

CHARTER COMMISSION MEETING
DECEMBER 17, 2014 AT 6:00 PM
Richardson Civic Center/City Hall
Large Conference Room, Suite 202
411 W. Arapaho Road, Richardson, TX 75080

The Charter Commission will conduct a meeting on Wednesday, December 17, 2014, at 6:00 p.m. in the Large Conference Room/City Manager's Office (Suite 202) of the Civic Center, 411 W. Arapaho Road, Richardson, Texas 75080.

As authorized by Section 551.071 (2) of the Texas Government Code, this meeting may be convened into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.

CALL TO ORDER

1. Consider approval of the November 12, 2014 Charter Review Commission Meeting Minutes.
2. Review City Attorney Opinion Memorandum regarding follow up items for Articles 9 and 10 – Civil Service.
3. Review Richardson City Charter, Article 5, *Recall of City Council Members* and consider any recommendations for amendments thereto.
4. Review Richardson City Charter, Article 14, *Initiative and Referendum* and consider any recommendations for amendments thereto.
5. As necessary discuss planned review of Richardson Charter for next scheduled meeting.
6. Consider the remaining Schedule of Review for the Charter Review Commission.

ADJOURN

I hereby certify that this notice was posted on the Civic Center/City Hall Bulletin Board on Friday, December 12, 2014, by 5:00 p.m.

CITY OF RICHARDSON

Aimee Nemer, City Secretary

ACCOMMODATION REQUESTS FOR PERSONS WITH DISABILITIES SHOULD BE MADE AT LEAST 48 HOURS PRIOR TO THE MEETING BY CONTACTING SUSAN MATTISON, ADA COORDINATOR, VIA PHONE AT 972 744-0809, VIA EMAIL AT ADACoordinator@cor.gov, OR BY APPOINTMENT AT 1621 E. LOOKOUT DRIVE, RICHARDSON, TX 75082.

MINUTES
CHARTER REVIEW COMMISSION
NOVEMBER 12, 2014 MEETING

CALL TO ORDER

Chairman Dubey called the meeting to order at 6:04 p.m. with the following present:

Commissioners Present:

Bob Dubey, Chair
Ron Taylor, Vice Chair
Gerald Bright, Commissioner
Helene Lee, Commissioner
Jason Lemons, Commissioner
Bill McCalpin, Commissioner
Kim Quirk, Commissioner
Nancy Wilson, Commissioner
Erica Yaeger, Commissioner

City Staff Present:

Shanna Sims-Bradish, Asst. City Manager
Pete Smith, City Attorney
Aimee Nemer, City Secretary

Commissioners Absent:

Marta Gomez Frey, Commissioner
John Murphy, Commissioner

Chair Dubey acknowledged the following visitors - Richard Tanner, David Chenoweth, Bonnie Abadie, and Charlie Newton. Cheri Duncan-Hubert was present later in the meeting. Mr. Tanner attempted to address the Commission and Chair Dubey informed him that he was out of order and explained that comments can be submitted to the Commission in writing.

1. Consider approval of the November 5, 2014 Charter Review Commission Meeting Minutes.

Commission Action

Commissioner McCalpin moved to approve the Minutes as presented. Commissioner Wilson seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

2. Review Richardson City Charter, Article 9, *Boards and Commissions* and consider any recommendations for amendments thereto.

Commission Action

Section 9.01 – Commissioner McCalpin moved to approve this section with the amendment to add the following language, “on any single board or commission” to the sentence in the last paragraph so that it reads, “No person shall be appointed to serve more than four (4) consecutive two (2) year terms on any single board or commission.” Commissioner Quirk seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

Section 9.02 – After Commission discussion regarding whether to change the residency requirement from six months to one year, Commissioner Bright moved to approve this section with the amendment to add the following language, “immediately prior to the date of appointment” after the phrase six (6) months. Commissioner McCalpin seconded the motion. A vote was taken and passed, 8-1 with Commissioner Quirk voting in opposition and Commissioners Frey and Murphy absent.

Section 9.03 – Commissioner McCalpin moved to approve this section as presented with the recommended changes and the additional amendment to clarify the phrase, “any qualification for appointment” to “any of

the qualifications for appointment.” Commissioner Quirk seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

Section 9.04 – Commissioner Lemons moved to approve this section as amended, “All meetings shall be open to the public except as otherwise permitted by law. Minutes of meetings open to the public shall be kept and attendance, subject matter, and voting shall be recorded.” Commissioner Bright seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

Section 9.05 – Commissioner Bright moved to approve this section as presented with recommended changes. Commissioner Wilson seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

Section 9.06 – Commissioner McCalpin moved to approve this section as presented with recommended changes. Commissioner Lee seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

Section 9.07 – Commissioner McCalpin moved to approve:

- **Section 9.07 (a)** as presented with recommended changes;
- **Section 9.07 (c)** as amended by removing the following wording from the first paragraph, “, each of whom shall be qualified voters of the City of Richardson, and shall have been a resident of the State of Texas for one (1) year and a resident of the City of Richardson for six (6) months immediately prior to the date of such appointment” and removing the following wording from the second paragraph, “years and until their respective successors shall have been appointed and qualified.” ; and replacing it with, “year terms.” ; and
- **Section 9.07 (d)** as presented with no recommended changes.

Commissioner Wilson seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

Regarding **Section 9.07 (b)**, City Attorney Smith recommended postponing this section for further legal review.

Section 9.08 – Commissioner Lemons moved to approve this section as presented with recommended changes. Commissioner Lee seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

Section 9.09 – Commissioner Bright moved to approve this section as presented with recommended changes. Commissioner McCalpin seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

Section 9.10 – Commissioner Quirk moved to approve this section as presented with the recommended changes and the following amendments:

- In the first paragraph after **Section 9.10 (b) (3)**, change the word “officer” to “administrative official.”;
- In the following second paragraph, remove the words “entire” and “members” ;
- In **Section 9.10 (d)** first paragraph, remove the period after the word “members” at the end of the last sentence and add the words “of the board.” to the end of the sentence;
- In **Section 9.10 (d)** second paragraph, remove the sentence, “All meetings of the board shall be open to the public.”

- In **Section 9.10 (d)** third paragraph, change the word “officer” to “administrative official” in the second and third sentence; and
- In **Section 9.10 (d)** fourth paragraph, change the word “officer” to “administrative official.”

Commissioner McCalpin seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

Section 9.11 – Commissioner Lemons moved to approve this section as presented with recommended changes and the amendment to 9.11 (c) to make the wording consistent with the language used in Section 9.09 (b) *Library Board*. Commissioner Yaeger seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

Section 9.12 – Commissioner Yaeger moved to approve this section as presented with recommended changes and the amendment to 9.12 (c) to remove, “or any three (3) of its members.”; and adding “at least three (3) members of...” after the word “by.” Commissioner Lemons seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

It was noted that City Attorney Smith would review and advise on the definition of the word “officer” in **Section 9.12 (a)**.

3. Review Richardson City Charter, Article 10, Civil Service and consider any recommendations for amendments thereto.

Commission Action

Section 10.01 through **Section 10.05** and **Section 10.07** were acted upon with one motion. Commissioner Quirk moved to approve Section 10.01, 10.02, 10.03, 10.04, 10.05, and 10.07 as presented with recommended changes and the amendment in 10.02 (c) of changing the word “no” to “not” in the first sentence. Commissioner Lee seconded the motion. A vote was taken and passed, 9-0 with Commissioners Frey and Murphy absent.

Regarding Section 10.06, City Attorney Smith recommended postponing this section for further legal review and consultation with the Human Resources staff. Additionally, in **Section 10.07**, the City Attorney will review and advise the definition of the word “officer.”

4. As necessary discuss planned review of Richardson Charter for next scheduled meeting.

Commission Action

Chair Dubey distributed public comments that were received through the web portal regarding the City Charter. He reminded the Commission of the next scheduled meeting of December 17 at 6:00 p.m. and asked members to bring their calendars to that meeting to discuss the remaining schedule.

ADJOURN

With no further business, Commissioner Yaeger moved to adjourn the meeting at 8:52 p.m., seconded by Commissioner Wilson. The motion passed unanimously.

Bob Dubey, Chair

ATTEST:

CITY SECRETARY

MEMO

FOR: Richardson Charter Review Commission
FROM: City Attorney, Peter G. Smith
DATE: December 8, 2014
SUBJECT: Article 9 and 10 – Civil Service

Following the Charter Review Commission meeting at which Article 9 and 10 were reviewed, the Commission postponed action and/or directed us to review Section 10.06, *Discharge of employee after probation period*, and the use of the term “officer” in Sections 9.12 and 10.07.

In your packet should be a copy of the Richardson Civil Service Rules and Regulations. Your attention is directed to Sections 53, 68, 72 and 73.

The use of the term “officer” in the Charter in regard to civil service is inappropriate since people employed in the classified service are employees of the City. It is recommended that the phrase “officer or” be deleted in Charter Sections 9.12 and 10.07.

Regarding Charter Section 10.06, the existing Charter language is consistent with the text of Section 53 of the Civil Service Rules and Regulations. Section 73 of the Civil Service Rules and Regulations addresses a “lay-off”. While the section is titled “Lay-Off”, the section speaks in terms of a position being abolished or vacated resulting in a dismissal without cause. Section 72 of the Civil Service Rules and Regulations addresses demotion as the result of the abolishment of a position in the classified service and dismissal without cause if there is no lower position available. Neither Section 72 nor Section 73 provide for an appeal by the affected employee; however, Section 53, *Discharge of Employee after Probation Period of the Civil Service Rules and Regulations*, provides an appeal for an employee removed, suspended, laid off or reduced in grade by City Manager or head of the department. The reference to the duty of the “officer discharging such employee” in Section 53 of the Civil Service Rules and Regulations and Charter Section 10.06 is a reference to the City Manager or the department head. Charter Section 10.06 could be amended to change “duty of the officer” to “duty of the City Manager or department head, as the case may be”. The reference to “laid-off” could be changed to “dismissal without cause due to abolishment or vacation of position” if deemed necessary. The reference to “removed” in Section 53 and Charter Section 10.06 is a reference to “dismissal”. The terms “discharge”, “removed”, “discharged” and “dismissal” are used interchangeably in the Civil Services Rules and Regulations, depending on the context.



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PREFACE

In 1956, immediately after the population of Richardson reached 5,000, the City Council appointed a Charter Commission to promulgate a Home Rule Charter. This Charter was approved by the people of Richardson on June 23, 1956. Article XVII of the Charter contemplated a Civil Service Program in the future as the City; the municipal functions and the personnel of the City grew. Thirteen years later as the population of Richardson reached 50,000, the City Council determined that Civil Service had become practical and appropriate, and on March 10, 1969, the City Council appointed a Civil Service Board to promulgate rules and procedures to effect the Civil Service Program.

The purpose of these rules is to set forth the principles and procedures that are to be followed by the City Administration in its personnel program, and they are an augmentation and clarification of Article 9 and Article 10 of the new charter (1989) of the City Charter to establish a merit system of personnel administration. It is intended that these rules not only provide a working guide for City officials, but that they shall acquaint the City employees with the chief personnel objectives and practices of the City.

These rules are not intended to be inflexible; therefore, it is expected that amendments and revisions will be made in the manner provided by the rules whenever they are necessary to insure effective administration of the Civil Service Program. These rules and amendments when approved by the City Council shall be applicable to all departments of the City, except said Department Heads and officers excluded in the City Charter, and these rules shall have the force and effect of the law in all departments of City Administration.

The Civil Service Board of the City of Richardson, Texas, hereby certifies that in accordance with Articles 9 and 10, of the Home Rule Charter of the City of Richardson, Texas, the following personnel rules were originally approved by the City Council of Richardson, Texas, on August 26, 1969, with subsequent amendments approved by both the Civil Service Board and the City Council.

RULE I

GENERAL PROVISIONS

SECTION 1. USING OFFICIAL AUTHORITY IN POLITICAL MATTERS

No employee of the City of Richardson shall use their official authority or influence to coerce, endorse, solicit, or persuade the political action of any person or body. No person shall dismiss, or cause to be dismissed, or threaten to dismiss, or make any attempt to procure the dismissal of, or in any manner change the official rank or compensation of any person in such service, because of their political opinions or affiliations. An employee of the City shall neither engage in any political activity while such employee is wearing an official uniform of the City nor shall such employee engage in the management affairs of a political campaign of any person while on active duty other than to exercise their right as a citizen to express their opinion and cast their vote.

SECTION 2. RESIGNATION TO SEEK PUBLIC OFFICE

No employee of the City shall continue in such position after becoming a candidate for nomination or election for any public office in the City of Richardson.

SECTION 3. NO DISCRIMINATION OR HARASSMENT

No discrimination or harassment shall be exercised, threatened, or promised against or in favor of any applicant, competitor, candidate, eligible, or employee because of age, citizenship, color, disability, national origin, political opinion, pregnancy, race, religion, sex, veteran status, or any other legally protected classification.

SECTION 4. NO POLITICAL INFLUENCE

No political influence on the behalf of any applicant or competitor involving a disclosure of their political opinions or affiliations from any source shall be accepted by the Board or the Director of Human Resources.

SECTION 5. WAIVING OF RIGHTS

No applicant for employment by the City shall sign or be permitted to sign any document, or instrument, nor give their consent verbally, orally or otherwise, whereby they shall waive, relinquish or release any right or rights accruing to them under the City Charter or these rules. No public officer shall require an employee to waive any rights accruing to such employee under the law and rules. This rule shall not be applicable to employees who have, previous to the adoption of these rules, signed instruments or documents whereby they have relinquished sick leave benefits or other benefits accruing to them under these rules in order to remain in the employ of the City.

RULE II

COOPERATION OF MUNICIPAL EMPLOYEES

SECTION 6. COOPERATION OF MUNICIPAL EMPLOYEES

All municipal employees shall provide the Board with all reasonable facilities in conducting any of its business and the inquiries specified in these Rules and the Civil Service Charter provision. The Board shall be permitted to inspect all books, papers, and documents belonging, or in any way appertaining to their respective offices, and they shall also produce said books and papers and shall attend and testify when required to do so by the Board.

The workplace is owned by the City of Richardson. All facilities, vehicles, fixtures, and devices owned, leased or rented, or provided by the City may be inspected or reviewed at any time by the City Manager or his designee. City employees shall have no expectation of privacy when using City owned property or systems (including but not limited to computers, e-mail and voice mail systems and other communication devices, desks, cabinets and/or lockers).

SECTION 7. ALL EMPLOYEES ABIDE BY PROVISIONS OF RULES

It shall be the duty of all employees of the City to conform to and comply with and to aid in all proper ways in carrying into effect the provisions of these Rules and any modification thereof. No employee or employees having the power of appointment shall select or appoint any person for employment, promotion, or reinstatement except in accordance with these Rules and Charter provision.

No person may be employed in, transferred to, or promoted to a position where that person is in the same line of supervision of/as another employee who is related to the person within two degrees of affinity (marriage) or three degrees of consanguinity (blood) or where the two employees cohabit. An employee related to or cohabiting with another employee may be employed in, promoted or transferred to a department where the other employee within the prohibited degrees of relationship is employed so long as the two employees are not in the same line of supervision or where their respective positions do not create a conflict of interest. As used herein, "cohabit" and "cohabiting" shall mean residing together in the same household involving a mutual assumption of rights, duties, and obligations common in a marital relationship. As used herein, "line of supervision" refers to an organizational unit within a department where one employee has discretion over another employee's employment, salary, wages, discipline, promotion, administration, or work duties.

RULE III

CIVIL SERVICE BOARD ORGANIZATION AND MEETINGS

SECTION 8. PURPOSE

The primary purpose of the Civil Service Board is to oversee the Civil Service System of the City of Richardson.

SECTION 9. POWERS

The Civil Service Board, subject to the approval of the City Council, shall adopt, amend, and enforce a Code of Rules and Regulations providing for appointment and employment in all positions in the Classified Service which shall have the force and effect of law; also rules regulating reduction of forces of employees and in what order they shall be dismissed and reinstated; shall make investigation concerning the enforcement and effect of the Civil Service sections of the Charter and of the rules adopted under the powers herein granted.

SECTION 10. MEMBERSHIP AND TERMS

The City Council shall appoint a Civil Service Board, composed of five (5) citizens who reside in the City of Richardson, for two (2) year terms and until their successors have been appointed and qualified. Three members shall be appointed in August of odd-numbered years, and two members shall be appointed in August of even-numbered years. At least one member shall live in each of Districts 1-4 of the City.

SECTION 11. PROCEDURES

The City Council shall appoint a Chairperson and a Vice-Chairperson. The Board may appoint such other officers and subordinates as it may deem necessary from time to time. In the absence of one or more of the permanent officers, temporary officers may be appointed by the Board for the conduct of business. The Board shall meet monthly. The Civil Service Board shall make an annual report to the City Council at the end of each fiscal year, giving a complete itemized statement of all expenditures paid or incurred by it, and containing such recommendations for improving the efficiency of the Civil Service System as it may deem advisable. The judgment or decision of a majority of the Civil Service Board or Civil Service Appeals Board present at any disciplinary appeal/show cause hearing shall be final and non-appealable.

SECTION 12. OFFICIAL SIGNATURES

The minutes, orders and other official acts of the Board shall be signed by the Chairperson, or in their absence or incapacity, by the Vice-Chairperson, together with the Secretary.

SECTION 13. MINUTES

The Board shall maintain minutes of all its meetings and of all hearings of employee appeals.

SECTION 14. REGULAR MEETINGS

The Board shall meet regularly each month at such time and place to be designated by the Board. Notice of monthly meetings with agenda will be posted in all City departments at least 72 hours prior to the meeting.

SECTION 15. SPECIAL MEETINGS

Special meetings of the Board may be called by the Secretary at the request of the Chairman, or at the written request of any two members of the Board, or by request of the City Manager.

SECTION 16. OPEN MEETINGS

All meetings will be conducted in accordance with provisions of the Charter of the City of Richardson and the Texas Open Meetings Act.

SECTION 17. ORDER OF BUSINESS

The regular order of business shall be the approval of the minutes of the prior meeting and agenda items of new and/or unfinished business.

RULE IV

JOB DESCRIPTIONS AND COMPENSATION PLAN

SECTION 18. JOB DESCRIPTIONS AND COMPENSATION PLAN

The Director of Human Resources and/or her/his designee will approve new and/or revised job descriptions in coordination with appropriate Department Heads and/or their designees, and/or the City Manager's Office.

All provisions of the City's compensation plan are governed by the financial condition of the City of Richardson, subject to annual review and authorization by the City Manager and City Council. The compensation plan may be revised when necessary.

RULE V

APPLICANTS FOR EMPLOYMENT

SECTION 19. FILING APPLICATIONS

- (a) Any person may be considered for employment to a vacancy in the classified service who has filed an application with the City in the manner specified in these Rules and whose application has not been rejected for cause in accordance with the provisions of these Rules.
- (b) The applicant shall be required to certify to the correctness of the facts of their application by their signature.
- (c) Members of the classified service will be eligible for consideration for all other openings in the classified service before consideration is extended to applicants outside the classified service.
- (d) Temporary and part time employees of the City may be considered for employment to classified positions at such time that applicants from outside the City are considered.

SECTION 20. AGE

Eighteen years shall be the minimum age to take any entrance examination for positions in all departments of the City of Richardson coming within the jurisdiction of the Municipal Civil Service System, except Fire and Police Departments wherein departmental policies regarding minimum age shall prevail even where no examination is required. There shall be no maximum age limit to take any entrance examination for positions in all departments for the City of Richardson coming within the jurisdiction of the Municipal Civil Service System.

SECTION 21. CHARACTER AND FITNESS OF APPLICANT

Applicants must be of good character and possess the physical and mental ability to perform the essential functions of the position, either with or without reasonable accommodations. A Medical History Questionnaire must be completed by each full-time appointee to any position coming under these rules and each appointee must be found to be physically and mentally capable of performing the essential functions of the position to which he or she will be assigned, either with or without reasonable accommodations. No applicant shall be appointed who has not completed and signed the Medical History Questionnaire and been found physically and mentally capable of performing the essential functions of the position, either with or without reasonable accommodations.

SECTION 22. INVESTIGATIONS

Investigations may be made of all applicants for all entrance positions.

SECTION 23. CAUSE FOR REJECTION

The following are declared to be cause for rejection of any applicant:

- (a) If found to lack any of the minimum qualifications set forth in the notice inviting applications and established as minimum qualifications in the classification plan.
- (b) If physically or mentally unable to perform the essential functions of the job with or without reasonable accommodation.
- (c) Has made any false statement of any material fact, or practiced, or attempted to practice any deception or fraud in their application, physical examination form, written examination or appointment.
- (d) Any applicant who tests positive to illegal drugs, or refuses to submit to a pre-employment drug screening will not be hired and will be barred from employment for a period of one year.

RULE VI

ENTRANCE EXAMINATIONS

SECTION 24. ENTRANCE EXAMINATIONS

Where deemed applicable by the Board, all persons shall be required to take an entrance examination for the specific position applied for before being employed by the City. Entrance examinations may be given at any time and from time to time to any number of applicants in response to published notices of examinations. Applicants failing the written entrance examination must wait six (6) months before taking another examination for that position. Applicants who fail the oral review examination or the training and/or performance tests, other than the written entrance examination, shall not be eligible for a period of not less than twenty-four (24) months to reapply for that specific position for which the application was made. Applicants failing any entrance examination twice will not be considered for that position.

SECTION 25. CHARACTER OF ENTRANCE EXAMINATIONS

All entrance examinations shall be of such nature that they will fairly test the general knowledge and fitness of the persons examined to discharge the duties of the particular position to which they seek appointment.

Examinations need not be required for positions which require exceptional qualifications of a scientific, managerial, or professional character, or in those positions deemed critical due to market shortage, where recommended by the City Manager and approved by the Board. Such positions will be classed as non-competitive.

SECTION 26. CONTENT OF ENTRANCE EXAMINATIONS

Examinations for entrance into the Municipal Civil Service System shall consist of one or more of the following parts as considered appropriate for the various classifications of positions:

- (a) WRITTEN TEST. This part when required shall include an examination designed to ascertain the familiarity of applicants with the knowledge needed in the class of positions to which they seek appointment, and the range of their general information. No applicant will be allowed to take a written examination who has not confirmed their intent to do so within the time limit established prior to the exam date by the Director of Human Resources.
- (b) ORAL INTERVIEW. This part when required shall include a personal interview with applicants for positions where ability to deal with others, to meet the public or other personal qualifications are to be determined.
- (c) PERFORMANCE TESTS. This part when required shall include such test of performance as will determine the ability and skill of applicants to perform the work involved.
- (d) PHYSICAL AND HEALTH TESTS. This part when required shall consist of the furnishing of information by the applicant regarding their health and physical condition. It shall also consist of a physical examination of the applicant by a physician or other qualified person designated by the City whose findings shall be final. Failure of the physical examination shall not be considered a reason to prohibit re-examination of an applicant. An applicant may reapply for examination so long as the physical condition or deficiency causing the failure is corrected and the applicant otherwise complies with the physical requirements.

- (e) TRAINING AND EXPERIENCE. This part shall be required and shall consist of questions on education and experience contained in the application form, and of such supplementary data as may be furnished for certification and proof of statements made in the application, or it may consist of questions on training and experience asked at the time the written tests are given. The Director of Human Resources may, at his discretion, investigate the truth of the applicant's statements as to training and experience and take appropriate action.

SECTION 27. CONDUCT OF ENTRANCE EXAMINATIONS

- (a) The actual conduct of every entrance examination shall be under the direction of the Director of Human Resources or his designee, free from the participation or influence of any other person.
- (b) Where the needs of the City so dictate, the Director of Human Resources may hold entrance examinations progressively for a given period of time, and in such cases, shall refer the applicants in their order of grade attained to the head of the department under whom the applicant is to work.
- (c) An applicant who in any examination uses or attempts to use any unfair or deceitful means to pass such examination shall be informed by the Director of Human Resources that the applicant's actions have disqualified him/her from further consideration.

SECTION 28. PASSING SCORE

Weighing on a basis of one hundred per cent (100%) for perfection, seventy per cent (70%) shall be the score for passing any test, and no person shall be eligible for appointment whose score on the complete examination is less than seventy per cent (70%) unless a substitute system is provided by the Board.

SECTION 29. POSTPONEMENT OR CANCELLATION OF ENTRANCE EXAMINATIONS

- (a) The Director of Human Resources may, because of the small number of applicants for any position, or because of any other good and sufficient reason, postpone an examination to a later date.
- (b) Any examination may be cancelled by the Director of Human Resources should its holding become unnecessary because of a change in the personnel requirements of the classified service.

SECTION 30. CORRECTION OF ERROR

On formal written appeal setting out the specific reasons for the appeal, submitted by the competitor within ten (10) days after date of notice of their standing, the Board may correct any manifest error or mistake of marking or rating appearing in such paper or record, such correction in any case to be without prejudice to the status of any person previously appointed as a result of such examination. Such appeal shall be considered as opening all of the competitors' papers for review, whether resulting on a higher or lower average standing. No change in rating shall be made as the result of an appeal unless it would affect the competitors' relative position on the eligibility list. This provision shall not be held to prevent the Board from correcting at any time during the life of any eligibility list an obvious clerical error.

SECTION 31. EXAMINATION PAPERS TO BE SHOWN

The examination papers of an applicant will be exhibited only to the applicant or their duly authorized representative, or to the City Manager to whom their name is certified, or to the Department Head under whom the applicant is to be employed.

SECTION 32. BOARD MAY PUBLISH PAMPHLET

The Board or its designated examiner may publish a pamphlet containing papers to illustrate to candidates the methods of examination, and containing such other information as in the opinion of the Board will be useful to candidates in making application and preparing for the competition.

RULE VII

ABUSES AND FRAUDS

SECTION 33. ABUSES AND FRAUDS

No person shall deceive or obstruct any person in respect to their right or examination under the provisions of these Rules, or falsely mark, grade, estimate or report upon the examination or standing of any person examined hereunder, or aid in so doing, or furnish to any person, except in answer to inquiries of the Board, any special information for the purpose of either improving or injuring the rating of any such person for employment. No applicant shall deceive the Board for the purpose of improving their chances for appointment.

RULE VIII

NEW EMPLOYEE ELIGIBILITY LISTS

SECTION 34. LIST OF ELIGIBLES

The Board shall provide for examination in accordance with the regulations of the Board, and maintain lists of eligibles to each class of the Service of those meeting the requirements of said regulations. Positions in the Classified Service shall be filled from such eligible lists upon requisition of the City Manager. As positions are filled, the Board shall certify the fact to the City Manager.

SECTION 35. PREPARATION OF NEW EMPLOYEE ELIGIBILITY LISTS WHERE APPLICANTS EXCEED NUMBER OF POSITIONS

After a reasonable length of time, the Director of Human Resources shall prepare a list of names of all applicants who have successfully passed the examination, listed in order from the highest score to the minimum passing score with veteran's credit added where applicable. This list shall then become the official eligibility list for the position for which the examination was given. All appointments to said position shall be made from this eligibility list for a period of three (3) months, expiring on the same date of the third (3rd) month from the date of the examination. (This three (3) month period shall be six (6) months for the Fire Department and Police only.) A new examination may be given before a current eligibility list expires; however, no appointments may be made from any eligibility list until all prior eligibility lists have expired or no eligible names remain. It shall not be necessary, but it shall be permitted, to give an examination to create an eligibility list for a position before a vacancy occurs, when the vacancy is reasonably anticipated.

SECTION 36. NO ELIGIBILITY LIST REQUIRED WHERE VACANT POSITIONS EQUAL OR EXCEED NUMBER OF APPLICANTS.

Where the number of vacant positions equal or exceed number of applicants, it shall not be necessary to prepare an official eligibility list, but a record of the applicants, examination and grades shall otherwise be made and maintained. As soon as possible after the examination the applicants shall be notified whether they passed or failed the examination, and those who passed may be immediately further processed for the position. No exam is required if only one competitor signs to take the exam.

SECTION 37. PLACEMENT ON LIST

Every person who received a minimum passing grade on any required written examination shall be placed on the eligibility list for the specified position. Placement on the eligibility list shall be according to scores on the written examination, with the highest score being ranked first. After placement on the eligibility list as provided herein, an applicant will be required to undertake any additional testing, if needed, for further consideration for appointment to the position. Entrance examination testing, subsequent to the written examination, will be administered according to the ranking of the applicants on the eligibility list.

SECTION 38. VETERAN'S PREFERENCE

An applicant who has served on active duty at least one (1) year in the armed services of the United States and who received an honorable discharge shall receive on their competitive grade an additional (5) percentage points, provided such competitive grade is at least the minimum passing score. A copy of the discharge paper or form DD-214 must be presented for verification purposes on the date specified by the Director of Human Resources.

SECTION 39. IDENTICAL SCORES

Whenever two (2) applicants shall attain the same total grade, the applicants filing their application on the earliest date, or at the earliest time if on the same date, shall be listed first.

SECTION 40. NOTICE OF PLACEMENT ON ELIGIBILITY LIST

Competitors will be personally responsible for checking the eligibility list posted in the City Hall regarding their grade and relative position on such list.

SECTION 41. REMOVAL FROM LIST

An applicant's name may be removed from a list of eligibles whenever they become dispossessed of any qualifications required of and possessed by them at the time their name was placed on the list, and it may also be removed for any of the causes stated in Section 23 of Rule V. If a person's name appears on two or more lists and they are appointed to a position in the service, their name shall be removed from the remaining lists on which it appears, or the applicant's name may be removed at their request.

SECTION 42. CHANGE OF ADDRESS

Each person on an eligibility list shall file with the Director of Human Resources written notice of any change of address, and failure to do so may cause their name to be removed from the list. Notices sent to a person's last known address shall be considered sufficient notification.

SECTION 43. ABOLISHMENT OF ELIGIBILITY LIST

The Board may abolish an eligibility list when there are three (3) or less names on such list, and may order a new examination and the preparation of a new eligibility list. Any names of persons left on the eligibility list to be abolished shall be transferred to the new eligibility list with the same grade they attained previously. Such persons as are transferred to the new eligibility list may, however, take the new examination announced, and in each case of re-examination, the grade received on the latest examination shall determine such person's ranking on the new eligibility list.

RULE IX

CERTIFICATION OF APPOINTMENT

SECTION 44 (A). REQUISITION

Whenever a vacancy is to be filled in the classified service, the Department Head shall make requisition to the Board upon the form prescribed by it for the certification of eligibles to the City Manager.

SECTION 44 (B). LIST OF ELIGIBLES

The Board shall provide for examination in accordance with the regulations of the Board, and maintain lists of eligibles to each class of the Service of those meeting the requirements of said regulations. Positions in the Classified Service shall be filled from such eligible lists upon requisition of the City Manager. As positions are filled, the Board shall certify the fact to the City Manager.

SECTION 44 (C). NON-COMPETITIVE CLASS

The non-competitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character, as may be determined by rules of the Board. Applicants for non-competitive positions may be selected on the basis of professional qualifications.

SECTION 45. CERTIFICATION

Upon receipt of a request for certification, the Director of Human Resources shall certify to the City Manager from the reinstatement list for the class of position in question, one name for each vacancy to be filled. If there is no reinstatement list or if those on the reinstatement list decline appointment, the Director of Human Resources shall certify the names, addresses and grades of the persons, standing highest on the appropriate eligibility list.

SECTION 46. APPOINTMENT OF PERSON WITH HIGHEST GRADE

Following any required written entrance examinations and subsequent required additional testing, the appointment shall be of the person with the highest composite ranking. Any name may be passed over for valid reasons, and in such event, the person with the next lower ranking may be appointed. Whenever an applicant is passed over, such reasons shall be reduced to writing, and a copy shall be filed with the Director of Human Resources.

SECTION 47. FAILURE TO RESPOND TO OFFER OF APPOINTMENT

The failure of an eligible person to report to the Department Head within three (3) business days after notice of certification shall be considered sufficient cause for removal of their name from the list of eligibles. Upon receipt of written notice from a Department Head that a certified person has failed to report or has declined appointment or upon receipt of a written declination of appointment from an eligible person, certification shall be made of the name of the person next in order on the list. The name of the person refusing appointment shall be stricken from the eligibility list.

SECTION 48. EMPLOYEE APPOINTMENTS

- (a) TEMPORARY APPOINTMENTS. Temporary appointments may be made by the City Manager of persons not on an eligibility list in the event that no eligibility list has been prepared for the position, or that those on the eligibility list are not immediately available, or during the suspension of an employee or pending final action or proceedings to review a suspension, or demotion or dismissal of an employee. No person shall be eligible to serve as a temporary appointee in any one or more positions for more than an aggregate period of three (3) months in any one fiscal year; provided that the limitation above shall not apply if final action or proceedings to review a suspension, demotion or dismissal shall remain pending at the end of the three (3) month period, or if such temporary appointee is serving in the place of an employee who has been granted leave of absence in the excess of three (3) months. No credit shall be allowed in the giving of examinations for service rendered under a temporary appointment.
- (b) PROVISIONAL APPOINTMENTS. In all municipal departments, the City Manager may authorize a provisional appointment to a regular full-time position. No provisional appointment shall continue for more than sixty (60) days and shall not be renewed. Provisional appointments may be authorized by the City Manager to an extra position established by the City Council, but the appointment shall not continue longer than thirty (30) days and shall not be renewed.
- (c) PART-TIME APPOINTMENTS. Part-time employees are those employees hired by the City on a part-time basis to fill positions where the needs of the City do not warrant a full-time employee. Part-time employees do not come within the Classified Civil Service of the City, and these employees are not entitled to any Civil Service benefits.
- (d) SEASONAL APPOINTMENTS. Seasonal employees are those employees appointed to fill vacancies by the heavy work load placed on the City during the summer months, or other seasons of the year at which time additional facilities are made available to the public, such as operating swimming pools, recreational facilities and park facilities, etc. Seasonal employees do not come within the Classified Civil Service of the City, and these employees are not entitled to any Civil Service benefits.

SECTION 49. EMPLOYMENT OUT OF CLASSIFICATION

Nothing in these rules shall prevent the City Manager from designating some person from the next lower classification to fill a position in a higher classification temporarily. The temporary performance of the duties of any such position by a person, who has not been promoted in accordance with the provisions of these rules, shall never be construed to promote such person.

SECTION 50. SPECIAL ASSIGNMENTS

None of the provisions of the civil service law or these rules shall bar the City from making appointments of personnel or contracts for technical and/or specialized personnel to carry out work of a special nature. Such special assignments shall be for work which is not a regular part of the administration of City affairs.

SECTION 51. TRANSFER.

The City Manager may authorize the transfer of any employee in any department without further competitive tests from a position in a given class to another position in the same class or to a position in a different class for which they are qualified and for which no higher maximum rate of pay has been established.

RULE X

NEW EMPLOYEE PROBATION

SECTION 52. NEW EMPLOYEE PROBATIONARY PERIOD

Appointment or promotion in the Classified Service shall not be deemed complete until a probationary period has been completed. A probationary period not to exceed six (6) months shall be determined by the Civil Service Board for each employee classification. No appointment shall be deemed finally made until the appointee has satisfactorily served their probationary period, provided that this provision shall not apply to reinstatements made under provisions pertaining to suspensions as set out in these rules. Days charged to absent without leave (A/O), suspensions, sickness, injury leaves, military leave, or bereavement leaves will not be included in computing the full six (6) month probationary period.

SECTION 53. DISCHARGE OF EMPLOYEE AFTER PROBATION PERIOD

Any employee in the Classified Service may be removed, suspended, laid off or reduced in grade by the City Manager, or the head of the department in which employed, after the probationary period has expired. If demanded by such employee, it shall be the duty of the officer discharging such employee to furnish a written statement of the reasons therefore. The discharged, suspended or reduced employee shall have the right to demand a public hearing upon said charges within a reasonable time thereafter before the Civil Service Appeals Board. All probationary employees may be dismissed without cause.

SECTION 54. REPORT ON PROBATIONARY EMPLOYEES

During the final month of an employee's probationary period, the immediate supervisor shall prepare an efficiency report on a prescribed form, rating the employee's job performance and efficiency during the probationary period. After it has been reviewed with the employee and approved by the Department Head, the report (clearly marked as "Probationary") shall then be forwarded to the Director of Human Resources. In the absence of any report from the Department Head that a probationary employee is unsatisfactory, such employee automatically becomes a regular full-time employee at the end of the probationary period. At the termination of the period, such employee shall have full civil service rights and privileges, which shall date back to their date of employment.

RULE XI

PROMOTIONAL EXAMINATION AND ELIGIBILITY LISTS

SECTION 55. VACANCIES TO BE FILLED BY PROMOTIONAL EXAMINATION

The Department Head shall notify the Director of Human Resources of any vacancy in a position in their department to be filled by promotion. The Director of Human Resources will prepare a list of all vacant positions which will be posted on the employee Intranet and on an employee bulletin board in each department immediately following its printing. For competitive positions, this announcement will be posted a minimum of five (5) working days before outside applicants may be considered.

No competitor will be allowed to take a promotional examination who has failed to sign the examination register in the Human Resources Office prior to a twenty-four (24) hour period before the examination time, not including Saturdays, Sundays or City Holidays. Candidates for promotions must meet the requirements outlined in the position classification unless waived by the Department Head. All requests for waivers must be in writing and submitted before the job announcement for the position is posted. Structured oral interviews may be used to determine whether position classification requirements have been met and to determine the most qualified candidate. Employees will be allowed time from work to sign the examination register and to take such examinations. All employees will be required to complete a period of six months in their present classification prior to being eligible for transfer or promotion to any other classification, unless a longer period is specified in the position classification or this requirement is waived by the City Manager.

The Director of Human Resources shall conduct a competitive promotional examination of those entitled to enter the examination under the provisions of these rules, and shall see that notice of examination is given in accordance with these rules, except that where the Department Head has determined that only one employee is qualified for the promotion, no competitive examination shall be necessary if approved by the City Manager.

SECTION 56. LIST OF ELIGIBLES

The Board shall provide for examination in accordance with the regulations of the Board, and maintain lists of ELIGIBLES to each class of the Service of those meeting the requirements of said regulations. Positions in the Classified Service shall be filled from such eligible lists upon requisition of the City Manager. As positions are filled, the Board shall certify the fact to the City Manager.

SECTION 57. PROMOTIONS IN THE CLASSIFIED SERVICE

The Board shall provide for promotion to all positions in the Classified Service Competitive Class. "Promotion" is defined as a move to a position, which has a range-ending step which is higher than that of the employee's present position range.

SECTION 58. PROMOTIONS TO BE BASED ON MERIT, EFFICIENCY, SENIORITY AND EXAMINATION

All promotions, except as provided in Sections A, B, C, and D, shall be made on the basis of competitive examination grade and/or structured oral interview, efficiency, and seniority of the candidate for promotion. The total points earned by a candidate for promotion shall be the sum of sixty-five percent (65%) of his/her promotional examination grade and thirty percent (30%) of his/her last efficiency report grade, plus one-half point for each full year of service with the department (as shown on job descriptions) in which the promotion is sought, up to a maximum of five (5) points, which could be accumulated with ten (10) years of service with said department/division.

Seventy (70%) percent shall be the minimum score for passing any promotional examination except as provided in Section A, B, C, and D. In case of a tie on the exam score, and after all applicable factors have been considered, the person first employed will be ranked above the other. If a tie still exists, the application form filed earliest will receive priority.

SECTION A. PROMOTIONS FOR SERGEANT AND LIEUTENANT WITHIN THE POLICE DEPARTMENT

Promotions for the positions of Sergeant and Lieutenant of Police in the Police Department or such other department hereinafter authorized by the Civil Service Board shall be made on the basis of competitive examination grade, efficiency and seniority of the candidate for promotion. The total points earned by a candidate for a promotion shall be the sum of seventy percent (70%) of his/her promotional examination grade (forty percent [40%] written, thirty percent [30%] oral) and twenty-five percent (25%) of his/her last efficiency report grade, plus one-half point for each full year of service with the department, up to a maximum of five (5) points, which could be accumulated with ten (10) years of service with the department.

Promotional candidates for the position of Sergeant of Police must achieve a seventy-five percent (75%) average for all written tests given during the promotional examination. The minimum passing score of seventy-five percent (75%) will apply only to the written portion of the examination. The minimum passing score for the oral portion of the promotional examination will be eighty percent (80%).

Promotional candidates for the position of Lieutenant of Police must achieve a minimum passing score of eighty percent (80%) in each phase of the promotional examination.

SECTION B. PROMOTIONS FOR DRIVER/ENGINEER WITHIN THE FIRE DEPARTMENT

All written exams shall be weighed on the basis of 100% being the total maximum score. Promotions for the position of Driver/Engineer in the Fire Department or such other departments hereinafter authorized by the Civil Service Board shall be made on the basis of competitive examination grade, efficiency and seniority of the candidate for promotion. The total points earned by a candidate for a promotion shall be the sum of seventy-five percent (75%) of his/her written promotional examination grade and twenty percent (20%) of his/her last efficiency report grade, plus one-half point for each full year of service with the department, up to a maximum of five (5) points, which could be accumulated with ten (10) years of service with the department.

Seventy percent (70%) shall be the minimum score for passing a Driver/Engineer promotional exam.

SECTION C. PROMOTIONS FOR EMS LIEUTENANT WITHIN THE FIRE DEPARTMENT

All written exams and assessment center scores shall be weighed on the basis of 100% being the total maximum score. Promotions for EMS Lieutenant within the Fire Department shall be made on the basis of competitive examination grade, efficiency and the seniority of the candidate for promotion. The total points earned by a candidate for a promotion shall be the sum of seventy-five percent (75%) of his/her promotional examination grade [forty percent (40%) written examination, thirty-five percent (35%) assessment center] and twenty percent (20%) of his/her last efficiency report grade, plus one-half point for each full year of service with the department, up to a maximum of five (5) points, which could be accumulated with ten (10) years of service with the department.

Promotional candidates for the position of EMS Lieutenant must achieve a minimum passing score of eighty percent (80%) on all written tests and on the assessment center portion of the examination.

SECTION D. PROMOTIONS FOR CAPTAIN WITHIN THE FIRE DEPARTMENT TO BE BASED ON MERIT, EFFICIENCY, SENIORITY, EXAMINATION, AND EDUCATION

All written exams and assessment center scores shall be weighed on the basis of 100% being the total maximum score. Promotions for Captain within the Fire Department shall be made on the basis of competitive examination grade, efficiency, education, and the seniority of the candidate for promotion. The total points earned by a candidate for a promotion shall be the sum of seventy-five percent (75%) of his/her promotional examination grade [forty percent (40%) written examination, thirty-five percent (35%) assessment center]; eighteen percent (18%) of his/her last efficiency report grade; plus one-half point for each full year of service with the department, up to a maximum of five (5) points (which could be accumulated with ten (10) years of service with the department); plus a maximum of 2.0 points granted for attaining specified levels of education: Master Degree (any field) – 2.0 points; Bachelor Degree (any field) – 1.5 points; Associate Degree (Fire Protection, EMS, or Fire Emergency Management) – 1.0 point; Associate Degree (any other field) - 0.75 point; some college (without Associate Degree) or Fire Fighter Certification (Basic Fire Fighter Certification School, equivalent to 13 hours college credit; EMT Certification School, equivalent to 8 hours college credit; Paramedic Certification School, equivalent to 30 hours college credit) - .0125 point per college hour, with 0.5 point as maximum possible. All education shall be verified in writing by the appropriate educational institution and submitted by promotional candidates to the Fire Department Training Section at least 48 hours prior to the promotional written test

date. Points for education will be granted based on the highest level of education attained and are not cumulative.

Promotional candidates for the position of Captain must achieve a minimum passing score of eighty percent (80%) on all written tests and on the assessment center portion of the examination.

SECTION 59. CONTENT OF EXAMINATION

In any promotional examination, candidates shall be examined either in writing, orally or by practical tests in such matters as will fairly test their knowledge of the actual duties, responsibilities and requirements of the position to be filled, and their fitness and qualification to discharge such duties and meet such requirements. If two competitors tie on their examination grade, seniority and efficiency grades, the competitor who first filed their application for employment will be placed in the higher position on the eligibility list.

SECTION A. CORRECTION OF ERROR

On formal written appeal setting out the specific reasons for the appeal, submitted by the competitor within ten (10) days after date of notice of their standing, the Board may correct any manifest error or mistake of marking or rating appearing in such paper or record, such correction in any case to be without prejudice to the status of any person previously appointed as a result of such examination. Such appeal shall be considered as opening all of the competitors' papers for review, whether resulting on a higher or lower average standing. No change in rating shall be made as the result of an appeal unless it would affect the competitors' relative position on the eligibility list. This provision shall not be held to prevent the Board from correcting at any time during the life of any eligibility list an obvious clerical error.

SECTION 60. PROMOTIONAL ELIGIBILITY LIST

The Board shall provide for promotion to all positions in the Classified Service Competitive Class. Candidates for promotion must make the minimum passing grade as established by the Civil Service Board on each examination to be eligible for placement on the promotional eligibility list. A promotional eligibility list shall thus be established, with names listed in order from the highest total score to the lowest allowed total score. Promotions shall be made by the City Manager from this list. When the number of vacant positions equal or exceed the number of promotional candidates who passed any required test(s), it shall not be necessary to prepare an official eligibility list, but a record of the promotional candidate(s), examination and grade(s) shall otherwise be made and maintained.

Promotional transfers from one department to another must be made effective within and not to exceed ten working days following the posting of the eligibility list.

All promotional eligibility lists expire on the same date of the sixth month from the date of the examination. (For the Fire Department only, the promotional eligibility list shall expire on the same date of the twelfth month from the date of the examination.)

SECTION 61. PROMOTIONAL PROBATIONARY PERIOD

Promotion in the Classified Service shall not be deemed complete until a probationary period has been completed. A promotional probationary period of six (6) months applies to each employee classification in the Classified Service. During the final month of an employee's promotional probationary period, the immediate supervisor shall prepare an efficiency report on a prescribed form, rating the employee's job performance and efficiency during the probationary period. After it has been reviewed with the employee and approved by the Department Head, the report (clearly marked as "Probationary") shall then be forwarded to the Director of Human Resources. In the event a promotional appointee's employment is not satisfactory, or they are found incompetent or unqualified to perform the duties of the position in which they were appointed, it shall be the duty of the Department Head to demote them to the rank they were holding at the time of appointment. Days charged to absent without leave (A/O), suspensions, sickness, injury leaves, military leave, or bereavement leaves will not be included in computing the full six (6) month probationary period.

RULE XII

CERTIFICATION OF PAYROLLS

SECTION 62. PAYROLL CERTIFIED BY THE BOARD

The City shall not make payment of any salary or compensation for service to any persons holding a position in the Classified Service unless the payroll or account of such salary or compensation shall show that the persons named therein have been appointed or employed and are performing service in accordance with the provisions of the Charter and of the rules established thereunder.

RULE XIII

DISCIPLINARY ACTIONS

SECTION 63. PURPOSE

The Civil Service Appeals Board is hereby created for the purpose of hearing and determining any charges made against any officer or employee of the City in the Classified Service.

SECTION 64. POWERS

The Civil Service Appeals Board shall have final jurisdiction to hear and decide all appeals made to it by any suspended, reduced, demoted or discharged employee in the Classified Service, and the judgement or decision of a majority of the members of the Appeals Board at a hearing shall be final. Any aggrieved employee who desires to appeal to the Appeals Board must do so promptly and within ten (10) days, not including Sundays and legal holidays, from the date that the aggrieved employee received notification of the suspension, demotion, reduction or dismissal action by giving written notice to the Civil Service Board of the appeal. The Civil Service Board shall, within twenty (20) days after receipt of such notice of appeal, fix a place and time for holding a hearing and an Appeals Board shall be convened to hear the appeal. The aggrieved employee may be represented by Counsel and shall have the right to an open hearing and to compel the attendance of witnesses to testify in behalf of the aggrieved employee. The appeal to the Appeals Board shall not suspend the execution of

the order of suspension, reduction, demotion or discharge pending final decision of the Appeals Board. The Appeals Board may: (1) either sustain or reverse a termination, or reduce it to a disciplinary suspension; (2) either sustain or reverse a demotion imposed against the officer or employee or reduce it to a disciplinary suspension; and (3) either sustain, reverse, increase, or reduce a disciplinary suspension action taken against the officer or employee, as it may deem justified, appropriate and equitable in light of all the facts and circumstances of the particular case. The authority to recommend or authorize placement into any specific position, to demote or promote officers or employees, or to reduce in pay or class is reserved to the City Manager or his designated representative(s).

SECTION 65. MEMBERSHIP

The Civil Service Appeals Board shall be constituted by the Civil Service Board or any three of its members.

SECTION 66. APPEALS PROCEEDINGS

In any appeals proceeding conducted by the Board, it shall have the power to subpoena and require the attendance of witnesses and the production thereby of books and papers pertinent to the proceeding and to administer oaths to such witnesses.

SECTION 67. NOTICE OF DISCIPLINARY ACTION

When a Department Head suspends, demotes, or terminates an employee in the classified service, the Department Head shall within 5 days after the suspension/demotion/termination begins, file a written statement with said employee stating reasons therefore and when the action is effective, and such statement shall be given to the employee or sent by registered mail to their place of residence with a return receipt requested. The employee shall have the right of answer and appeal as provided by these rules.

SECTION 68. SUSPENSIONS, DEMOTIONS AND DISMISSAL ACTIONS

All persons holding positions in the classified service, who are non-exempt employees according to the Fair Labor Standards Act (FLSA), are subject to disciplinary suspension for cause, without pay, for a period not exceeding fifteen (15) days by order of the Department Head.

Employees who are exempt under FLSA are not subject to disciplinary actions without pay for increments of less than one full day. For violations of departmental safety rules of major significance or for violations of workplace conduct rules, exempt employees are subject to disciplinary suspensions without pay in full day increments (not to exceed a total of 15 days), and/or disciplinary suspensions (reductions) of accrued vacation days in full day increments, by order of the Department Head.

All persons holding positions in the classified services charged with the commission of a felony, a misdemeanor involving moral turpitude, or an offense against public administration, are subject to temporary suspensions for cause, with or without pay, by order of the City Manager, for a period of time not to exceed forty-five (45) days after the date of the final disposition of the specified charge. All other disciplinary actions must be for violation of items listed under GROUNDS FOR SUSPENSION, DEMOTION OR DISMISSAL.

Any person in a position under a provisional or temporary appointment and who has not completed the probationary period may be suspended, demoted and reduced in pay or class or dismissed at any time by the City Manager or other officers having authority to appoint by giving the person written notice of such action stating the reasons therefore.

Any person who has been appointed following certification from an eligibility list and who has not completed the probationary period may be suspended, demoted and reduced in pay or class or dismissed by the City Manager or other officers having the authority to appoint by giving the person written notice of such action stating the reasons therefore.

Any person who has completed the probationary period may be suspended, demoted and reduced in pay or class or dismissed by the City Manager or other officers having authority to appoint. A written notice of the suspension, demotion or dismissal, stating the reason therefore and when it is effective, shall be given to such person or sent by registered or certified mail to his place of residence.

- (a) APPEAL OF DEMOTION OR DISMISSAL. Any employee who has been dismissed or demoted may, within ten (10) days, not including Sundays and legal holidays, after the delivery of a notice of demotion or dismissal, appeal in writing to the Appeals Board for hearing. The Appeals Board shall, within twenty (20) days after receipt of such notice of appeal, fix a place and time for holding a hearing, at which hearing the appellant shall have the right to appear and be heard in person or by counsel. The Appeals Board shall, at the request of the appellant or of the City Manager or other officer ordering the demotion or dismissal, compel other persons to attend the hearing as witnesses. All testimony shall be given under oath. The members of the Appeals Board shall have the power and authority to administer oaths and affirmations and to compel the attendance of witnesses by subpoena and other processes provided by law, and to compel the production of all pertinent records. The Appeals Board may make further investigations, which it might deem proper.

Within twenty-four (24) hours after the completion of the public hearing, or as soon thereafter as practical, the Appeals Board shall report its findings to the City Manager. In its report to the City Manager, the Appeals Board shall state whether the employee should be terminated, restored to his/her former position, temporarily suspended, or, in the case of an appeal of a demotion action only, whether the demotion is sustained. The Appeals Board may find that a termination should be sustained, reversed, or reduced to a disciplinary suspension. The Appeals Board may also find that the period of a disciplinary suspension may be sustained, reversed, increased, or reduced from the original action. The Appeals Board may sustain or reverse a demotion action or convert a demotion to a disciplinary suspension, but may not recommend or authorize demotion or promotion, placement into any specific position, or reduction in pay or class, except to the extent of sustaining or reversing such original action initiated by the City Manager or his designated representative(s).

A copy of the written statement given to the employee against whom the action is taken, any written reply, and a copy of the findings and recommendations of the Appeals Board shall be filed as a public record in the office of the Director of Human Resources. When an employee under a demotion or dismissal order requests a hearing and is notified by the Appeals Board of a specific date, time and place for the hearing and the Appeals Board meets at the designated time and place, if the employee does not attend the hearing or notifies the Appeals Board of his inability to attend, the action which was the subject of the hearing shall become final.

- (b) APPEAL OF DISCIPLINARY SUSPENSION. Any person who has been suspended for a definite period of time, within ten (10) days, not including Sundays and legal holidays, after the delivery of such notice, may appeal in writing to the Civil Service Board for a hearing. These rules, which apply to the appeal procedures and authority to amend action, shall apply to the Civil Service Board when sitting as an appeal board except that the hearing for definite suspensions will be scheduled for the next following regular monthly Civil Service Board meeting and as an agenda item. The Board shall, within twenty (20) days after receipt of such notice of appeal, fix a place and time for holding this hearing. The Civil Service Board may not increase a disciplinary suspension in excess of fifteen (15) days.

- (c) BASIS FOR APPEAL. In order for an employee to appeal a disciplinary action to the Civil Service Appeals Board, the appeal must be in writing, include the basis for the appeal and a request for a Civil Service Appeals Board Hearing. The appeal must also contain a statement which:
- denies the truth of the charge as made; or
 - challenges the facts as stated; or
 - alleges that the recommended action does not fit the offense; or
 - a combination of any of these statements.

SECTION 69. GROUNDS FOR SUSPENSION, DEMOTION OR DISMISSAL

The following are declared to be grounds for suspension, demotion or dismissal of an employee from the classified service of the City:

- (a) Conviction, probation, or deferred adjudication for a felony, a misdemeanor involving an offense against public administration (bribery, corrupt influence, perjury and other falsification, obstructing governmental operations, abuse of office), or an offense involving moral turpitude;
- (b) Violations of the provisions of the Charter of the City of Richardson;
- (c) Acts of incompetency;
- (d) Neglect of duty or loitering while on duty;
- (e) Discourtesy by said employee to the public or to fellow employees while said employee is in line of duty;
- (f) Acts or conduct, whether on or off duty, that reflect unfavorably upon the City or department for which the employee works, or which have the effect of placing the City or any particular department in disrepute;
- (g) The unlawful use, possession, distribution, dispensation, provision, sale, or manufacture of any controlled substance, dangerous drug, alcohol, inhalant, or performance altering substance (or having such illicit substances in his/her system, or the smell of such on his/her breath) while on duty, on call or standby, while wearing a City uniform, in a City vehicle, or on City owned property;
- (h) Conduct prejudicial to good order;
- (i) Failure to pay just debts, if such failure has an adverse effect on job performance;
- (j) Absence without leave;
- (k) Acts of insubordination;
- (l) Failure or refusal to carry out instructions;
- (m) Misappropriation, destruction, theft, or conversion of City property, whether on or off duty;
- (n) Acts of misconduct or dishonesty while on duty;

- (o) Willful disregard of orders or other misconduct;
- (p) Violation of any of the rules, regulations, policies, and/or procedures of the city or department, or of special orders, as applicable;
- (q) Habitual tardiness and/or absenteeism;
- (r) Has made any false statement or omission of any material fact, or practiced or attempted to practice any deception or fraud in the application for employment, physical examination, written examination or appointment;
- (s) Abuse of FMLA leave, sick leave, or workers compensation leave, or providing false or misleading information connected with FMLA leave, sick leave, or workers compensation leave;
- (t) Possession while on duty, in City buildings (or any portion thereof), or in City vehicles (while on or off duty), of a handgun or any other firearm (whether or not the employee is licensed to carry such handgun or firearm), other weapons or explosives, unless legitimately required in the line of duty;
- (u) Failure or refusal to comply with the terms of any subpoena issued by the Board or Appeals Board;
- (v) Has knowingly falsified or altered any time sheets, reports or other official records of the City;
- (w) Acts or conduct of discrimination or harassment toward the members of the public or city employee(s) on the basis of age, citizenship, color, disability, national origin, political opinion, pregnancy, race, religion, sex, veteran status, or any other legally protected classification;
- (x) Failure to promptly report any Class A or Class B misdemeanor, misdemeanor with a penalty range which includes confinement in jail, and/or felony, with which the employee has been charged, following arrest, indictment, or arraignment;
- (y) Failure to obtain and/or maintain certification(s) and/or license(s) required for the position.
- (z) Refusal to cooperate with inspection of electronic systems, work space, lockers, or materials when directed to do so by the City Manager or his designee.

SECTION 70. GENERAL PROVISIONS

An employee, after completion of probation, shall be demoted or dismissed only by the Appeals Board or City Manager, except in situations of a violation of the Civil Service Rules. For such violations, finding shall be presented to the Appeals Board or City Manager and an investigation shall take place regarding the truth of specific charges against such employee. The Appeals Board may, however, find the employee guilty of a lesser offense than that charge in the written notice of demotion or dismissal and may recommend accordingly. The Appeals Board is the final authority on such rulings.

RULE XIV

RESIGNATION

SECTION 71. RESIGNATION

Any employee wishing to leave the service in good standing shall file with their Department Head and the Civil Service Board at least two (2) weeks before leaving a written resignation stating the date the resignation shall become effective and reason for leaving the City service. Failure to comply with the procedure will be entered on the service record of the employee and shall be considered grounds of denying them future employment with the City. Unauthorized absence from work for a period of two (2) consecutive working days shall be considered by the Department Head and the Civil Service Board as a resignation. Employees leaving the City employment twice may not be re-employed again without permission of the City Manager.

RULE XV

REINSTATEMENT LIST

SECTION 72. DEMOTION

In the event that any position in the classified service is vacated or abolished by the City Manager (or designee), the employee holding such position shall be demoted to the position next below the rank of the position so vacated or abolished, only within the demoted employee's respective department; provided, that when any position or positions of equal rank may be abolished or vacated, employee or employees of that respective department with the least seniority in the said rank shall be the one or ones who are demoted. If individuals have the same seniority in the said rank, then the one with the lowest efficiency rating as determined under the rule governing efficiency ratings shall be demoted, except that when there is no position lower than that vacated or abolished, the employee shall be dismissed from the service. If the employee has never served in the next lower position and/or is not considered qualified to serve in the next lower position by the Department Head and the City Manager, the employee shall be dismissed from the service.

SECTION 73. LAY-OFF

In the event positions of the lowest classifications are abolished or vacated, and it thereby becomes necessary to dismiss employees from the department, the employee with the least seniority shall be dismissed. If the individuals have the same seniority in the lowest rank, then the one with the lowest efficiency rating shall be dismissed. Those employees as are involuntarily separated from the classified service without charges having been filed against them for violation of civil service rules, shall be placed on the reinstatement list in order of their seniority. The reinstatement list shall be exhausted before appointments are made from the eligibility list. Appointments from the reinstatement list shall be in order of seniority, i.e., inverse order of lay-offs.

SECTION 74. TRANSFER IN LIEU OF DISMISSAL

Every possible effort shall be made first to transfer and retain employees in the service of the City prior to dismissal under either Section 72 or Section 73 above.

SECTION 75. APPLICATION TO REINSTATEMENT LIST

It shall be necessary for the employee to request to be placed on a reinstatement list; otherwise it will be presumed that they do not seek reinstatement. An employee who is transferred under Section 72 hereof may also be on the reinstatement list for their original position at the same time they are holding the position to which they were transferred.

RULE XVI

INCAPACITY TO WORK

- (a) If an employee fails to or is unable to report for duty in his/her job and/or is unable to perform the Essential Functions of his/her job (with or without reasonable accommodation) for a period of twelve (12) months because of the employee's physical or mental condition, or a question arises as to whether the employee has become physically or mentally incapacitated to continue in his/her job with the City, that employee shall be called before the Board to show cause why such employee should not be removed from the payroll of the City. Written notification of the necessity to appear before the Board shall be given to the employee or sent by registered or certified mail to the employee's residence with a return receipt requested.
- (b) The Board shall have the power to subpoena and require attendance of witnesses and the production thereby of books, papers, and medical reports and records pertinent to the proceeding and to administer oaths to such witnesses. The Board shall also have the power to send the employee to a City designated physician, psychologist or psychiatrist (as applicable) for additional evaluation.
- (c) The failure of any employee to attend the proceedings, produce medical reports and records pertinent to the proceeding or to be evaluated and/or examined by a City designated physician, psychologist or psychiatrist (as applicable) at the request of the Board shall be grounds for removal by the Board or disciplinary action by the Department Head.
- (d) Any determination of incapacity made by the Board, which prevents continued employment in his/her job with the City shall constitute reason for removal from the payroll of the City. This shall in no way affect the rights of the employee to receive any applicable benefits under the Texas Workers' Compensation Act or the Texas Municipal Retirement System.
- (e) Prior to the exercise of this rule to remove a Civil Service employee from the payroll of the City, that employee shall have been given opportunity to apply for any posted, vacant position for which that employee is fully qualified to perform the essential functions, with or without reasonable accommodation. The authority to recommend or authorize placement into any specific position is reserved to the City Manager or his designated representative(s).

RULE XVII

EFFICIENCY REPORTS AND RATINGS

SECTION 76. EFFICIENCY REPORTS

The Civil Service Board shall fix a minimum standard of conduct and efficiency for each grade in the Service, and whenever it shall appear from the reports of efficiency made to the said Board that the conduct and efficiency of any employee has fallen below this minimum, that employee may be called before the Board to show cause why such employee should not be removed, terminating his/her employment with the City. During the final month of an employee's probationary period (new appointments and/or promotions only), the immediate supervisor shall prepare an efficiency report on a prescribed form, rating the employee's job performance and efficiency during the probationary period. The report shall be submitted to the appropriate Department Head for review, comments, and signature. The probationary efficiency report shall be signed and dated by the employee, following a personal review with his/her supervisor. The report (clearly marked as "Probationary") shall then be forwarded to the Director of Human Resources.

- (a) On September 1st of each year, the immediate supervisor shall prepare an efficiency report on employees on a prescribed form rating thereon the employee's manner of job performance during the period covered by the report. The report shall be submitted to the appropriate Department Head for review, comments, and signature. The report shall be signed and dated by the employee, following a personal review with his/her supervisor. The report will then be forwarded to the Director of Human Resources. Efficiency reports of supervisors shall reflect their overall job performance, including supervision and evaluation of the performance of their subordinates.
- (b) Minimum standard of efficiency for all grades in the classified service shall be 70%. The highest achievable standard of efficiency shall be 100%. If an employee's efficiency report is below 70%, the City Manager's designated representative(s) may demote the employee into a posted, vacant lower position within the same department, which the employee has served in previously, and for which the employee is fully qualified to perform the essential functions, with or without reasonable accommodation. The Civil Service Board shall have final jurisdiction to hear and decide all appeals made to it by any demoted employee in the Classified Service, and the judgement or decision of a majority of the members of the Appeals Board at a hearing shall be final. If such demotion is deemed not appropriate by the Department Head; or if no such lower position in that department is posted and vacant; or if the employee lacks the necessary qualifications, the employee shall be called before the Board to show cause why he/she should not be removed. If upon hearing, no reason is shown satisfactory to the Board; he/she shall be removed, terminating his/her employment with the City. NOTE: This subsection does not apply to probationary employees (new and promotional probation).
- (c) All Department Heads and their administrative subordinates having employees subject to these rules shall make reports to the Board on the efficiency of said employees on the form or forms prescribed for such purposes only when requested to do so by the Board, except that a Department Head may submit an efficiency report to the Board on an employee he/she wishes to dismiss because of inefficiency.

Human Resources shall review the efficiency ratings of the various employees of the departments as determined by the reports submitted by the Department Heads and shall keep a record of such ratings. Human Resources shall make a report to the Board annually that all

efficiency reports have been completed as required. Efficiency reports on all Civil Service employees will be submitted no later than September 30th of each year to the Director of Human Resources, unless a special or probationary efficiency report has been submitted within one (1) month prior thereto.

Department Heads shall submit a special efficiency report to the Director of Human Resources, with their recommendations, when an employee has completed his/her probationary period, or when any employee's performance of duty is of such a nature as to warrant action by the City Manager.

- (d) In determining the efficiency rating, the Board shall take into consideration those pertinent factors determined by the Department Head.

RULE XVIII

VACATIONS

SECTION 77. VACATION LEAVE

Only employees in regular full-time positions in the service will be eligible for vacation leave benefits. All vacation leave will be exclusive of official holidays.

- (a) Monthly accrual is effective January 1, 1994 for all Civil Service employees. Vacation leave will be earned at the following rates on or after January 1, 1994. (Exception: Employees hired prior to January 1, 1994 will be "grandfathered" to earn vacation for their first year at the rate quoted when hired.)

SERVICE OF	ACCRUAL RATE
0 – 6 Months	None
7 – 12 Months	6 2/3 hours per month (40 work hours by end of 1 yr)
13 months – 14 years	10 hours per month (120 work hours per year)
14th service anniversary (begins the 15th year of service) and forward	13 1/3 hours per month (160 work hours per year)

As of January 1, 1994, a maximum of 160 hours (20 days) of vacation will be allowed to accrue at any time for each employee. Any exception to this limitation must have prior approval from both the appropriate Department Head and the City Manager.

Department Heads will develop vacation schedules for their departments, which will make it unnecessary to employ extra personnel, and which will not disrupt the normal operations of department or the City.

- (b) Upon termination or retirement, employees will receive compensation for earned but unused vacation leave at the following rates, effective January 1, 1994:

CONTINUOUS SERVICE OF	MAXIMUM OF
2 - 4 years	80 hours
5 - 14 years	120 hours
15 or more years	160 hours

Vacation termination pay shall not be paid to an employee who has less than two years of continuous service. Vacation leave may not be taken beyond a termination or retirement date.

RULE XIX

SICK LEAVE

SECTION 78. SICK LEAVE

- (a) ACCUMULATION, VERIFICATION AND REPORTING OF SICK LEAVE. All regular full-time City employees shall accumulate ten (10) hours of sick leave for each full calendar month. Sick leave may be accumulated from year to year. Prior to October 1, 1992, a maximum of nine hundred and sixty (960) hours of sick leave may be accrued. Effective October 1, 1992, there is no limit on total accrual of sick leave.

Employees who are absent from work because of illness must report their intended absenteeism to the appropriate supervisor/manager in accordance with departmental rules. If absenteeism is reported to the appropriate supervisor/manager within one (1) hour of the employee's designated reporting time on the day of absence, such absence shall be charged against the employee's accrued paid sick leave.

Following any absence due to sickness, sufficient medical evidence that the employee was actually ill may be requested by the appropriate supervisor/manager when it is deemed necessary. The employee shall be charged with absence without pay if: absence is reported later than one (1) hour after the designated reporting time on the day of absence; if the employee has no accrued paid sick leave; and/or if required evidence of actual illness is not presented when requested.

A break in service permanently cancels all sick leaves accrued. In the event of rehire, an employee's sick leave shall be computed from rehire date. Absences charged to sick leave shall be made on the basis of five days per week, without regard to the total hours of an employee's work week. If an employee is sick (not at work) on the day a holiday occurs, the employee will not be paid extra for that day.

Sick leave for an employee may only be used for his or her own personal illness. A maximum of eighty (80) sick leave hours per calendar year may also be used for the illness of an employee's family member. "Family member" is defined as an employee's: husband, wife, child, step-child, son/daughter-in-law, parent, step-parent, current mother/father-in-law, grandparent/grandparent-in-law, grandchild, brother, sister, step-brother/sister, or brother/sister-in-law.

- (b) ABUSE OF SICK LEAVE. Frequent claiming of benefits under this rule will constitute grounds for the assumption that the physical condition of the employee is below the standard necessary for the proper performance of their duties. Evidence of malingering, or the abuse of this benefit, will constitute grounds for dismissal or other disciplinary action.
- (c) Only employees in regular full-time positions in the service will be eligible for sick leave benefits.
- (d) TERMINATION PAY FOR ACCRUED SICK LEAVE. Upon termination or retirement, employees with twelve (12) months continuous service will receive compensation for accumulated but unused sick leave equivalent to a maximum of one hundred and seventy-six (176) work hours. Effective January 1, 2000, upon retirement from the City, employees will receive compensation for accumulated but unused sick leave equivalent to a maximum of seven hundred and twenty (720) work hours. ("Retirement from the City" is defined as applying for retirement with the Texas Municipal Retirement System upon termination of employment with the City.) The estate of an employee who dies while in active employee status will receive compensation for the deceased employee's accumulated but unused sick leave, for a maximum of seven hundred and twenty (720) work hours. No sick leave termination pay shall be payable to any employee with less than twelve (12) months continuous service.

Sick leave may not be taken beyond a retirement or termination date.

RULE XX

OTHER LEAVE OF ABSENCES

SECTION 79. OFFICIAL HOLIDAYS, OFFICIAL LEAVES, AND JURY LEAVES

- (a) The following days will be observed as legal holidays for all City employees: **New Year's Day** - January 1; **Martin Luther King Day** – third Monday in January; **Memorial Day** - last Monday in May; **Independence Day** - July 4; **Labor Day** - first Monday in September; **Thanksgiving Day** - fourth Thursday in November; **Day after Thanksgiving Day** - fourth Friday in November; **Christmas** - December 25. All holidays are accrued and used as eight (8) hours each.

If a holiday falls on a Saturday, the preceding Friday will be observed as a holiday. If a holiday falls on a Sunday, the following Monday will be observed as a holiday.

The City Manager will also designate one floating holiday each calendar year.

To be eligible for the paid holiday, employees must not be absent without leave (AO) on the work day immediately prior to or after an official holiday, except in cases of suspensions.

Other holidays may be observed from time to time and all of those listed herein may not be observed by all departments at the same time.

Because of the nature of operations of some of the departments it is not considered feasible to establish a definite rule on compensating employees who work on holidays. Accordingly, Department Heads will provide for one of the following:

- (1) Compensatory time off.
 - (2) Payment at the rate of time and one-half.
 - (3) Readjustment of work schedule.
- (b) Attendance of regular full-time employees at conventions, conferences, short training courses and meetings of like nature, or to serve on jury duty only when approved by the City Manager in advance, shall be considered leaves of absence with pay.

SECTION 79A. FAMILY AND MEDICAL LEAVES

- (a) A full time employee within the classified service who has been employed by the City for at least 12 months, and who has worked for at least 1250 hours during the 12 month period immediately before the beginning of a leave, shall be entitled to a total of 12 work weeks of unpaid leave during a calendar year for any of the following reasons:
- (1) birth of a child of the employee, in order to care for such child (eligibility for leave expires 12 months after the date of birth of the child);
 - (2) placement of a child with the employee for adoption or foster care (eligibility for leave expires 12 months after the date of placement of the child);
 - (3) to care for the spouse, child, or parent of the employee, if the spouse, child, or parent has a serious health condition;
 - (4) the employee has a serious health condition that makes the employee unable to perform the essential functions of his/her position.
 - (5) due to an urgent need or requirement (“qualifying exigency”) arising out of a covered family member’s (limited to a spouse, son/daughter, or parent of the employee) active duty or call to active duty in the Armed Forces, National Guard, or Reserves, involving deployment to a foreign country. For an activity to qualify as an exigency, it must fall within one of seven categories of activities or be mutually agreed upon by the department and the employee. The seven categories are: (1) short-notice deployment; (2) military events and related activities; (3) certain temporary childcare arrangements and school activities (but not ongoing childcare); (4) financial and legal arrangements; (5) counseling by a non-medical counselor (e.g., a member of the clergy); (6) rest and recuperation (leave permitted when the military member is on temporary rest and recuperation leave); and (7) post-deployment activities.
 - (6) for an eligible employee (limited to a spouse, son/daughter, parent or next of kin of a covered servicemember) to care for a covered servicemember in the Armed Forces, National Guard, or Reserves who has incurred an injury or illness in the line of duty while on active duty (or because active duty aggravated an existing or preexisting injury or illness), provided that such

injury or illness renders the servicemember medically unfit to perform the duties of his/her office, grade, rank, or rating. This includes veterans undergoing medical treatment, recuperation, or therapy for serious injury or illness that occurred any time during the five years preceding the date of treatment. This leave may be up to 26 work weeks of unpaid leave during a single 12-month period. When combined with other FMLA-qualifying leave, total leave may not exceed 26 weeks in a single 12-month period. This is the only instance in which a leave of up to 26 work weeks may be taken.

The term "serious health condition" means an illness, injury, impairment, or physical or mental condition (including those resulting from on-job injury) that involves inpatient care (i.e., overnight stay) in a hospital, hospice, or residential care facility; or continuing treatment by a health care provider.

The term "child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person acting in place of a parent (with all of the parental responsibilities), who is under 18 years of age, or who is 18 years of age and older and incapable of self-care because of a mental or physical disability.

The term "parent" means a biological parent or a person who acted in place of a parent when the employee was a child (as child is defined above).

The term "active duty" means duty under a call or order to active duty in the Armed Forces, National Guard, or Reserves.

The term "covered servicemember" means a member of the Armed Forces, National Guard, or Reserves who, for a serious injury or illness, is undergoing medical treatment, recuperation, or therapy, or is otherwise in outpatient status, or is on a temporary disability retired list. This includes serious injury or illness of veterans who were members of the Armed Forces, National Guard, or Reserves at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

- (b) Leave shall not be taken by an employee on an intermittent basis unless it has been determined to be medically necessary or is due to an urgent need or requirement (qualifying exigency) arising out of a covered family member's active duty or call to active duty. If leave is deemed medically necessary, the employee may be required by the City Manager (or designee) to transfer temporarily to an available alternative position for which the employee is qualified, with equivalent pay and benefits, to avoid disruption of City operations. Intermittent leave due to an urgent need or requirement (qualifying exigency) arising out of a call to active duty is subject to the employee providing reasonable and practicable notice of the active duty status and timely certification of the serious health condition.
- (c) In any case in which a husband and wife are both employed by the City and eligible for leave due to the birth or placement of a child under subparts (a)(1) and (2), or to care for a parent under subpart (a)(3), or due to a qualifying exigency arising out of a covered family member's active duty or call to active duty under subpart (a)(5) of this section, such leave will be limited to a total of 12 work weeks a calendar year, e.g. 12 work weeks for both, NOT 12 work weeks each. (This limitation to 12 weeks for both City employees does not apply when family and medical leave is taken for self-care or to care for a sick spouse or child.)
- (d) The employee must substitute any accrued paid vacation leave, or sick leave when appropriate, for a part of the 12 work week period of unpaid family and medical leave. (This does not apply when an employee is on paid workers' compensation leave which is also

eligible for, and coded as, family and medical leave). When paid vacation and/or sick leave is substituted, the procedural requirements for taking that kind of leave will be imposed until it is exhausted. (Appropriate uses of accrued paid sick leave are described under the heading ACCUMULATION, VERIFICATION AND REPORTING OF SICK LEAVE in Civil Service Rule XIX.)

- (e) In any case where the need for family and medical leave is foreseeable, the employee shall provide written or verbal notice to his/her supervisor with not less than 30 days' notice before the leave is to begin. If birth or placement of a child requires leave to begin in less than 30 days, the employee shall provide the maximum amount of notice possible.

In any event in which the necessity for leave under (a) 3, (a) 4, or (a) 6 is foreseeable based on planned medical treatment, the employee shall make a reasonable effort not to disrupt unduly the operations of the City, and shall provide a written or verbal request to his/her supervisor with not less than 30 days' notice. If medical treatment requires leave to begin in less than 30 days, the employee shall provide the maximum amount of notice possible.

- (f) The City Manager or Department Head may require that a request for leave under subsection (a) 3, (a) 4, or (a) 6 be supported by certification from the appropriate health care provider. The City may require second and third opinions for requests under (a) 3 or (a) 4, at the expense of the City, if there is reason to doubt the validity of the certification. Subsequent recertifications and status reports may be required by the City Manager or Department Head on a reasonable basis. Certification from the health care provider may also be required when the employee is able to return to work following a leave under subsection (a) 4.

- (g) An eligible employee who takes family and medical leave for the purposes intended shall, on return from such leave, be restored to the position held when the leave began OR to an equivalent position, with equivalent pay, benefits, and conditions of employment. EXCEPTION: Full time salaried employees who are among the highest paid 10 percent of the City's employees may be denied restoration to the position from which leave is granted, if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and such employee is notified of the intent to deny restoration at the time the City determines such injury would occur.

The department shall designate leave (paid or unpaid) as family and medical leave when an employee requests it for an eligible reason under the Family and Medical Leave Act. The department must notify the employee of such designation and that any substituted paid leave is designated (and will be counted) as family and medical leave, orally or in writing. If notice to an employee is verbal, it must be confirmed in writing within two business days.

Leave may not be designated as family and medical leave after the employee has returned to work, with two exceptions:

- (1) If the employee was absent for a family and medical leave eligible reason and that was unknown until the employee's return, and the retroactive designation is made within two business days of the return with written notice to the employee;
- (2) Where the reason for leave is known, but required certifications are still being obtained, the leave may be preliminarily designated as family and medical leave. Upon receipt of the required information, the designation will be finalized, if appropriate.

SECTION 80. BEREAVEMENT LEAVES

In case of death in the immediate family, the Department Head may grant as much as 40 hours of bereavement leave per occurrence. Immediate family shall include an employee's husband, wife, child, step-child, son/daughter-in-law, parent, step-parent, current mother/father-in-law, grandparent/grandparent-in-law, grandchild, brother, sister, step-brother/sister, and brother/sister-in-law.

SECTION 81. MILITARY LEAVES

- (a) A person who is or applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied employment, reemployment, retention, promotion, or any benefit of employment on the basis of that membership, application, performance, or obligation; provided that the person:
- 1) Has given advance notice (written or oral) to that person's supervisor, unless providing such advance notice is precluded due to military necessity, impossibility, or unreasonableness;
 - 2) Does not incur a cumulative length of absence of more than five (5) years; and,
 - 3) Reports to work or submits an application for reemployment as provided for hereinafter.
- (b) A person's entitlement to the benefits of this Section terminates upon the occurrence of a separation from the uniformed service with a dishonorable or bad conduct discharge, or under other than honorable conditions.
- (c) Employees who are absent from an employment position by reason of service in the uniformed services will be paid regular pay for a period not to exceed fifteen (15) working days per year. However, as a condition to the receipt thereof, a copy of that person's duty orders or other documentation satisfactory to the City must be presented showing the dates of such service.
- (d) After a period of service in the uniformed services, an employee must notify the City of his/her intent to return by reporting to work or applying for reemployment as follows:

If the absence from employment due to the service is less than 31 days, the employee must report back to work immediately on the next work day following the employee's return home, after allowing for an eight hour period following the return home, or as soon as possible thereafter if reporting to work within this time is impossible or unreasonable through no fault of the employee.

If the absence from employment due to the service is more than 30 days, the employee must submit an application for reemployment within 14 days from the completion of the period of service if the period of service was less than 181 days, or within 90 days if the period of service was more than 180 days. For purposes of the foregoing, periods of hospitalization or convalescence (not to exceed 2 years) for illness or injury incurred or aggravated during the service shall be included in determining the period of service.

A failure to report to work or apply for reemployment as provided hereinabove shall be grounds for suspension, demotion or dismissal.

- (e) Upon return to work following a period of service in the uniformed services, the employee shall be reemployed as follows:

The employee shall be reemployed promptly either:

- 1) In the position of employment in which he/she would have been employed if the period of employment with the City had not been interrupted by such service, with all the promotions and pay increases the employee would have received if he/she had been continuously employed, if the employee is qualified to perform those duties, or;
- 2) In the position held when uniformed service commenced, only if the person is not qualified to perform the duties of the position described in subsection 1) after reasonable efforts by the City to qualify the person.

If the period of service is more than 90 days, the employee may be reemployed in a position of like seniority, status and pay if the employee is qualified to perform the duties of that position with or without reasonable efforts by the City to qualify the person.

If the employee has a disability incurred in, or aggravated during, such service, the department shall make reasonable efforts to accommodate the disability, and the person shall be reemployed in a position which is equivalent to or the nearest approximation in seniority, status and pay, the duties of which the employee is qualified to perform after reasonable efforts by the City.

If, after a period of service, the person is not and cannot become qualified to be employed in any of the foregoing positions after reasonable efforts by the City, he/she will be placed in any other position of lesser status and pay which he/she is qualified to perform, with full seniority.

- (f) If the employee must submit an application for reemployment as required hereinabove, the employee shall provide the City with documentation to establish the dates of the commencement and termination of service in the uniformed services and that the employee has not been discharged under other than honorable conditions. The failure to provide such documentation shall not be a basis for denying reemployment if the failure occurs because the documentation does not exist or is not readily available at the time of the application. If not, the employee shall furnish the documentation as soon as possible.
- (g) In this Section, the term "service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in the United States Armed Forces, the Army National Guard and the Air National Guard, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency, including active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period of absence from employment for the purpose of an examination to determine fitness to perform such duty.

RULE XXI

WORK HOURS

SECTION 82. WORK HOURS

Department Heads will establish work hours for all employees based on approval of the City Manager and in accordance with the Charter. All employees in the City service will work beyond stipulated hours whenever the City Manager determines that necessity demands additional service of an occasional and/or emergency nature.

RULE XXII

LONGEVITY

SECTION 83. LONGEVITY

- (a) After the end of their first year of service all members of the classified service will be eligible to thereafter earn longevity pay in addition to all other compensation paid for their services. Longevity pay shall be earned by all eligible members of the classified service in an amount equal to four dollars (\$4.00) per month for each full year of service up to and including a maximum of twenty-five (25) years of service. (Example: At the end of the thirteenth (13th) month of service, the first longevity pay of \$4.00 per month will have been earned based on the first full year of service just completed.)
- (b) Longevity pay shall be payable during the months of November or December each year to the members of the classified service entitled thereto; except, however, earned longevity pay shall be payable together with other termination pay upon termination of employment of a member of the classified service.

RULE XXIII

RETIREMENT

SECTION 84. RETIREMENT

The City Council of Richardson adopted the Texas Municipal Retirement System for all eligible employees of the City by Ordinance, as noted in the City's Administrative Code. All eligible members of the classified service are and shall be covered by and subject to the provisions of the Texas Municipal Retirement System. Employment with the City of Richardson is terminated on the effective date of an active employee's TMRS retirement. ("Retirement from the City" is defined as applying for retirement with the Texas Municipal Retirement System upon termination of employment with the City.)

Under circumstances where a reduction of forces of employees is necessitated, the City Manager may implement an early exit retirement incentive program to authorize the payment of an amount equivalent to an

employee's accrued but unused sick leave in excess of seven hundred and twenty (720) work hours to employees who are eligible to participate in such early exit retirement incentive program.

RULE XXIV

RECORDS AND REPORTS

SECTION 85. RECORDS

All records are subject to the provisions of the Texas Public Information Act.

SECTION 86. REPORTS BY THE BOARD

The Board may investigate and report to the City Manager of the City concerning the administrative needs of the service, the personnel, positions in the service, the examinations held by the Board, the appointments made, service ratings and removals in the classified service, the operation of the rules of the Board, recommendations for promoting efficiency and economy in the service, and any other matters deemed appropriate by the Board.

RULE XXV

RESTRICTIONS REGARDING OUTSIDE COMPENSATION FOR SERVICES

SECTION 87. RESTRICTION REGARDING OUTSIDE COMPENSATION FOR SERVICES

No reward, gift, or other form of remuneration in addition to regular compensation shall be received from any source by employees for the performance of their official duties. If a reward, gift, or other form of remuneration is made available to any employee, it shall be credited to a designated employee fund with the approval of the City Manager.

RULE XXVI

AMENDMENTS

SECTION 88A. EXCEPTIONS

When requested by the City Manager, Department Head or Director of Human Resources, an exception to these rules may be reviewed as an item of business during the monthly meeting. If the requested exception is deemed appropriate and approved by the majority of the members present, the exception may be granted.

SECTION 88B. AMENDMENTS

Any changes or amendments to these rules and procedures may be proposed and tentatively adopted by the Board at any regular or special meeting of the Board; however, no change or amendment shall become a permanent part of these rules and procedures until it has been approved by the City Council. Within ten (10) days after a change or amendment is tentatively adopted by the Board, the Board shall submit it to the City Council for its consideration and final approval.

RULE XXVII

SAVING CLAUSE

SECTION 89. SAVING CLAUSE

The provisions of these rules are declared to be severable, and if any rule, section, sentence, clause, phrase or word of these rules shall for any reason be held to be invalid or unconstitutional such decision shall not affect the validity of the remaining rules, section, sentences, clauses, phrases and words of these rules, but they shall remain in effect, it being the intent that these rules shall stand notwithstanding the invalidity of any part.

- end -

CIVIL SERVICE RULES AND REGULATIONS

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**RICHARDSON CHARTER
(Articles 5 & 14)**

ARTICLE 5. - RECALL OF MAYOR AND CITY COUNCIL MEMBERS

Section 5.01. - Recall of mayor and city councilmembers.

The Mayor and any councilmember of this city may be recalled and removed from office by the ~~electors~~ qualified voters of the city to vote.

Section 5.02. - Procedure.

- a. Before the question of recall of the Mayor and/or council members shall be submitted to the qualified voters of the city a ~~A~~ petition addressed to the City Council of the City of Richardson demanding the recall of the Mayor and/or a councilmember shall first be filed with the city secretary, ~~provided that such which~~ petition shall name the Mayor and/or council members whose removal is sought, and contain a complete statement of the grounds for which the removal is sought. A separate petition shall be required for Mayor and each council member whose removal is sought.
- b. The petition shall be signed by qualified voters equal in number to at least ten (10) percent of the ~~total entire~~ number of qualified voters on the date of the last regular municipal election of ~~persons entitled to vote in~~ the city, as appears on the county clerk's rolls.
- c. Notice shall be given in writing to the city secretary by five (5) registered voters on the first day that such petition is circulated, and the total signatures required must be secured and the petition filed within thirty (30) days thereafter.
- d. The petition may consist of one (1) or more papers circulated separately and the signatures thereto may be upon the paper or papers containing the form of the petition, or upon other paper attached thereto. The signatures to the petition need not all be appended to one (1) paper. For a petition signature to be valid, a petition must contain, in addition to the signature: the signer's printed name, residence address, county of residence, date of signing, voter registration number or date of birth, and must ~~must~~ comply with any other applicable requirements prescribed by state law. One (1) of the signers to each of such papers shall make oath before an officer competent to administer oaths that each signature is that of the person whose name it purports to be and was signed by such person on the date indicated. No signatures to a petition shall remain effective or be counted which were placed thereon more than (30) thirty days prior to the filing of such petition with the city secretary.
- e. Within ten (10) days ~~from~~ after the filing of such petition, the city secretary shall examine the same and from the list of qualified voters ascertain whether or not said petition is signed by the requisite number of qualified voters. The city secretary shall attach to said petition a certificate showing the result of such examination.

Comment [p1]: Initiative and referendum are home rule powers reserved for local voters to provide for direct legislation. There is no constitutional or statutory authority. These powers are unique to home rule cities. Initiative is a procedure for local voters to directly propose legislation. The initiative process begins with circulation of a petition setting forth the text of the proposed ordinance. Petitioners must obtain the number of voter signatures needed to force the city council to submit the ordinance to the voters at a city election. Petition signature requirements vary from charter to charter. Some are based on a percentage of the number of qualified voters and others are expressed as a ratio of the number of votes cast at the last city election. After a petition is filed, the city secretary reviews it to determine if it complies with the requirements of the charter. The city council may either adopt the proposed ordinance, or call an election on the ordinance. If a majority vote the ordinance goes into effect.

Comment [p2]: Chapter 277 Texas Election Code which governs petitions authorized or required under a law outside of the Texas Election Code and applies to initiative, referendum and recall.

Comment [p3]: Recall is a process for local voters to seek the removal of the mayor and council members. Under most charters, a recall election begins with the filing of a petition which names the person whose removal is sought and the grounds for removal. The petition requirements vary. City secretary reviews the petition to determine if it is signed by the ...

Comment [p4]: Do you want to specify the grounds such as incompetency, misconduct, or malfeasance in office? It is not required some charters do and others do not.

Comment [p5]: Clarifying language. In fact several of the subparts of section 5.02 could be combined if desired.

Comment [p6]: Not required but offered for clarification if question arises whether a separate petition is required for each member of the council.

Comment [p7]: Clarified existing language

Comment [p8]: Do you want to specify a minimum number of signatures notwithstanding the percentage requirement such as 300 or 500? "but in no event less five hundred (500) ?

Comment [p9]: This is intended to give city secretary notice that a petition is being circulated and to impose a 30 day deadline for filing the petition after circulation. It is not clear that the five voters providing the notice are serving as a committee for ...

Comment [p10]: Added to be consistent with Chapter 277 Texas Election Code.

Comment [p11]: Remove editors brackets

Comment [p12]: Need to add provision that determines how long a signature is valid whether it is 30 days before filing the petition or 30 days after petition is first circulated. It is not clear whether the petition or copies of the petition must be submitte ...

- f. If by the secretary's certificate the petition is shown to be insufficient, it may be amended within ten (10) days from the date of said certificate. The secretary shall, within ten (10) days after such amendment is filed, in the event one is filed, make like examination of the said amended petition, and if the certificate shall show the petition to be insufficient, ~~it shall not be further amended, however, it shall be returned to the person filing same, without prejudice to the filing of a completely~~ a new petition may be filed based upon new and different grounds, but not upon the same grounds.
- g. If the petition is found to be sufficient, the city secretary shall within five (5) days or at the next regular city council meeting, whichever is later, without delay submit it and the certificate declaring the petition to be sufficient to the city council, and notify the affected mayor or councilmember sought to be recalled. The city council, in the event that the Mayor or councilmember fails to resign, shall order and set an election to be held on the next uniform election date or other date as allowed by state law ~~within forty five (45) to sixty (60) days from following the submission of the certified petition~~ to the city council. ~~If an election is to be held within the city for any other purpose within forty five (45) to sixty (60) days of submission to the city council, the election shall be held on the same day. If state law authorizes a fixed date which falls within the forty five (45) to sixty (60) days of submission to the city council, the election shall be held on that day.~~
- h. If the Mayor or councilmember in question resigns, no election shall be necessary and the vacancy shall be filled by the council as in other cases of vacancies.

Comment [p13]: Inserted time period for submission of sufficient petition to city council to remove any question when it must be done. Added requirement to notify the affected officer since there is no time period for the affected officer to resign. Changed the date of the recall election to be consistent with state law.

Section 5.03. - Appeal.

Should the city council fail or refuse to order an election as herein provided for the recall of the Mayor or a councilmember, when all the requirements for such election have been complied with by the petitioning citizens, in conformity with this article of the Charter, then it shall be the duty of any one of the district judges of Dallas County, Texas, upon proper application being made therefor, to order such election and to enforce the carrying into effect of the provisions of this article of the Charter.

Section 5.04. Recall limitations.

No recall petition shall be filled against the mavor or any councilmember within six (6) months after such person's election or within three months after an election for such person's recall.

Comment [p14]: You may want to consider imposing a time period for filing a recall petition following initial election and following a recall election. Time period is up to you- it varies among cities. We also provided an alternative.

ALTERNATIVE LANGUAGE

No recall petition shall be filled against the mavor or any councilmember within six (6) months after such person's election, and the mavor and councilmember shall not be subject to more than one recall election during a term of office.

ARTICLE 14. - INITIATIVE AND REFERENDUM

Section 14.01. – Power of Initiative Petition.

Comment [p15]: Made separate section for initiative since initiative and referendum are different and make it more user friendly.

The people of the City of Richardson reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ~~Any proposed~~ ordinance, except those not legally authorized to be considered by initiative by the state constitution or state law, ~~or referendum, may be submitted to the qualified voters of the city council~~ by submitting a petition to the city secretary which shall contain the full text of the proposed ordinance, signed by qualified voters of the city equal in number to ten (10) percent of the total number of qualified voters on the date of the last regular municipal election ~~the percentages hereinafter required.~~ The signatures to the petition need not all be appended to one (1) paper, but all signers shall in addition add to their signature provide their place of residence address, ~~giving the street and number,~~ county of residence, printed name, date of signing ~~and their precinct number~~ and comply with any other applicable requirements prescribed ~~otherwise as required~~ by state law. One (1) of the signers to each of such papers shall make oath before an officer of the State of Texas competent to administer oaths that each signature is that of the person whose name it purports to be and was signed by such person on the date indicated.

Comment [p16]: Do you want to specify a minimum number of signatures notwithstanding the percentage requirement such as 300 or 500? "but in no event less five hundred (500) ?

Section 14.02. - Examination of Initiative petition.

Within ten (10) days from the date of filing ~~such an initiative~~ petition, the city secretary shall examine the same and ascertain from the list of qualified voters whether or not said petition is signed by the requisite number of qualified ~~voters electors~~, and shall attach to said petition a certificate showing the result of such examination. If by the secretary's certificate the petition is shown to be insufficient, it may be amended within ten (10) days from date of said certificate. The secretary shall within ten (10) days after receipt of such amendment make like examinations of the amended petition. If the secretary's certificate shall show the same to be insufficient, the petition may not be further amended ~~it shall be returned to the person filing the same, without prejudice, however, to the filing of~~ a new petition may be filed to the same effect. The city attorney shall review the petition to determine that it is a proper subject and in proper form. If the petition shall be found to be sufficient, the city secretary shall submit the same to the city council without delay.

Comment [p17]: May want to add to this article a limit or prohibition on the frequency of ordinances being initiated by petition or referendum. Such as No ordinance on the same subject matter as an initiated ordinance or for the repeal of an ordinance which was not approved by the voters may not be initiated by petition of the qualified voters within two (2) years {other time period} after the date of such election.

Comment [p18]: May want to add "All petition papers comprising an initiative petition shall be assembled and filed with the city secretary as one instrument on the same day".

Section 14.03. - City council action.

When the city council receives an initiative petition certified by the city secretary to be sufficient ~~If the petition accompanying the proposed ordinance be signed by electors equal in number to ten (10) percent of the qualified voters of the City of Richardson, and contains a request that said ordinance be submitted forthwith to a vote of the people at a special election,~~ the city council shall either:

- (a) Pass said proposed ordinance without alteration within twenty (20) days after the attachment of the city secretary's certificate of sufficiency to the

accompanying petition ~~(subject to referendary vote under the provisions of the Charter);~~ or

- (b) ~~Forthwith the secretary shall attach to the petition accompanying such ordinance the city secretary's certificate of sufficiency[;] the city council shall proceed to~~ call a special election to be held on the next allowable election date as authorized ~~provided for~~ by state law at which said ordinance, without alteration, shall be submitted to a vote of the people.

Section 14.04. - Ballots—Proposed initiative ordinance.

The ballots used when voting upon an ~~said~~ ordinance proposed by initiative petition shall state the nature of the proposed ordinance and shall contain the words "For the Ordinance," and "Against the Ordinance." Any number of proposed ordinances may be voted at the same election, in accordance with the provisions of this section of the Charter.

Section 14.05. - Valid and effective date of initiated ordinance.

If a majority of the qualified ~~voters~~ electors voting ~~upon an~~ ~~said~~ ~~proposed~~ ordinance proposed by initiative petition shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city, and any ordinance adopted by city council ~~proposed by initiative~~ petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people.

Comment [p19]: Clarified the text so that any ordinance adopted by the council proposed by initiative petition to avoid an election or an ordinance approved by the votes may not be amended or repealed except by vote of the people.

Section 14.06. - Repeal or amendment of initiated ordinance provision.

The city council may submit a proposition for the repeal of any ordinance adopted by the city council proposed by initiative petition or such ordinance adopted by a vote of the people, or for amendments thereto, to be voted upon at any succeeding ~~general~~ city election, and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall be repealed or amended accordingly.

Comment [p20]: You may want to consider a time period rather than require a repeal or amendment by the voters otherwise it will take an election to amend or repeal such ordinance. For example no such ordinance shall be amended or repealed by city council within 6 months after such adoption or voter approval , or provide that initiative ordinances approved by the voters may be amended or repealed by the city council in the same manner of other ordinances. Could provide that such ordinance may be amended or repealed within a stated time period by ¾ vote of the entire council.

Section 14.07. - Publication of ordinance proposed by petition initiative.

Whenever any ordinance proposed by initiative petition ~~or proposition~~ is required by the Charter to be submitted to the qualified voters of the city at any election, the city secretary shall cause the proposed ordinance ~~or proposition~~ to be printed-published at least forty-five (45) days before ~~any such~~ election in a local newspaper ~~and any~~ or other official publication of the city, or by such other means as may be allowed by state law.

Comment [p21]: Clarified the language that allows the city council on its own initiative to submit the repeal and/or amendment of such ordinance to the voters.

Comment [p22]: Clarified existing text.

Section 14.08. - When initiative ordinance is effective.

No ordinance proposed by initiative petition passed by the city council or such ordinance adopted by a vote of the people shall go into effect until thirty (30) days after its final passage, except when otherwise required by the general laws of the state, ~~or by the provisions of the Charter regarding street improvements. An exception may be made for an ordinance for the~~

Comment [p23]: May want to reduce the time period to 30 days or less.

~~immediate preservation of the public peace, health or safety, which contains a statement of its urgency and is passed by a two-thirds vote of the city council. No grant of any franchise shall be construed to be an emergency measure, but all franchises shall be subject to the referendary vote herein provided.~~

Comment [p24]: Cleaned up the existing text.

Section 14.09. – Power of Referendum.

Comment [p25]: Tried not to re-write entire section. The changes are not substantive other than a time period for submission of a referendum petition.

The qualified voters of the city may require any ordinance enacted by the city council or ordinance submitted by the city council to the qualified voters and approved by the qualified voters, with the exception of an ordinance levying taxes, appropriating money, or any ordinance not the proper subject of referendum by the state constitution or state law, be submitted to the qualified voters of the city for approval or disapproval by filing ~~If during said thirty (30) days~~ a petition signed by qualified voters electors of the city equal in number to at least ten (10) percent of the total number of qualified voters on the date of the last regular municipal election, with the city secretary within thirty (30) days after final passage of said ordinance or if the ordinance is not effective until published, within thirty (30) days after its publication. Within ten (10) days after the filing of the petition the city secretary shall examine the same and from the list of qualified voters ascertain whether the petition is signed by the requisite number of qualified voters. ~~If~~ by the city secretary’s certificate the petition is shown to be sufficient, the petition ~~of the City of Richardson~~ shall be presented to the city council, the ~~ordinance same~~ shall thereupon be suspended from ~~taking effect going into operation~~, and it shall be the duty of the city council to reconsider such ordinance, and if the same is not entirely repealed~~,~~ the city council shall submit the ordinance ~~as is provided in this Charter~~ to the vote of the qualified voters electors of the city, ~~either~~ at the next uniform general election date or other date allowed by state law ~~at a special municipal election to be called for that purpose~~, and such ordinance shall not ~~later take go into effect or become operative~~ unless a majority of the qualified voters electors voting on the same shall vote in favor thereof. ~~Said petition shall be in all respects in accordance with the provisions of the Charter, except as to the percentage of signers, and be examined and certified by the secretary, and in all respects as therein provided.~~

Comment [p26]: Individual zoning ordinances by case law and Texas Local Government Code section 211.015 are not the proper subject of a referendum petition. Under state law the repeal of comprehensive zoning ordinance or the adoption of the same is authorized.

Comment [p27]: Do you want to specify a minimum number of signatures notwithstanding the percentage requirement such as 300 or 500? "but in no event less five hundred (500) ?

Comment [p28]: Some charters impose a time period for the filing of a referendum petition and others do not.

Comment [p29]: May want to add "All petition papers comprising a referendum petition shall be assembled and filed with the city secretary as one instrument on the same day".

Comment [p30]: Language clarified to be consistent with Texas Election Code for election dates.

ELECTION CODE

TITLE 16. MISCELLANEOUS PROVISIONS

CHAPTER 277. PETITION PRESCRIBED BY LAW OUTSIDE CODE

Sec. 277.001. APPLICABILITY OF CHAPTER. This chapter applies to a petition authorized or required to be filed under a law outside this code in connection with an election.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 16(c), eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 81, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 25, eff. September 1, 2009.

Sec. 277.002. VALIDITY OF PETITION SIGNATURES. (a) For a petition signature to be valid, a petition must:

(1) contain in addition to the signature:

(A) the signer's printed name;

(B) the signer's:

(i) date of birth; or

(ii) voter registration number and, if the territory from

which signatures must be obtained is situated in more than one county, the county of registration;

(C) the signer's residence address; and

(D) the date of signing; and

(2) comply with any other applicable requirements prescribed by law.

(b) The signature is the only information that is required to appear on the petition in the signer's own handwriting.

(c) The use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.

(d) The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state. The omission of the zip code from the address does not invalidate a signature.

(e) A petition signature is invalid if the signer signed the petition earlier than the 180th day before the date the petition is filed.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 16(c), eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 82, eff. Sept. 1, 1993; Acts 1997, 75th

Leg., ch. 1349, Sec. 73, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 43, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.25(a), eff. September 1, 2005.

Sec. 277.0021. MEANING OF QUALIFIED VOTER. A reference in a law outside this code to "qualified voter" in the context of eligibility to sign a petition means "registered voter."

Added by Acts 1989, 71st leg., ch. 483, Sec. 1, eff. Sept. 1, 1989.

Sec. 277.0022. WITHDRAWAL OF SIGNATURE. (a) A signer may not withdraw the signature from a petition on or after the date the petition is received by the authority with whom it is required to be filed. Before that date, a signer may withdraw the signature by deleting the signature from the petition or by filing with the authority with whom the petition is required to be filed an affidavit requesting that the signature be withdrawn from the petition.

(b) A withdrawal affidavit filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(c) The withdrawal of a signature nullifies the signature on the petition and places the signer in the same position as if the signer had not signed the petition.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 83, eff. Sept. 1, 1993.

Sec. 277.0023. SUPPLEMENTING PETITION. (a) Except as provided by Subsection (b), a petition may not be supplemented, modified, or amended on or after the date it is received by the authority with whom it is required to be filed unless expressly authorized by law.

(b) If a petition is required to be filed by a specified deadline, the petitioner may file one supplementary petition by that deadline if the original petition contains a number of signatures that exceeds the required minimum number by 10 percent or more and is received by the authority with whom it is required to be filed not later than the 10th day before the date of the deadline. The authority shall notify the petitioner as to the sufficiency of the petition not later than the fifth regular business day after the date of its receipt.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 83, eff. Sept. 1, 1993.

Sec. 277.0024. COMPUTING NUMBER OF SIGNATURES. If the minimum number of

signatures required for a petition is determined by a computation applied to the number of registered voters of a particular territory, voters whose names appear on the list of registered voters with the notation "S", or a similar notation, shall be excluded from the computation.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 43, eff. Sept. 1, 1995.

Sec. 277.003. VERIFYING SIGNATURES BY STATISTICAL SAMPLE. If a petition contains more than 1,000 signatures, the city secretary or other authority responsible for verifying the signatures may use any reasonable statistical sampling method in determining whether the petition contains the required number of valid signatures, except that the sample may not be less than 25 percent of the total number of signatures appearing on the petition or 1,000, whichever is greater. If the signatures on a petition circulated on a statewide basis are to be verified by the secretary of state, the sample prescribed by Section [141.069](#) applies to the petition rather than the sample prescribed by this section.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 16(c), eff. Sept. 1, 1987.

Sec. 277.004. EFFECT OF CITY CHARTER OR ORDINANCE. Any requirements for the validity or verification of petition signatures in addition to those prescribed by this chapter that are prescribed by a home-rule city charter provision or a city ordinance are effective only if the charter provision or ordinance was in effect September 1, 1985.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 16(c), eff. Sept. 1, 1987.