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

DEPARTMENT: **Human Resources**

AGENDA DATE: **10/26/2010**

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

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

SUBJECT: **AN ORDINANCE AMENDING ORDINANCE 8065, CIVIL SERVICE RULES AND REGULATIONS, AMENDING RULE 2 PROVIDING FOR THE EXTENSION OF EMPLOYEES PROBATIONARY PERIOD; RULE 5 RELATING TO STARTING SALARIES; RULE 8 RELATING TO THE REMOVAL OF AN APPLICANT FROM AN ELIGIBLE LIST FOR CERTAIN CONVICTIONS; RULE 13, TO ALLOW VACATION TO BE TAKEN IN ONE HOUR INCREMENTS, AND RELATING TO REINSTATEMENT OF FORMER EMPLOYEES; RULE 15, RELATING TO THE REMOVAL OF FORMAL COUNSELING DOCUMENTS FROM PERSONNEL FILE; AND RULE 29 RELATING TO THE OUTSIDE EMPLOYMENT OF PART-TIME EMPLOYEES.**

APPROVE:

BACKGROUND / DISCUSSION:

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

PRIOR COUNCIL ACTION:

Ordinance 8065 was last amended by City Council on June 1, 2010

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Per Civil Service Commission approval on 09/09/2010

CITY CLERK DEPT.
10 OCT 20 PM 4:56

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

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

OTHER: _____

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

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 8065, CIVIL SERVICE RULES AND REGULATIONS, AMENDING RULE 2 PROVIDING FOR THE EXTENSION OF EMPLOYEES PROBATIONARY PERIOD; RULE 5 RELATING TO STARTING SALARIES; RULE 8 RELATING TO THE REMOVAL OF AN APPLICANT FROM AN ELIGIBLE LIST FOR CERTAIN CONVICTIONS; RULE 13, TO ALLOW VACATION TO BE TAKEN IN ONE HOUR INCREMENTS, AND RELATING TO REINSTATEMENT OF FORMER EMPLOYEES; RULE 15, RELATING TO THE REMOVAL OF FORMAL COUNSELING DOCUMENTS FROM PERSONNEL FILE; AND RULE 29 RELATING TO THE OUTSIDE EMPLOYMENT OF PART-TIME EMPLOYEES.

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

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

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

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

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

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

RULE 2

Definitions and Rules of Construction

A. Definitions

11. **"Probationary Period":** As used in the Rules, the term probationary period means: 1) original probation for a period of six (6) months. Uniformed employees' original probation is a period of twelve (12) months or as otherwise provided in the Collective Bargaining Agreement (CBA); 2)

promotional probation is a six (6) month period immediately following a promotion from a lower graded classification to a higher graded classification; or 3) a probationary period of six (6) months following a change in classification as described in these Rules.

During an employee's probationary period the employee is allowed up to (3) three weeks of medical leave without affecting their probationary status.

For employees who need to exceed the (3) three weeks of medical leave during their probationary period, requests to extend an original probationary period will be made by Department Head for a period not to exceed three (3) months for documented medical reasons, unless otherwise covered by the CBA. The Human Resources Director will only consider extension requests that are the result of a medical absence of three (3) weeks or more.

RULE 5

Compensation

Section 4. Executive Compensation Plan.

c. The starting salary for any person covered under the Plan shall normally be at the entry rate; however, in cases where the person is already a regular employee in the service of the City, or in cases where an applicant with exceptional qualifications, or where recruiting efforts have failed to fill a position at the minimum, the applicant or employee may be started at a higher rate, not to exceed the top of the third quartile of the range. A starting salary above the entry rate must be approved by the Human Resources Director and City Manager.

Section 5. Professional/Managerial Compensation

c. The starting salary for any person covered under the Plan shall normally be at the entry rate; however, in cases where the person is already a regular employee in the service of the City, or in cases where an applicant with exceptional qualifications, or where recruiting efforts have failed to fill a position at the minimum, the applicant or employee may be started at a higher rate, not to exceed the top of the third quartile of the range. A starting salary above the entry rate must be approved by the Human Resources Director and City Manager.

RULE 8

Applications

Section 1. Filing of Applications.

d. The Human Resources Director, subject to appeal to the Commission, will refuse to examine an applicant, or after examination to certify him as eligible and will remove his name from the eligible list for any of the following reasons, in each case to be fully documented:

(2) He has been convicted of a felony, or a misdemeanor within seven (7) years from date of conviction, end of parole, or release from prison, which is determined to be job related to the position sought; or

RULE 13

Leave of Absence, Resignation, Sick Leave and Vacations

Section 3. Vacation Leave

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

Section 8. Reinstatement Following Resignation.

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

Full time employees may request to be reinstated to full or part time classifications that they have previously held within 18 months of their date of separation. Such reinstatement will depend upon the availability of a vacant position.

c. Approval for Placement on Reinstatement List After 18 Months

The City Manager or designee, may approve a request for reinstatement to full or part time position in a classification previously held after more than 18 months, but no more than 30 months from the date of separation, in cases where professional training or specialized skill is required, where the person desiring reinstatement has been continuously engaged either in study to benefit himself for his duties, or was in an occupation or position tending to increase his value in the position, or where the person demonstrates that he was unable to apply for reinstatement within the 18 month period due to an extraordinary or unusual hardship and reinstatement will not have a detrimental effect on the City. For the purpose of this

section, substantially similar or revised job classifications may be used in determining such reinstatement after 18 months.

RULE 15

Suspension, Reduction, Discharge

Section 8. Formal Counseling.

Formal Counseling is not within the type of disciplinary action specified in Section 6.13-2 of the Charter which may be appealed to the Civil Service Commission. A formal counseling is considered a written counseling to address employee workplace conduct. Employees receiving a formal counseling shall have the right to place responses to the formal counseling into their personnel files which shall remain in the file so long as the formal counseling to which the response relates remains in the file. Any formal counseling, or a written reprimand issued before 8/25/09 will be removed from an employee's personnel file as soon as practicable twenty-four (24) months after the formal counseling is placed in their file provided the employee has not received any other disciplinary action during the time period. Any such formal counseling which qualifies to be removed, shall not be used against the employee for purposes of progressive discipline or for performance evaluations, as of the expiration of the twenty-four (24) month period.

RULE 29

Outside Employment

Section 1. Statement of Policy.

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

PASSED AND APPROVED this _____ day of November, 2010

THE CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
Municipal Clerk

APPROVED AS TO FORM:

_____
John R. Batoon
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Linda Ball Thomas
Human Resources Director

APPROVED BY THE CIVIL SERVICE COMMISSION ON SEPTEMBER 9, 2010.

By: _____
Secretary

TRACK CHANGES FOR ORDINANCE 8065

RULE 2

Definitions and Rules of Construction

A. Definitions

1. **"Allocation":** The means by which an individual position is assigned to an appropriate job classification based on the duties and responsibilities of the position. (Added 8/25/09)

2. "**Certification**": The process by which the names and addresses of persons on a proper eligible list are placed in the correct order in which vacancies are to be filled and thereby become entitled to be considered to fill a vacancy.

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

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

5. "**Designated Household Member**": One person who currently lives in an employee's household and who has been designated by the employee in accordance with Section 1f of Rule 13.

6. **"Director":** As used in the Rules, the term Director shall mean the Human Resources Director.

7. **"Full-time":** As used in the Rules, the term full-time refers to an employment status of an employee that is regularly scheduled to work 40 hours per week. (Added 8/25/09)

8. "**Health Care Provider**": A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or a person meeting the definition of health care provider under the Family and Medical Leave Act and applicable regulations to include podiatrists, dentist, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse-midwives and clinical social workers. All health care providers must be authorized to practice in their state of practice and be performing within the legally-defined scope of practice, and if the health care provider practices in a country other than the United States, is licensed to practice in accordance with the laws and regulations of that country.

9. "**Household**": A unit composed of persons living together in the same dwelling, without regard to whether they are related to each other as referred to in Rule 13.

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

11. **"Probationary Period":** As used in the Rules, the term probationary period means: 1) original probation for a period of six (6) months. Uniformed employees' original probation is a period of twelve (12) months or as otherwise provided in the Collective Bargaining Agreement (CBA); 2) promotional probation is a six (6) month period immediately following a promotion from a lower graded classification to a higher graded classification; or 3) a probationary period of six (6) months following a change in classification as described in these Rules.

During an employee's probationary period the employee is allowed up to (3) three weeks of medical leave without affecting their probationary status.

For employees who need to exceed the (3) three weeks of medical leave during their probationary period, requests to extend an o~~O~~riginal probationary period will ~~may~~ be made by Department Head~~extended~~ for a period not to exceed three (3) months for documented medical reasons, unless otherwise covered by the CBA. The Human Resources Director will only consider extension requests that are the result of a medical absence of three (3) weeks or more~~as allowed in these Rules~~. (Added 8/25/09)

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

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

B. Rules of Construction

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

2. **"Headings and Subheadings"**: The headings and subheadings in the Rules are for convenience in searching only, and are not intended to limit or expand the meaning of the text. (Passed 07/31/07) (Amended 8/25/09)

RULE 5

Compensation

Section 1. Compensation.

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

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

(2) Persons hired under the Professional Managerial or Executive Compensation Plan shall additionally be compensated in accordance with Sections 4 and 5 of this Rule. Subsections (g) and (h) of this section shall not apply to persons hired under the Executive Compensation Plan. (Amended 12/18/84, 2/1/94, 11/1/94, 9/13/05, 8/25/09)

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

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

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

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

e. An annual competency increase may be added to employee's current pay rate provided that it does not result in a salary which exceeds the maximum of the applicable pay range and the funds for such increases have been budgeted by City Council. Annual competency increases will be available to all regular full and part-time employees earning an overall rating of "meets performance standards" or higher on his annual performance evaluation, upon recommendation of the Department Head or City Manager, as applicable, and approval of the Human Resources Director, in accordance with and at such time and in such manner as specified in the budget resolution adopted for the fiscal year in which the increase is awarded. If no time or manner for competency increases is specified in the budget resolution, then any such increases will be given on the first day of the pay period following the pay period in which the employee's Annual Anniversary Date below falls. (Amended 9/13/05, 7/31/07, 8/25/09)

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

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

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

Section 2. Compensation Changes.

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

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

Section 3. Transfer to Same Class and Grade.

Whenever an employee in any department of the City wishes to transfer to a position in another department, the employee must have received a "meets performance standards" or higher rating on their most recent scheduled performance evaluation and must have not been disciplined in the last 12 months. Persons on a transfer list will be eligible for certification for a period of 24 months provided they have not waived certification or have been non-selected a combination of three (3) times. The names of persons who waive certification or have been non-selected a combination of three (3) times shall be removed from eligible list. The Employee shall retain his grade and pay rate, provided: (Amended 7/31/07, 8/25/09)

a. The position is in the same class and grade as the one from which transfer is made; or

b. The employee has been performing services substantially similar in nature and having similar requirements as to education and experience to those of the new position, as determined by the Human Resources Director. Seniority credit where applicable will be given to the employee for the number of years he has been performing similar work in the former department. (Amended 2/1/94 and 7/31/07)

Section 4. Executive Compensation Plan.

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

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

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

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

Section 5. Professional/Managerial Compensation

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

b. At any time that any position in the Professional/Managerial Compensation Plan needs to be re-evaluated, re-evaluation will be investigated by the Human Resources Department, and reassigned to the proper level in the Professional/Managerial Compensation Plan in accordance with the standards established in the Charter and Rules as to reclassification of positions, as recommended by Civil Service Commission and approved by City Council. (Amended 7/31/07)

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

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

Section 6. Transfer During Probationary Period.

a. In order to have a request for a transfer approved, a person must have completed a probationary period in the class to which transfer is being requested, except as provided in paragraph b.

b. In cases where a position is abolished, a transfer request may be made by either the employee or the City. In such cases, a transfer may be approved while the employee is still serving in a probationary period for the class to which transfer is requested, provided that the balance of the employee's probationary period not yet served be retained by the employee in the new department, and that the rules regarding transfer and the order of certification and all provisions regarding transfers are met. (Passed 1/2/85) (Amended 9/13/05)

RULE 8

Applications

Section 1. Filing of Applications.

Except as otherwise provided for herein, applicants for all positions, must file an application with the Human Resource Department not later than the day specified in the job posting for the examination and in the manner prescribed in the job posting. Application forms for any examination will not be accepted after the close of the filing period, except for good cause as determined by the Human Resources Director, subject to review by the Commission. (Passed 11/25/03) (Amended 7/11/06, 8/21/07)

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

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

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

(1) Exclude him from such examination or;

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

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

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

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

d. The Human Resources Director, subject to appeal to the Commission, will refuse to examine an applicant, or after examination to certify him as eligible and will remove his name from the eligible list for any of the following reasons, in each case to be fully

documented:

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

(2) He has been convicted of a felony, or a misdemeanor within ~~the last~~ seven~~ten~~ (7~~10~~) years from date of conviction, end of parole, or release from prison, which is determined to be job related to the position sought; or (Amended 8/25/09)

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

(4) He is found by the Commission to have committed any act, either while in the service of the City or otherwise, or to have any deficiency or disqualification which, in the judgment of the Commission, would be sufficient to constitute a just cause for discharge from the Civil Service as defined in Article VI, Section 6.13-3 of the Charter; or

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

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

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

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

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

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

Section 2. Applications On File.

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

Applications for one examination will not be used for any other or later examinations. An applicant who has been given notice that he fails to meet the minimum experience

requirement in Section 1 will be given the opportunity within seven working days of the date of the disqualification notice to supplement his application and provide any relevant information not previously stated in his application.

Section 3. Appeals from Disqualification from Examination.

a. Applicants who are disqualified from taking an examination may appeal to the Civil Service Commission provided they appeal within seven calendar days and the individuals who appeal must file a written rebuttal in a format prescribed by the Human Resources Director. If the applicant fails to update their contact information or respond within the timelines set, no further action will be taken. (Amended 8/21/07, 8/25/09)

b. Untimely appeals will not be accepted.

c. If the examination is held before the appeal is heard and determined by the Commission, the Human Resources Director may allow the applicant to take the examination conditionally pending the Commission's determination. If a conditional applicant fails to achieve a passing grade on an examination, the appeal shall be administratively dismissed and the appeal will not be forwarded to the Commission and no further action will be taken. (Amended 8/25/09)

Section 4 . Age.

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

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

RULE 13

Leave of Absence, Resignation, Sick Leave and Vacations

Section 1. Leave of Absence.

a. Procedures and Limitations

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

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

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

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

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

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

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

b. Family and Medical Leave Act of 1993

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

an employee may be granted under section 1.a. (Passed 2/07/06) (Amended 8/21/07, 8/25/09)

c. Requesting Leave

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

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

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

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

d. Benefits During Leave

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

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

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

e. When Leave of Absence Shall not be Granted

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

f. Notices regarding Designated Household Members

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

g. Return after Leave

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

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

Section 2. Sick Leave

a. Accrual

All regular and probationary employees who are regularly scheduled to work a minimum of forty (40) hours per week are entitled to an annual sick leave, with full pay in the amount of 120.0 hours per year or 4.62 hours per pay period.: (Amended 7/09/85,8/11/87, 6/28/88, 1/30/90, 2/07/06, 8/25/09)

Part-time employees who are regularly scheduled to work a minimum of twenty (20) hours per week shall accrue sick leave at a pro-rated amount of full-time entitlement based on the number of hours that they are scheduled to work. Employees covered by collective bargaining agreements shall accrue sick leave as provided in the applicable agreement. (Amended 2/07/06, 8/25/09)

Each such employee may accrue unlimited sick leave days. (Added 8/25/09)

b. Sick Leave Verification

No sick leave of three (3) or more consecutive work days will be granted to any person without a certificate verifying that the leave is necessary for medical reasons. Additionally, no sick leave the day before, the day of, or the day after a City designated holiday will be granted to any person without a certificate. Such certificate must be from a health care provider, and verify that the leave is necessary for medical reasons. (Amended 7/09/85, 2/14/89, 9/17/96 and 2/07/06)

c. Emergency Leave

Emergency Leave may be granted under the sick leave clause for the following reasons:

(1) A quarantine established by the Health Authority. (Amended 8/25/09)

(2) Death of mother, father, child, grandchild, brother or sister, or spouse or designated household member, or their child, or parent. A maximum of five (5) days of sick leave may be granted for this purpose per event. Employees shall provide written documentation of the funeral or death. (Amended 8/25/09)

(3) Death of other relatives or other person with whom the employee has a significant familial relationship. Leave with pay in such cases may be for not more than one (1) day to permit attendance at the funeral.

(4) Illness of the employee's immediate family. "Immediate family" is defined as the spouse, designated household member, children, the grandparents, or parents of the employee or of the employee's spouse or designated household member. No more than two days per pay period may be authorized to permit necessary arrangements for care unless the employee takes leave under the Family and Medical Leave Act. (Amended 3/31/87, 8/11/87, 6/28/88, 2/14/89, 8/5/93 for employees not covered by the Collective Bargaining Agreement, 2/4/94 for employees covered by the Collective Bargaining Agreement, 2/7/06) (Amended 8/25/09)

d. Application for Sick Leave or Emergency Leave

Application for Sick Leave or Emergency Leave will be made to the employee's Department Head. When an application for such leave is denied by the Department Head, the applicant may appeal to the City Manager who will investigate and uphold or reverse the denial, consistent with provisions of this Rule. (Amended2/07/06 and 8/21/07)

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

The Department Head granting sick or Emergency Leave will immediately report the leave and subsequently, the individual's return, to the Human Resources Director. The Department Head or the Human Resources Director may at any time inquire or investigate into the use of sick leave or Emergency Leave and require medical certification for all subsequent absences, or take other appropriate action consistent with the Charter or these Rules. Reasons to inquire or investigate shall include, but are not limited to, the following: (Amended 3/31/87, 9/17/96, 2/07/06 and 8/21/07)

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

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

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

f. Use of Sick Leave for Personal Business

1. Eligibility

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

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

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

2. Sick Leave Conversion Incentive

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

September 1 – February 28

March 1 – August 31

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

g. When Paid Leave is Exhausted

A regular employee who has served the required probationary period and suffers a life-threatening medical condition, and who has exhausted all available paid leave, may make a

written application to become a shared leave recipient, in the manner prescribed by the shared leave policy and procedures. (Added 9/22/98)

Section 3. Vacation Leave

a. Eligibility

All regular employees who are regularly scheduled to work on an average, a minimum of twenty (20) hours per week, who have completed original probation, shall be eligible for vacation allowance as hereinafter set forth. Part-time employees shall accrue vacation leave at a pro-rated amount of full-time entitlement based on the number of hours that they are scheduled to work. Employees covered by collective bargaining agreements shall accrue vacation as provided in the applicable agreement. (Amended 8/11/87, 1/30/90, 2/07/06, 08/21/07, 8/25/09)

b. Accrual

All regular employees in the City Service as defined in (a.) above, shall accrue vacation credit at the following rates per pay period for each pay period completed by the officer or employee in the City Service, calculated from the date of employment of each employee: (Amended 7/09/85, 8/11/87, 1/30/90, 2/07/06, 8/21/07)

For 0 - 5 years of service (12 days):
40 hour per week employees - 3.70 hours per biweekly pay period
(Amended 8/11/87, 9/20/88, 2/07/06)

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

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

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

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

Section 4. Vacation Schedules.

a. Scheduling of Vacations

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

b. Forfeiture of Leave Balance Overage

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

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

Section 5. Special Leave Based on Operational Necessity

The City Manager may declare special leave time for operational efficiency to close some facilities and or operations for a period of time during the period between the beginning of the last week in December and the end of the first week of January each year, which would require affected employees to use their accrued vacation or personal leave balances. Should an affected employee have no available leave balances, he will be place on leave without pay. Any affected employee who does not wish to take such leave may request a temporary assignment to another position subject to availability during such time. Such special leave shall not exceed 5 days each year. (Added 6/1/10)

Section 6. Resignations.

a. Effect of Resignation

Whenever an employee of the Civil Service resigns, he severs his connection with the City and loses such seniority, including seniority rights following reinstatement from resignation, as he had at the time of his resignation. (Amended 8/21/07, 8/25/09)

b. Form of Resignation

The notice of resignation must be tendered by the employee in writing through the Department Head to the Human Resources Director not less than ten (10) working days prior to its effective date, excluding holidays. It is the intent of this provision to require at least two calendar weeks notice of separation. Employees on approved medical leave shall be excluded from this provision. (Amended 8/21/07, 8/25/09)

c. Filing of Notice of Resignation

The Department Head shall file the notice of resignation with the Human Resources Department. (Amended 8/21/07, 8/25/09)

d. Withdrawal of Notice of Resignation

The resigning employee will be permitted to withdraw the notice of resignation within ten (10) working days after its filing with the Human Resources Department or up to the last actual day of work, whichever is sooner. (Amended 11/19/91, 2/07/06, 8/25/09)

Section 7. Reinstatement from Military Leave.

Any employee granted leave of absence for the purpose of entering the armed forces of the United States, including the Coast Guard, or the state service as a member of the Texas National Guard or Texas State Guard or as a member of any reserve components of the armed forces of the United States shall be reinstated to his position, if the position has not been abolished and if the employee has all the qualifications requisite to an original appointment to the position, as determined by the Commission, and in accordance with Chapter 613, Texas Government Code. (Amended 2/07/06, 8/25/09)

Section 8. Reinstatement Following Resignation.

a. Requisites for Reinstatement for Public Safety Employees

Those former uniformed employees requesting reinstatement to the Fire Department must take and pass the medical examination and a physical agility test prior to the reinstatement to actual duty. One additional attempt at the physical agility test will be permitted after a one-month waiting period for persons failing the agility test on the first attempt. Additional attempts will not be offered for any of the other components. Those former uniformed employees requesting reinstatement to the Police Department must take all applicable tests in accordance with Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) standards, to include the medical and psychological examinations, and physical agility test prior to the reinstatement to actual duty. The Chief of Police may require a polygraph examination. (Amended 2/07/06, 8/21/07, 6/1/10)

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

Full time employees may request to be reinstated to full or part time classifications that they have previously held within 18 months of their date of separation. Such reinstatement will ~~positions at their request~~ depend~~ing~~ upon the availability of a vacant position ~~availability~~. (Amended 2/07/06)

c. Approval for Placement on Reinstatement List After 18 Months

The City Manager or designee, may approve a request for reinstatement to full or part time position in a classification previously held after more than 18 months, but no more than 30 months from the date of separation, in cases where professional training or specialized skill is required, where the person desiring reinstatement has been continuously engaged either in study to benefit himself for his duties, or was in an occupation or position tending to increase his value in the position, or where the person demonstrates that he was unable to apply for reinstatement within the 18 month period due to an extraordinary or unusual hardship and reinstatement will not have a detrimental effect on the City. For the purpose of this section, substantially similar or revised job classifications may be used in determining such reinstatement after 18 months. (Amended 8/11/87, 3/17/92, 9/21/93, 2/07/06, 8/21/07, 8/25/09)

Section 9. False or Fraudulent Application for Leave

Any employee who falsely or fraudulently requests leave to which he is not entitled or provides false or fraudulent documents suggesting eligibility for any leave provided for in this Rule is subject to appropriate disciplinary action including termination. (Amended 8/21/07)

RULE 15

Suspension, Reduction, Discharge

Section 1. Causes of Suspension, Reduction or Discharge.

The following may constitute causes for discharge, suspension or reduction of regular employees: That an officer or employee in the Civil Service: (Amended 7/31/07)

a. Has been convicted of a felony, or a misdemeanor involving moral turpitude; or

b. Has willfully, wantonly, or through culpable negligence been guilty of brutality or cruelty to an inmate or prisoner of a city institution or to a person in custody, provided the act committed was not necessarily or lawfully done in self defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody; or

c. Has been under the influence of intoxicants or drugs or the use thereof while on duty; or

d. Has contracted a disease or has some physical or mental ailment or defect which makes him unfit for Civil Service. (This subsection may not be availed in any case to effect the discharge of an employee where such employee is entitled to and intends in due course to seek leave of absence for the purpose of procuring proper treatment for such disease if it is curable within the maximum of 12 month time allowed hereunder for leave of absence. Action hereunder will not in anywise affect the right of one suffering physical injury or disability arising from course of employment in the Civil Service to retirement or disability payments under any existing retirement or disability payments, or to participate in any retirement or disability plan adopted by the City); or (Amended 11/13/84, 8/25/09)

e. Is wantonly offensive in his conduct or language towards the public, the head of any department, or his fellow employees; or (Amended 8/25/09)

f. Is consistently inefficient in the performance of the duties of his position so that his general average of efficiency is below the minimum standards established, and the facts on which such general average is based are true and justify such average; or (Amended 8/25/09)

g. Is negligent in the care or the intentional misuse of City property or (Amended 7/31/07)

h. Has an unexcused absence from duty for a period of three or more successive days; or

i. Has used or threatened to use or attempted to use personal or political influence in securing promotion, leave of absence, transfer, change of grade, pay, or character of work; or

j. Has induced, or has attempted to induce an officer or employee in the service of the City to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order; or has taken any fee, gift, or other valuable thing in the course of his work or in connection with it, for his personal use from any person, when such fee, gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than accorded other persons; or (Amended 8/25/09)

k. Has induced or attempted to induce any person, firm or corporation doing business with the City to give employment to any relative of the City officer or employee, or has induced

or attempted to induce any such person, firm or corporation to show any material favor or consideration of any kind to the City officer or employee or any relative of the City officer or employee, when the officer or employee holds a position in a department having direct contact with such person, firm or corporation; or

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

(1) actively engaging in the management or organizational committee of any municipal campaign;

(2) acting as a worker at the polls in a municipal election;

(3) participating in the solicitation of money in a municipal election;

(4) contributing money or other valuables for any political purpose in connection with municipal elections;

(5) while on duty, engaging in the distribution of any political material;

(6) while on duty, promoting or engaging in the candidacy of any candidate or political party during any election period, whether it be a partisan or municipal election;

(7) using city time or resources for any political purpose;

(8) while wearing a city uniform, engaging in any political activity;

(9) attempting to influence the vote or political action of any city employee whether superior or subordinate, while on duty;

(10) attempting to influence, through threat or coercion, the vote or political action of any city employee whether superior or subordinate, while on or off duty;

(11) recruiting or encouraging other city employees to support or participate in municipal elections;

(12) seeking political office without first resigning as provide in Rule 17;

(13) accepting political paraphernalia while on duty or on city property;

(14) using your city title or position in an endorsement for any political election.

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

(1) engaging in the organizational efforts of partisan elections;

(2) participating in partisan election steering committees;

(3) demonstrating their political preference in partisan or municipal elections by displaying political paraphernalia representative of their political preference, so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his city position or title; (Amended 8/25/09)

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

(5) endorsing the candidate of their choice in any elections so long as the

employee is off duty, not in uniform, and not in a city facility, and does not use his city position or title; (Amended 8/25/09)

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

(7) joining political clubs and organizations;

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

(Amended 05/07/02)

m. Violates the City's Ethics Ordinance; or (Added 7/31/07)

n. Refusal to follow the lawful order of a superior or supervisor; or (Added 7/31/07)

o. Subjecting a fellow employee or subordinate to unlawful intimidation, harassment or retaliation; or (Added 7/31/07)

p. For just cause. (Added 7/21/07)

Section 2. Disciplinary Notice.

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a regular employee, other than at the end of a probationary period, will not become effective until the Department Head has first served upon such employee a written notice of discipline. The notice must contain one or more statutory reasons or grounds for discipline, together with such specifications of fact as will enable the employee to make an explanation and place him fairly upon his defense. The specifications of fact shall be of sufficient specificity so as to preclude the possibility of disciplinary action for the same act or omission in the future. Nothing contained herein shall prohibit the Department Head from using an employee's prior acts or omissions resulting in discipline in determining future disciplinary action against the employee. An employee may be disciplined for other acts or omissions not specified in the notice even if such acts arise from the same incident or event. A Department Head may not unilaterally reduce the discipline given once notice of discipline has been provided to the employee, without the employee's consent. A copy of such notice of discipline, together with the employee's explanation, if any, will be filed with the Human Resources Director. (Amended 06/24/03, 7/31/07, 8/25/09)

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

a. When disciplinary action in the nature of a five (5) day suspension or greater, a reduction, or discharge is being contemplated by the Department Head, the employee must be served with a notice of proposed disciplinary action which shall conform with the notice requirements set forth in Section 2 and Section 3 (b) of this Rule. In addition to the notice of proposed disciplinary action, the employee shall be furnished with the written materials and tangible things in the possession of the Department Head that form the factual and evidentiary basis for the proposed disciplinary action. No matter may be withheld from the employee that is inconsistent with the theory of discipline or that could tend to mitigate the contemplated sanction. (Amended 8/25/09)

b. Within ten (10) working days of receipt of the notice of proposed disciplinary action, the employee may request a conference with the Department Head. Within five (5) working days of receipt of the employee's response, the Department Head shall meet with the

employee, provided further that this period may be extended with the mutual consent of the Department Head and the employee. No witnesses may be called to testify as part of the employee's explanation or response. During the conference, the employee, their representative, and the Department Head shall engage in discussions with a view toward reaching a consensus and agreement relative to the proposed disciplinary action. No part of the discussions that take place during the conference may be offered into evidence at any subsequent hearing, except for the limited purpose of determining compliance or non-compliance with the provisions of this Rule as provided in paragraph "e" and for impeachment purposes. In the event such a consensus is reached, the execution by the employee of documents finalizing the settlement agreement shall constitute a waiver of the employee's right to appeal to the Commission, and the employee shall be so advised in plain language. (Amended 09/09/03, 01/06/04, 8/25/09)

c. Respecting discharge, those departments currently using a pre-termination hearing shall not be required to have a conference as contemplated hereinabove provided that the time between notification and hearing shall be at least five (5) days and further provided that there shall be no change to current practices regarding violations of applicable federal laws. (Amended 09/09/03, 01/06/04, 8/25/09)

d. The employee is entitled to have a representative of their choice assist them in the preparation and presentation of their response, provided further that in the event the representative is an employee of the City, he shall use vacation leave or personal days for such time as may be required for the representative to attend the conference. If the employee does not have any accrued vacation or personal days, the employee will be placed on unpaid administrative leave for such time as may be required for the representative to attend the conference. The employee must provide his Department Head with two days notice of the request to take the above leave. The Department Head may disapprove the request if the leave significantly interferes with the operational needs of the department. (Amended 09/09/03, 01/06/04, 8/25/09)

e. Disciplinary action must be taken against an employee within 80 working days after the occurrence of the incident giving rise to the discipline or from the date that the Department Head knew or should have known that disciplinary action is appropriate, whichever is later, provided however that this period of limitation shall be tolled if an investigation is being conducted by a law enforcement authority into criminal charges against the employee arising out of the same incident. Once a Department Head receives notice from the employee that charges have been preferred, through an indictment or information, or that the criminal investigation has been concluded without the preferral of charges, then the time period will resume running. (Amended 09/09/03, 01/06/04, 8/25/09)

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

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

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

i. A copy of this Rule shall be attached to each notice of proposed disciplinary action. (Passed 1/6/04)

Section 4. Resignation Before Appeal Decision.

The acceptance by Department Head of the resignation of a person discharged before final action on the part of the Commission will be considered a withdrawal of the charges and the separation of the employee concerned will be recorded as a resignation and the preceding will be dismissed without judgment.(Amended 7/31/07)

Section 5. Disqualification for Reappointment.

Any employee who is dismissed for cause or who resigns while not in good standing will be disqualified from taking a Civil Service examination for two years thereafter. His name will be removed from all eligible lists, unless, in the judgment of the Commission the cause of his dismissal or resignation under charges will not affect the possibility of his usefulness in some other position. (Amended 8/25/09)

Section 6. Non-Certification of Suspended Persons.

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

Section 7. Election to Forfeit Annual Leave.

Regular employees suspended for not more than ten (10) working days may elect to forfeit annual leave for a period equal to the suspension, or to the extent of the employee's annual leave balance, subject to the approval of the Department Head. The election provided for herein, shall work a waiver of the employee's right to appeal the disciplinary action to the Commission, and the employee shall be so advised in plain English on a suitable form upon which the election shall be made, as developed by the Human Resources Director and appended to the notice of suspension. The Department Head shall not unreasonably withhold approval of the employee's election. (Added 05/11/04, Amended 7/31/07)

Section 8. Formal Counseling.

Formal Counseling is not within the type of disciplinary action specified in Section 6.13-2 of the Charter which may be appealed to the Civil Service Commission. A formal counseling is considered a written counseling to address employee workplace conduct. Employees receiving a formal counseling shall have the right to place responses to the formal counseling into their personnel files which shall remain in the file so long as the formal counseling to which the response relates remains in the file. ~~Employees may petition the Director to permanently remove the~~ Any formal counseling, or a~~a~~ written reprimand issued before 8/25/09~~the date of the adoption of this amendment~~ will be removed from an employee's~~their~~ personnel file as soon as practicable twenty-four (24) months after the formal counseling is placed in their file provided the employee has not received any other disciplinary action during the time period. Any such formal counseling which qualifies to be removed, shall not be used against the employee for purposes of progressive discipline or for performance evaluations, as of the expiration of the twenty-

four (24) month period. (Added 8/25/09)

RULE 29

Outside Employment

Section 1. Statement of Policy.

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

Section 2. Maximum Allowable Hours; Conditions Disqualifying Applicants.

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

a. Where it appears from the applicant's sick leave record or other evidence that outside employment would measurably impair the applicant's ability to discharge official duties and responsibilities with the City;

b. Where outside employment, or the place where it is performed, would likely bring either the City or the applicant into disfavor with the public, involve the employee in violation of the Rules and Regulations of the Commission or the employee's department, or present the employee with an actual or potential conflict of interest respecting city employment;

c. Where the employment, or the place where it is to be performed, are such as to measurably impair the employee's efficiency, capability, or availability as an employee of the City;

d. Where the outside employment requires the applicant to appear in the official uniform of the applicant's City employment where such practice would violate a rule of the applicant's department or where the outside employment would involve the service of civil process;

e. Where the outside employment of a public safety employee would involve the operation of, or employment in, an establishment where the principle business is the sale of intoxicating beverages;

f. Where the outside employment could affect their ability to make unbiased decisions or recommendations in the duties of their job with the City; or (Added 9/27/05)

g. Where the outside employment could compromise their independent judgment regarding recommendations or choice of vendors or services that are provided the City of El Paso. (Added 9/27/05, 7/31/07)

Section 3. Form of Application; Procedure for Approval.

An applicant must submit a request for permission to work at outside employment to the Department Head for approval. This request must be submitted on appropriate forms as provided by the Department of Human Resources and must include, inter alia, the specific

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

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

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

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

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

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

An employee whose original or subsequent application for outside employment has been denied by the Department Head or whose approval has been revoked, may appeal the denial or revocation to the Commission within ten (10) working days of his notification thereof. The Secretary will promptly docket the appeal on the Commission's agenda. Upon the hearing of the appeal, the Department Head and the employee will state their respective positions in writing to the Commission which shall consider the same, receiving testimony as it deems appropriate. The Commission will then determine the appeal. The burden of proof in an appeal from a denial of an original or subsequent application shall be upon the Department Head by a preponderance of the evidence; an appeal from a revocation of approval shall be sustained in the absence of substantial evidence. An employee whose appeal from a revocation of outside employment has been denied shall be ineligible to reapply for outside employment for a period of six months from the date of such denial. Revocation of approval shall not be considered disciplinary action. Copies of all outside employment documents will be kept on file in the employee's department. (Amended 9/27/05, 7/31/07, 8/25/09)

ORDINANCE 8065
SYNOPSIS

RULE 2 – DEFINITIONS

11. **"Probationary Period":** Added clarifying language and set time limits for the extension of a probationary period.

RULE 5 – COMPENSATION

Rule 5 Section 4. Executive Compensation Plan.

Rule 5 Section 5. Professional/Managerial Compensation.

Added back language in Section 5c which was inadvertently deleted in 2009. This section was originally a Civil Service policy established in 1998 before it was codified in the rules. This reestablishes when an employee's starting salary may be paid at more than minimum. Inserted same language in Section 4c.

c. changed to d. in Sections 4 & 5

RULE 8 - APPLICATIONS

Rule 8 Section 1 d. 2.

The change tracks State Law under Texas Health & Safety Code 765.001 and Texas Government Code 411.118 which states within 7 years from date of conviction, end of parole, or release from prison.

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

Rule 13 Section 3 Vacation Leave.

c. Changed the requirement that vacation can only be taken in ½ days to hourly increments.

Rule 13 Section 8 Reinstatement Following Resignation.

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

Added clarifying language that employees may request to be reinstated to classifications that they previously held within 18 months and that reinstatement is dependent upon availability of a vacant position.

c. Approval for Placement on Reinstatement List After 18 Months

Added clarifying language that employees must return to position previously held within 30 months and that employees must be continuously employed in a similar position. Also

clarifies that similar or revised job classifications may be used in determining reinstatement eligibility.

RULE 15 – SUSPENSION, REDUCTION, DISCHARGE

Rule 15 Section 8. Formal Counseling

Deleted the language that required an employee to request removal of formal counseling and written reprimands. Added clarifying language allowing for removal of formal counseling or a written reprimand from employee's personnel file as soon as practicable and not be used for progressive discipline or performance evaluations if it qualifies to be removed.

RULE 29 – OUTSIDE EMPLOYMENT

Rule 29 Section 1. Statement of Policy

Added clarifying language that regular part time employees are not subject to maximum allowable hours in Section 2. Added language to clarify that regular part time employees are expected to work all scheduled shifts. This allows full time employees elsewhere, such as teachers, to work part time evenings and weekends in the Parks and Recreation Department.