

DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Human Resources

AGENDA DATE: Introduction: 01/13/2015  
Public Hearing: 01/20/2015

CONTACT PERSON NAME AND PHONE NUMBER: Linda Ball Thomas (915) 212-1240

DISTRICT(S) AFFECTED: All

SUBJECT:

AN ORDINANCE AMENDING ORDINANCE 8065 (CIVIL SERVICE RULES AND REGULATIONS), TO AMEND A SECTION OF RULE NO. 1 TO COMPORT WITH CHARTER AMENDMENTS RELATING TO ELECTION OF CIVIL SERVICE OFFICERS; TO AMEND A SECTION OF RULE NO. 6 TO CLARIFY THE INTENT OF SICK LEAVE VERIFICATION REQUIREMENTS; TO AMEND A SECTION OF RULE 8 TO CLARIFY THE APPLICATION OF FORMAL COUNSELINGS IN PROGRESSIVE DISCIPLINE; AND TO AMEND A PORTION OF RULE NO. 8 AND RULE NO. 10 TO COMPORT WITH LEGISLATIVE AMENDMENTS TO CHAPTER 150 OF THE LOCAL GOVERNMENT CODE RELATING TO MUNICIPAL EMPLOYEES AS CANDIDATES FOR PUBLIC OFFICE.

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 September 17, 2013.

AMOUNT AND SOURCE OF FUNDING:

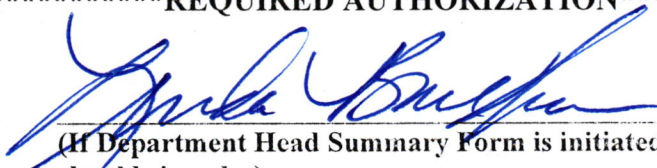
N/A

BOARD / COMMISSION ACTION:

Being sent to the Civil Service Commission for approval on Thursday, January 8, 2015.

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

*Information copy to appropriate Deputy City Manager*

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE 8065 (CIVIL SERVICE RULES AND REGULATIONS), TO AMEND A SECTION OF RULE NO. 1 TO COMPORT WITH CHARTER AMENDMENTS RELATING TO ELECTION OF CIVIL SERVICE OFFICERS; TO AMEND A SECTION OF RULE NO. 6 TO CLARIFY THE INTENT OF SICK LEAVE VERIFICATION REQUIREMENTS; TO AMEND A SECTION OF RULE 8 TO CLARIFY THE APPLICATION OF FORMAL COUNSELINGS IN PROGRESSIVE DISCIPLINE; AND TO AMEND A PORTION OF RULE NO. 8 AND RULE NO. 10 TO COMPORT WITH LEGISLATIVE AMENDMENTS TO CHAPTER 150 OF THE LOCAL GOVERNMENT CODE RELATING TO MUNICIPAL EMPLOYEES AS CANDIDATES FOR PUBLIC OFFICE.**

**WHEREAS**, it is necessary to amend Rule Number 1, Section 3 (Election) of Ordinance 8065, Civil Service Rules and Regulations, to correct the month during which the Chair and Vice-Chair of the Civil Service Commission will be elected to comport with the recent Charter amendments; and

**WHEREAS**, it is necessary to amend Rule Number 6, Section 2 (Sick Leave), subsection b, of Ordinance 8065, Civil Service Rules and Regulations, to clarify the intent and past practice of when a certificate verifying the necessity of leave for medical reasons is required; and to correct scrivener's errors in Section 2, subsection c, and Section 5; and

**WHEREAS**, it is necessary to amend Rule Number 8, Section 8 (Formal Counseling) of Ordinance 8065, Civil Service Rules and Regulations, to clarify the language and intent of the section to make clear the application and retention of formal counselings for purposes of progressive discipline; and to correct a scrivener's error in Section 3; and

**WHEREAS**, effective May 23, 2013, the Legislature of the State of Texas passed House Bill No. 3739 (83rd Texas Legislature), which amended Chapter 150 of the Local Government Code by adding Section 150.041, therein forbidding a municipality from prohibiting an employee from, or disciplining an employee because of, becoming a candidate for public office; and

**WHEREAS**, it is now necessary and appropriate to make amendments to Civil Service Rule Number 8, Section 1 (Causes of Suspension, Reduction or Discharge) and Rule Number 10 (Employees Seeking Public Office) of Ordinance 8065, Civil Service Rules and Regulations, to accurately fulfill and comply with the recent legislative amendments addressing City employees seeking public office as addressed in these rules; and

**WHEREAS**, the Civil Service Commission is given the authority under Section 6.1-6 of the City Charter to make recommendations on amendments to the City's Civil Service Rules; and

**WHEREAS**, on January 8 2015, the Civil Service Commission was presented with the proposed revisions to Rule Numbers 1, 6, 8 and 10, as set forth herein; and

**WHEREAS**, the City Council is the final approving authority for amendments to Ordinance 8065, Civil Service Rules and Regulations.

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

- 1. That Ordinance 8065, Civil Service Rules and Regulations, Rule 1, Section 3, is amended, in part, as follows:**

RULE 1

Civil Service Commission

Section 3. Election.

The Chair and Vice-Chair will be elected at the regular meeting in February of each year, and will serve until their successor assumes the office. The Secretary is appointed by the Commission and serves at the pleasure of the Commission. In the event any officer's position becomes vacant for any reason, the Commission will immediately designate a replacement to serve the unexpired portion of the term. The filling of an unexpired term does not constitute a term for purposes of Sec. 6.1-9 of the City Charter. (Amended 7/11/06, 7/31/07, \_\_\_\_\_)

2. **That Ordinance 8065, Civil Service Rules and Regulations, Rule 6, Sections 2 and 5, are amended, in part, as follows:**

RULE 6

Leave of Absence, Resignation, Sick Leave and Vacations

Section 2. Sick Leave

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 last scheduled work day before, the scheduled work day of, or the first scheduled work 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, 2/07/06, \_\_\_\_\_)

c. Emergency Leave

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

(2) Death of mother, father, child, grandparent, 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, \_\_\_\_\_)

(4) Illness of the employee's immediate family. "Immediate family" is defined as the spouse, designated household member, children, siblings, 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, \_\_\_\_\_)

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 placed 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; Amended \_\_\_\_\_)



**3. That Ordinance 8065, Civil Service Rules and Regulations, Rule 8, Sections 1, 3 and 8, are amended, in part, as follows:**

**RULE 8**

**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)

I. Except as permitted in paragraph (q) below, engaging in the following political activity is prohibited and the employee will be subject to disciplinary action for the following conduct (Amended \_\_\_\_\_):

- (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) accepting political paraphernalia while on duty or on city property;
- (13) 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; or (Added 7/21/07)
- q. As permitted by law, and as provided in Rule 10, an employee may become a candidate for public office while maintaining his or her employment with the City; however, the employee must continue to fulfill all the duties and responsibilities associated with his or her city employment. An employee is prohibited and will be subject to disciplinary action for campaigning or taking affirmative action for the purpose of gaining nomination or election to public office while on duty, while using city time or resources, and/or while in city uniform. (Added \_\_\_\_\_)

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

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 "f" 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, \_\_\_\_\_)

### 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 issued by the Department Head and 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.

Upon an employee's request, formal counselings shall be removed from an employee's personnel file after the expiration of twenty-four (24) months from the date of the last formal counseling, provided the employee has not received any disciplinary action during the twenty-four (24) month time period between the request and the last-received formal counseling. Formal counselings meeting the criteria above shall not be considered against the employee for purposes of determining progressive discipline or performance evaluations, regardless of whether or not the employee requested removal of the formal counselings. (Added 8/25/09)(Amended 11/2/10, 3/6/12, \_\_\_\_\_). If a department-specific policy contains a look-back period for formal counselings that conflicts with this Rule's twenty-four (24) month look-back period, the department-specific policy supersedes this provision of the Rule for purposes of progressive discipline and performance evaluations. (Added \_\_\_\_\_).

4. That Ordinance 8065, Civil Service Rules and Regulations, Rule 10, is amended as follows:

RULE 10

Employees Seeking Public Office

An employee may become a candidate for public office while maintaining his or her employment with the City. However, the employee is still expected to fulfill all the duties and responsibilities associated with his or her city employment. (Added \_\_\_\_\_)

Employees are prohibited and will be subject to disciplinary action, as set forth in Rule 8, for campaigning or taking affirmative action for the purpose of gaining nomination or election to public office while on duty, while using City time or resources, and/or while in City uniform. Employees may, but are not required, to request a personal leave of absence to campaign or pursue a nomination for or election to public office, pursuant to the City's personal leave of absence policy. Employees who choose to resign to seek public office are eligible for reinstatement following their resignation. (Amended 7/31/07, \_\_\_\_\_)

An employee who runs for public office in a jurisdiction which has direct or indirect contractual relations with the City must disclose to the City any potential conflict of interest to the employee's position in the City. (Amended 5/27/08, \_\_\_\_\_)

5. Except as herein provided, Rule Nos. 1, 6, 8 and 10 of Ordinance 8065 shall remain in full force and effect.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

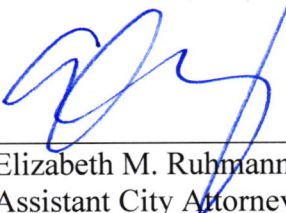
THE CITY OF EL PASO

\_\_\_\_\_  
Oscar Leeser, Mayor

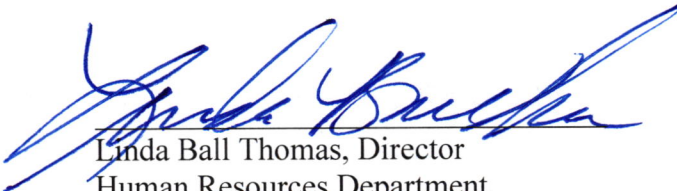
ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Elizabeth M. Ruhmann  
Assistant City Attorney

APPROVED AS TO CONTENT:

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

CITY CLERK DEPT.  
2015 JAN -6 AM 9:32



**CIVIL SERVICE RULES  
1, 6, 8 AND 10 OF  
ORDINANCE 8065  
WITH TRACK CHANGES**

## RULE 1

### Civil Service Commission

#### Section 1. Appointment.

At such time as vacancies occur in the Civil Service Commission, City Council, will, in accordance with Article III, Section 3.7B of the City Charter, appoint such members as are required to fill Commission vacancies. (Amended 6/21/94; 7/31/07)

#### Section 2. Officers.

a. Chair. The Chair shall be elected from the Commission by majority vote. The Chair shall preside over all meetings of the Commission; call the meetings to order at the time they are scheduled to convene; ensure that a quorum is present; put to vote all motions that are in order; initiate general consent when appropriate; recognize Commissioners and others present at the meeting who desire to speak; enforce such statutory provisions and rules affecting the Commission's meetings, including rules of debate; maintain order and decorum; rule on parliamentary inquiries, points of order, and any other motions that require action by the Chair; appoint committees of the Commission as needed, and perform such other duties as naturally inhere in that office. When, in the judgment of the Chair, it is necessary to limit the time that members of the public may address the Commission, he shall impose reasonable time limits to ensure economy of time while allowing those who wish to address the Commission adequate opportunity to voice their views. (Amended 7/11/06)

b. Vice Chair. The Vice-Chair shall be elected from the Commission by majority vote. The Vice-Chair shall enjoy the same duties as the Chair in the absence of the Chair or upon the inability or refusal of the Chair to exercise its duties, and shall be governed by the same constraints as the Chair.

c. Secretary. The Secretary, who need not be a member of the Commission, shall supervise the Commission recorder, and shall review and assist the Commission Recorder with the preparation of all minutes of Commission meetings, which minutes shall record the time and place of each meeting of the Commission, the names of those Commissioners present and absent, summaries of discussion on matters before the Commission and the votes given by the Commission, except when acts are unanimous. The Secretary will cause the minutes to be written and presented for approval or amendment. The minutes or a copy certified by the Chairman will be open to public inspection and filed with the Municipal Clerk in accordance with City ordinance. The Secretary shall also prepare the agenda for all meetings of the Commission and receive all requests from members of the public or groups who seek in writing to address the Commission and place those matters on the Commission's agenda as soon as practicable, taking into account the urgency of the request; sign all documents as required by statutory provisions or the Rules of the Commission; prepare reports as required by law, or these Rules and as otherwise directed by the Commission; post meetings of the Commission or its committees as required by law; require the assistance of the Director of Human Resources and Commission Recorder in the discharge of the duties specified in this paragraph; and perform such other duties as naturally inhere in that office. (Amended 7/31/07)

### Section 3. Election.

The Chair and Vice-Chair will be elected at the regular meeting in ~~May~~ February of each year, and will serve until their successor assumes the office. The Secretary is appointed by the Commission and serves at the pleasure of the Commission. In the event any officer's position becomes vacant for any reason, the Commission will immediately designate a replacement to serve the unexpired portion of the term. The filling of an unexpired term does not constitute a term for purposes of Sec. 6.1-9 of the City Charter. (Amended 7/11/06; ~~and~~ 7/31/07; \_\_\_\_\_)

### Section 4. Removal of Officers.

The Chair and Vice-Chair may be removed from office for any cause specified in Article VI, Section 6.1-10 of the Charter or for substantial failure to perform the duties of their office. The procedure for removal will be the same as provided for the removal of Commissioners as set forth in Sec. 12 of this Rule, provided that the Commission will sit in lieu of Mayor and Council. In such action, the officer involved will not preside or participate as a voting member in the proceeding. No other Commissioner will be disqualified from voting. Removal will be effected by a two-thirds vote of the voting members of the Commission present at the meeting at which removal is considered. (Amended 7/31/07)

### Section 5. Committees.

Committees shall be appointed as provided in this Rule and shall remain constituted until the completion of the assigned task. The ranking member of the Committee shall serve as Chair unless otherwise appointed by the Commission. The Chair shall have the responsibility of reporting to the Commission, as needed or required, concerning the mission tasked to the committee. (Amended 7/31/07, 6/1/10)

### Section 6. Procedural Rules.

a. Action by the Commission. All actions by the Commission shall be upon Motion, duly made and seconded. (Amended 7/31/07)

(1) Any Motion before the Commission may be amended with the consent of the Commissioner making the motion, or in the refusal of such consent, upon Motion to Amend, duly made and seconded. The Motion to Amend must be given priority over the main motion. Thereafter, discussion shall proceed on the main motion, as stated or amended. A second to any motion is a prerequisite to discussion and action on the motion. A Motion to reconsider any action by the Commission may be made at anytime in accordance with the Charter, provided however, that such motion may not be made or seconded by a Commissioner who voted with the minority on the matter the subject of the Motion to Reconsider. Discussion on any motion may be closed with unanimous consent by the Chair, and, failing unanimous consent, upon motion calling the question, duly seconded and without discussion. (Amended 7/11/06)

(2) The following matters are privileged and must be taken up by the Commission when they are raised: Motions to Adjourn or Recess, Points of Order, and Appeals to the Ruling of the Chair or Presiding Officer.

b. Voting. Any member of the Commission may vote on any Motion, provided, however that the Chair or presiding officer shall vote only in the event of a tie. No member of the Commission may vote upon any motion involving himself. Motions shall pass upon a majority vote of Commissioners present, provided further, that any Motion to Reconsider a prior action of the

Commission shall only be made and seconded by Commissioners who voted with the majority in the original action.

c. Appeal from a Ruling by the Chair. Any Commissioner may appeal any ruling by the Chair as to any point of order or any other matter ruled upon by the Chair on its own initiative. The appeal is appropriate for discussion which, in the absence of unanimous consent, may be terminated by motion, duly seconded, calling the question, upon which the issue before the Commission shall be whether the ruling of the Chair shall be sustained. The ruling of the Chair shall be sustained in the absence of a majority vote against the ruling.

#### Section 7. Robert's Rules of Order.

Although not adopted as the Rules of the Commission, Robert's Rules of Order may be considered as advisory authority in resolving any issues related to any of the provisions of Sections 2-7 of this Rule. (Amended 7/31/07)

#### Section 8. Suspension of Rules.

Except as prohibited by law, the Rules set forth in Section 6 of this Rule may be suspended temporarily by the Chair or by a majority vote of the Commission, to facilitate the flow of discussion, or for other purposes. No vote may be taken on any pending motion while the Rules are suspended. The suspension shall be effective only for the duration of the agenda item during which they were suspended, provided further that at any time after the Rules have been suspended, the Chair may invoke their applicability, subject to the provisions of Section 6c of these Rules. (Amended 7/31/07)

#### Section 9. Commission Recorder.

The Commission Recorder serves at the pleasure of the Commission. Disciplinary action, other than termination, may be taken against the Commission Recorder by the Secretary of the Commission only with the concurrence of two thirds of the Commission present and voting. If the Commission Recorder position becomes vacant, the Human Resources Director shall advertise the position for two weeks. The Human Resources Director shall review and pre-qualify all applicants. All applications will be referred to the Civil Service Commission for their review. The Commission shall select from the applications the top five for interviews and shall make their selection after the interview process has been completed. (Amended 5/31/05, 07/11/06 and 7/31/07)

#### Section 10. Public Employee's Right to Privacy

The public's interest in public meetings and disclosure of minutes of open meetings is expressly recognized; however, the employee's rights to or interests in privacy are also acknowledged. There are those limited instances when a public employee's individual interest in confidentiality might outweigh the public interest in disclosure. The Commission can, on its own motion, hear any proceedings in Executive Session in accordance with Section 551.074 of the Texas Government Code (Open Meetings Act). (Amended 7/31/07, 3/6/12)

In any proceeding before the Commission which has been posted for public discussion by the Commission, the City or any employee under the jurisdiction of the Commission may request



that the Commission hear the matter in Executive Session, as may be permitted under Section 551.074. An employee who is the subject of any deliberation or hearing before the Commission may request and receive a public hearing on the matter, as provided in Section 551.074. (Amended 7/31/07)

#### Section 11. Removal of Commissioner for Cause.

a. Removal of a Commissioner for any cause specified in Article VI, Section 6.1-10 of the Charter will be effected only in the following manner: (Amended 07/31/07)

- (1) Written charges specifying the acts or omissions complained of will be filed with the City Clerk and the Secretary of the Commission.
- (2) A copy of such charges will be given to the Commissioner against whom they are brought. (Amended 3/6/12)
- (3) Such written charges will be sworn to and open to inspection by the public.
- (4) After a period of not less than five days nor more than thirty from the date such charges are filed, the City Council, at a meeting previously announced, will hear the charges. (Amended 8/31/04)
- (5) The accused Commissioner will be permitted to be present throughout the proceedings in person and by counsel, and will be given a full and fair opportunity to be heard in his defense. (Amended 8/25/09)
- (6) At the conclusion of the hearing, if the Council by affirmative vote of at least two thirds of the entire Council, except as may be limited in "c" below, finds the charges sustained, the accused Commissioner will be removed. (Amended 7/31/07)

b. Upon presentation to the Mayor of a written complaint signed and sworn to by not less than ten members of the classified service of the City, specifying the acts or omissions which are the basis (in accordance with Article VI, Section 6.1-10 of the Charter) for the requested removal of a Commissioner it will be the duty of the Mayor to file charges against the accused Commissioner, who will thereupon be entitled to a hearing in the form and manner prescribed above.

c. Where charges are preferred against a Commissioner by the Mayor (unless being filed by the Mayor as set forth in "b" above) or by a Representative, the Mayor or Representative, will be disqualified to sit as a member of the Council in the hearing of the charges so preferred. In such case the remaining members of the Council will hear and determine the charges.

#### Section 12. Hearing Officers.

a. Hearing Officers will be selected by the Commission on the basis of their knowledge, skills, training and experience in the field of labor relations. (Amended 7/11/06, 7/31/07, 9/02/08))

b. A former Commissioner may not be hired as a Hearing Officer for a period of twelve (12) months after serving on the Civil Service Commission. (Added 9/02/08)

c. A former Hearing Officer shall not, during the twelve (12) months after having served as a Hearing Officer for the Commission, represent any classified employee of the City before the Commission or before a Hearing Officer appointed by the Commission on a disciplinary matter



or grievance. Further, a former Hearing Officer, after having served as a Hearing Officer for the Commission, shall not represent a classified employee on any matter, before the Commission or Hearing Officer appointed by the Commission, that was before such person during the time he served as a Hearing Officer. (Added 9/02/08)

#### Section 13. Restriction on Representation of Employees by Former Commissioners.

A person shall not, during the twelve (12) months after having served and left the Commission, represent any classified employee of the City before the Commission or before a Hearing Officer appointed by the Commission on a disciplinary matter or grievance. Further, a Commissioner, after leaving the Commission, shall not represent an employee on any matter, before the Commission or a Hearing Officer appointed by the Commission, that was before the Commission during the time that such Commissioner served on the Civil Service Commission. (Added 7/29/08)

#### Section 14. Ex Parte Communications

Commissioners or Hearing Officers, may not initiate, permit, or consider ex parte communications or other communications to be made outside the presence of the parties, concerning the merits of a pending complaint or appeal. Pending is defined as a complaint or appeal that Commissioners or Hearing Officers know has been filed or should reasonably foresee will be filed. Commissioners or Hearing Officers shall not participate in rendering the decision in a case where they have participated in the case in an advocacy role. This Rule does not prohibit either the Commission or Hearing Officer from communicating with the legal advisor to the Commission. (Amended 7/13/04)

#### Section 15. Non Discrimination

The City shall administer the Civil Service Rules and charter provisions in a manner consistent with federal, state and local laws concerning equal employment opportunity. (Amended 7/31/07, 3/6/12)

#### Section 16. Policy Creation

Any Civil Service Rule that is being removed and replaced as a Human Resource policy that is subsequently amended, added to, or deleted will be posted for notation on both the Civil Service Commission and City Council agenda. (Added 3/6/12)

## RULE 6

### Leave of Absence, Resignation, Sick Leave and Vacations

#### Section 1. Leave of Absence.

The Human Resources Director shall establish a Family and Medical Leave Act ("FMLA") leave of absence policy and a Non-FMLA leave of absence policy that is consistent and in conformity with all applicable federal and state employment laws. The policy shall set forth the procedures for requesting FMLA and non-FMLA leave, requirements for approval, benefits during leave, and other matters related thereto. (Added 9/17/13)

#### 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 last scheduled work day before, the scheduled work day of, or the first scheduled work 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, grandparent, 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, siblings, 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. for employees not covered by the Collective Bargaining Agreement, for employees covered by the Collective Bargaining Agreement. (Amended 3/31/87, 8/11/87, 6/28/88, 2/14/89, 8/5/93, 2/4/94, 2/7/06, 8/25/09,       )

d. Application for Sick Leave or Emergency Leave

Application for Sick Leave or Emergency Leave will be made to the employee's Department Head. When an application for such leave is denied by the Department Head, the applicant may appeal to the City Manager who will investigate and uphold or reverse the denial, consistent with provisions of this Rule. (Amended 2/07/06 and 8/21/07)

e. 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

The Human Resources Director is authorized to create a policy that allows regular employees in Civil Service to participate in a Sick Leave Conversion incentive program. (Added 3/6/12)

f. When Paid Leave is Exhausted

The Human Resources Director is authorized to establish a Shared Leave Policy to be used when paid leave is exhausted. (Added 3/6/12)

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 (96 hours):

40 hour per week employees - 3.70 hours per biweekly pay period  
(Amended 8/11/87, 9/20/88, 2/07/06, 3/6/12)

For >5 to 15 years of service (136 hours):

40 hour per week employees - 5.24 hours per biweekly pay period  
(Amended 9/20/88 and 2/07/06, 3/6/12)

For >15 or more years of service (160 hours):

40 hour per week employees - 6.16 hours per biweekly pay period  
(Amended 3/6/12)

The maximum accrual for vacation leave is 400 hours. (Amended 8/11/87, 2/14/89, 1/30/90, 2/07/06, 3/6/12)

c. Such leave may be taken only in hourly increments. (Amended 7/09/85, 10/08/85, 8/11/87, 2/07/06, 11/2/10)

#### 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 placed 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) (Amended)

## 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. 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)

## Section 8. Unclassified Employees

Unless otherwise provided by Council or the provisions in the contract or letter of agreement of an employee hired by contract or letter of agreement, all employees in the unclassified service shall be governed by the provisions of this Rule. (Added 3/6/12)(Amended 9/17/13)



## RULE 8

### 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, or entered a period of deferred adjudication with community supervision for, a felony or Class A or B misdemeanor; or (Amended 9/17/13)
- b. Has willfully, 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 (Amended 3/6/12)
- 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, to the extent permissible under federal and state laws. (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, 9/17/13)
- e. Is wantonly offensive in his conduct or language towards the public, an elected or appointed official, the head of any department, or his fellow employees; is abusive, threatening, or uses coercive treatment to another employee or a member of the public, or provokes or instigates violence; or abusive to an animal in the care or control of the employee; or (Amended 8/25/09, 3/6/12, 9/17/13)
- f. Is incompetent or negligent in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner; or (Amended 8/25/09, 9/17/13)
- g. Is dishonest, commits theft, violates a law, or violates policies relating to the handling or procurement of property, or negligent in care or misuse of City property; or (Amended 7/31/07, 3/6/12, 9/17/13)
- h. Abandons his position, has repeated unexcused absences or tardies, abuses leave privileges, or is absent without notification or without the provision of a valid or acceptable reason for the absence; or (Amended 9/17/13)
- i. Fails to meet or maintain qualifications, including but not limited to, failing to obtain or maintain required certificates, licenses or other credentials established for the employee's position or classification; or (Amended 9/17/13)

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. Deliberately or carelessly acting in a manner that endangers the safety of self or others; or (Amended 9/17/13)

l. ~~After the date of the adoption of these Rules~~ Except as permitted in paragraph (q) below, engaging in the following political activity is prohibited and the employee will be subject to disciplinary action for the following conduct (Amended):

- (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 provided in Rule 10; (Amended 3/6/12)~~
- (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; ~~or~~ (Added 7/21/07)

q. As permitted by law, and as provided in Rule 10, an employee may become a candidate for public office while maintaining his or her employment with the City; however, the employee must continue to fulfill all the duties and responsibilities associated with his or her city employment. An employee is prohibited and will be subject to disciplinary action for campaigning or taking affirmative action for the purpose of gaining nomination or election to public office while on duty, while using city time or resources, and/or while in city uniform. (Added \_\_\_\_\_)

## 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, Sundays, and 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 proceeding 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 issued by the Department Head and 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.

Upon an employee's request, ~~a~~ formal counseling~~s~~ shall be removed from an employee's personnel file after the expiration of twenty-four (24) months from the date of the last formal counseling, provided the employee has not received any disciplinary action during the ~~at~~ twenty-four (24) month time period between the request and the last-received formal counseling. ~~A-f~~ Formal

counselings, ~~once removed from the employee's file,~~ meeting the criteria above shall not be considered against the employee for purposes of determining progressive discipline or performance evaluations, regardless of whether or not the employee requested removal of the formal counselings. If a department-specific policy contains a look-back period for formal counselings that conflicts with this Rule's twenty-four (24) month look-back period, the department-specific policy supersedes this provision of the Rule for purposes of progressive discipline and performance evaluations. (Added 8/25/09)(Amended 11/2/10, 3/6/12, \_\_\_\_\_)



## RULE 10

### Employees Seeking Public Office

An employee may become a candidate for public office while maintaining his or her employment with the City. However, the employee is still expected to fulfill all the duties and responsibilities associated with his or her city employment. (Added\_\_\_\_\_)

Employees are prohibited and will be subject to disciplinary action, as set forth in Rule 8, for campaigning or taking affirmative action for the purpose of gaining nomination or election to public office while on duty, while using City time or resources, and/or while in City uniform. Employees may, but are not required, to request a personal leave of absence to campaign or pursue a nomination for or election to public office, pursuant to the City's personal leave of absence policy. Employees who choose to resign to seek public office are eligible for reinstatement following their resignation. (Amended 7/31/07, 9/17/13,\_\_\_\_\_)

An employee who runs for public office in a jurisdiction which has direct or indirect contractual relations with the City must disclose to the City any potential conflict of interest to the employee's position in the City. (Amended 5/27/08, 8/7/07, 9/17/13,\_\_\_\_\_)

~~No employee of the Civil Service shall seek election for a public office, as listed below, without having first resigned from his position in the Civil Service: (Amended 8/25/09)~~

~~a. Employees can declare, file and seek elective offices that are not financially compensated, such as elected positions to college boards, school boards, school districts, hospital boards and elected offices that are necessary to party function and process. If an employee wishes to seek an elective office that is financially compensated, the employee must first resign before declaring, filing or seeking the elective office. Employees who resign to seek an elective office that is financially compensated are eligible for reinstatement following their resignation. (Amended 7/31/07, 9/17/13)~~

~~b. Employees are prohibited from declaring, filing or seeking municipal elective office unless the employee first resigns. Employees who resign to seek a municipal office are eligible for reinstatement following their resignation. (Amended 05/07/02, 7/31/07, 9/17/13)~~

~~c. Any public office in a jurisdiction which has direct or indirect contractual relations with the City and which would present a conflict of interest to the employee's position in the City. (Amended 5/27/08) Such employee shall be eligible for reinstatement following resignation. (Amended 08/07/07, 9/17/13)~~

**Accepted changes for:  
CIVIL SERVICE RULES  
1, 6, 8 AND 10 OF  
ORDINANCE 8065**

RULE 1  
Civil Service Commission

Section 1. Appointment.

At such time as vacancies occur in the Civil Service Commission, City Council, will, in accordance with Article III, Section 3.7B of the City Charter, appoint such members as are required to fill Commission vacancies. (Amended 6/21/94; 7/31/07)

Section 2. Officers.

a. Chair. The Chair shall be elected from the Commission by majority vote. The Chair shall preside over all meetings of the Commission; call the meetings to order at the time they are scheduled to convene; ensure that a quorum is present; put to vote all motions that are in order; initiate general consent when appropriate; recognize Commissioners and others present at the meeting who desire to speak; enforce such statutory provisions and rules affecting the Commission's meetings, including rules of debate; maintain order and decorum; rule on parliamentary inquiries, points of order, and any other motions that require action by the Chair; appoint committees of the Commission as needed, and perform such other duties as naturally inhere in that office. When, in the judgment of the Chair, it is necessary to limit the time that members of the public may address the Commission, he shall impose reasonable time limits to ensure economy of time while allowing those who wish to address the Commission adequate opportunity to voice their views. (Amended 7/11/06)

b. Vice Chair. The Vice-Chair shall be elected from the Commission by majority vote. The Vice-Chair shall enjoy the same duties as the Chair in the absence of the Chair or upon the inability or refusal of the Chair to exercise its duties, and shall be governed by the same constraints as the Chair.

c. Secretary. The Secretary, who need not be a member of the Commission, shall supervise the Commission recorder, and shall review and assist the Commission Recorder with the preparation of all minutes of Commission meetings, which minutes shall record the time and place of each meeting of the Commission, the names of those Commissioners present and absent, summaries of discussion on matters before the Commission and the votes given by the Commission, except when acts are unanimous. The Secretary will cause the minutes to be written and presented for approval or amendment. The minutes or a copy certified by the Chairman will be open to public inspection and filed with the Municipal Clerk in accordance with City ordinance. The Secretary shall also prepare the agenda for all meetings of the Commission and receive all requests from members of the public or groups who seek in writing to address the Commission and place those matters on the Commission's agenda as soon as practicable, taking into account the urgency of the request; sign all documents as required by statutory provisions or the Rules of the Commission; prepare reports as required by law, or these Rules and as otherwise directed by the Commission; post meetings of the Commission or its committees as required by law; require the assistance of the Director of Human Resources and Commission Recorder in the discharge of the duties specified in this paragraph; and perform such other duties as naturally inhere in that office. (Amended 7/31/07)

### Section 3. Election.

The Chair and Vice-Chair will be elected at the regular meeting in February of each year, and will serve until their successor assumes the office. The Secretary is appointed by the Commission and serves at the pleasure of the Commission. In the event any officer's position becomes vacant for any reason, the Commission will immediately designate a replacement to serve the unexpired portion of the term. The filling of an unexpired term does not constitute a term for purposes of Sec. 6.1-9 of the City Charter. (Amended 7/11/06;7/31/07;\_\_\_\_\_)

### Section 4. Removal of Officers.

The Chair and Vice-Chair may be removed from office for any cause specified in Article VI, Section 6.1-10 of the Charter or for substantial failure to perform the duties of their office. The procedure for removal will be the same as provided for the removal of Commissioners as set forth in Sec. 12 of this Rule, provided that the Commission will sit in lieu of Mayor and Council. In such action, the officer involved will not preside or participate as a voting member in the proceeding. No other Commissioner will be disqualified from voting. Removal will be effected by a two-thirds vote of the voting members of the Commission present at the meeting at which removal is considered. (Amended 7/31/07)

### Section 5. Committees.

Committees shall be appointed as provided in this Rule and shall remain constituted until the completion of the assigned task. The ranking member of the Committee shall serve as Chair unless otherwise appointed by the Commission. The Chair shall have the responsibility of reporting to the Commission, as needed or required, concerning the mission tasked to the committee. (Amended 7/31/07, 6/1/10)

### Section 6. Procedural Rules.

a. Action by the Commission. All actions by the Commission shall be upon Motion, duly made and seconded. (Amended 7/31/07)

(1) Any Motion before the Commission may be amended with the consent of the Commissioner making the motion, or in the refusal of such consent, upon Motion to Amend, duly made and seconded. The Motion to Amend must be given priority over the main motion. Thereafter, discussion shall proceed on the main motion, as stated or amended. A second to any motion is a prerequisite to discussion and action on the motion. A Motion to reconsider any action by the Commission may be made at anytime in accordance with the Charter, provided however, that such motion may not be made or seconded by a Commissioner who voted with the minority on the matter the subject of the Motion to Reconsider. Discussion on any motion may be closed with unanimous consent by the Chair, and, failing unanimous consent, upon motion calling the question, duly seconded and without discussion. (Amended 7/11/06)

(2) The following matters are privileged and must be taken up by the Commission when they are raised: Motions to Adjourn or Recess, Points of Order, and Appeals to the Ruling of the Chair or Presiding Officer.

b. Voting. Any member of the Commission may vote on any Motion, provided, however that the Chair or presiding officer shall vote only in the event of a tie. No member of the Commission may vote upon any motion involving himself. Motions shall pass upon a majority vote of Commissioners present, provided further, that any Motion to Reconsider a prior action of the



Commission shall only be made and seconded by Commissioners who voted with the majority in the original action.

c. Appeal from a Ruling by the Chair. Any Commissioner may appeal any ruling by the Chair as to any point of order or any other matter ruled upon by the Chair on its own initiative. The appeal is appropriate for discussion which, in the absence of unanimous consent, may be terminated by motion, duly seconded, calling the question, upon which the issue before the Commission shall be whether the ruling of the Chair shall be sustained. The ruling of the Chair shall be sustained in the absence of a majority vote against the ruling.

#### Section 7. Robert's Rules of Order.

Although not adopted as the Rules of the Commission, Robert's Rules of Order may be considered as advisory authority in resolving any issues related to any of the provisions of Sections 2-7 of this Rule. (Amended 7/31/07)

#### Section 8. Suspension of Rules.

Except as prohibited by law, the Rules set forth in Section 6 of this Rule may be suspended temporarily by the Chair or by a majority vote of the Commission, to facilitate the flow of discussion, or for other purposes. No vote may be taken on any pending motion while the Rules are suspended. The suspension shall be effective only for the duration of the agenda item during which they were suspended, provided further that at any time after the Rules have been suspended, the Chair may invoke their applicability, subject to the provisions of Section 6c of these Rules. (Amended 7/31/07)

#### Section 9. Commission Recorder.

The Commission Recorder serves at the pleasure of the Commission. Disciplinary action, other than termination, may be taken against the Commission Recorder by the Secretary of the Commission only with the concurrence of two thirds of the Commission present and voting. If the Commission Recorder position becomes vacant, the Human Resources Director shall advertise the position for two weeks. The Human Resources Director shall review and pre-qualify all applicants. All applications will be referred to the Civil Service Commission for their review. The Commission shall select from the applications the top five for interviews and shall make their selection after the interview process has been completed. (Amended 5/31/05, 07/11/06 and 7/31/07)

#### Section 10. Public Employee's Right to Privacy

The public's interest in public meetings and disclosure of minutes of open meetings is expressly recognized; however, the employee's rights to or interests in privacy are also acknowledged. There are those limited instances when a public employee's individual interest in confidentiality might outweigh the public interest in disclosure. The Commission can, on its own motion, hear any proceedings in Executive Session in accordance with Section 551.074 of the Texas Government Code (Open Meetings Act). (Amended 7/31/07, 3/6/12)

In any proceeding before the Commission which has been posted for public discussion by the Commission, the City or any employee under the jurisdiction of the Commission may request



that the Commission hear the matter in Executive Session, as may be permitted under Section 551.074. An employee who is the subject of any deliberation or hearing before the Commission may request and receive a public hearing on the matter, as provided in Section 551.074. (Amended 7/31/07)

#### Section 11. Removal of Commissioner for Cause.

a. Removal of a Commissioner for any cause specified in Article VI, Section 6.1-10 of the Charter will be effected only in the following manner: (Amended 07/31/07)

- (1) Written charges specifying the acts or omissions complained of will be filed with the City Clerk and the Secretary of the Commission.
- (2) A copy of such charges will be given to the Commissioner against whom they are brought. (Amended 3/6/12)
- (3) Such written charges will be sworn to and open to inspection by the public.
- (4) After a period of not less than five days nor more than thirty from the date such charges are filed, the City Council, at a meeting previously announced, will hear the charges. (Amended 8/31/04)
- (5) The accused Commissioner will be permitted to be present throughout the proceedings in person and by counsel, and will be given a full and fair opportunity to be heard in his defense. (Amended 8/25/09)
- (6) At the conclusion of the hearing, if the Council by affirmative vote of at least two thirds of the entire Council, except as may be limited in "c" below, finds the charges sustained, the accused Commissioner will be removed. (Amended 7/31/07)

b. Upon presentation to the Mayor of a written complaint signed and sworn to by not less than ten members of the classified service of the City, specifying the acts or omissions which are the basis (in accordance with Article VI, Section 6.1-10 of the Charter) for the requested removal of a Commissioner it will be the duty of the Mayor to file charges against the accused Commissioner, who will thereupon be entitled to a hearing in the form and manner prescribed above.

c. Where charges are preferred against a Commissioner by the Mayor (unless being filed by the Mayor as set forth in "b" above) or by a Representative, the Mayor or Representative, will be disqualified to sit as a member of the Council in the hearing of the charges so preferred. In such case the remaining members of the Council will hear and determine the charges.

#### Section 12. Hearing Officers.

a. Hearing Officers will be selected by the Commission on the basis of their knowledge, skills, training and experience in the field of labor relations. (Amended 7/11/06, 7/31/07, 9/02/08))

b. A former Commissioner may not be hired as a Hearing Officer for a period of twelve (12) months after serving on the Civil Service Commission. (Added 9/02/08)

c. A former Hearing Officer shall not, during the twelve (12) months after having served as a Hearing Officer for the Commission, represent any classified employee of the City before the Commission or before a Hearing Officer appointed by the Commission on a disciplinary matter

or grievance. Further, a former Hearing Officer, after having served as a Hearing Officer for the Commission, shall not represent a classified employee on any matter, before the Commission or Hearing Officer appointed by the Commission, that was before such person during the time he served as a Hearing Officer. (Added 9/02/08)

Section 13. Restriction on Representation of Employees by Former Commissioners.

A person shall not, during the twelve (12) months after having served and left the Commission, represent any classified employee of the City before the Commission or before a Hearing Officer appointed by the Commission on a disciplinary matter or grievance. Further, a Commissioner, after leaving the Commission, shall not represent an employee on any matter, before the Commission or a Hearing Officer appointed by the Commission, that was before the Commission during the time that such Commissioner served on the Civil Service Commission. (Added 7/29/08)

Section 14. Ex Parte Communications

Commissioners or Hearing Officers, may not initiate, permit, or consider ex parte communications or other communications to be made outside the presence of the parties, concerning the merits of a pending complaint or appeal. Pending is defined as a complaint or appeal that Commissioners or Hearing Officers know has been filed or should reasonably foresee will be filed. Commissioners or Hearing Officers shall not participate in rendering the decision in a case where they have participated in the case in an advocacy role. This Rule does not prohibit either the Commission or Hearing Officer from communicating with the legal advisor to the Commission. (Amended 7/13/04)

Section 15. Non Discrimination

The City shall administer the Civil Service Rules and charter provisions in a manner consistent with federal, state and local laws concerning equal employment opportunity. (Amended 7/31/07, 3/6/12)

Section 16. Policy Creation

Any Civil Service Rule that is being removed and replaced as a Human Resource policy that is subsequently amended, added to, or deleted will be posted for notation on both the Civil Service Commission and City Council agenda. (Added 3/6/12)

## RULE 6

### Leave of Absence, Resignation, Sick Leave and Vacations

#### Section 1. Leave of Absence.

The Human Resources Director shall establish a Family and Medical Leave Act ("FMLA") leave of absence policy and a Non-FMLA leave of absence policy that is consistent and in conformity with all applicable federal and state employment laws. The policy shall set forth the procedures for requesting FMLA and non-FMLA leave, requirements for approval, benefits during leave, and other matters related thereto. (Added 9/17/13)

#### 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 last scheduled work day before, the scheduled work day of, or the first scheduled work 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, grandparent, 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, siblings, 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. for employees not covered by the Collective Bargaining Agreement, for employees covered by the Collective Bargaining Agreement. (Amended 3/31/87, 8/11/87, 6/28/88, 2/14/89, 8/5/93 2/4/94 2/7/06, 8/25/09, \_\_\_\_\_)

d. Application for Sick Leave or Emergency Leave

Application for Sick Leave or Emergency Leave will be made to the employee's Department Head. When an application for such leave is denied by the Department Head, the applicant may appeal to the City Manager who will investigate and uphold or reverse the denial, consistent with provisions of this Rule. (Amended 2/07/06 and 8/21/07)

e. 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

The Human Resources Director is authorized to create a policy that allows regular employees in Civil Service to participate in a Sick Leave Conversion incentive program. (Added 3/6/12)

f. When Paid Leave is Exhausted

The Human Resources Director is authorized to establish a Shared Leave Policy to be used when paid leave is exhausted. (Added 3/6/12)

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 (96 hours):

40 hour per week employees - 3.70 hours per biweekly pay period  
(Amended 8/11/87, 9/20/88, 2/07/06, 3/6/12)

For >5 to 15 years of service (136 hours):

40 hour per week employees - 5.24 hours per biweekly pay period  
(Amended 9/20/88 and 2/07/06, 3/6/12)

For >15 or more years of service (160 hours):

40 hour per week employees - 6.16 hours per biweekly pay period  
(Amended 3/6/12)

The maximum accrual for vacation leave is 400 hours. (Amended 8/11/87, 2/14/89, 1/30/90, 2/07/06, 3/6/12)

c. Such leave may be taken only in hourly increments. (Amended 7/09/85, 10/08/85, 8/11/87, 2/07/06, 11/2/10)

#### 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 placed 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) (Amended \_\_\_\_\_)



## 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. 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)

## Section 8. Unclassified Employees

Unless otherwise provided by Council or the provisions in the contract or letter of agreement of an employee hired by contract or letter of agreement, all employees in the unclassified service shall be governed by the provisions of this Rule. (Added 3/6/12)(Amended 9/17/13)

## RULE 8

### 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, or entered a period of deferred adjudication with community supervision for, a felony or Class A or B misdemeanor; or (Amended 9/17/13)
- b. Has willfully, 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 (Amended 3/6/12)
- 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, to the extent permissible under federal and state laws. (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, 9/17/13)
- e. Is wantonly offensive in his conduct or language towards the public, an elected or appointed official, the head of any department, or his fellow employees; is abusive, threatening, or uses coercive treatment to another employee or a member of the public, or provokes or instigates violence; or abusive to an animal in the care or control of the employee; or (Amended 8/25/09, 3/6/12, 9/17/13)
- f. Is incompetent or negligent in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner; or (Amended 8/25/09, 9/17/13)
- g. Is dishonest, commits theft, violates a law, or violates policies relating to the handling or procurement of property, or negligent in care or misuse of City property; or (Amended 7/31/07, 3/6/12, 9/17/13)
- h. Abandons his position, has repeated unexcused absences or tardies, abuses leave privileges, or is absent without notification or without the provision of a valid or acceptable reason for the absence; or (Amended 9/17/13)
- i. Fails to meet or maintain qualifications, including but not limited to, failing to obtain or maintain required certificates, licenses or other credentials established for the employee's position or classification; or (Amended 9/17/13)

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. Deliberately or carelessly acting in a manner that endangers the safety of self or others; or (Amended 9/17/13)

l. Except as permitted in paragraph (q) below, engaging in the following political activity is prohibited and the employee will be subject to disciplinary action for the following conduct (Amended \_\_\_\_\_):

- (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) accepting political paraphernalia while on duty or on city property;
- (13) 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; or (Added 7/21/07)
- q. As permitted by law, and as provided in Rule 10, an employee may become a candidate for public office while maintaining his or her employment with the City; however, the employee must continue to fulfill all the duties and responsibilities associated with his or her city employment. An employee is prohibited and will be subject to disciplinary action for campaigning or taking affirmative action for the purpose of gaining nomination or election to public office while on duty, while using city time or resources, and/or while in city uniform. (Added \_\_\_\_\_)

## 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 "f" 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, Sundays, and 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 proceeding 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 issued by the Department Head and 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.

Upon an employee's request, formal counselings shall be removed from an employee's personnel file after the expiration of twenty-four (24) months from the date of the last formal counseling, provided the employee has not received any disciplinary action during the twenty-four (24) month time period between the request and the last-received formal counseling. Formal counselings

meeting the criteria above shall not be considered against the employee for purposes of determining progressive discipline or performance evaluations, regardless of whether or not the employee requested removal of the formal counselings. If a department-specific policy contains a look-back period for formal counselings that conflicts with this Rule's twenty-four (24) month look-back period, the department-specific policy supersedes this provision of the Rule for purposes of progressive discipline and performance evaluations. (Added 8/25/09)(Amended 11/2/10, 3/6/12, \_\_\_\_\_)

## RULE 10

### Employees Seeking Public Office

An employee may become a candidate for public office while maintaining his or her employment with the City. However, the employee is still expected to fulfill all the duties and responsibilities associated with his or her city employment. (Added \_\_\_\_\_)

Employees are prohibited and will be subject to disciplinary action, as set forth in Rule 8, for campaigning or taking affirmative action for the purpose of gaining nomination or election to public office while on duty, while using City time or resources, and/or while in City uniform. Employees may, but are not required, to request a personal leave of absence to campaign or pursue a nomination for or election to public office, pursuant to the City's personal leave of absence policy. Employees who choose to resign to seek public office are eligible for reinstatement following their resignation. (Amended 7/31/07, 9/17/13, \_\_\_\_\_)

An employee who runs for public office in a jurisdiction which has direct or indirect contractual relations with the City must disclose to the City any potential conflict of interest to the employee's position in the City. (Amended 5/27/08, 8/7/07, 9/17/13, \_\_\_\_\_)