (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 is eliminated from the Rule.

RULE 5

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:

- (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 shall additionally be compensated 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.
- (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 City Manager.

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

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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.

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. Annual increases will be available to all regular full and part-time employees earning an overall rating of competent or higher on his/her annual performance evaluation in accordance with the budget resolution adopted for the fiscal year in which the increase is awarded.

Advancement shall be made on the first day of the pay period following the pay period in which the employee's Annual Anniversary Date as defined in paragraph "f" below falls, upon recommendation of the Department Head, or City Manager, as applicable, and approval of the Human Resources Director, if funds for increases have been budgeted by City Council for the fiscal year in which they are to be received.

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.

g. A merit increase shall be based on meritorious service in accordance with regularly scheduled performance evaluations as set forth herein. 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 "exceeds performance standards" or "exceptional" performance 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.

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.

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.

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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 competent rating on their last two performance evaluations and have not been disciplined in the last 12 months. 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. Executive Compensation Plan.

- a. The Executive Compensation Plan shall include, assistant directors of all departments and all other positions as determined by City Council by ordinance.
- b. The salary schedules of the Plan shall consist of salary levels, with a minimum and maximum range for each level, such salary schedules to be adopted by City Council by ordinance.
- c. The starting salary for any person covered under the Plan shall be determined by City Manager but shall normally be no greater than the midpoint of the range for the position; however, an applicant or employee may be hired up to the third quartile of the range upon recommendation of the City Manager subject to procedures approved by the Commission and subject to the current pay scale adopted by the City Council for the fiscal year.
- d. 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 “exceeds performance standards” or “exceptional” performance 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.
- e. Any provisions of these Rules relating to compensation which conflict with these provisions shall not apply to those persons covered in the Executive Compensation Plan.

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Section 5. Professional/Managerial Compensation

- a. The Professional/Managerial Plan shall include classes within professional and managerial functions as determined by City Council by ordinance.
- b. The salary schedules of the Plan shall consist of salary levels, with minimum and maximum pay rates for each level, such salary schedules to be adopted by City Council by ordinance.
- 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.
- d. 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 and such re-evaluation and assignment shall be final when approved by the City Council after recommendation from the Commission.
- e. Any provisions of these Rules relating to compensation which conflict with these provisions shall not apply to those persons covered in the Professional/Managerial Compensation Plan.

Section 6. 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.

RULE 15

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:

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d. Has contracted a disease or has some physical or mental ailment or defect which makes him or her 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);

- g. Is negligent in the care of, or the intentional misuse of City property; or
- m. Violates the City's Ethics Ordinance;
- n. Refusal to follow the lawful order of a superior or supervisor
- o. Subjecting a fellow employee or subordinate to unlawful intimidation, harassment or retaliation; and
- p. For just cause.

Section 2. Disciplinary Notice.

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a permanent 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 or her fairly upon his or her 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 copy of such notice of discipline, together with the employee's explanation, if any, will be filed with the Human Resources Director.

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 preceding will be dismissed without judgment

Section 7. Election to Forfeit Annual Leave.

Permanent 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

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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.

RULE 17

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 or her position in the Civil Service:

- 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.
- 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.
- c. Any public office if the employee is serving in a supervisory or managerial position with the City; or
- d. 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.

Such employee shall be eligible for reinstatement following resignation in accordance with Articles VI, Section 6.10-7 of the Charter, and these Rules.

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.

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RULE 19

Departmental Rules

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.

RULE 20

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 affect 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.

Section 1.e. eliminated

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.

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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 or her 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 or her possession of the minimum qualifications and similarity of previous job duties.

RULE 23

Residency

All City employees must reside within the United States of America as a condition of employment. All Department Heads appointed by the City Manager must reside within the City limits of El Paso. Additionally, all 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 thirty minute time limit.

RULE 24

Grievance Procedure

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.

RULE 25

Driver Safety Standards

Section 1. Applicability.

This Rule is adopted by the Commission for all City departments except the uniformed members of the Fire and Police Department, and the commercial operators of vehicles at Sun Metro.

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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.

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.

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.

RULE 29

Outside Employment

Section 1. Statement of Policy.

Regular members of the classified services shall be permitted to work part time for other employers subject to the provisions of this Rule. It is the policy of the Commission that 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.

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

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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

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.

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, (s)he must submit the request to a Deputy City Manager or the City Manager and obtain his or her concurrence prior to disapproving the request.

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 (s)he has been approved. (Amended 9/27/05)

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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 "competent" 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.

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 filed in the employee's personnel file.

RULE 30

Working Out of Class

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

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 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

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receive credit for such work and submit the request to their Department Head. If the Department Head fails to act upon the request within 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. An employee who is 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 percent (5%) 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.

2. Except as expressly herein amended, all provisions of Ordinance 8065, Civil Service Rules and Regulations, Rules 1, 2, 3, 4, 5, 15, 17, 18, 19, 20, 23, 24, 25, 27, 28, 29 and 30 remain the same and are in full force and effect.

PASSED AND APPROVED this _____ day of July, 2007.

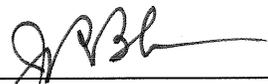
THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

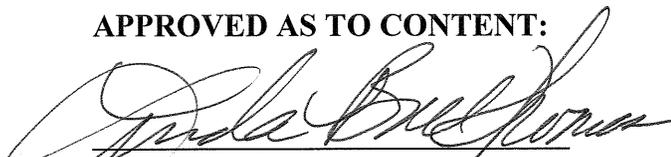
Richarda Duffy Momsen
Municipal Clerk

APPROVED AS TO FORM:



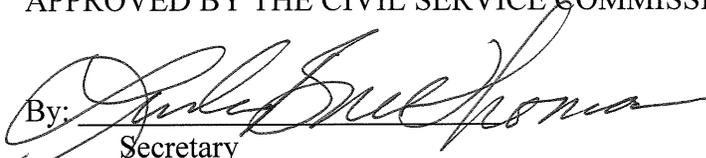
John R. Batoon
Assistant City Attorney

APPROVED AS TO CONTENT:



Linda Ball Thomas
Human Resources Director

APPROVED BY THE CIVIL SERVICE COMMISSION ON JULY 12, 2007

By: 

Secretary

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