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

DEPARTMENT: **Human Resources**

AGENDA DATE: **Introduction: 08/20/2013**
Public Hearing: 08/27/2013

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

DISTRICT(S) AFFECTED: **City Wide**

SUBJECT: **AN ORDINANCE AMENDING ORDINANCE 8064 (CLASSIFICATION AND COMPENSATION PLAN), TO AMEND THE ORDINANCE TO COMPORT WITH THE RECENT AMENDMENTS TO THE CHARTER OF THE CITY OF EL PASO, TEXAS, AND TO MAKE OTHER NON-SUBSTANTIVE REVISIONS TO VARIOUS SECTIONS OF THE ORDINANCE.**

APPROVE:

BACKGROUND / DISCUSSION:

Upon approval, the amendments will update Ordinance 8064 (Classification and Compensation Plan)

PRIOR COUNCIL ACTION:

Ordinance 8064 was last amended by City Council on March 6, 2012

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

LEGAL: (if required) _____ **FINANCE:** (if required) _____

OTHER: _____

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

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 8064 (CLASSIFICATION AND COMPENSATION PLAN), TO AMEND THE ORDINANCE TO COMPORT WITH THE RECENT AMENDMENTS TO THE CHARTER OF THE CITY OF EL PASO, TEXAS, AND TO MAKE OTHER NON-SUBSTANTIVE REVISIONS TO VARIOUS SECTIONS OF THE ORDINANCE.

WHEREAS, on May 11, 2013 a special election was held for the purpose of determining whether certain amendments to the El Paso City Charter (the "Charter") should be adopted, and at which special election many of the proposed Charter amendments passed; and

WHEREAS, it is now necessary and appropriate to make amendments to Ordinance 8064, Classification and Compensation Plan, to accurately comport with and conform to the recent Charter amendments addressing classification and compensation; and

WHEREAS, in addition to the ordinance revisions necessary to conform to the recent Charter amendments, the Human Resources Director recommends further amendments to Ordinance 8064 to clarify and correlate various sections of the ordinance with recommended amendments to Ordinance 8065 (Civil Service Rules and Regulations), for example, transferring the content of Civil Service Rule 3 (Compensation) into the compensation section of Ordinance 8064; and

WHEREAS, it is appropriate at this time to make additional non-substantive revisions and to correct clerical errors to various sections of the ordinance; for example, correction of the inconsistent use of certain terms (for instance, "job classification specifications" and "class specifications"), and to correct and clarify references to benefits that are governed by employment laws, and are addressed in City policies and rules outside of the ordinance (for instance, maternity and parental leaves of absence are governed by the Family Medical Leave Act and the City's corresponding rules and policies); and

WHEREAS, section 6.4-1 of the Charter provides that the Human Resources Director shall update as necessary the classification and compensation plans and present the plans to the City Council for acceptance and approval.

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

1. That Ordinance 8064, Civil Service Rules and Regulations, is amended as follows:

Section 2. CLASSIFICATION PLAN

The Classification Plan in use by the City when this ordinance is adopted shall be the official Classification Plan of the City of El Paso.

The Classification Plan consists of three basic parts, as follows:

1. A listing of established classifications. (Amended 2/24/09, 3/6/12)

2. A system that maintains all classifications in the Plan, so that each classification can be suitably identified. (Amended 3/6/12)

3. Policies and procedures for keeping the classification Plan up-to-date. (Amended 3/6/12)

2.1 ALPHABETICAL LISTING OF CLASSES

The alphabetical listing of job classes in use shall be maintained on the City's website and updated by the Human Resources Director or designee. The official listing of established job classifications titled Ordinance 8064 Appendix "A" will include their corresponding codes and grades of the job classifications included in the classification Plan. (Amended 11/15/05, 08/28/07, 02/24/09, 3/6/12)

2.2 ADOPTION OF JOB CLASS SPECIFICATIONS

The job specifications describing the typical duties and defining the minimum requirements for all positions in the classified service currently adopted and in use by the City are hereby adopted. (Amended 2/24/09)

A) The title of each job classification specification shall be the official classification designation to which positions are allocated. (Amended 2/24/09)

B) Each job classification specification will include a general purpose statement that has a definition of the distinguishing characteristics of each classification in the Plan. It shall indicate and be construed as setting forth in general terms only the scope of responsibility or responsibilities delegated, the inherent kind or kinds of work to be performed by employees in the job classification, as well as the type of supervision received, if any, and the extent of authority exercised over others, if any. (Amended 2/24/09)

C) The job classification specifications shall describe typical duties that may be assigned. The duties listed are to be construed as setting forth examples representative of specific duties and tasks usually and customarily performed by employees in the classification of positions that involve the competent application of the normally required knowledge, abilities and skills. It is not to be assumed that each example listed will be performed by all employees within the job classification nor that any one employee therein will perform only the examples listed. The example of duties are illustrative only with respect to the class of positions as a whole and do not prescribe the duties of any employee holding a position therein. Department Heads shall have the right to assign employees to duties not

included in the list of duties performed, provided such duties are similar in nature to those described, and utilize knowledge, abilities and skills of comparable scope or level to those required. In addition, Department Heads shall also have the right to assign employees to common miscellaneous duties not explicitly described when necessary for such organizational effectiveness and efficiency purposes as sustaining and balancing work flow, and developing employee capabilities. These general incidental assignments do not exceed the bounds of the job classification to which the incumbent's position has been allocated. (Amended 02/24/09)

They include, but are not limited to the following examples:

- Temporarily substitute on designated aspects of work of absent employees as qualified.
- Impart functional knowledge to less experienced employees.
- Participate in special projects or represent the organization on ad hoc committees.
- Engage in selected responsibilities of other positions under closer than normal supervision for training purposes.
- Record and report status and results of activities.
- Maintain workplace, tools, equipment and materials in clean, orderly, safe and operable conditions.

D) The minimum qualifications section of job specifications shall be the basis for the admission or rejection of applicants to examinations for the respective job classes in the Plan. (Amended 02/24/09)

E) Additions, deletions, and revisions of job specifications that do not affect the arrangement or rearrangement of a position or office into a class, subdivision or grade shall be made by the recommendation of the Human Resources Director upon the authorization of the City Manager or his designee. The Human Resources Director shall provide an annual report of any changes to the City Council for notation as part of the annual budget resolution.

F) Additions, deletions or revisions of job specifications that do affect the arrangement or rearrangement of a position or office into a class, subdivision or grade shall be made upon the recommendation of the City Manager or the Human Resources Director by amendments made through resolution, upon approval by City Council. (Passed 04/06/04, Amended 03/15/05, 02/24/09, 3/6/12)

2.3 ALLOCATION OF POSITIONS TO JOB CLASSES

Each position in classified service shall be evaluated and properly allocated in the classification plan by the Human Resources Department. Reclassifications shall be made by the recommendation of the Human Resources Director upon the authorization of the City Manager or his designee. (Amended 11/15/05, 08/28/07, 02/24/09, 3/6/12)

2.4 STAFFING TABLE CHANGES

Requests for additions or deletions of positions within departments shall be submitted to the Human Resources Department. The Human Resources Department, after review of the request in cooperation with the Office of Management and Budget, will submit a recommendation to City Manager or his designee who will make the final determination on the request. Any changes will be recorded in the Human Resources Department in a position control summary listing of all City departments. The Human Resources Department will ensure additions are properly allocated prior to appointment.(Amended 11/15/05 and 02/24/09)

2.5 MAINTENANCE OF THE CLASSIFICATION PLAN

The Human Resources Department shall be responsible for the administration and maintenance of the Classification Plan. (Amended 11/15/05)

Section 3. COMPENSATION PLAN

The Compensation Plan consists of the Salary Schedules for General Services, Professional/Managerial, Executive and other positions in the classified service not covered by a collective bargaining agreement. (Amended 08/30/88 and 11/15/05)

The Compensation Plan shall provide pay ranges according to varying levels of responsibilities and duties that enable the City to recruit and retain an effective workforce. It shall establish the value of jobs to the City organization and identify levels of compensation, including the minimums and maximums of the pay structure. Analyses of available wage and survey data shall be used to determine the competitiveness of the City's Compensation Plan in the labor market. Based on these analyses the Human Resources Department will recommend pay schedule adjustments to the City Manager for review and recommendation to City Council. (Amended 11/15/05 and 02/24/09)

3.1 SALARY SCHEDULE

The Human Resources Director or his designee shall create and maintain a document titled Ordinance 8064 Appendix "B" (Salary Schedule) containing the listing of salary range minimums, midpoints and maximums as adopted or established. The Human Resources Director shall maintain an updated Appendix "B" following any pay range adjustments. (Amended 04/30/96, 11/15/05, 08/28/07 and 02/24/09)

A) The base salaries or rate of pay prescribed in this section are determined on the basis of full-time employment (40 hours per week). A regular workweek schedule of less than the number of hours of full-time employment shall be considered as part-time employment and the compensation, therefore, shall be for the actual number of hours worked at the hourly rate prescribed for the job class. (Amended 11/15/05)

B) The salaries or rates of pay prescribed in this section shall be deemed to include pay for regular full-time service in every form, except pay for the use of personally owned equipment which is required to be furnished by the employee or for reimbursement of necessary expenses authorized and incurred incident to employment. (Amended 11/15/05)

3.2. PROCEDURES FOR ADVANCEMENT WITHIN PAY GRADE

A) Each pay grade has a minimum and maximum pay rate. Employees normally start at the minimum pay rate of the pay grade, except as follows:(Amended 09/15/92, 02/01/94, 11/15/05, 02/24/09, 3/6/12)

(1) Persons already in the service of the City shall have their salary set as follows:

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.

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.

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

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

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

B) The wages and salaries of all persons in the Civil Service will be reduced by the same percentage whenever the budget set by the Council for all wages and salaries is less than that normally required by the classification and compensation plans. Reductions in wages and salaries, that are required due to economic conditions, will be made as determined by the City Manager, in accordance with Section 6.4-1 of the Charter. 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. (Amended 3/22/88, 09/17/91, 02/01/94, 11/15/05, 3/6/12)

3.3 ADMINISTRATION AND MAINTENANCE OF COMPENSATION PLAN

The Human Resources Director shall be responsible for the administration and maintenance of the Compensation Plan. The Plan will include, but shall not be limited to: the classification and allocation of positions, the processing of salary advances, the determination of starting rates and initiation of necessary revisions of any salary schedules as adopted by City Council on the basis of changes in the relative value of duties and requirements of classes, changes in the prevailing salaries and cost of living, and any other factors that may be properly considered to have a bearing on the fairness and adequacy of the salary schedules. (Amended 11/15/05 and 02/24/09)

A) The Human Resources Director shall make a salary survey as requested by the City Manager. (Amended 11/15/05)

3.4 APPLICABLE SALARY RATE UNDER FOLLOWING CONDITIONS:

The following directions are to be observed in fixing the compensation of incumbents of positions under the following conditions:

A) Reinstatement from Layoff. When an employee is reinstated to duty in the same classification after separation from the City due to layoff, such employee shall be reinstated to the same pay rate received at the time of separation adjusted for any general increases, if applicable. (Passed 01/25/94, Amended 02/01/94)

B) Reinstatement from Resignation. When an employee is reinstated to duty in the same classification after separation from the City due to resignation and subsequent reinstatement, such employee shall be reinstated at the entry-level pay rate of the

classification or at a rate of pay as may be otherwise recommended by the Human Resources Director and authorized by the City Manager or his designee. (Passed 01/25/94, Amended 02/01/94 and 08/28/07)

C) Promotion. When an employee is promoted from one class to a higher class, such employee shall receive a salary increase as provided in this Ordinance.. (Amended 12/19/89, 09/15/92 and 02/24/09)

D) Reclassifications to Higher Classifications. If an employee remains in a position which has been upgraded or reclassified to a higher graded class, the employee's rate of pay will remain the same unless such rate falls below the minimum of the new pay range. (Amended 09/17/91, 02/24/09, 11/2/10, 3/6/12)

E) Downgrades and Reclassifications to Lower Classifications. If an employee's rate of pay falls within the new pay range assigned to a position that has been reclassified or downgraded, the employee's salary will be maintained within the new pay range. If the employee's rate of pay is above the highest rate for the new pay range, the employee's salary will be reduced to the maximum pay rate for the job classification to which they are assigned. (Amended 09/17/91, 11/15/05 and 02/24/09)

F) Demotion or Reassignment to Lower Grade.

1. Non-disciplinary: If an employee is demoted for non-disciplinary reasons, or reassigned to a lower grade and his rate of pay at the time of demotion is within the new pay range, the employee's salary may be maintained within the new pay range. If the employee's rate of pay is above the new pay range, the employee's rate of pay will be reduced to the maximum pay rate for the job classification to which demoted or assigned. (Passed 01/25/94) (Amended 02/01/94, 11/15/05, 02/24/09, 8/25/09, 3/6/12)

2. Disciplinary: If an employee is demoted for disciplinary reasons, he shall have his salary reduced to a pay rate in the new pay range that is 5% below the rate of pay at the time of demotion provided that the rate of pay is not greater than the maximum pay rate for the classification to which demoted. (Passed 01/25/94, Amended 02/01/94 and 02/24/09)

G) Lateral Transfer or Reclassification to Same Grade. Whenever an employee receives a lateral transfer from one position to a different position with the same pay range, the employee shall continue to receive the same rate of pay as prior to the transfer. (Amended 02/24/09)

H. Competitive Selection for Lateral or Below. If an employee competes for and is selected for a position in the same or lower pay grade as the position he currently holds, the employee's new pay rate will be determined as follows: (Passed 11/15/05 and Amended 02/24/09, 3/6/12)

1. Persons whose rate of pay falls within the assigned pay range of the new position will receive no adjustment in pay. (Amended 02/24/09)

2. Persons whose rate of pay exceeds the assigned pay range of the new position will be reduced to the maximum pay rate within the new range. The pay reduction will be immediate upon appointment to the new position. (Amended 02/24/09)

3.5 COMPENSATION FROM DIFFERENT SOURCES

In any case in which part of the compensation for services, exclusive of overtime services, is paid either by another department or an outside agency such as the County, State or the Federal Government, any such payment shall be deducted from the employee concerned, to the end that the actual compensation paid to any employee from all sources combined, for any period, shall not exceed the amount payable at the rate prescribed for their class. (Amended 02/24/09)

3.6 LONGEVITY PAY

A) Each regular, full-time employee in the classified service, and each regular, full-time employee in the unclassified service who is federally grant funded, and each unclassified Department Head not receiving longevity pay under Section 141.032, Local Government Code, Vernon's Texas Codes Annotated, shall receive on the anniversary date of his original appointment to a regular, full-time position in the City service, an additional monthly sum equal to the amount provided for an employee entitled to receive monthly longevity pay under Section 141.032 cited above unless modified by Collective Bargaining agreement. (Amended 10/20/87, 12/30/91, 11/15/05 and 02/24/09)

B) Where a break in service occurs, other than for reasons of lay off or job abolishment due to reduction in force, longevity credits accrued prior to the break in service shall not be counted for the purpose of this Ordinance in case of subsequent reinstatement or appointment. (Amended 11/15/05)

C) Longevity payments made under this Ordinance will be made on a bi-weekly basis.

3.7 PAY FOR AUTHORIZED USE OF EMPLOYEE'S PERSONALLY OWNED VEHICLE/TOOLS

A) If an employee who does not receive an executive vehicle allowance is required in writing by the Department Head and authorized by the City Manager to use his personally owned automobile in the performance of duties of his position, payment for such use shall be on the basis of cents per mile. Payment shall be made at least monthly in accordance with reports and certifications required by Financial Services. A fixed amount may be paid monthly in lieu of the above mileage reimbursement with the approval of the City Manager or his designee. The rate of mileage reimbursement will be the Internal Revenue Service (IRS) standard mileage rate, unless otherwise established by a resolution approved by the City Council. (Amended 3/15/05, 11/15/05, 02/24/09, 3/6/12)

B) If an employee is required, in writing, by a Department Head to use his personally owned tools in the performance of the duties of his position, payment for the supplying of such tools shall be on the basis of quarterly tool allowances to be paid to the employee. Such allowance is to be used for the replacement of broken and damaged tools and for purchasing new tools to facilitate the performance of the employee's job. The Department Head may request receipts as proof that the employee actually purchased the tools. Any

change to the rate of the tool allowance to be paid quarterly will be established by a resolution approved by City Council once every year. (Passed 06/07/88, Amended 03/15/05, 02/24/09, 3/6/12)

3.8 PAYMENT OF MONIES DUE IN CASE OF DEATH

A) Any employee may, by written notice filed with the Human Resources Director, designate a person or persons to whom, in case of one's death, payment shall be made of any amounts due for services (including unused vacation credits). The employee may withdraw or change this designation without the consent of the person designated.

B) If no such designation is filed, and if no application has yet been made for the probate of a Will or for administration of the estate, such payment shall be made to the employee's spouse. If there be no spouse, the amount shall be paid to such of the children as are of lawful age. If there be no such children, the amount shall be paid to the executor or administrator of his estate upon application.

C) Any person receiving payment under Paragraph B of this section, shall sign an agreement to indemnify the City against all claims asserted by others by the making of such payments.

3.9 EXECUTIVE COMPENSATION PLAN

A) The Executive Compensation Plan shall include directors of all departments, assistant directors of all departments and all other executive level positions. (Amended 11/15/05 and 08/28/07)

B) Changes to salary schedules shall be made upon the recommendation of the City Manager or Human Resources Director by amendments made to Appendix "B" through resolution approved by City Council. (Amended 11/15/05)

C) The entry salary for any person covered under the Plan shall be determined by the City Manager but normally shall be no greater than the midpoint of the salary range for that job class; however, an applicant or employee may be hired or promoted up to the third quartile of the range when recommended by the Human Resources Director and authorized by the City Manager or his designee. (Passed 01/25/94, Amended 02/01/94, 3/15/05, 08/28/07, 02/24/09, 3/6/12)

D) Any increase in salary for those employees covered in the Executive Compensation Plan shall be in the percentage set in the budget resolution adopted by City Council for the fiscal year in which the increase is awarded.(Amended 09/15/92, 02/01/94, 11/15/05, 3/6/12)

E) Employees in the Executive Compensation Plan shall be evaluated annually on the employee's class entry anniversary date. (Amended 02/01/94 and 02/24/09)

F) All Department Heads, Assistant Department Heads, and Deputy Department Heads covered in the Executive Compensation Plan, shall not at any time receive a base salary less than the base salary received by any subordinate supervised or directed by such person. Salaries for such Department Heads, Assistant Department Heads, and Deputy

Department Heads shall be set at a minimum of 5% over the annual base salary of the subordinates supervised or directed by such person. (Amended 3/6/12)

3.10 PROFESSIONAL/MANAGERIAL PLAN

A) The Professional/Managerial Plan shall include classes within professional and managerial functions as set forth in Appendix "A". (Amended 11/15/05)

B) The salary schedules of the plan shall consist of salary levels, with minimum and maximum pay rates for each level, in accordance with Appendix "B" attached hereto and incorporated herein. Assignment of classes within the salary schedule shall be approved by City Council. (Amended 11/15/05)

C) The entry salary of any person covered under the plan shall normally be at the minimum of the salary range; however, an applicant or employee may be hired or promoted at a higher salary in accordance with this Ordinance or Human Resources Policies. (Amended 11/01/94, 02/24/09, 3/6/12)

D) Any increases in salary for those employees covered in the Professional/Managerial Plan shall be in the percentage set in the budget resolution adopted for the fiscal year in which the increase is awarded. (Amended 09/15/92, 02/01/94, 11/15/05, 3/6/12)

E) Employees in the Professional/Managerial Compensation Plan shall be evaluated annually on the employee's class entry anniversary date. (Amended 02/01/94, 08/28/07 and 02/24/09)

3.11 SHIFT DIFFERENTIAL

A) If an employee is required to work hours at other than the normal daytime hours, he shall be entitled to a shift differential in addition to the regular rate of pay. (Amended 04/10/90 and 02/24/09)

B) Such differential shall be a flat cents per hour amount added to the employee's regular rate:

- ⇒ The current evening shift differential shall be 30¢ per hour for all regular hours worked if the employee is required to work at least four hours between the hours of 4 p.m. and 12 midnight. (Amended 11/15/05, 02/24/09, 3/6/12)
- ⇒ The current graveyard shift differential shall be 60¢ per hour for all regular hours worked if the employee is required to work at least four hours between the hours of 12 midnight and 8 a.m.(Amended 11/15/05, 02/24/09, 3/6/12)
- ⇒ Employees whose work hours fall into both evening and graveyard shifts shall be paid the current shift differential corresponding to the shift on which the majority of hours were worked. If the employee's work shift is divided evenly between the evening and graveyard shifts that is from 8 p.m. to 4 a.m., shift differential for four hours will be paid at 30¢ per hour and four hours at 60¢ per hour. (Amended 11/15/05, 02/24/09, 3/6/12)

C) Shift differential pay will not be paid for hours not worked.

D) Shift differential will not be paid to exempt employees or to seasonal temporary employees, except as may be authorized by the City Manager. (Amended 11/15/05)

E) Shift differential payments made under this section will be made on a bi-weekly basis. The City Council, through the budget resolution or by other appropriate resolution, may establish additional shift differential payments to address temporary recruitment and/or retention issues not adequately addressed in this Ordinance. All recommendations for the establishment of additional shift differential payments shall be made by the City Manager and submitted to the Council for approval. (Amended 02/24/09)

F) May be adjusted based on market conditions and will be included in the annual budget resolution. (Added 3/6/12)

3.12 CERTIFICATION PAY (Passed 02/24/09)

A certification pay program is hereby established and the City Manager is authorized to determine if or when the program will be utilized, and when it shall cease. Employees who are receiving certification pay granted pursuant to Ordinance 8064, as amended, on the effective date of this ordinance shall continue to be eligible to receive such certification pay through August 31, 2012. Effective September 1, 2012 determinations of eligibility to receive certification pay will be made each year by the City Council at the recommendation of the City Manager in the annual budget resolution. Each year those employees who are eligible, if any, will be set forth in a schedule attached to the annual budget resolution. The purpose of the program is to provide an incentive to employees to earn and maintain certifications that can be used in the effective and efficient delivery of core business services. (Passed 02/24/09 and Amended 3/6/12)

3.13 OVERTIME

A) All non-exempt employees, except for uniformed firefighter personnel who are subject to Section 7(k) of the Fair Labor Standards Act, shall be paid for authorized overtime on the basis of one and one-half times the hourly rates specified for the applicable class or position after forty hours of work per week.(Amended 10/03/95, 11/15/05 and 2/24/09)

B) All City uniformed firefighter personnel shall be paid overtime as provided in the Collective Bargaining Agreement (CBA). (Amended 08/11/87, 10/03/95, 3/6/12)

C) Pursuant to and in compliance with the Fair Labor Standards Act, as amended, overtime shall not be paid to those individuals employed by the City of El Paso who are elected, appointed, executive, administrative, professional, or otherwise exempted from the overtime provisions of the Fair Labor Standards Act, as amended, unless otherwise required by law. (Amended 11/15/05)

D) The City Manager may authorize discretionary payment of overtime to those City employees exempted from overtime pay by the preceding subsections. The City employee's Department Head must submit a written request to the City Manager, with a copy to the Human Resources Director, requesting authorization for payment of overtime to an exempted employee. The written request shall state specifically as possible: (Amended 08/31/04 and 02/24/09)

1. the nature of the special project that the employee is to work on;
2. the need for the exempted employee's skill or expertise on the special project;

3. the need for the employee to work on the special project beyond his normal working hours;
4. the estimated length or duration of the special project; and
5. the estimated amount of discretionary overtime to be paid to the exempted employee. (Amended 02/24/09)

3.14 SPECIAL PAY

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

3.15 WORKING OUT OF CLASS PAY

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

Section 4. FRINGE BENEFIT

There are other forms of compensation in addition to wages. Other forms include fringe benefits such as insurance, pension contributions, worker's compensation and various kinds of paid leaves such as annual leave, sick leave and civil leave.

4.1 LIFE AND HEALTH INSURANCE

The City shall provide life, accidental death and dismemberment insurance and health insurance coverage as provided in the life insurance contract(s) and in the health benefit plan document(s) as approved by City Council. (Amended 08/28/07, 3/6/12)

4.2 ANNUAL VACATION WITH PAY

Employees shall be entitled to an annual vacation with pay as set forth in the Civil Service Commission rules.

No vacation credit will be granted, or paid at separation unless an employee has been employed at least one year from the date of hire. An employee, or his beneficiary, in the event of death, shall be paid for accrued vacation leave credit upon separation from the City service at the rate of his bi-weekly salary or hourly rate at the time of separation.

Payment, in the event of death, shall be made providing the employee has been employed at least six calendar months from the date of hire. The maximum amount of vacation credit that shall be paid an employee upon separation, or employee's beneficiary upon death of the employee shall be the maximum accruals allowed for vacation in the Civil Service Commission Rules. (Amended 08/11/07 and 01/30/90)

A) Use of Vacation Accrual other than Vacation Leave. Absence on account of sickness, injury, or disability in excess of that hereinafter authorized for such purposes, may at the request of the employee and at the discretion of the department head, be charged against vacation leave allowance in accordance with Human Resources Policies.

B) Vacation Leave with Holidays. Official City holidays occurring during an employee's vacation shall not be charged as part of the employee's vacation.

4.3 SICK LEAVE WITH PAY

A) Sick Leave Accrual.

1. Employees shall be entitled to accrue sick leave with pay in accordance with the Rules of the Civil Service Commission.

2. Except as provided in the City Employee's Pension Ordinance, employees will not be entitled to any compensation for unused accrued sick leave at the time of termination, death or retirement.

B) Physician Certificates. Any physician certificates required by the City to document illness must be provided by a licensed Healthcare Provider. (Amended 3/6/12)

4.4 ACCIDENT WITH PAY LEAVE. The Amended Section 4.4 of the Ordinance shall become effective upon adoption and shall apply to occupational injuries and occupational

diseases occurring on and after date of adoption. Occupational injuries and occupational diseases occurring before such date, will be governed by the Ordinance in effect at the time of the date of injury or disease. (Passed 08/27/96, Amended 08/28/07)

A) Accident With Pay Leave (AWP) is separate and distinct from and in addition to the weekly workers' compensation payment. While on AWP leave, absence from the job as a result of an occupational injury or illness is not deducted from the employee's accrued sick or annual leave balances.

B) Eligible Employees. A regular full-time employee, including one on probation, who sustains an injury or suffers an occupational disease or illness arising out of and in the course of employment as defined by the Texas Worker's Compensation Act is eligible to request Accident With Pay (AWP) leave, beginning the eighth calendar day of occupational disability. Temporary employees, part-time employees, contract employees, independent contractors, and volunteers are not eligible for AWP leave. (Amended 3/6/12)

C) Procedure.

1. To be granted AWP leave the employee must submit through his applicable Department Head a properly completed AWP Leave Request Form as prescribed by the Human Resources Director and accompanied by a medical report from the treating physician indicating that any lost time is due to the employee's on-the-job injury or occupational disease. Medical documentation must correspond in time with the number of days or hours of AWP leave requested. (Amended 02/24/09, 3/6/12)

2. The Human Resources Director, upon recommendation of the applicable Department Head may grant AWP leave for a period of time not to exceed thirty (30) working days. The initial AWP request will be forwarded to and reviewed by the Human Resources Director or designee for approval or denial. The Human Resources Director upon review may send the request back to the department for clarification or correction if necessary. The Department Head's final recommendation regarding granting or denying AWP must be forwarded to the Human Resources Director by the Department Head. The Human Resources Director will notify employees of denial of AWP. (Amended 08/28/07, 3/6/12)

3. An employee denied AWP leave may, within ten (10) calendar days of receipt of notification from the Human Resources Director, notify the Human Resources Director that the employee wishes to appeal the decision to a Hearing Officer of the Civil Service Commission. Upon receipt of such notification, the Human Resources Director will assign the appeal to a Hearing Officer. The Hearing Officer shall hear and decide such appeal within twenty (20) calendar days of assignment or as soon as practicable after assignment. The final decision regarding the granting or denial of AWP leave rests with the Hearing Officer whose decision shall be final and binding on both parties, and shall not be appealable to either City Council or the Civil Service Commission. (Amended 08/28/07, 3/6/12)

D) Grounds for denial and termination. Upon recommendation of the applicable Department Head or upon independent finding, the Human Resources Director will deny or terminate AWP leave to any injured employee who: (Amended 3/6/12)

1. Fails to report the occupational injury within 48 hours of its occurrence to any supervisor. For purposes of this ordinance, for occupational disease, the employee has 48 hours from the date on which the employee knew or should have known that the disease may be job-related. (Amended 02/24/09, 3/6/12)

2. Is injured as a result of:

a. the employee breaking of rules, regulations, or laws, including any safety rules adopted by the City for the prevention of accidents and injuries;

b. the gross negligence of the employee; or

c. any other unreasonable or culpable conduct of the employee as determined by the City's Human Resources Director; (Amended 08/28/07)

3. Fails to use department-mandated safety equipment or follow department-mandated safety procedures when the injury was sustained;

4. Refuses to submit to any independent medical examination or treatment required by the City in accordance with Texas Workers' Compensation laws;

5. Refuses to return to regular or restricted duty after being released for regular or restricted duty by a treating physician or other physician performing an independent medical examination for the City;

6. Fails to act in a manner that is conducive to or consistent with being off work convalescing from a job-related injury;

7. Submits a workers' compensation claim which is controverted;

8. Submits an AWP leave request previously denied based upon the merits of this ordinance for the same injury; or,

9. Fails to follow the procedural process as contained in this ordinance.

Denial of AWP status will not affect an employee's eligibility, if any, to receive workers' compensation benefits.

E) Suspension or Termination of AWP Leave.

1. Eligibility for AWP leave will terminate upon any of the following occurrences:

a. One year from the date of injury or occupational disease, except for an extension requested and granted under Paragraph F of this ordinance;

b. Expiration of thirty days utilized AWP leave in a rolling twelve-month period regardless of the number of injuries within such twelve-month period;

c. When the workers' compensation claim is controverted or disputed under the Texas Workers' Compensation law; or,

d. Upon a finding by the Human Resources Director of any of the occurrences defined under Paragraph D of this ordinance. (Amended 08/28/07)

2. Eligibility for AWP leave will be suspended upon any of the following occurrences:

a. The employee's treating physician releases the employee to return to work;

b. A physician performing an independent medical examination for the City releases the employee to return to work;

c. The employee's failure to provide timely physician certificates;

d. The employee does not submit a properly completed AWP leave request to his department within two (2) working days prior to payroll closing, unless the employee can show good cause for the delay; or, (Amended 02/24/09)

e. The employee fails to follow the procedural process as contained in this ordinance.

If AWP leave is suspended under subsections c, d, or e of this Paragraph and is reinstated upon compliance by the employee, such reinstatement of benefits will not be retroactive unless the employee can show good cause for the delay in compliance.

F) Eligibility For AWP Leave Beyond the One Year Anniversary Date of Injury. In those cases where an employee submits a written request to his department head for AWP leave beyond the one year anniversary date of injury and that employee has either not used AWP leave or has not utilized the maximum amount of AWP leave during the one year period allowed or had used it intermittently and not for the allowed maximum amount, the employee may be granted AWP leave, provided that the following conditions are met: (Amended 02/24/09)

1. The employee is and had been receiving continuous treatment by a licensed physician for the same on-the-job injury or occupational disease for which AWP leave was originally granted ("Continuous treatment" is defined as regular examinations or treatments by a licensed treating physician or a licensed physician to whom the treating physician has referred the employee); and

2. A licensed treating physician or a licensed physician to whom the treating physician has referred the employee recommends surgery, because all other treatments have not been successful; and

3. The employee obtains the written recommendation of the department head; and

4. The employee has not exhausted or utilized thirty days of AWP leave during the immediate rolling twelve month period for any occupational injury or disease; and

5. The employee has complied with the requirements of Paragraph C of this subsection. If the above requirements are met, AWP leave may be granted after the one year anniversary of date of injury addressed in Paragraph D for the time period necessary for surgery and recovery there from, as designated by a licensed physician, until the maximum thirty days allotment of AWP leave is used. In no event does this provision allow over thirty days utilization of AWP leave in a rolling twelve month period. (Amended 02/24/09)

G) AWP Supplement to Worker's Compensation Weekly Benefit. In addition to the weekly workers' compensation benefits payable under law, the eligible employee granted AWP leave may receive a supplement to such workers' compensation benefit equivalent to the difference between any workers' compensation weekly benefit and the employee's pre-injury take-home pay. If the weekly workers' compensation benefit equals or exceeds the take-home pay, there shall be no AWP supplement, but the absence from work will not be deducted from the employee's accrued leave balances. For purposes of this ordinance:

1. Take-home pay means base pay, longevity pay, special merit pay, incentive and certification pay, uniform and clothing allowance, less mandatory deductions.

2. Mandatory deductions means income tax withholdings, FICA and Medicare, if applicable. (Amended 02/24/09)

3. Payroll deductions (FICA, Medicare and FWT) will NOT be taken out of the weekly workers' compensation benefits, but WILL be taken out of the supplement portion.

4. Section 125 benefit payments will be taken out of the supplement portion, if available.

H) Maximum Duration of AWP leave. AWP leave may be granted for a period not to exceed thirty working days in a rolling twelve month period.

I) Temporary and Intermittent Absence from Employment. AWP leave may also be granted for an employee's temporary and intermittent absence from his employment due to seeking and receiving treatment for his injury (doctor's and therapy appointments) provided that the employee submits the required medical documentation. AWP leave is not available for an employee's temporary and intermittent absence from his employment without medical documentation. An extension of AWP leave beyond the one year anniversary of the date of injury or illness is not allowed for an employee's temporary and intermittent absence from employment due to seeking and receiving treatment. (Amended 02/24/09)

J) Initial Seven Days of Disability. AWP leave is not available for the initial seven (7) days of disability not initially paid by workers' compensation benefits. An employee may elect to utilize his accrued sick or annual leave during the initial seven days of disability. (Amended 02/24/09)

K) Supplementation of Weekly Workers' Compensation When AWP Leave is Not Available. In the event AWP leave is not available, but the employee is receiving weekly workers' compensation benefits, pursuant to §504.052 of the Texas Labor Code, the employee may supplement his weekly workers' compensation benefits with accrued sick leave, annual leave and special sick leave, but the employee will not accrue additional leave during this period. In no event, will the amount of this optional supplement to the weekly workers' compensation benefit and the weekly workers' compensation benefit cause the employee to receive in excess of his pre-injury take-home pay. Only the utilized pro-rata amount of this optional supplement will be deducted from the employee's accrued leave balances. Payroll deductions for FICA, Medicare, and FWT will be deducted from this optional supplement portion. The employee must request this optional supplement through his applicable department. (Amended 02/24/09)

L) Leave Balances. While on AWP leave, absence from the job is not deducted from the employee's sick or annual leave balances nor does the employee continue to accrue sick and annual leave.

M) Pension Fund Contributions. Any pension fund contributions shall be made by the employee and employer in accordance with the employee's applicable pension plan, if any. In the event, the employee's weekly workers' compensation benefit is greater than his pre-injury take-home pay and thus not receiving an AWP supplement to his weekly workers' compensation benefit or the AWP supplement is insufficient to cover the employee's pension contribution, the employee will need to pay his pension deduction if he wants service credit. (Amended 02/24/09)

N) Overpayment of Workers' Compensation Benefits or Supplement Payments. In the event the employee receives overpayment of workers' compensation benefits or AWP supplement payments, the employee shall cooperate with the Human Resources Department to correct and repay any payment errors in a manner prescribed by the Human Resources Director. Such repayment includes assignment and repayment from the employee's future wages or by reduction of any accrued leave balances. (Amended 3/6/12)

4.5 OBSERVED HOLIDAYS

The following days are hereby declared holidays observed by all the City departments, provided that the provisions of this section shall not apply to members of the Fire

Department or to members of the Police Department, who are covered by collective bargaining agreements with the City. (Amended 10/03/95, 6/1/10)

1. First day of January (New Year's Day)

2. Third Monday in January (Martin Luther King Holiday)

3. Last Monday in May (Memorial Day)

4. Fourth day of July (Independence Day)

5. First Monday in September (Labor Day)

6. Fourth Thursday in November (Thanksgiving Day)

7. The Friday following the fourth Thursday in November (Day after Thanksgiving) (Amended 02/24/09, 06/25/09, 8/25/09)

8. Twenty-fifth Day in December (Christmas Day)

9. Employee's Birthday

When any holiday falls on a Saturday, the preceding business day shall be the day on which the holiday shall be observed by the City departments, provided however that the City Manager or designee shall have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday. (Amended 6/1/10)

When any holiday falls on a Sunday, the following business day shall be the day on which the holiday shall be observed by the City departments, provided however that the City Manager or designee shall have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday.(Amended 6/1/10)

Provided however, when the first day of January (New Year's Day) or the twenty-fifth day in December (Christmas Day) fall on a Saturday or Sunday, the preceding business day or the following business day shall be the day on which the holiday shall be observed by the City departments, as determined by the City Manager, who shall also have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday. (Added 6/1/10)

In addition to the above days, the following days are also declared to be holidays observed by the City departments: (Amended 6/1/10)

1. Any day designated as a holiday by City Council.

A) Holiday Worked. Any department head who finds it necessary to do so, may request some or all employees of his department to report for work on any of these legal holidays. (Amended 02/24/09, 3/6/12)

The department head may do either of the following when employees work a holiday:

1. Arrange for the employee to accrue the holiday and permit the time off within the specified period (12 months of the accrued holiday), or (Amended 02/24/09)

2. Pay employee the holiday, plus the actual numbers of hours worked at straight time. If employee works more than eight hours on a holiday, see Section 3.13 for method of overtime payment. In either case, the department head shall keep a record and report on such overtime work on holidays on the regular payrolls and on such reports as may be prescribed by the Human Resources Director. (Amended 08/28/07 and 02/24/09)

B) Holiday On Scheduled Day Off. Whenever a holiday falls on the employee's scheduled day off, the department head may do either of the following:

1. Arrange for the employee to accrue the holiday and permit the time off within the specified period (12 months of the accrued holiday), or (Amended 02/24/09)

2. Pay the employee the holiday. (Amended 02/24/09)

C) Holiday Accrual. If an employee is allowed to accrue the holiday, the number of hours credited for 8 hours per day, 40 hours per week will be eight (8) hours, for 10 hours per day, 40 hours per week will be ten (10) hours. The maximum accrual for holiday leave time shall not exceed the number of declared legal holidays excluding the birthday holiday. Accrued holidays must be used within 12 months of the accrued holiday and must be taken in the same increment in which it was accrued. (Amended 10/03/95, 3/6/12)

D) Limitation of Payment or Accrual. An employee whose scheduled workday falls on an observed holiday is limited to one payment or accrual for that observed holiday. (Added 6/1/10)

E) Employee's Birthday. In case of emergency, when the employee's services are needed on his birthday, the employee may be required by the department head to work on that day or shift but shall be given equal time off on another day or shift. If the employee's birthday falls on a day on which he would be entitled to be off for some other reason, the birthday holiday may be taken on the next regular work day, provided, however, if work schedules cannot be arranged or if emergencies exist, and only in these cases, the department head may schedule the holiday time off on another day or another shift. (Amended 02/24/09)

Any birthday holiday not taken on the employee's birthday but rescheduled in accordance with the above provisions must be scheduled and taken within fourteen calendar days before or fourteen calendar days after the employee's birthday. (Amended 08/28/07, 02/24/09)

F) Hours of Holiday Pay. The amount of holiday pay for employees who work 40 hours per week, 5 days per week, shall be 8 hours per holiday. The amount of holiday pay for employees who work 40 hours per week, 4 days per week, shall be 10 hours per holiday. Regular part-time employees who work an average of 20 or more hours per week shall be paid holiday pay of a prorated amount of hours based on the average number of paid hours, excluding overtime, in the two pay periods immediately preceding the holiday pay period. The City Manager shall designate the appropriate work week for employees for purposes of determining holiday pay. (Amended 05/08/90, 3/6/12)

4.6 CIVIL LEAVE

The head of any department shall grant an employee leave with full pay for any absence necessary for serving on a jury, attending court as a witness when subpoenaed, or registering for and taking tests of fitness for promotion in the City service. A department head may grant leave with full pay to an employee for voting in an election.

Civil leave shall be only for the actual hours needed.

4.7 MILITARY LEAVE

Military leave for City employees is provided in accordance with V.T.C.A., Government Code, Section 431.005 (a) and (b). (Amended 10/023/95 and 08/28/07)

4.8 LEAVE WITHOUT PAY

Leave without pay may be granted employees as provided in the rules of the Civil Service Commission. Any leave without pay exceeding 30 calendar days or more will result in the employee's anniversary date being changed by adding the exact number of days of leave to the existing anniversary date. (Amended 07/09/85 and 02/01/94)

4.9 DISPOSITION OF LEAVE ALLOWANCE ON EMPLOYMENT CHANGE

Any employee who leaves the City service by retirement, resignation, layoff or termination shall be entitled to payment of the unused balance of annual vacation leave allowance. The employee's retirement, resignation, layoff or termination notice shall list the actual date of separation and shall note the adjustment to be made for unused vacation balances due and the adjustment shall provide compensation for the number of days (hours) equivalent to the number due. All other unused balances of leave allowances under this ordinance shall terminate on the date of retirement or separation of any employee from City service. Any employee transferred, demoted, or promoted shall retain all unused balances of vacation and sick leave as though no change in position had been made. (Amended 07/09/85)

4.10 RECORDS ON GRANTS OF LEAVE OF ABSENCE

The department head shall keep a record of all leaves of absence accrued and granted for each employee. (Amended 3/6/12)

All grants of leave with pay shall be designated on the payrolls in such manner as the Human Resources Department shall prescribe. If leave time exceeds the amount an employee has accrued, the unauthorized leave time will not be paid, or charged to other accrued leave time.(Amended 01/30/09, 08/28/07, 3/6/12)

Section 5. EMPLOYEE APPEAL OF JOB CLASSIFICATION DECISIONS

An employee shall, within thirty days of the date of a final classification decision, have the right to secure consideration of any complaint with respect to the application of this Classification and Compensation Plan to his job classification. The employee shall first bring a complaint to his immediate supervisor or Department Head who shall promptly seek to arrive at a solution which is consistent with the classification and compensation plan and is acceptable to all parties. If the immediate supervisor or Department Head is unable to resolve such a complaint in a manner acceptable to the employee, a written report which includes the recommendations of the Department Head shall be submitted to the Human Resources Director. The Human Resources Director shall analyze the basis of the employee complaint. If the Human Resources Director sustains the complaint and determines that action is necessary to rectify the situation, he shall be authorized to take such action. If the Human Resources Director believes the complaint should not be sustained, he must submit the complaint to a Deputy City Manager or the City Manager and obtain his concurrence prior to determining that the complaint is not sustained. (Amended 11/15/05 and 02/24/09)

PASSED AND APPROVED this _____ day of _____, 2013.

THE CITY OF EL PASO

_____
Oscar Leeser
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Elizabeth Ruhmann
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Linda Ball Thomas
Human Resources Director

Track changes for Ordinance 8064

Section 1. INTRODUCTION

1.1 TITLE

This ordinance shall be known as the Classification and Compensation Plan for the City of El Paso and shall cover all positions as hereinafter set forth. (Amended 8/28/07, 3/6/12)

Section 2. CLASSIFICATION PLAN

The Classification Plan in use by the City when this ordinance is adopted shall be the official Classification Plan of the City of El Paso.

The Classification Plan consists of three basic parts, as follows:

1. A listing of established classifications. (Amended 2/24/09, 3/6/12)

2. A system that maintains all classifications in the Plan, so that each classification can be suitably identified. (Amended 3/6/12)

3. ~~Rules, p~~Policies and procedures for keeping the classification Plan up-to-date. (Amended 3/6/12)

2.1 ALPHABETICAL LISTING OF CLASSES

The alphabetical listing of job classes in use shall be maintained on the City's website and updated by the Human Resources Director or designee. The official listing of established job classifications titled Ordinance 8064 Appendix "A" will include their corresponding codes and grades of the ~~positions~~ job classifications included in the classification Plan. (Amended 11/15/05, 08/28/07, 02/24/09, 3/6/12)

2.2 ADOPTION OF JOB CLASS SPECIFICATIONS

The job ~~classification~~ specifications describing the typical duties and defining the minimum requirements for all positions in the classified service currently adopted and in use by the City are hereby adopted. (Amended 2/24/09)

A) The title of each job classification specification shall be the official classification designation to which positions are ~~assigned~~ allocated. (Amended 2/24/09)

B) Each job classification specification will include a general purpose statement that has a definition of the distinguishing characteristics of each classification in the Plan. It shall indicate and be construed as setting forth in general terms only the scope of responsibility or responsibilities delegated, the inherent kind or kinds of work to be performed by employees in the job classification, as well as the type of supervision received, if any, and the extent of authority exercised over others, if any. (Amended 2/24/09)

C) The job classification specifications shall describe typical duties that may be assigned. The duties listed are to be construed as setting forth examples representative of specific duties and tasks usually and customarily performed by employees in the classification of positions that involve the competent application of the normally required knowledge, abilities and skills. It is not to be assumed that each example listed will be performed by all employees within the job classification nor that any one employee therein will perform only the examples listed. The example of duties are illustrative only with respect to the class of positions as a whole and do not prescribe the duties of any employee holding a position therein. Department Heads shall have the right to assign employees to duties not included in the list of duties performed, provided such duties are similar in nature to those described, and utilize knowledge, abilities and skills of comparable scope or level to those

required. In addition, Department Heads shall also have the right to assign employees to common miscellaneous duties not explicitly described when necessary for such organizational effectiveness and efficiency purposes as sustaining and balancing work flow, and developing employee capabilities. These general incidental assignments do not exceed the bounds of the job classification to which the incumbent's position has been allocated. (Amended 02/24/09)

They include, but are not limited to the following examples:

- Temporarily substitute on designated aspects of work of absent employees as qualified.
- Impart functional knowledge to less experienced employees.
- Participate in special projects or represent the organization on ad hoc committees.
- Engage in selected responsibilities of other positions under closer than normal supervision for training purposes.
- Record and report status and results of activities.
- Maintain workplace, tools, equipment and materials in clean, orderly, safe and operable conditions.

D) The minimum qualifications section of job specifications shall be the basis for the admission or rejection of applicants to examinations for the respective job classes in the Plan. (Amended 02/24/09)

E) Additions, deletions, and revisions of ~~classification~~ job specifications that do not affect the arrangement or rearrangement of a position or office into a class, subdivision or grade shall be made by the recommendation of the Human Resources Director upon the authorization of the City Manager or his designee. The Human Resources Director shall provide an annual report of any changes to the ~~Civil Service Commission and~~ City Council for notation as part of the annual budget resolution. ~~Additions, deletions or revisions that affect the arrangement or rearrangement of a position or office into a class, subdivision or grade, shall be made upon the recommendation of the City Manager or the Human Resources Director by amendments made through resolution, upon approval of the Civil Service Commission and City Council. (Passed 04/06/04, Amended 03/15/05, 02/24/09, 3/6/12)~~

F) Additions, deletions or revisions of job specifications that do affect the arrangement or rearrangement of a position or office into a class, subdivision or grade shall be made upon the recommendation of the City Manager or the Human Resources Director by amendments made through resolution, upon approval by City Council. (Passed 04/06/04, Amended 03/15/05, 02/24/09, 3/6/12)

2.3 ALLOCATION OF POSITIONS TO JOB CLASSES

Each position in classified service shall be evaluated and properly allocated in the classification plan by the Human Resources Department. Reclassifications shall be made by the recommendation of the Human Resources Director upon the authorization of the City Manager or his designee. (Amended 11/15/05, 08/28/07, 02/24/09, 3/6/12)

2.4 STAFFING TABLE CHANGES

Requests for additions or deletions of positions within departments shall be submitted to the Human Resources Department. The Human Resources Department, after review of the request in cooperation with the Office of Management and Budget, will submit a recommendation to City Manager or his designee who will make the final determination on the request. Any changes will be recorded in the Human Resources Department in a position control summary listing of all City departments. The Human Resources Department will ensure additions are properly allocated prior to appointment.(Amended 11/15/05 and 02/24/09)

2.5 MAINTENANCE OF THE CLASSIFICATION PLAN

The Human Resources Department shall be responsible for the administration and maintenance of the Classification Plan. (Amended 11/15/05)

Section 3. COMPENSATION PLAN

The Compensation Plan consists of the Salary Schedules for General Services, ~~Executive,~~ Professional/Managerial, Executive and other positions in the classified service not covered by a collective bargaining agreement. (Amended 08/30/88 and 11/15/05)

The Compensation Plan shall provide pay ranges according to varying levels of responsibilities and duties that enable the City to recruit and retain an effective workforce. It shall establish the value of jobs to the City organization and identify levels of compensation, including the minimums and maximums of the pay structure. Analyses of available wage and survey data shall be used to determine the competitiveness of the City's Compensation Plan in the labor market. Based on these analyses the Human Resources Department will recommend pay schedule adjustments to the City Manager ~~Administrators~~ for review and recommendation to City Council. (Amended 11/15/05 and 02/24/09)

3.1 SALARY SCHEDULE

The Human Resources Director or his designee shall create and maintain a document titled Ordinance 8064 Appendix "B" (Salary Schedule) containing the listing of salary range minimums, midpoints and maximums as adopted or established. The Human Resources Director shall maintain an updated Appendix "B" following any pay range adjustments. (Amended 04/30/96, 11/15/05, 08/28/07 and 02/24/09)

A) The base salaries or rate of pay prescribed in this section are determined on the basis of full-time employment (40 hours per week). A regular workweek schedule of less than the number of hours of full-time employment shall be considered as part-time employment and the compensation, therefore, shall be for the actual number of hours worked at the hourly rate prescribed for the job class. (Amended 11/15/05)

B) The salaries or rates of pay prescribed in this section shall be deemed to include pay for regular full-time service in every form, except pay for the use of personally owned equipment which is required to be furnished by the employee or for reimbursement of necessary expenses authorized and incurred incident to employment. (Amended 11/15/05)

3.2 PROCEDURES FOR ADVANCEMENT WITHIN PAY GRADE

A) Each pay grade has a minimum ~~pay rate~~ and ~~a~~ maximum pay rate. ~~Advancement to the maximum pay rate for the job class shall be~~Employees normally start at the minimum pay rate of the pay grade, except as follows:~~as provided in Rule 3, Section 1 of the Civil Service Commission Rules.~~ (Amended 09/15/92, 02/01/94, 11/15/05, 02/24/09, 3/6/12)

(1) Persons already in the service of the City shall have their salary set as follows:

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.

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.

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

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

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

B) ~~An employee shall become eligible for advancement in accordance with Rule 3 and the percentage of any increases shall be set in the budget resolution adopted for the fiscal year in which the increase is awarded.~~ The wages and salaries of all persons in the Civil Service will be reduced by the same percentage whenever the budget set by the Council for all wages and salaries is less than that normally required by the classification and compensation plans. Reductions in wages and salaries, that are required due to economic conditions, will be made as determined by the City Manager, in accordance with Section 6.4-1 of the Charter. 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. (Amended 3/22/88, 09/17/91, 02/01/94, 11/15/05, 3/6/12)

3.3 ADMINISTRATION AND MAINTENANCE OF COMPENSATION PLAN

The Human Resources Director shall be responsible for the administration and maintenance of the Compensation Plan. The Plan will include, but shall not be limited to: the classification and allocation of positions, the processing of salary advances, the determination of starting rates and initiation of necessary revisions of any salary schedules as adopted by City Council on the basis of changes in the relative value of duties and requirements of classes, changes in the prevailing salaries and cost of living, and any other factors that may be properly considered to have a bearing on the fairness and adequacy of the salary schedules. (Amended 11/15/05 and 02/24/09)

A) The Human Resources Director shall make a salary survey as requested by the City Manager. (Amended 11/15/05)

~~B) Whenever a change or amendment in the Classification and Compensation Plan affecting the arrangement of positions into classes, subdivisions or grades has been reviewed and recommended by the Civil Service Commission, the Human Resources Director shall submit the necessary reports and recommendations to the City Council.~~

~~Such recommendations shall take effect when approved by the City Council. (Amended 11/15/05)~~

3.4 APPLICABLE SALARY RATE UNDER FOLLOWING CONDITIONS:
The following directions are to be observed in fixing the compensation of incumbents of positions under the following conditions:

A) Reinstatement from Layoff. When an employee is reinstated to duty in the same classification after separation from the City due to layoff, such employee shall be reinstated to the same pay rate received at the time of separation adjusted for any general increases, if applicable. (Passed 01/25/94, Amended 02/01/94)

B) Reinstatement from Resignation. When an employee is reinstated to duty in the same classification after separation from the City due to resignation and subsequent reinstatement, such employee shall be reinstated at the entry-level pay rate of the classification or at a rate of pay as may be otherwise recommended by the Human Resources Director and authorized by the City Manager or his designee. ~~Civil Service Commission Rules.~~ (Passed 01/25/94, Amended 02/01/94 and 08/28/07)

C) Promotion. When an employee is promoted from one class to a higher class, such employee shall receive a salary increase as provided in this Ordinance.~~the rules of the Civil Service Commission~~. (Amended 12/19/89, 09/15/92 and 02/24/09)

D) Reclassifications to Higher Classifications. If an employee remains in a position which has been upgraded or reclassified to a higher graded class, the employee's rate of pay will ~~be determined as set forth herein~~ remain the same unless such rate falls below the minimum of the new pay range.~~.~~ (Amended 09/17/91, 02/24/09, 11/2/10, 3/6/12)

E) Downgrades and Reclassifications to Lower Classifications. If an employee's rate of pay falls within the new pay range assigned to a position that has been reclassified or downgraded, the employee's salary will be maintained within the new pay range. If the employee's rate of pay is above the highest rate for the new pay range, the employee's salary will be reduced to the maximum pay rate for the job classification to which they are assigned.~~set in accordance with the Civil Service Commission Rules.~~ (Amended 09/17/91, 11/15/05 and 02/24/09)

F) Demotion or Reassignment to Lower Grade.

1. Non-disciplinary: If an employee is demoted for non-disciplinary reasons, or reassigned to a lower grade and his rate of pay at the time of demotion is within the new pay range, the employee's salary may be maintained within the new pay range. If the employee's rate of pay is above the new pay range, the employee's rate of pay will be reduced to the maximum pay rate for the job classification to which demoted or assigned. (Passed 01/25/94) (Amended 02/01/94, 11/15/05, 02/24/09, 8/25/09, 3/6/12)

2. Disciplinary: If an employee is demoted for disciplinary reasons, he shall have his salary reduced to a pay rate in the new pay range that is 5% below the rate of pay at the time of demotion provided that the rate of pay is not greater than the maximum pay rate for the classification to which demoted. (Passed 01/25/94, Amended 02/01/94 and 02/24/09)

G) Lateral Transfer or Reclassification to Same Grade. Whenever an employee receives a lateral transfer from one position to a different position with the same pay range, the employee shall continue to receive the same rate of pay as prior to the transfer. (Amended 02/24/09)

H. Competitive Selection for Lateral or Below. If an employee competes for and is selected for a position in the same or lower pay grade as the position he currently holds, the employee's new pay rate will be determined as follows: (Passed 11/15/05 and Amended 02/24/09, 3/6/12)

1. Persons whose rate of pay falls within the assigned pay range of the new position will receive no adjustment in pay. (Amended 02/24/09)

2. Persons whose rate of pay exceeds the assigned pay range of the new position will be reduced to the maximum pay rate within the new range. The pay reduction will be immediate upon appointment to the new position. (Amended 02/24/09)

3.5 COMPENSATION FROM DIFFERENT SOURCES

In any case in which part of the compensation for services, exclusive of overtime services, is paid either by another department or an outside agency such as the County, State or the Federal Government, any such payment shall be deducted from the employee concerned, to the end that the actual compensation paid to any employee from all sources combined, for any period, shall not exceed the amount payable at the rate prescribed for their class. (Amended 02/24/09)

3.6 LONGEVITY PAY

A) Each regular, full-time employee in the classified service, and each regular, full-time employee in the unclassified service who is federally grant funded, and each unclassified Department Head not receiving longevity pay under Section 141.032, Local Government Code, Vernon's Texas Codes Annotated, shall receive on the anniversary date of his original appointment to a regular, full-time position in the City service, an additional monthly sum equal to the amount provided for an employee entitled to receive monthly longevity pay under Section 141.032 cited above unless modified by Collective Bargaining agreement. (Amended 10/20/87, 12/30/91, 11/15/05 and 02/24/09)

B) Where a break in service occurs, other than for reasons of lay off or job abolishment due to reduction in force, longevity credits accrued prior to the break in service shall not be counted for the purpose of this Ordinance in case of subsequent reinstatement or appointment. (Amended 11/15/05)

C) Longevity payments made under this Ordinance will be made on a bi-weekly basis.

3.7 PAY FOR AUTHORIZED USE OF EMPLOYEE'S PERSONALLY OWNED VEHICLE/TOOLS

A) If an employee who does not receive an executive vehicle allowance is required in writing by the Department Head and authorized by the City Manager to use his personally owned automobile in the performance of duties of his position, payment for such use shall be on the basis of cents per mile. Payment shall be made at least monthly in accordance with reports and certifications required by Financial Services. A fixed amount may be paid monthly in lieu of the above mileage reimbursement with the approval of the City Manager or his designee. The rate of mileage reimbursement will be the Internal Revenue Service (IRS) standard mileage rate, unless otherwise established by a resolution approved by the City Council. (Amended 3/15/05, 11/15/05, 02/24/09, 3/6/12)

B) If an employee is required, in writing, by a Department Head to use his personally owned tools in the performance of the duties of his position, payment for the supplying of such tools shall be on the basis of quarterly tool allowances to be paid to the employee. Such allowance is to be used for the replacement of broken and damaged tools and for purchasing new tools to facilitate the performance of the employee's job. The Department Head may request receipts as proof that the employee actually purchased the tools. Any change to the rate of the tool allowance to be paid quarterly will be established by a resolution approved by City Council once every year. (Passed 06/07/88, Amended 03/15/05, 02/24/09, 3/6/12)

3.8 PAYMENT OF MONIES DUE IN CASE OF DEATH

A) Any employee may, by written notice filed with the Human Resources Director, designate a person or persons to whom, in case of one's death, payment shall be made of any amounts due for services (including unused vacation credits). The employee may withdraw or change this designation without the consent of the person designated.

B) If no such designation is filed, and if no application has yet been made for the probate of a Will or for administration of the estate, such payment shall be made to the employee's spouse. If there be no spouse, the amount shall be paid to such of the children as are of lawful age. If there be no such children, the amount shall be paid to the executor or administrator of his estate upon application.

C) Any person receiving payment under Paragraph B of this section, shall sign an agreement to indemnify the City against all claims asserted by others by the making of such payments.

3.9 EXECUTIVE COMPENSATION PLAN

A) The Executive Compensation Plan shall include directors of all departments, assistant directors of all departments and all other executive level positions. ~~set forth in Appendix "A".~~ (Amended 11/15/05 and 08/28/07)

B) ~~The~~ Changes to salary schedules shall be made upon the recommendation of the City Manager or Human Resources Director by amendments made to~~of the Plan shall consist of salary ranges, with a minimum and maximum for each range in accordance with~~ Appendix "B" through resolution approved by City Council. ~~Assignment of job classes within the salary schedule shall be approved by the Civil Service Commission with concurrence of City Council.~~ (Amended 11/15/05)

C) The entry salary for any person covered under the Plan shall be determined by the City Manager but normally shall be no greater than the midpoint of the salary range for that job class; however, an applicant or employee may be hired or promoted up to the third quartile of the range when recommended by the Human Resources Director and authorized by the City Manager or his designee. ~~in accordance with Rule 3, Section 1, of the Civil Service Commission Rules and Regulations.~~ (Passed 01/25/94, Amended 02/01/94, 3/15/05, 08/28/07, 02/24/09, 3/6/12)

D) Any increase in salary for those employees covered in the Executive Compensation Plan shall be in the percentage set in the budget resolution adopted by City Council for the fiscal year in which the increase is awarded. ~~and shall be based on the criteria established in Rule 3, Section 1, of the Civil Service Commission Rules.~~ (Amended 09/15/92, 02/01/94, 11/15/05, 3/6/12)

E) Employees in the Executive Compensation Plan shall be evaluated annually on the employee's class entry anniversary date. (Amended 02/01/94 and 02/24/09)

F) All Department Heads, Assistant Department Heads, and Deputy Department Heads covered in the Executive Compensation Plan, shall not at any time receive a base salary less than the base salary received by any subordinate supervised or directed by such person. Salaries for such Department Heads, Assistant Department Heads, and Deputy Department Heads shall be set at a minimum of 5% over the annual base salary of the subordinates supervised or directed by such person. (Amended 3/6/12)

3.10 PROFESSIONAL/MANAGERIAL PLAN

A) The Professional/Managerial Plan shall include classes within professional and managerial functions as set forth in Appendix "A". (Amended 11/15/05)

B) The salary schedules of the plan shall consist of salary levels, with minimum and maximum pay rates for each level, in accordance with Appendix "B" attached hereto and incorporated herein. Assignment of classes within the salary schedule shall be approved by ~~the Civil Service Commission with concurrence of~~ City Council. (Amended 11/15/05)

C) The entry salary of any person covered under the plan shall normally be at the minimum of the salary range; however, an applicant or employee may be hired or promoted at a higher salary in accordance with this Ordinance or Human Resources Policies. ~~Rule 3, Section 1, of the Civil Service Rules.~~ (Amended 11/01/94, 02/24/09, 3/6/12)

D) Any increases in salary for those employees covered in the Professional/Managerial Plan shall be in the percentage set in the budget resolution adopted for the fiscal year in which the increase is awarded. ~~shall be based on the criteria established in Rule 3, Section 1 of the Civil Service Commission Rules.~~ (Amended 09/15/92, 02/01/94, 11/15/05, 3/6/12)

E) Employees in the Professional/Managerial Compensation Plan shall be evaluated annually on the employee's class entry anniversary date. (Amended 02/01/94, 08/28/07 and 02/24/09)

3.11 SHIFT DIFFERENTIAL

A) If an employee is required to work hours at other than the normal daytime hours, he shall be entitled to a shift differential in addition to the regular rate of pay. (Amended 04/10/90 and 02/24/09)

B) Such differential shall be a flat cents per hour amount added to the employee's regular rate:

- ⇒ The current evening shift differential shall be 30¢ per hour for all regular hours worked if the employee is required to work at least four hours between the hours of 4 p.m. and 12 midnight. (Amended 11/15/05, 02/24/09, 3/6/12)
- ⇒ The current graveyard shift differential shall be 60¢ per hour for all regular hours worked if the employee is required to work at least four hours between the hours of 12 midnight and 8 a.m.(Amended 11/15/05, 02/24/09, 3/6/12)
- ⇒ Employees whose work hours fall into both evening and graveyard shifts shall be paid the current shift differential corresponding to the shift on which the majority of hours were worked. If the employee's work shift is divided evenly between the evening and graveyard shifts that is from 8 p.m. to 4 a.m., shift differential for four hours will be paid at 30¢ per hour and four hours at 60¢ per hour. (Amended 11/15/05, 02/24/09, 3/6/12)

C) Shift differential pay will not be paid for hours not worked.

D) Shift differential will not be paid to exempt employees or to seasonal temporary employees, except as may be authorized by the City Manager. (Amended 11/15/05)

E) Shift differential payments made under this section will be made on a bi-weekly basis. The City Council, through the budget resolution or by other appropriate resolution, may establish additional shift differential payments to address temporary recruitment and/or retention issues not adequately addressed in this Ordinance. All recommendations for the

establishment of additional shift differential payments shall be made by the City Manager and submitted to the Council for approval. (Amended 02/24/09)

F) May be adjusted based on market conditions and will be included in the annual budget resolution. (Added 3/6/12)

3.12 CERTIFICATION PAY (Passed 02/24/09)

A certification pay program is hereby established and the City Manager is authorized to determine if or when the program will be utilized, and when it shall cease. Employees who are receiving certification pay granted pursuant to Ordinance 8064, as amended, on the effective date of this ordinance shall continue to be eligible to receive such certification pay through August 31, 2012. Effective September 1, 2012 determinations of eligibility to receive certification pay will be made each year by the City Council at the recommendation of the City Manager in the annual budget resolution. Each year those employees who are eligible, if any, will be set forth in a schedule attached to the annual budget resolution. The purpose of the program is to provide an incentive to employees to earn and maintain certifications that can be used in the effective and efficient delivery of core business services. (Passed 02/24/09 and Amended 3/6/12)

3.13 OVERTIME

A) All non-exempt employees, except for uniformed firefighter personnel who are subject to Section 7(k) of the Fair Labor Standards Act~~ Section 5.2(E) above~~, shall be paid for authorized overtime on the basis of one and one-half times the hourly rates specified for the applicable class or position after forty hours of work per week.(Amended 10/03/95, 11/15/05 and 2/24/09)

B) All City uniformed firefighter personnel shall be paid overtime as provided in the Collective Bargaining Agreement (CBA). (Amended 08/11/87, 10/03/95, 3/6/12)

C) Pursuant to and in compliance with the Fair Labor Standards Act, as amended, overtime shall not be paid to those individuals employed by the City of El Paso who are elected, appointed, executive, administrative, professional, or otherwise exempted from the overtime provisions of the Fair Labor Standards Act, as amended, unless otherwise required by law. (Amended 11/15/05)

D) The City Manager may authorize discretionary payment of overtime to those City employees exempted from overtime pay by the preceding subsections. The City employee's Department Head must submit a written request to the City Manager, with a copy to the Human Resources Director, requesting authorization for payment of overtime to an exempted employee. The written request shall state specifically as possible: (Amended 08/31/04 and 02/24/09)

1. the nature of the special project that the employee is to work on;
2. the need for the exempted employee's skill or expertise on the special project;
3. the need for the employee to work on the special project beyond his normal working hours;

4. the estimated length or duration of the special project; and
5. the estimated amount of discretionary overtime to be paid to the exempted employee. (Amended 02/24/09)

3.14 SPECIAL PAY

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

3.15 WORKING OUT OF CLASS PAY

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

Section 4. FRINGE BENEFITS

There are other forms of compensation in addition to wages. Other forms include fringe benefits such as insurance, pension contributions, worker's compensation and various kinds of paid leaves such as annual leave, sick leave and civil leave.

4.1 LIFE AND HEALTH INSURANCE

The City shall provide life, accidental death and dismemberment insurance and health insurance coverage as provided in the life insurance contract(s) and in the health benefit plan document(s) as approved by City Council.~~Every regular, full-time employee who is paid by the City, shall be entitled to receive group life, accidental death and dismemberment insurance, health insurance coverage as provided by the City. Employees shall be eligible for enrollment during the City's designated enrollment period.~~ (Amended 08/28/07, 3/6/12)

4.2 ANNUAL VACATION WITH PAY

Employees shall be entitled to an annual vacation with pay as set forth in the Civil Service Commission rules.

No vacation credit will be granted, or paid at separation unless an employee has been employed at least one year from the date of hire. An employee, or his beneficiary, in the event of death, shall be paid for accrued vacation leave credit upon separation from the City service at the rate of his bi-weekly salary or hourly rate at the time of separation.

Payment, in the event of death, shall be made providing the employee has been employed at least six calendar months from the date of hire. The maximum amount of vacation credit that shall be paid an employee upon separation, or employee's beneficiary upon death of the employee shall be the maximum accruals allowed for vacation in the Civil Service Commission Rules. (Amended 08/11/07 and 01/30/90)

A) Use of Vacation Accrual other than Vacation Leave. Absence on account of sickness, injury, or disability in excess of that hereinafter authorized for such purposes, may at the request of the employee and at the discretion of the department head, be charged against vacation leave allowance in accordance with Human Resources Policies.

B) Vacation Leave with Holidays. Official City holidays occurring during an employee's vacation shall not be charged as part of the employee's vacation.

4.3 SICK LEAVE WITH PAY

A) Sick Leave Accrual.

1. Employees shall be entitled to accrue sick leave with pay in accordance with the Rules of the Civil Service Commission.

2. Except as provided in the City Employee's Pension Ordinance, employees will not be entitled to any compensation for unused accrued sick leave at the time of termination, death or retirement.

B) Physician Certificates. Any physician certificates required by the City to document illness must be provided by a licensed Healthcare Provider. (Amended 3/6/12)

4.4 ACCIDENT WITH PAY LEAVE. The Amended Section 4.4 of the Ordinance shall become effective upon adoption and shall apply to occupational injuries and occupational diseases occurring on and after date of adoption. Occupational injuries and occupational diseases occurring before such date, will be governed by the Ordinance in effect at the time of the date of injury or disease. (Passed 08/27/96, Amended 08/28/07)

A) Accident With Pay Leave (AWP) is separate and distinct from and in addition to the weekly workers' compensation payment. While on AWP leave, absence from the job as a result of an occupational injury or illness is not deducted from the employee's accrued sick or annual leave balances.

B) Eligible Employees. A regular full-time employee, including one on probation, who sustains an injury or suffers an occupational disease or illness arising out of and in the course of employment as defined by the Texas Worker's Compensation Act is eligible to request Accident With Pay (AWP) leave, beginning the eighth calendar day of occupational disability. Temporary employees, part-time employees, contract employees, independent contractors, and volunteers are not eligible for AWP leave. (Amended 3/6/12)

C) Procedure.

1. To be granted AWP leave the employee must submit through his applicable Department Head a properly completed AWP Leave Request Form as prescribed by the Human Resources Director and accompanied by a medical report from the treating physician indicating that any lost time is due to the employee's on-the-job injury or occupational disease. Medical documentation must correspond in time with the number of days or hours of AWP leave requested. (Amended 02/24/09, 3/6/12)

2. The Human Resources Director, upon recommendation of the applicable Department Head may grant AWP leave for a period of time not to exceed thirty (30) working days. The initial AWP request will be forwarded to and reviewed by the Human Resources Director or designee for approval or denial. The Human Resources Director upon review may send the request back to the department for clarification or correction if necessary. The Department Head's final recommendation regarding granting or denying AWP must be forwarded to the Human Resources Director by the Department Head. The Human Resources Director will notify employees of denial of AWP. (Amended 08/28/07, 3/6/12)

3. An employee denied AWP leave may, within ten (10) calendar days of receipt of notification from the Human Resources Director, notify the Human Resources Director that the employee wishes to appeal the decision to a Hearing Officer of the Civil Service Commission. Upon receipt of such notification, the Human Resources Director will assign the appeal to a Hearing Officer. The Hearing Officer shall hear and decide such appeal within twenty (20) calendar days of assignment or as soon as

practicable after assignment. The final decision regarding the granting or denial of AWP leave rests with the Hearing Officer whose decision shall be final and binding on both parties, and shall not be appealable to either City Council or the Civil Service Commission. (Amended 08/28/07, 3/6/12)

D) Grounds for denial and termination. Upon recommendation of the applicable Department Head or upon independent finding, the Human Resources Director will deny or terminate AWP leave to any injured employee who: (Amended 3/6/12)

1. Fails to report the occupational injury within 48 hours of its occurrence to any supervisor. For purposes of this ordinance, for occupational disease, the employee has 48 hours from the date on which the employee knew or should have known that the disease may be job-related. (Amended 02/24/09, 3/6/12)

2. Is injured as a result of:

a. the employee breaking of rules, regulations, or laws, including any safety rules adopted by the City for the prevention of accidents and injuries;

b. the gross negligence of the employee; or

c. any other unreasonable or culpable conduct of the employee as determined by the City's Human Resources Director; (Amended 08/28/07)

3. Fails to use department-mandated safety equipment or follow department-mandated safety procedures when the injury was sustained;

4. Refuses to submit to any independent medical examination or treatment required by the City in accordance with Texas Workers' Compensation laws;

5. Refuses to return to regular or restricted duty after being released for regular or restricted duty by a treating physician or other physician performing an independent medical examination for the City;

6. Fails to act in a manner that is conducive to or consistent with being off work convalescing from a job-related injury;

7. Submits a workers' compensation claim which is controverted;

8. Submits an AWP leave request previously denied based upon the merits of this ordinance for the same injury; or,

9. Fails to follow the procedural process as contained in this ordinance.

Denial of AWP status will not affect an employee's eligibility, if any, to receive workers' compensation benefits.

E) Suspension or Termination of AWP Leave.

1. Eligibility for AWP leave will terminate upon any of the following occurrences:

a. One year from the date of injury or occupational disease, except for an extension requested and granted under Paragraph F of this ordinance;

b. Expiration of thirty days utilized AWP leave in a rolling twelve-month period regardless of the number of injuries within such twelve-month period;

c. When the workers' compensation claim is controverted or disputed under the Texas Workers' Compensation law; or,

d. Upon a finding by the Human Resources Director of any of the occurrences defined under Paragraph D of this ordinance. (Amended 08/28/07)

2. Eligibility for AWP leave will be suspended upon any of the following occurrences:

a. The employee's treating physician releases the employee to return to work;

b. A physician performing an independent medical examination for the City releases the employee to return to work;

c. The employee's failure to provide timely physician certificates;

d. The employee does not submit a properly completed AWP leave request to his department within two (2) working days prior to payroll closing, unless the employee can show good cause for the delay; or, (Amended 02/24/09)

e. The employee fails to follow the procedural process as contained in this ordinance.

If AWP leave is suspended under subsections c, d, or e of this Paragraph and is reinstated upon compliance by the employee, such reinstatement of benefits will not be retroactive unless the employee can show good cause for the delay in compliance.

F) Eligibility For AWP Leave Beyond the One Year Anniversary Date of Injury. In those cases where an employee submits a written request to his department head for AWP leave beyond the one year anniversary date of injury and that employee has either not used AWP leave or has not utilized the maximum amount of AWP leave during the one year period allowed or had used it intermittently and not for the allowed maximum amount, the employee may be granted AWP leave, provided that the following conditions are met: (Amended 02/24/09)

1. The employee is and had been receiving continuous treatment by a licensed physician for the same on-the-job injury or occupational disease for which AWP leave was originally granted ("Continuous treatment" is defined as regular examinations or treatments by a licensed treating physician or a licensed physician to whom the treating physician has referred the employee); and

2. A licensed treating physician or a licensed physician to whom the treating physician has referred the employee recommends surgery, because all other treatments have not been successful; and

3. The employee obtains the written recommendation of the department head; and

4. The employee has not exhausted or utilized thirty days of AWP leave during the immediate rolling twelve month period for any occupational injury or disease; and

5. The employee has complied with the requirements of Paragraph C of this subsection. If the above requirements are met, AWP leave may be granted after the one year anniversary of date of injury addressed in Paragraph D for the time period necessary for surgery and recovery there from, as designated by a licensed physician, until the maximum thirty days allotment of AWP leave is used. In no event does this provision

allow over thirty days utilization of AWP leave in a rolling twelve month period. (Amended 02/24/09)

G) AWP Supplement to Worker's Compensation Weekly Benefit. In addition to the weekly workers' compensation benefits payable under law, the eligible employee granted AWP leave may receive a supplement to such workers' compensation benefit equivalent to the difference between any workers' compensation weekly benefit and the employee's pre-injury take-home pay. If the weekly workers' compensation benefit equals or exceeds the take-home pay, there shall be no AWP supplement, but the absence from work will not be deducted from the employee's accrued leave balances. For purposes of this ordinance:

1. Take-home pay means base pay, longevity pay, special merit pay, incentive and certification pay, uniform and clothing allowance, less mandatory deductions.

2. Mandatory deductions means income tax withholdings, FICA and Medicare, if applicable. (Amended 02/24/09)

3. Payroll deductions (FICA, Medicare and FWT) will NOT be taken out of the weekly workers' compensation benefits, but WILL be taken out of the supplement portion.

4. Section 125 benefit payments will be taken out of the supplement portion, if available.

H) Maximum Duration of AWP leave. AWP leave may be granted for a period not to exceed thirty working days in a rolling twelve month period.

I) Temporary and Intermittent Absence from Employment. AWP leave may also be granted for an employee's temporary and intermittent absence from his employment due to seeking and receiving treatment for his injury (doctor's and therapy appointments) provided that the employee submits the required medical documentation. AWP leave is not available for an employee's temporary and intermittent absence from his employment without medical documentation. An extension of AWP leave beyond the one year anniversary of the date of injury or illness is not allowed for an employee's temporary and intermittent absence from employment due to seeking and receiving treatment. (Amended 02/24/09)

J) Initial Seven Days of Disability. AWP leave is not available for the initial seven (7) days of disability not initially paid by workers' compensation benefits. An employee may elect to utilize his accrued sick or annual leave during the initial seven days of disability. (Amended 02/24/09)

K) Supplementation of Weekly Workers' Compensation When AWP Leave is Not Available. In the event AWP leave is not available, but the employee is receiving weekly workers' compensation benefits, pursuant to §504.052 of the Texas Labor Code, the employee may supplement his weekly workers' compensation benefits with accrued sick leave, annual leave and special sick leave, but the employee will not accrue additional leave during this period. In no event, will the amount of this optional supplement to the weekly workers' compensation benefit and the weekly workers' compensation benefit cause the employee to receive in excess of his pre-injury take-home pay. Only the utilized pro-rata amount of this optional supplement will be deducted from the employee's accrued leave balances. Payroll deductions for FICA, Medicare, and FWT will be deducted from this optional supplement portion. The employee must request this optional supplement through his applicable department. (Amended 02/24/09)

L) Leave Balances. While on AWP leave, absence from the job is not deducted from the employee's sick or annual leave balances nor does the employee continue to accrue sick and annual leave.

M) Pension Fund Contributions. Any pension fund contributions shall be made by the employee and employer in accordance with the employee's applicable pension plan, if any. In the event, the employee's weekly workers' compensation benefit is greater than his pre-injury take-home pay and thus not receiving an AWP supplement to his weekly workers' compensation benefit or the AWP supplement is insufficient to cover the employee's pension contribution, the employee will need to pay his pension deduction if he wants service credit. (Amended 02/24/09)

N) Overpayment of Workers' Compensation Benefits or Supplement Payments. In the event the employee receives overpayment of workers' compensation benefits or AWP supplement payments, the employee shall cooperate with the Human Resources Department to correct and repay any payment errors in a manner prescribed by the Human Resources Director. Such repayment includes assignment and repayment from the employee's future wages or by reduction of any accrued leave balances. (Amended 3/6/12)

~~4.5 PREGNANCY LEAVE~~

~~A) Pregnancy shall be treated the same as any other temporary physical disability.~~

~~B) An employee on pregnancy leave shall use accumulated and unused regular sick leave time and then shall be on leave without pay, unless the employee chooses to use any accumulated and unused annual leave. (Amended 3/6/12)~~

~~C) An employee going on pregnancy leave shall give written notice to her department head with appropriate medical verification. Before returning to work from pregnancy leave, the individual will provide appropriate medical documentation releasing the employee to return to work, as is required for any individual who has been on leave for a temporary physical disability.~~

4.5~~6~~ OBSERVED HOLIDAYS

The following days are hereby declared holidays observed by all the City departments, provided that the provisions of this section shall not apply to members of the Fire Department or to members of the Police Department, who are covered by collective bargaining agreements with the City. (Amended 10/03/95, 6/1/10)

1. First day of January (New Year's Day)
2. Third Monday in January (Martin Luther King Holiday)
3. Last Monday in May (Memorial Day)
4. Fourth day of July (Independence Day)
5. First Monday in September (Labor Day)
6. Fourth Thursday in November (Thanksgiving Day)

7. The Friday following the fourth Thursday in November (Day after Thanksgiving) (Amended 02/24/09, 06/25/09, 8/25/09)

8. Twenty-fifth Day in December (Christmas Day)

9. Employee's Birthday

When any holiday falls on a Saturday, the preceding business day shall be the day on which the holiday shall be observed by the City departments, provided however that the City Manager or designee shall have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday. (Amended 6/1/10)

When any holiday falls on a Sunday, the following business day shall be the day on which the holiday shall be observed by the City departments, provided however that the City Manager or designee shall have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday.(Amended 6/1/10)

Provided however, when the first day of January (New Year's Day) or the twenty-fifth day in December (Christmas Day) fall on a Saturday or Sunday, the preceding business day or the following business day shall be the day on which the holiday shall be observed by the City departments, as determined by the City Manager, who shall also have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday. (Added 6/1/10)

In addition to the above days, the following days are also declared to be holidays observed by the City departments: (Amended 6/1/10)

1. Any day designated as a holiday by City Council.

A) Holiday Worked. Any department head who finds it necessary to do so, may request some or all employees of his department to report for work on any of these legal holidays. (Amended 02/24/09, 3/6/12)

The department head may do either of the following when employees work a holiday:

1. Arrange for the employee to accrue the holiday and permit the time off within the specified period (12 months of the accrued holiday), or (Amended 02/24/09)

2. Pay employee the holiday, plus the actual numbers of hours worked at straight time. If employee works more than eight hours on a holiday, see Section 3.13 for method of overtime payment. In either case, the department head shall keep a record and report on such overtime work on holidays on the regular payrolls and on such reports as may be prescribed by the Human Resources Director. (Amended 08/28/07 and 02/24/09)

B) Holiday On Scheduled Day Off. Whenever a holiday falls on the employee's scheduled day off, the department head may do either of the following:

1. Arrange for the employee to accrue the holiday and permit the time off within the specified period (12 months of the accrued holiday), or (Amended 02/24/09)

2. Pay the employee the holiday. (Amended 02/24/09)

C) Holiday Accrual. If an employee is allowed to accrue the holiday, the number of hours credited for 8 hours per day, 40 hours per week will be eight (8) hours, for 10 hours per day,

40 hours per week will be ten (10) hours. The maximum accrual for holiday leave time shall not exceed the number of declared legal holidays excluding the birthday holiday. Accrued holidays must be used within 12 months of the accrued holiday and must be taken in the same increment in which it was accrued. (Amended 10/03/95, 3/6/12)

D) Limitation of Payment or Accrual. An employee whose scheduled workday falls on an observed holiday is limited to one payment or accrual for that observed holiday. (Added 6/1/10)

E) Employee's Birthday. In case of emergency, when the employee's services are needed on his birthday, the employee may be required by the department head to work on that day or shift but shall be given equal time off on another day or shift. If the employee's birthday falls on a day on which he would be entitled to be off for some other reason, the birthday holiday may be taken on the next regular work day, provided, however, if work schedules cannot be arranged or if emergencies exist, and only in these cases, the department head may schedule the holiday time off on another day or another shift. (Amended 02/24/09)

Any birthday holiday not taken on the employee's birthday but rescheduled in accordance with the above provisions must be scheduled and taken within fourteen calendar days before or fourteen calendar days after the employee's birthday. (Amended 08/28/07, 02/24/09)

F) Hours of Holiday Pay. The amount of holiday pay for employees who work 40 hours per week, 5 days per week, shall be 8 hours per holiday. The amount of holiday pay for employees who work 40 hours per week, 4 days per week, shall be 10 hours per holiday. Regular part-time employees who work an average of 20 or more hours per week shall be paid holiday pay of a prorated amount of hours based on the average number of paid hours, excluding overtime, in the two pay periods immediately preceding the holiday pay period. The City Manager shall designate the appropriate work week for employees for purposes of determining holiday pay. (Amended 05/08/90, 3/6/12)

4.6~~7~~ CIVIL LEAVE

The head of any department shall grant an employee leave with full pay for any absence necessary for serving on a jury, attending court as a witness when subpoenaed, or registering for and taking tests of fitness for promotion in the City service. A department head may grant leave with full pay to an employee for voting in an election.

Civil leave shall be only for the actual hours needed.

4.7~~8~~ MILITARY LEAVE

Military leave for City employees is provided in accordance with V.T.C.A., Government Code, Section 431.005 (a) and (b). (Amended 10/023/95 and 08/28/07)

4.8~~9~~ LEAVE WITHOUT PAY

Leave without pay may be granted employees as provided in the rules of the Civil Service Commission. Any leave without pay exceeding 30 calendar days or more will result in the

employee's anniversary date being changed by adding the exact number of days of leave to the existing anniversary date. (Amended 07/09/85 and 02/01/94)

4.9~~10~~ DISPOSITION OF LEAVE ALLOWANCE ON EMPLOYMENT CHANGE

Any employee who leaves the City service by retirement, resignation, layoff or termination shall be entitled to payment of the unused balance of annual vacation leave allowance. The employee's retirement, resignation, layoff or termination notice shall list the actual date of separation and shall note the adjustment to be made for unused vacation balances due and the adjustment shall provide compensation for the number of days (hours) equivalent to the number due. All other unused balances of leave allowances under this ordinance shall terminate on the date of retirement or separation of any employee from City service. Any employee transferred, demoted, or promoted shall retain all unused balances of vacation and sick leave as though no change in position had been made. (Amended 07/09/85)

4.10~~11~~ RECORDS ON GRANTS OF LEAVE OF ABSENCE

The department head shall keep a record of all leaves of absence accrued and granted for each employee. (Amended 3/6/12)

All grants of leave with pay shall be designated on the payrolls in such manner as the Human Resources Department shall prescribe. If leave time exceeds the amount an employee has accrued, the unauthorized leave time will not be paid, or charged to other accrued leave time.(Amended 01/30/09, 08/28/07, 3/6/12)

~~4.12 PARENTAL LEAVE~~

~~A) An employee going on parental leave for the purpose of caring for the employee's expected new-born child shall, at the earliest possible time, give written notice to the employee's department head and the Human Resources Director of employee's intent to go on parental leave and shall include with such notice the attending physician's confirmation of pregnancy, the most current estimate of the delivery date, and if requested by the department head or Human Resources Director, proof of the existence of a legal parent-child relationship between such employee and the expected new-born child.(Amended 08/28/07, 3/6/12)~~

~~B) An employee going on parental leave to care for a newly adopted minor child shall, at the earliest time possible, give written notice to the employee's department head and the Human Resources Director of the employee's intent to go on leave for such purpose, and shall include with such notice a certified copy of the adoptive placement agreement between the employee and the Texas Department of Human Services or an adoption agency authorized within the meaning of the Texas Family Code, or other applicable law, or, in the alternative, a certified, file-marked petition for adoption filed in compliance with the Texas Family Code, or other applicable law. Such written notice also shall include the date upon which the employee will take legal possession of the child under authority of either an adoptive placement agreement or an adoption decree, and any other necessary or appropriate~~

~~information requested by the department head or the Human Resources Director. (Amended 08/28/07, 3/6/12)~~

~~C) An employee on parental leave shall use accumulated and unused regular sick leave time and then shall be on leave without pay, unless the employee chooses to use any accumulated and unused annual leave. (Passed 12/09/86 and Amended 06/04/91)~~

~~D) All eligible employees may take parental leave in accordance with the Family and Medical Leave Act of 1993, as may be amended and no other provision of this Ordinance shall be construed to conflict with such Act. (Amended 08/28/07, 3/6/12)~~

Section 5. ~~ADJUSTMENT OF~~ EMPLOYEE ~~COMPLAINTS~~ APPEAL OF~~FOR~~ JOB CLASSIFICATION DECISIONS~~AND COMPENSATION PURPOSES~~

An employee shall, within thirty days of the date of a final classification decision, ~~from the date of occurrence,~~ have the right to secure consideration of any complaint with respect to the application of this Classification and Compensation Plan to his job classification. The employee shall first bring a complaint ~~the grievance~~ to his immediate supervisor or Department Head who shall promptly seek to arrive at a solution which is consistent with the classification and compensation plan and is acceptable to all parties. If the immediate supervisor or Department Head is unable to resolve such a complaint in a manner acceptable to the employee, a written report which includes the recommendations of the Department Head shall be submitted to the Human Resources Director. The Human Resources Director shall analyze the basis of the employee complaint. If the Human Resources Director sustains the complaint and determines that action is necessary to rectify the situation, he shall be authorized to take such action. If the Human Resources Director believes the complaint should not be sustained, he must submit the complaint to a Deputy City Manager or the City Manager and obtain his concurrence prior to determining that the complaint is not sustained. (Amended 11/15/05 and 02/24/09)

Section 6. REPEAL OF CONFLICTING ORDINANCES

All ordinances or parts of ordinances pertaining to the Classification and Compensation Plan, adopted as Ordinance No. 8064, effective at midnight on May 20, 1984, heretofore issued are hereby repealed. (Amended 08/28/07)

Section 7. SEVERABILITY CLAUSE

If any part of this ordinance be held void, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.