

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Human Resources

AGENDA DATE: February 28, 2017 - Consent (First Reading of Ordinances)
March 7, 2017 - Regular (Public Hearing & Second Reading of Ordinances)

CONTACT PERSON NAME AND PHONE NUMBER: Linda Ball Thomas, Director (915) 212-0045

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: Strategic Goal 6: Set the Standard for Sound Governance and Fiscal Management

SUBJECT:

AN ORDINANCE AMENDING ORDINANCE 8065 (CIVIL SERVICE RULES AND REGULATIONS), TO AMEND RULE NOS. 5 AND 12 TO REMOVE REFERENCE TO EFFICIENCY POINTS AND RATING, AND RULE NO. 7 TO CLARIFY WHEN A PERFORMANCE REVIEW MAY BE APPEALED.

BACKGROUND / DISCUSSION:

Upon approval, these amendments to Ordinance 8065 (Civil Service Rules and Regulations) will update Rules 5, 7 and 12 to accurately fulfill and comply with the intent and purpose of the re-implementation of employee performance reviews. The amendments update the impact that a performance review will have on promotions and layoffs; and when a review may be appealed. Rule 5, Section 5 addresses seniority and efficiency points; Rule 7 addresses appeal of efficiency ratings; and Rule 12, Section 1 addresses how lay-offs are handled when there is a tie.

PRIOR COUNCIL ACTION:

September 17, 2013 - Last amendment made to Rule 5 of Ordinance 8065
March 6, 2012 - Last amendment made to Rule 7 of Ordinance 8065
March 6, 2012 - Last amendment made to Rule 12 of Ordinance 8065

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD/COMMISSION ACTION:

February 9, 2017 - Civil Service Commission recommended approval of proposed amendments.

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

DEPARTMENT HEAD:



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

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 8065 (CIVIL SERVICE RULES AND REGULATIONS), TO AMEND RULE NOS. 5 AND 12 TO REMOVE REFERENCE TO EFFICIENCY POINTS AND RATING, AND RULE NO. 7 TO CLARIFY WHEN A PERFORMANCE REVIEW MAY BE APPEALED.

WHEREAS, Rule Number 5 (Application and Promotional Process and Lateral Transfer Process), Section 5 (Seniority and Efficiency Points) of the Civil Service Rules and Regulations currently provides that efficiency points received from an employee's most recent performance review will be added to or subtracted from a promotional examination score; and

WHEREAS, Rule Number 12 (Lay-Offs, Job Rights, Reinstatement), Section 1 (Lay-Offs), of the Civil Service Rules and Regulations currently provides that efficiency ratings will be used to break a tie in the amount of seniority when certifying the names of employees to be laid off; and

WHEREAS, Rule Number 7 (Appeal of Efficiency Ratings) of the Civil Service Rules and Regulations currently provides that an employee has the right to appeal a performance evaluation that results in a performance improvement plan (PIP) or that results in a post-PIP evaluation "below the equivalent of 'Successful'"; and

WHEREAS, in 2012, the City Manager stopped the practice of City employee performance reviews, making moot the application and use of the aforementioned rule provisions; and

WHEREAS, upon the direction of the El Paso City Council, the City Manager is re-implementing employee performance reviews; and

WHEREAS, distinguishable from the prior employee performance reviews, the newly developed employee performance reviews are not scored numerically, but instead provide an overall rating of either "exemplary," "highly effective," "meets standards," or "unsatisfactory"; and are not intended to be used to influence, positively or negatively, on promotional examination scores or on the layoff process; and

WHEREAS, it is now necessary and appropriate to make amendments to Rule Numbers 5, 7 and 12 of Ordinance 8065, Civil Service Rules and Regulations, to accurately fulfill and comply with the intent and purpose of the re-implementation of employee performance reviews; and

WHEREAS, prior to City Council action 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 February 9, 2017, the Civil Service Commission was presented with and recommended the proposed revisions to Rule Numbers 5, 7 and 12, as set forth herein; and

WHEREAS, the City Council is the final approving authority for amendments to the Civil Service Rules.

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

- 1. That Rule 5, Section 5, of Ordinance 8065, Civil Service Rules and Regulations, is amended, in part, as follows:**

RULE 5

Application and Promotional Process and Lateral Transfer Process

Section 5. Seniority and Efficiency Points

Seniority points will be awarded to the score of City Employees provided that the minimum passing grade is achieved on the examination or evaluation. City Employees may receive a maximum of five additional points that can be added to their score for seniority points. (Amended 3/6/12, _____)

- 2. That the first paragraph of Rule 7 of Ordinance 8065, Civil Service Rules and Regulations, is amended, in part, as follows:**

RULE 7

Appeal of Efficiency Ratings

Appeal Process:

Subject to the provisions of this section, the employee has the right to appeal an evaluation that results in the creation of a Performance Improvement Plan, or that is given upon the completion of a Performance Improvement Plan with an overall rating of "Unsatisfactory" he considers unfair, discriminatory, or otherwise objectionable. Any appeal must be made to the Commission within twenty calendar days after the employee has had final review on the rating with his Department Head, or person designated. For purposes of any appeal under this section, it shall be presumed by the Commission that the Efficiency Rating accurately reflects the performance of the employee. This presumption may be rebutted by the employee by a preponderance of the evidence. On appeal the Commission will consider only the rater's possible prejudice, the rater's failure to take into consideration facts or factors which should have affected the rating, the rater's considering facts or factors which should not have affected the rating. (Amended 8/25/09, 3/6/12, _____)

3. That Rule 12, Section 1, of Ordinance 8065, Civil Service Rules and Regulations, is amended, in part, as follows:

RULE 12
Lay-Offs, Job Rights, Reinstatement

Section 1. Lay-Offs

a. When a lay-off of employees is necessary in accordance with Article VI, 6.10-1 of the Charter, notice of such proposed lay-off will be provided to the Human Resources Director immediately. The Human Resources Director will certify to the appropriate Department Head the names of the employees to be laid off, and will coordinate all procedures to effect the lay-off. (Amended 7/31/07)

b. In certifying the names of the employees to be laid off, in the case of a tie in the amount of seniority of regular, classified employees in the affected positions, the Human Resources Director will certify for lay-off the employees with the most recent date of regular appointment to the current class. If a tie still exists, the Human Resources Director will certify for lay-off by using a system of drawing by lot. (Amended 9/8/87 and 6/3/97, 7/31/07, _____)

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

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

4. Except as herein provided, all other sections, paragraphs and provisions of Rule Nos. 5, 7 and 12 of Ordinance 8065 shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2017.

THE CITY OF EL PASO

Oscar Leeser, Mayor

ATTEST:

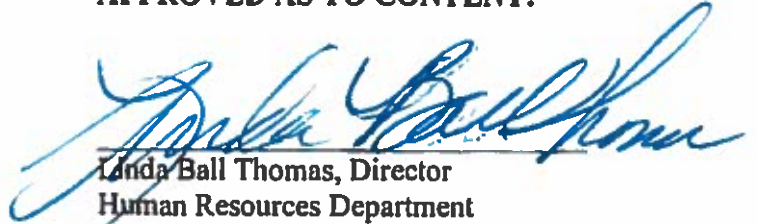
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Elizabeth M. Rubmann
Assistant City Attorney

APPROVED AS TO CONTENT:



Linda Ball Thomas, Director
Human Resources Department

Ordinance 8065
Rules 5, 7 and 12
with track changes

**Red-Lined Version of Proposed Amendments
to the relevant portions of Rule Nos. 5, 7 and 12**

RULE 5

Application and Promotional Process and Lateral Transfer Process

Section 5. Seniority and Efficiency Points

Seniority points will be awarded to the score of City Employees provided that the minimum passing grade is achieved on the examination or evaluation. ~~Efficiency points will be added to or subtracted from, the examination score of applicants passing promotional examinations based on the employee's most recent regularly scheduled evaluations.~~ City Employees may receive a maximum of ~~seven~~ five additional points that can be added to their score for ~~a combination of seniority and efficiency~~ points. (Amended 3/6/12, _____)

RULE 7

Appeal of Efficiency Ratings

Appeal Process:

Subject to the provisions of this section, the employee has the right to appeal an evaluation that results in the creation of a Performance Improvement Plan, or that is given upon the completion of a Performance Improvement Plan with an overall rating ~~below the equivalent of~~ ~~“Unsatisfactory”~~ Successful he considers unfair, discriminatory, or otherwise objectionable. Any appeal must be made to the Commission within twenty calendar days after the employee has had final review on the rating with his Department Head, or person designated. For purposes of any appeal under this section, it shall be presumed by the Commission that the Efficiency Rating accurately reflects the performance of the employee. This presumption may be rebutted by the employee by a preponderance of the evidence. On appeal the Commission will consider only the rater's possible prejudice, the rater's failure to take into consideration facts or factors which should have affected the rating, the rater's considering facts or factors which should not have affected the rating. (Amended 8/25/09, 3/6/12, _____)

RULE 12

Lay-Offs, Job Rights, Reinstatement

Section 1. Lay-Offs

a. When a lay-off of employees is necessary in accordance with Article VI, 6.10-1 of the Charter, notice of such proposed lay-off will be provided to the Human Resources Director immediately. The Human Resources Director will certify to the appropriate Department Head the names of the employees to be laid off, and will coordinate all procedures to effect the lay-off. (Amended 7/31/07)

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

~~Resources Director will certify for lay-off the employees~~ with the most recent date of regular appointment to the current class. If a tie still exists, the Human Resources Director will certify for lay-off by using a system of drawing by lot. (Amended 9/8/87 and 6/3/97, 7/31/07, _____)

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

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

Ordinance 8065
Rules 5, 7 and 12
with accepted changes

**Accepted changes of Proposed Amendments
to the relevant portions of Rule Nos. 5, 7 and 12**

RULE 5

Application and Promotional Process and Lateral Transfer Process

Section 5. Seniority and Efficiency Points

Seniority points will be awarded to the score of City Employees provided that the minimum passing grade is achieved on the examination or evaluation. City Employees may receive a maximum of five additional points that can be added to their score for seniority points. (Amended 3/6/12, _____)

RULE 7

Appeal of Efficiency Ratings

Appeal Process:

Subject to the provisions of this section, the employee has the right to appeal an evaluation that results in the creation of a Performance Improvement Plan, or that is given upon the completion of a Performance Improvement Plan with an overall rating of "Unsatisfactory" he considers unfair, discriminatory, or otherwise objectionable. Any appeal must be made to the Commission within twenty calendar days after the employee has had final review on the rating with his Department Head, or person designated. For purposes of any appeal under this section, it shall be presumed by the Commission that the Efficiency Rating accurately reflects the performance of the employee. This presumption may be rebutted by the employee by a preponderance of the evidence. On appeal the Commission will consider only the rater's possible prejudice, the rater's failure to take into consideration facts or factors which should have affected the rating, the rater's considering facts or factors which should not have affected the rating. (Amended 8/25/09, 3/6/12, _____)

RULE 12

Lay-Offs, Job Rights, Reinstatement

Section 1. Lay-Offs

a. When a lay-off of employees is necessary in accordance with Article VI, 6.10-1 of the Charter, notice of such proposed lay-off will be provided to the Human Resources Director immediately. The Human Resources Director will certify to the appropriate Department Head the names of the employees to be laid off, and will coordinate all procedures to effect the lay-off. (Amended 7/31/07)

b. In certifying the names of the employees to be laid off, in the case of a tie in the amount of seniority of regular, classified employees in the affected positions, the Human Resources Director will certify for lay-off the employees with the most recent date of regular appointment to the current class. If a tie still exists, the Human Resources Director will certify for lay-off by using a system of drawing by lot. (Amended 9/8/87 and 6/3/97, 7/31/07, _____)

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

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