

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

**DEPARTMENT:** Human Resources

**AGENDA DATE:** 0731/07

**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. \_\_\_\_\_**

**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; RULE 15, SUSPENSION, REDUCTION, DISCHARGE; RULE 17, EMPLOYEES SEEKING PUBLIC OFFICE; RULE 18, UNCLASSIFIED SERVICES; RULE 19, DEPARTMENTAL RULES; RULE 20, LAY-OFF, JOB RIGHTS, REINSTATMENT; RULE 23, RESIDENCY; RULE 24, GRIEVANCE PROCEDURE; RULE 25, DRIVERS SAFETY STANDARDS; RULE 27, NON-DISCRIMINATION; RULE 28, SAFETY; RULE 29, OUTSIDE EMPLOYMENT; 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 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.

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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.

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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.

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 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 5c of these Rules.

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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:

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- (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.

## RULE 2

### Definitions and Rules of Construction

#### A. Definitions

1. “**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.

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

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

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

6. “**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.

7. “**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 13.

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

9. “**Serious Health Condition**”: An illness, injury, impairment, or physical or mental condition that involves: (A) in-patient care in a hospital, hospice, or residential medical care facility, or (B) continuing treatment by a health care provider.

#### B. Rules of Construction

1. “**Gender**”: The masculine gender shall include the feminine and the neuter.

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2. “**Headings and Subheadings**”: The headings and subheadings in the Rules are for convenience in searching only, and are not intended to limit or expand the text.

**RULE 3**

**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 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, 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.

**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

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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 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.

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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.
- 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.

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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.

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, recommended by Civil Service Commission and approved by City Council.

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.

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## 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:

- a. Has been convicted of a felony, or a misdemeanor involving moral turpitude; or
- b. Has willfully, wantonly, or through culpable negligence been guilty of brutality or cruelty to an inmate or prisoner of a city institution or to a person in custody, provided the act committed was not necessarily or lawfully done in self defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody; or
- c. Has been under the influence of intoxicants or drugs or the use thereof while on duty; or
- d. Has contracted a disease or has some physical or mental ailment or defect which makes him 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);
- e. Is wantonly offensive in his or her conduct or language towards the public, the head of any department, or his or her fellow employees; or
- f. Is consistently inefficient in the performance of the duties of his or her position so that his or her general average of efficiency is below the minimum standards established, and the facts on which such general average is based are true and justify such average; or
- g. Is negligent in the care or the intentional misuse of City property; or
- h. Has an unexcused absence from duty for a period of three or more successive days; or
- i. Has used or threatened to use or attempted to use personal or political influence in securing promotion, leave of absence, transfer, change of grade, pay, or character of work; or
- j. Has induced, or has attempted to induce an officer or employee in the service of the City to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order; or has taken any fee, gift, or other valuable thing in the course of his or her work or in connection with it, for his or her personal use from any person, when such fee, gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than accorded other persons; or
- k. Has induced or attempted to induce any person, firm or corporation doing business with the City to give employment to any relative of the City officer or employee, or has induced or attempted to induce any such person, firm or corporation to show any material favor or consideration of any kind to the City officer or employee or any relative of the City officer or employee, when the officer or employee holds a position in a department having direct contact with such person, firm or corporation; or

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1. After the date of the adoption of these Rules, engaging in the following political activity is prohibited and the employee will be subject to disciplinary action for the following conduct:

- (1) actively engaging in the management or organizational committee of any municipal campaign;
- (2) acting as a worker at the polls in a municipal election;
- (3) participating in the solicitation of money in a municipal election;
- (4) contributing money or other valuables for any political purpose in connection with municipal elections;
- (5) while on duty, engaging in the distribution of any political material;
- (6) while on duty, promoting or engaging in the candidacy of any candidate or political party during any election period, whether it be a partisan or municipal election;
- (7) using city time or resources for any political purpose;
- (8) while wearing a city uniform, engaging in any political activity;
- (9) attempting to influence the vote or political action of any city employee whether superior or subordinate, while on duty;
- (10) attempting to influence, through threat or coercion, the vote or political action of any city employee whether superior or subordinate, while on or off duty;
- (11) recruiting or encouraging other city employees to support or participate in municipal elections;
- (12) seeking political office without first resigning as provide in Rule 17;
- (13) accepting political paraphernalia while on duty or on city property;
- (14) using your city title or position in an endorsement for any political election.

Anything not prohibited above is permitted, to include the following:

- (1) engaging in the organizational efforts of partisan elections;
- (2) participating in partisan election steering committees;
- (3) demonstrating their political preference in partisan or municipal elections by displaying political paraphernalia representative of their political preference, so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his or her city position or title;
- (4) participating in the dialogue of community forums in any election;
- (5) endorsing the candidate of their choice in any elections so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his or her city position or title;
- (6) participating in all matters related to their candidate's election in partisan elections;
- (7) joining political clubs and organizations;
- (8) participating in all partisan activities related to the election process.

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

Section 2. Disciplinary Notice.

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a regular employee, other than at the end of a probationary period, will not become effective until the Department Head has first served upon such employee a written notice of discipline. The notice must contain one or more statutory reasons or grounds for discipline, together with such specifications of fact as will enable the employee to make an explanation and place him 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 3. Notice of Proposed Disciplinary Action, Procedure and Limitation of Action.

a. When disciplinary action in the nature of a five (5) day suspension or greater, a reduction, or discharge is being contemplated by the Department Head, the employee must be served with a notice of proposed disciplinary action which shall conform with the notice requirements set forth in Section 2 of this Rule. In addition to the notice of proposed disciplinary action, the employee shall be furnished with the written materials and tangible things in the possession of the Department Head that form the factual and evidentiary basis for the proposed disciplinary action. No matter may be withheld from the employee that is inconsistent with the theory of discipline or that could tend to mitigate the contemplated sanction. Within ten (10) days of receipt of the notice of proposed disciplinary action, the employee may request a conference with the Department Head. Within five (5) working days of receipt of the employee's response, the Department Head shall meet with the employee, provided further that this period may be extended with the mutual consent of the Department Head and the employee. No witnesses may be called to testify as part of the employee's explanation or response. During the conference, the employee, their representative, and the Department Head shall engage in discussions with a view toward reaching a consensus and agreement relative to the proposed disciplinary action. No part of the discussions that take place during the conference may be offered into evidence at any subsequent hearing, except for the limited purpose of determining compliance or non-compliance with the provisions of this Rule as provided in paragraph "e" and for impeachment purposes. In the event such a consensus is reached, the execution by the employee of documents finalizing the settlement agreement shall constitute a waiver of the employee's right to appeal to the Commission, and the employee shall be so advised in plain language.

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b. Respecting discharge, those departments currently using a pre-termination hearing shall not be required to have a conference as contemplated hereinabove provided that the time between notification and hearing shall be at least 5 days and further provided that there shall be no change to current practices regarding violations of applicable federal laws.

c. The employee is entitled to have a representative of their choice assist them in the preparation and presentation of their response, provided further that in the event the representative is an employee of the City, he shall use vacation leave or personal days for such time as may be required for the representative to attend the conference. If the employee does not have any accrued vacation or personal days, the employee will be placed on unpaid administrative leave for such time as may be required for the representative to attend the conference. The employee must provide his/her Department Head with two days notice of the request to take the above leave. The Department Head may disapprove the request if the leave significantly interferes with the operational needs of the department

d. Disciplinary action must be taken against an employee within 60 days after the occurrence of the incident giving rise to the discipline or from the date that the Department Head knew or should have known that disciplinary action is appropriate, whichever is later, provided however that this period of limitation shall be tolled if an investigation is being conducted by a law enforcement authority into criminal charges against the employee arising out of the same incident. Once a Department Head receives notice from the employee that charges have been preferred, through an indictment or information, or that the criminal investigation has been concluded without the preferal of charges, then the time period will resume running.

e. Any issue of non-compliance with these provisions will be considered by the hearing officer and/or Commission upon the appeal of the disciplinary action.

f. In computing any time periods set forth in this Rule, Saturdays, Sundays, and City Holidays shall not be included.

g. Nothing in this Rule shall prevent suspension of the employee from service without pay in appropriate circumstances.

h. A copy of this Rule shall be attached to each notice of proposed disciplinary action.

#### 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 5. Disqualification for Reappointment.

Any employee who is dismissed for cause or who resigns while not in good standing will be disqualified from taking a Civil Service examination for two years thereafter. His or her name will be removed from all eligible lists, unless, in the judgment of the Commission the

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cause of his or her dismissal or resignation under charges will not affect the possibility of his or her usefulness in some other position.

Section 6. Non-Certification of Suspended Persons.

The names of persons suspended will not be certified from eligible lists during the period of suspension.

Section 7. Election to Forfeit Annual Leave.

Regular employees suspended for not more than ten (10) working days may elect to forfeit annual leave for a period equal to the suspension, or to the extent of the employee's annual leave balance, subject to the approval of the Department Head. The election provided for herein, shall work a waiver of the employee's right to appeal the disciplinary action to the Commission, and the employee shall be so advised in plain English on a suitable form upon which the election shall be made, as developed by the Human Resources Director and appended to the notice of suspension. The Department Head shall not unreasonably withhold approval of the employee's election.

**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.

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## 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.

## RULE 19

### Departmental Rules

Section 1. Any Department Head shall have the right to promulgate rules and regulations regarding the operation of his department, and the conduct of the employee therein, subject to the consent and approval of the City Manager, provided that such rules do not conflict with the Civil Service Charter or the Rules promulgated thereunder.

Section 2. Large departments having various sub departments may, in their rules, have rules and regulations pertaining to said sub departments in addition to general rules and regulations regarding the department.

Section 3. Any Department Head may, as provided in the Charter, suspend, discharge or demote any employee for insubordination, for failure to comply with departmental rules and regulations, for failure to comply with the Rules of the Commission or for failure to obey any lawful order of a superior officer.

## 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 effect the lay-off.

b. In certifying the names of the employees to be laid off, in the case of a tie in the amount of seniority of regular, classified employees in the affected positions, the Human Resources Director will certify for lay-off the employees with the lowest regularly scheduled efficiency ratings based on an average of the last three rating periods. If a tie still exists, the Human Resources Director will certify for lay-off the employees with the most recent date of regular appointment to the current class. If a tie still exists, the

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Human Resources Director will certify for lay-off by using a system of drawing by lot. (Amended 9/8/87 and 6/3/97)

c. At least thirty calendar days prior to the actual lay-off date, the Human Resources Director will freeze the filling of all City vacancies in the same occupational group at or below the class grade of the affected employees. No such vacancy will be filled without first considering the eligibility of affected employees for the vacant positions. The Human Resources Director will attempt to place affected employees in such vacancies in accordance with Section 2 of this Rule within the thirty day period. This procedure will not affect vacancies which occur after the thirty days.

d. The Human Resources Director will counsel all affected employees to insure that all such employees are aware of their rights and obligations during the lay-off.

Section 2. Job Rights.

A regular employee who is to be removed from a position as the result of abolishment or lay-off, has the right, within the order of certification, to be appointed to a vacant position.

One opportunity to be appointed to a vacant position at or below the employee's class grade at the time of removal will be offered to each employee to be laid off in the order of the employee's seniority with the City. In the event of multiple lay-offs, the Human Resources Director will ensure that the most senior employees receive the greatest rights hereunder.

Any budgeted and authorized vacancy which exists in the Civil Service for which the person meets the minimum qualification requirements as set forth in the job classification that is at or below the current position held at the time of lay off will be evaluated for possible placement. The Human Resources director may order a qualifying examination be given to determine if the individual possesses all the minimum qualifications.

The refusal of an employee to accept an offer to fill a vacancy made under this section will result in the employee being laid off and placed on a reinstatement list.

If no vacancy exists in any of the above categories, the employee will have the right to displace a person in a position in a lower class in the same class series in which the employee is currently serving. If no such position exists, then the employee will have the right to displace a person in a class series in which the employee to be laid off has previously served. Displacement rights will be given to employees in order of their seniority. Persons who are displaced as a result of the above procedure shall then have the same right to displace persons serving in positions as outlined above. No person may be displaced in any action if the person holding the position has greater seniority than the employee claiming the right to displace.

If a person accepts a position, either through filling a vacancy or displacement, at a lower grade, the person, if otherwise qualified, may take promotional examinations for any class above the new grade in which he is now placed. No person who accepts appointment to a vacant position or displaces another person under this section shall be placed on a reinstatement list for the position from which the person was removed.

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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 in 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.

The Human Resources Department will counsel and advise employees and supervisors in utilizing this grievance procedure by interpreting City policies and procedures, lending objectivity to the process, preventing delays in the process, and resolving conflicts between employees and supervisors, if possible. Complaints concerning possible sexual harassment are to be investigated in accordance with the City's Sexual Harassment Policy. Complaints involving discrimination may be resolved under a separate grievance procedure available from the Human Resources Department.

Any written grievance shall contain a precise statement of the complaint, including any departmental or Civil Service Rule which is alleged to be violated, a statement of the facts and parties involved and the specific remedy which the employee is seeking.

Grievances shall proceed as follows:

- (1) The employee should discuss the problem with the immediate supervisor within ten working days of the incident giving rise to this grievance. The supervisor shall

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then gather all the facts, analyze the facts and make a decision. He should then notify the employee verbally, not later than five working days following the initial discussion, of the supervisor's decision.

(2) If the employee is dissatisfied with the supervisor's response, he should submit the grievance in writing on an appropriate form to be provided by the Human Resources Department within five working days to the next level supervisor. That supervisor will then review the grievance, have the immediate supervisor complete the immediate supervisor's statement, complete the next level supervisor's statement on the form, and notify the employee of his/her decision within five working days. The next level supervisor shall also return the completed form to the employee and send a copy of it to the Department Head.

(3) If the employee is still dissatisfied with the response to his grievance, he shall submit the grievance to the Department Head within ten working days. The Department Head or designated manager shall investigate the grievance and schedule a meeting with the employee within five working days to discuss the grievance. After the meeting, the Department Head has ten working days to notify the employee and the supervisor of his/her decision. The Department Head should complete the appropriate statement on the grievance form, return it to the employee and forward a copy to the Human Resources Department.

(4) If the employee is still dissatisfied with the Department Head's decision he should file the grievance form with the Human Resources Department within ten working days of receiving the decision from the Department Head. The Human Resources Director or assignee will then gather all facts, review policies and procedures, and meet with the employee and people in the department if necessary. The Human Resources Director shall ordinarily complete his/her findings and recommendations within thirty working days after the receipt of the grievance. If the recommendation cannot be completed within the thirty days, the Human Resources Director may notify the grievant in writing of an extension of fifteen working days. The Human Resources Director will then communicate findings and recommendations on the grievance, by completing the form and returning it to the employee, and forwarding a copy to the Department Head.

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

This grievance procedure applies only to those employees who are not covered under collective bargaining agreements. Employees covered under such agreements shall use the grievance procedures specified by the terms of their contract. This grievance procedure is not in addition to the grievance procedure in the Collective Bargaining Agreements.

The time limits set forth herein are jurisdictional and may be extended by mutual agreement of the parties at any time. Failure by the grievant to comply with the prescribed time limits or the mutually agreed extensions, will result in denial of further processing of the grievance. Failure by management to comply with its prescribed time limits or the mutually agreed extensions will allow the grievant to avail himself/herself of the next higher level in the process.

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## 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.

#### 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 Fire, Police, Sun Metro 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.

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, or if there is a change in the status of the employee's drivers 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.

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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.

Section 2. Responsibility.

The Human Resources Director shall develop and maintain an Affirmative Action Plan subject to review by the Civil Service Commission. Annual labor market and workforce analyses and evaluation shall be made by the Human Resources Department.

**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.

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Section 2. Maximum Allowable Hours; Conditions Disqualifying Applicants.

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

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

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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.

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.

- a. No classified employee may be worked out of their normal classification except in conformity with this Rule. Employees may be worked out of class for such limited periods of time, not to exceed one year.
- b. Employees may be worked out of classification for any of the following reasons or purposes: (1) to work in a position because it is vacant or because the incumbent is on

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leave or for which a department has a temporary need, (2) for developmental assignment, or (3) because of a catastrophic event.

c. With the agreement of the employee, a Department Head may work the employee out of class for developmental assignments. In order to be considered for developmental assignment, an employee must have received an overall rating of "exceeds standards" on their last two scheduled performance evaluation reports and may not have been previously granted the same developmental assignment.

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

#### Section 2. Approval Process by Department Head.

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

#### Section 3. Compensation and Credit.

Except as otherwise provided in this Rule, an employee will be credited for each day of out-of-classification work for the purpose of calculating experience toward the minimum qualifications for a promotional examination related to the position. At the end of each calendar month, any employee who does not have a pending or approved working out of class application and who has performed one or more days of out-of-classification work during that month shall, before the 10th day of the following month, fill out a request to receive credit for such work and submit the request to their Department Head. If the Department Head fails to act upon the request within 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.

#### Section 4. Supervisory Duties.

Provided that there is no employee within the same department eligible for promotion or temporary promotion under the provisions of Rule 11, Sec. 10, an employee may be

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assigned temporary supervisory duties pursuant to a developmental assignment as provided in Sec. 1 of this Rule, otherwise, an employee may not be required to perform supervisory duties not contained within the job description he was working before being worked out of class.

Section 5. Appeals.

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

Section 6. Applicability.

This Rule becomes effective upon its adoption. Thereupon, a 60-calendar day grace period will exist to allow employees or Department Heads to submit retroactive requests for credit for work performed out of class during the preceding twenty-four months. Requests must be approved or denied by the Department Head not later than the 90th day after the effective date of this Rule.

Section 7. Definitions.

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

- (1) Working Out of Class- The temporary assignment of an employee to daily perform duties of a significant and distinct nature allocated to a higher graded job class other than work performed in response to a catastrophic event or as defined in Section 2.2c of the Classification and Compensation Ordinance 8064.
- (2) Days- Unless the context requires otherwise, days that an employee actually works.
- (3) Department Head- The department director or appointing authority.
- (4) Catastrophic Event- The occurrence of a sudden emergency or other incident affecting public health, safety or welfare in the City which necessitates the immediate use or mobilization of a large number of employees to respond to and deal with the incident.

(Signatures on following page)

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PASSED AND APPROVED this \_\_\_\_\_ day of August, 2007

**THE CITY OF EL PASO**

\_\_\_\_\_  
John F. Cook  
Mayor

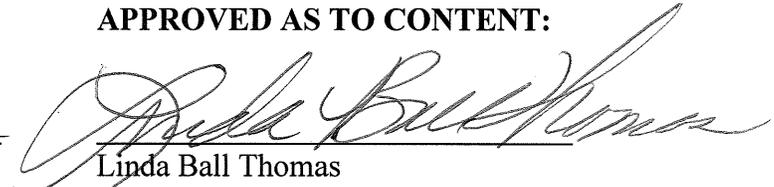
**ATTEST:**

\_\_\_\_\_  
Richarda Duffy Momsen  
Municipal Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Elaine S. Hengen  
Senior Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Linda Ball Thomas  
Human Resources Director

APPROVED BY THE CIVIL SERVICE COMMISSION ON JULY 12, 2007

By:   
\_\_\_\_\_  
Secretary

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## CIVIL SERVICE RULES

### 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)

##### 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.

### 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)

### 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. (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.

#### 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 5c 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. (Amended 5/31/05 and 07/11/06)

#### 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 affected 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. (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 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. (Amended 7/11/06)

Rule 2

Definitions and Rules of Construction

A. Definitions

1. “**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.

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

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

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

6. “**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 act 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.

7. “**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 13.

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

9. “**Serious Health Condition**”: An illness, injury, impairment, or physical or mental condition that involves: (A) in-patient care in a hospital, hospice, or residential medical care facility, or (B) continuing treatment by a health care provider.

#### B. Rules of Construction

1. “**Gender**”: The masculine gender shall include the feminine and the neuter.

2. “**Headings and Subheadings**”: The headings and subheadings in the Rules are for convenience in searching only, and are not intended to limit or expand the text. (Aded 7/31/07)

Rule 3  
(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. (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.
- 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 , 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. (Amended 07/11/06)

#### 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 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. , 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.  
(Amended 07/11/06)

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. (Amended 12/18/84, 2/1/94, and 11/1/94, 9/13/05)

(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 pay, salary advancement shall be five percent (5%) higher than the pay rate prior to entry or promotion. (Amended 3/22/88, 12/19/89, 9/17/91, 2/1/94 and 11/1/94)

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

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

e. An annual competency increase may be added to employee's current pay rate provided that it does not result in a salary which exceeds the maximum of the applicable pay range. 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. (Amended 9/13/05)

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. (Amended 9/15/92, 2/1/94, and 8/31/04, 9/13/05)

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. (Amended 9/15/92 and 2/1/94, 9/13/05)

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. 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. (Amended 9/15/92, 9/21/93, 2/1/94, 9/13/05)

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. (Added 7/5/94, Amended 9/13/05).

#### 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.

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 (s)he has been performing similar work in the former department. (Amended 2/1/94)

#### 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. (Amended 6/5/90, 3/17/92, and 8/31/04)

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. (Amended 2/1/94, 8/31/04, 9/13/05)

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. (Section 4 passed 12/18/84)

#### 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. (Amended 2/1/94)

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

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 recommended by Civil Service Commission and approved by City Council.

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. (Passed 9/6/88 and 2/1/94)

#### 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. (Passed 1/2/85, Amended 9/13/05)

## 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:

- a. Has been convicted of a felony, or a misdemeanor involving moral turpitude; or
- b. Has willfully, wantonly, or through culpable negligence been guilty of brutality or cruelty to an inmate or prisoner of a city institution or to a person in custody, provided the act committed was not necessarily or lawfully done in self defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody; or
- c. Has been under the influence of intoxicants or drugs or the use thereof while on duty; or
- d. Has contracted a disease or has some physical or mental ailment or defect which makes him 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); (Amended 11/13/84)
- e. Is wantonly offensive in his or her conduct or language towards the public, the head of any department, or his or her fellow employees; or
- f. Is consistently inefficient in the performance of the duties of his or her position so that his or her general average of efficiency is below the minimum standards established, and the facts on which such general average is based are true and justify such average; or
- g. Is negligent in the care or the intentional misuse of City property; or
- h. Has an unexcused absence from duty for a period of three or more successive days; or
- i. Has used or threatened to use or attempted to use personal or political influence in securing promotion, leave of absence, transfer, change of grade, pay, or character of work; or
- j. Has induced, or has attempted to induce an officer or employee in the service of the City to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order; or has taken any fee, gift, or other valuable thing in the course of his or her work or

in connection with it, for his or her personal use from any person, when such fee, gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than accorded other persons; or

k. Has induced or attempted to induce any person, firm or corporation doing business with the City to give employment to any relative of the City officer or employee, or has induced or attempted to induce any such person, firm or corporation to show any material favor or consideration of any kind to the City officer or employee or any relative of the City officer or employee, when the officer or employee holds a position in a department having direct contact with such person, firm or corporation; or

l. After the date of the adoption of these Rules, engaging in the following political activity is prohibited and the employee will be subject to disciplinary action for the following conduct:

- (1) actively engaging in the management or organizational committee of any municipal campaign;
- (2) acting as a worker at the polls in a municipal election;
- (3) participating in the solicitation of money in a municipal election;
- (4) contributing money or other valuables for any political purpose in connection with municipal elections;
- (5) while on duty, engaging in the distribution of any political material;
- (6) while on duty, promoting or engaging in the candidacy of any candidate or political party during any election period, whether it be a partisan or municipal election;
- (7) using city time or resources for any political purpose;
- (8) while wearing a city uniform, engaging in any political activity;
- (9) attempting to influence the vote or political action of any city employee whether superior or subordinate, while on duty;
- (10) attempting to influence, through threat or coercion, the vote or political action of any city employee whether superior or subordinate, while on or off duty;
- (11) recruiting or encouraging other city employees to support or participate in municipal elections;
- (12) seeking political office without first resigning as provide in Rule 17;
- (13) accepting political paraphernalia while on duty or on city property;
- (14) using your city title or position in an endorsement for any political election.

Anything not prohibited above is permitted, to include the following:

- (1) engaging in the organizational efforts of partisan elections;
- (2) participating in partisan election steering committees;
- (3) demonstrating their political preference in partisan or municipal elections by

displaying political paraphernalia representative of their political preference, so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his or her city position or title;

(4) participating in the dialogue of community forums in any election;

(5) endorsing the candidate of their choice in any elections so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his or her city position or title;

(6) participating in all matters related to their candidate's election in partisan elections;

(7) joining political clubs and organizations;

(8) participating in all partisan activities related to the election process.

(Amended 05/07/02)

m. Violates the City's Ethics Ordinance; or

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

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

p. For just cause.

### Section 2. Disciplinary Notice.

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a regular employee, other than at the end of a probationary period, will not become effective until the Department Head has first served upon such employee a written notice of discipline. The notice must contain one or more statutory reasons or grounds for discipline, together with such specifications of fact as will enable the employee to make an explanation and place him 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. (Amended 06/24/03.)

### Section 3. Notice of Proposed Disciplinary Action, Procedure and Limitation of Action.

a. When disciplinary action in the nature of a five (5) day suspension or greater, a reduction, or discharge is being contemplated by the Department Head, the employee must be served with a notice of proposed disciplinary action which shall conform with the notice requirements set forth in Section 2 of this Rule. In addition to the notice of proposed disciplinary action, the employee shall be furnished with the written materials and tangible things in the possession of the Department Head that form the factual and evidentiary basis

for the proposed disciplinary action. No matter may be withheld from the employee that is inconsistent with the theory of discipline or that could tend to mitigate the contemplated sanction. Within ten (10) days of receipt of the notice of proposed disciplinary action, the employee may request a conference with the Department Head. Within five (5) working days of receipt of the employee's response, the Department Head shall meet with the employee, provided further that this period may be extended with the mutual consent of the Department Head and the employee. No witnesses may be called to testify as part of the employee's explanation or response. During the conference, the employee, their representative, and the Department Head shall engage in discussions with a view toward reaching a consensus and agreement relative to the proposed disciplinary action. No part of the discussions that take place during the conference may be offered into evidence at any subsequent hearing, except for the limited purpose of determining compliance or non-compliance with the provisions of this Rule as provided in paragraph "e" and for impeachment purposes. In the event such a consensus is reached, the execution by the employee of documents finalizing the settlement agreement shall constitute a waiver of the employee's right to appeal to the Commission, and the employee shall be so advised in plain language. (Amended 09/09/03 and 01/06/04)

b. Respecting discharge, those departments currently using a pre-termination hearing shall not be required to have a conference as contemplated hereinabove provided that the time between notification and hearing shall be at least 5 days and further provided that there shall be no change to current practices regarding violations of applicable federal laws. (Amended 09/09/03 and 01/06/04)

c. The employee is entitled to have a representative of their choice assist them in the preparation and presentation of their response, provided further that in the event the representative is an employee of the City, he shall use vacation leave or personal days for such time as may be required for the representative to attend the conference. If the employee does not have any accrued vacation or personal days, the employee will be placed on unpaid administrative leave for such time as may be required for the representative to attend the conference. The employee must provide his/her Department Head with two days notice of the request to take the above leave. The Department Head may disapprove the request if the leave significantly interferes with the operational needs of the department. (Amended 09/09/03 and 01/06/04)

d. Disciplinary action must be taken against an employee within 60 days after the occurrence of the incident giving rise to the discipline or from the date that the Department Head knew or should have known that disciplinary action is appropriate, whichever is later, provided however that this period of limitation shall be tolled if an investigation is being conducted by a law enforcement authority into criminal charges against the employee arising out of the same incident. Once a Department Head receives notice from the employee that charges have been preferred, through an indictment or information, or that the criminal investigation has been concluded without the preferral of charges, then the time period will resume running. (Amended 09/09/03 and 01/06/04)

e. Any issue of non-compliance with these provisions will be considered by the hearing officer and/or Commission upon the appeal of the disciplinary action. (Amended 01/06/04)

f. In computing any time periods set forth in this Rule, Saturdays, Sundays, and City Holidays shall not be included. (Amended 01/06/04)

g. Nothing in this Rule shall prevent suspension of the employee from service without pay in appropriate circumstances. (Amended 01/06/04)

h. A copy of this Rule shall be attached to each notice of proposed disciplinary action.

(Passed 1/6/04)

#### Section 4. Resignation Before Appeal Decision.

The acceptance by Department Head of the resignation of a person discharged before final action on the part of the Commission will be considered a withdrawal of the charges and the separation of the employee concerned will be recorded as a resignation and the preceding will be dismissed without judgment.

#### Section 5. Disqualification for Reappointment.

Any employee who is dismissed for cause or who resigns while not in good standing will be disqualified from taking a Civil Service examination for two years thereafter. His or her name will be removed from all eligible lists, unless, in the judgment of the Commission the cause of his or her dismissal or resignation under charges will not affect the possibility of his or her usefulness in some other position.

#### Section 6. Non-Certification of Suspended Persons.

The names of persons suspended will not be certified from eligible lists during the period of suspension.

#### Section 7. Election to Forfeit Annual Leave.

Regular employees suspended for not more than ten (10) working days may elect to forfeit annual leave for a period equal to the suspension, or to the extent of the employee's annual leave balance, subject to the approval of the Department Head. The election provided for herein, shall work a waiver of the employee's right to appeal the disciplinary action to the Commission, and the employee shall be so advised in plain English on a suitable form upon which the election shall be made, as developed by the Human Resources Director and appended to the notice of suspension. The Department Head shall not unreasonably withhold approval of the employee's election. (Added 05/11/04)

## 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. (Amended 05/07/02)

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.

## RULE 19

### Departmental Rules

Section 1. Any Department Head shall have the right to promulgate rules and regulations regarding the operation of his department, and the conduct of the employee therein, subject to the consent and approval of the City Manager, provided that such rules do not conflict with the Civil Service Charter or the Rules promulgated thereunder. (Amended 07/11/06)

Section 2. Large departments having various sub departments may, in their rules, have rules and regulations pertaining to said sub departments in addition to general rules and regulations regarding the department.

Section 3. Any Department Head may, as provided in the Charter, suspend, discharge or demote any employee for insubordination, for failure to comply with departmental rules and regulations, for failure to comply with the Rules of the Commission or for failure to obey any lawful order of a superior officer. (Amended 07/11/06)

## 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 effect the lay-off.
- b. In certifying the names of the employees to be laid off, in the case of a tie in the amount of seniority of regular, classified employees in the affected positions, the Human Resources Director will certify for lay-off the employees with the lowest regularly scheduled efficiency ratings based on an average of the last three rating periods. If a tie still exists, the Human Resources Director will certify for lay-off the employees with the most recent date of regular appointment to the current class. If a tie still exists, the Human Resources Director will certify for lay-off by using a system of drawing by lot. (Amended 9/8/87 and 6/3/97)
- c. At least thirty calendar days prior to the actual lay-off date, the Human Resources Director will freeze the filling of all City vacancies in the same occupational group at or below the class grade of the affected employees. No such vacancy will be filled without first considering the eligibility of affected employees for the vacant positions. The Human Resources Director will attempt to place affected employees in such vacancies in accordance with Section 2 of this Rule within the thirty day period. This procedure will not affect vacancies which occur after the thirty days.
- d. The Human Resources Director will counsel all affected employees to insure that all such employees are aware of their rights and obligations during the lay-off.

#### Section 2. Job Rights.

A regular employee who is to be removed from a position as the result of abolishment or lay-off, has the right, within the order of certification, to be appointed to a vacant position.

One opportunity to be appointed to a vacant position at or below the employee's class grade at the time of removal will be offered to each employee to be laid off in the order of the employee's seniority with the City. In the event of multiple lay-offs, the Human Resources Director will ensure that the most senior employees receive the greatest rights hereunder.

Any budgeted and authorized vacancy which exists in the Civil Service for which the person meets the minimum qualification requirements as set forth in the job classification that is at or below the current position held at the time of lay off will be evaluated for possible placement. The Human Resources director may order a qualifying examination be given to determine if the individual possesses all the minimum qualifications.

The refusal of an employee to accept an offer to fill a vacancy made under this section will result in the employee being laid off and placed on a reinstatement list.

If no vacancy exists in any of the above categories, the employee will have the right to

displace a person in a position in a lower class in the same class series in which the employee is currently serving. If no such position exists, then the employee will have the right to displace a person in a class series in which the employee to be laid off has previously served.

Displacement rights will be given to employees in order of their seniority. Persons who are displaced as a result of the above procedure shall then have the same right to displace persons serving in positions as outlined above. No person may be displaced in any action if the person holding the position has greater seniority than the employee claiming the right to displace.

If a person accepts a position, either through filling a vacancy or displacement, at a lower grade, the person, if otherwise qualified, may take promotional examinations for any class above the new grade in which he is now placed. No person who accepts appointment to a vacant position or displaces another person under this section shall be placed on a reinstatement list for the position from which the person was removed.

### Section 3. Reinstatement From Lay-Off.

Individuals on reinstatement lists as a result of a lay-off who are interested in reinstatement to a specific position in any City department must notify the Human Resources Director in writing of such interest. If the Human Resources Director has already certified the names to a vacancy when such notification arrives, that certification will not be canceled, but the individual will be contacted prior to certifying names for future vacancies in which the individual has expressed in 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. (Amended 8/3/04)

## 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. (Passed 9/8/87 and Amended 8/3104)

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.

The Human Resources Department will counsel and advise employees and supervisors in utilizing this grievance procedure by interpreting City policies and procedures, lending objectivity to the process, preventing delays in the process, and resolving conflicts between employees and supervisors, if possible. Complaints concerning possible sexual harassment are to be investigated in accordance with the City's Sexual Harassment Policy. Complaints involving discrimination may be resolved under a separate grievance procedure available from the Human Resources Department.

Any written grievance shall contain a precise statement of the complaint, including any departmental or Civil Service Rule which is alleged to be violated, a statement of the facts and parties involved and the specific remedy which the employee is seeking.

Grievances shall proceed as follows:

- (1) The employee should discuss the problem with the immediate supervisor within ten working days of the incident giving rise to this grievance. The supervisor shall then gather all the facts, analyze the facts and make a decision. He should then notify the employee verbally, not later than five working days following the initial discussion, of the supervisor's decision.
- (2) If the employee is dissatisfied with the supervisor's response, he should submit the grievance in writing on an appropriate form to be provided by the Human Resources Department within five working days to the next level supervisor. That supervisor will then review the grievance, have the immediate supervisor complete the immediate supervisor's statement, complete the next level supervisor's statement on the form, and notify the employee of his/her decision within five working days. The next level supervisor shall also return the completed form to the employee and send a copy of it to the Department Head.
- (3) If the employee is still dissatisfied with the response to his grievance, he shall submit the grievance to the Department Head within ten working days. The Department Head or designated manager shall investigate the grievance and schedule a meeting with the employee within five working days to discuss the grievance. After the meeting, the Department Head has ten working days to notify the employee and the supervisor of his/her decision. The Department Head should complete the appropriate statement on the grievance form, return it to the employee and forward a copy to the Human Resources Department.
- (4) If the employee is still dissatisfied with the Department Head's decision he should file the grievance form with the Human Resources Department within ten working days of receiving the decision from the Department Head. The Human Resources

Director or assignee will then gather all facts, review policies and procedures, and meet with the employee and people in the department if necessary. The Human Resources Director shall ordinarily complete his/her findings and recommendations within thirty working days after the receipt of the grievance. If the recommendation cannot be completed within the thirty days, the Human Resources Director may notify the grievant in writing of an extension of fifteen working days. The Human Resources Director will then communicate findings and recommendations on the grievance, by completing the form and returning it to the employee, and forwarding a copy to the Department Head.

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

This grievance procedure applies only to those employees who are not covered under collective bargaining agreements. Employees covered under such agreements shall use the grievance procedures specified by the terms of their contract. This grievance procedure is not in addition to the grievance procedure in the Collective Bargaining Agreements.

The time limits set forth herein are jurisdictional and may be extended by mutual agreement of the parties at any time. Failure by the grievant to comply with the prescribed time limits or the mutually agreed extensions, will result in denial of further processing of the grievance. Failure by management to comply with its prescribed time limits or the mutually agreed extensions will allow the grievant to avail himself/herself of the next higher level in the process.

(Passed 02/23/88 and amended 01/9/96)

## 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.

#### 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 Fire, Police, Sun Metro 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)

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, or if there is a change in the status of the employee's drivers 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 and 05/26/92)

## 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.

#### Section 2. Responsibility.

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

## 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.  
(Added 11/19/96)

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. (Amended 9/27/05)

Section 2. Maximum Allowable Hours; Conditions Disqualifying Applicants.

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

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

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. (Amended 9/27/05)

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)

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. (Amended 9/27/05)

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. (Amended 9/27/05)

## RULE 30

### Working Out of Class

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

- a. No classified employee may be worked out of their normal classification except in conformity with this Rule. Employees may be worked out of class for such limited periods of time, not to exceed one year.
- b. Employees may be worked out of classification for any of the following reasons or purposes: (1) to work in a position because it is vacant or because the incumbent is on leave or for which a department has a temporary need, (2) for developmental assignment, or (3) because of a catastrophic event.
- c. With the agreement of the employee, a Department Head may work the employee out of class for developmental assignments. In order to be considered for developmental assignment, an employee must have received an overall rating of “exceeds standards” on their last two scheduled performance evaluation reports and may not have been previously granted the same developmental assignment.
- d. Employees may be worked out of class by the City Manager during the course of a catastrophic event or a period of recovery following the occurrence of such an event. In these circumstances, employees required to work out of class shall not be eligible to receive additional compensation or credit as would otherwise be extended under this Rule.

#### Section 2. Approval Process by Department Head.

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

#### 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 10<sup>th</sup> day of the following month, fill out a request to receive credit for such work and submit the request to their Department Head. If the Department Head fails to act upon the request within 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.

#### Section 4. Supervisory Duties.

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

#### Section 5. Appeals.

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

#### Section 6. Applicability.

This Rule becomes effective upon its adoption. Thereupon, a 60-calendar day grace period will exist to allow employees or Department Heads to submit retroactive requests for credit for work performed out of class during the preceding twenty-four months. Requests must be approved or denied by the Department Head not later than the 90<sup>th</sup> day after the effective date of this Rule.

#### Section 7. Definitions.

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

- (1) Working Out of Class- The temporary assignment of an employee to daily perform duties of a significant and distinct nature allocated to a higher graded job class other than work performed in response to a catastrophic event or as defined in Section 2.2c of the Classification and Compensation Ordinance 8064.
- (2) Days- Unless the context requires otherwise, days that an employee actually works.
- (3) Department Head- The department director or appointing authority.
- (4) Catastrophic Event- The occurrence of a sudden emergency or other incident

affecting public health, safety or welfare in the City which necessitates the immediate use or mobilization of a large number of employees to respond to and deal with the incident. (Added 8/23/05)