



# MUNICIPAL CIVIL SERVICE RULES AND REGULATIONS OF THE CITY OF LAREDO

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## Table of Contents

<b>PREFACE .....</b>	<b>4</b>
<b>RULE I GENERAL PROVISION .....</b>	<b>5</b>
<b>SECTION 1.1 PURPOSE .....</b>	<b>5</b>
<b>SECTION 1.2 POSITIONS COVERED BY RULES .....</b>	<b>5</b>
<b>SECTION 1.3 AMENDMENT OF RULES .....</b>	<b>5</b>
<b>SECTION 1.4 APPROVAL REQUIRED .....</b>	<b>5</b>
<b>RULE II CIVIL SERVICE COMMISSION .....</b>	<b>5</b>
<b>SECTION 2.1 MEMEBERS OF COMMISSION .....</b>	<b>5</b>
<b>SECTION 2.2 POWERS OF COMMISSION .....</b>	<b>5</b>
<b>SECTION 2.3 MEETINGS OF COMMISSION .....</b>	<b>7</b>
<b>RULE III CLASSIFICATION SYSTEM .....</b>	<b>7</b>
<b>SECTION 3.1 CLASSIFIED EMPLOYEES .....</b>	<b>7</b>
<b>RULE IV PROBATIONARY PERIOD .....</b>	<b>7</b>
<b>RULE V REASSIGNMENT, DEMOTIONS, LATERAL TRANSFERS, AND REINSTATEMENTS .....</b>	<b>8</b>
<b>SECTION 5.1 REASSIGNMENTS .....</b>	<b>8</b>
<b>SECTION 5.2 DEMOTIONS.....</b>	<b>8</b>
<b>SECTION 5.3 LATERAL TRANSFERS .....</b>	<b>8</b>
<b>SECTION 5.4 REINSTATEMENTS .....</b>	<b>8</b>
<b>RULE VI DISCIPLINARY ACTION.....</b>	<b>8</b>
<b>SECTION 6.1 OFFENSES RELATED TO LEAVE.....</b>	<b>8</b>
<b>SECTION 6.2 OFFENSES RELATED TO JOB PERFORMANCE .....</b>	<b>9</b>
<b>SECTION 6.3 OFFENSES RELATED TO JOB QUALIFICATIONS .....</b>	<b>9</b>
<b>SECTION 6.4 MISCONDUCT IN THE WORKPLACE.....</b>	<b>9</b>
<b>SECTION 6.5 OTHER OFFENSES.....</b>	<b>10</b>
<b>SECTION 6.6 LIMITATIONS PERIODS RELATING TO DISCIPLINARY ACTIONS.....</b>	<b>10</b>
<b>RULE VII PROGRESSIVE DISCIPLINE .....</b>	<b>10</b>
<b>SECTION 7.1 FORMS OF DISCIPLINE .....</b>	<b>11</b>
<b>SECTION 7.2 RESIGNATION IN LIEU OF DISCIPLINE .....</b>	<b>11</b>
<b>SECTION 7.3 VERBAL WARNING .....</b>	<b>11</b>
<b>SECTION 7.4 WRITTEN WARNING .....</b>	<b>12</b>
<b>SECTION 7.5 SUSPENSION .....</b>	<b>12</b>
<b>SECTION 7.6 DEMOTION .....</b>	<b>12</b>
<b>SECTION 7.7 TERMINATION .....</b>	<b>12</b>
<b>RULE VIII DISCIPLINARY ACTION FORM/TERMINATION LETTER .....</b>	<b>13</b>
<b>RULE IX APPEALS.....</b>	<b>13</b>
<b>SECTION 9.1 APPEAL PROCEDURE.....</b>	<b>13</b>
<b>RULE X GRIEVANCES .....</b>	<b>14</b>

**SECTION 10.1 DEFINITIONS..... 14**

**SECTION 10.2 GRIEVANCE REQUIREMENTS..... 14**

**SECTION 10.3 GRIEVANCE PROCEDURE..... 15**

  

**RULE XI HEARING PROCEDURES BEFORE THE COMMISSION .....16**

**SECTION 11.1 SETTING THE MATTER FOR HEARING ..... 16**

**SECTION 11.2 NOTICE OF HEARING ..... 16**

**SECTION 11.3 REQUEST FOR CONTINUANCE ..... 16**

**SECTION 11.4 REQUESTING HEARING WITHDRAWAL..... 16**

**SECTION 11.5 ATTENDANCE AT THE HEARING ..... 17**

**SECTION 11.6 HEARING THE APPEAL/GRIEVANCE ..... 17**

  

**RULE XII APPLICABILITY OF OTHER RULES AND POLICIES ..... 17**

**SECTION 12.1 APPLICABILITY OF OTHER CITY PERSONNEL POLICIES ..... 17**

**SECTION 12.2 DEPARTMENT POLICIES ..... 17**

  

**RULE XIII MISCELLANOUS PROVISIONS ..... 17**

**SECTION 13.1 AGREEMENT TO WAIVE OR FORFEIT RIGHTS IS VOID ..... 17**

**SECTION 13.2 GOOD CAUSE TO EXTEND DEADLINES**

**OR FOR COMPLIANCE WITH OTHER DUTIES..... 17**

**SECTION 13.3 SETTLEMENT OF APPEALS AND GRIEVANCE..... 18**

  

**RULE XIV SEVERABILITY PROVISIONS..... 18**

  

**EXHIBIT A ..... 19**

**EXHIBIT B ..... 21**

## **PREFACE**

The purpose of these rules is to set forth principles and procedures that are to be followed by City Administration in its personnel program.

These rules and all amendments hereto, shall have the force and effect of the law in all City Departments. All employees, with the exception of uniformed Fire and Police personnel, shall abide by the rules set forth, and employees shall be accorded all rights, protections, and benefits contained in these rules except in those instances where contracts, the City Charter, or other legal exceptions prohibit or limit participation.

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 ensure effective administration of the Civil Service Ordinance.

The City of Laredo will maintain an Equal Employment Opportunity Program in accordance with its policy of equal employment opportunity and will extend fair and impartial treatment to all its employees. No employee will be discriminated against in any way by the City because of race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.

**RULE I  
GENERAL PROVISION**

**Section 1.1 Purpose**

It is the purpose of these rules to give effect to the purpose and requirement of Ordinance 2010-O-17, Ordinance 2011-O-095, and Section 12.03 of the Charter of the City of Laredo, as amended, by establishing procedures for handling personnel actions.

**Section 1.2 Positions Covered By Rules**

These rules shall apply to all employees as stated in the City Classified Service, except as otherwise stated in a collective bargaining agreement or when prohibited by other law.

**Section 1.3 Amendment of Rules**

These rules may be amended, repealed, or supplemented by the Municipal Civil Service Commission, (hereafter referred as Commission) at any time, and new rules may be adopted. The Commission, after public hearing, shall take action on the proposed changes or new rules and such changes or new rules may be adopted by a majority vote. All rules and amendments shall become effective ten (10) working days following approval by the Laredo City Council.

**Section 1.4 Approval Required**

Every change in the rules adopted by the Commission shall be submitted to the City Council for approval. No change in these rules will become valid unless the approval of the City Council has been obtained.

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**RULE II  
CIVIL SERVICE COMMISSION**

**Section 2.1 Members of Commission**

The Municipal Civil Service Commission shall consist of eleven (11) members. Members of the Commission must be appointed by the City Council, nine (9) members (one nominated by each Council Member and Mayor) and two (2) members nominated by City employees and may be confirmed for appointment by City Council. The term of office of each member of such Commission shall be for two (2) years or until a successor is appointed. No member shall serve more than a cumulative total period of 8 years; five (5) Commission members shall constitute a quorum for Commissioner meetings and/or hearings.

**Section 2.2 Powers of Commission**

**A.** Hear appeals in the case of any employee in the classified civil service who has been subjected to any disciplinary action, including but not limited to termination, suspension, or reduction in class or pay; and to hear grievances of any employee in the classified civil service system concerning matters over which it has jurisdiction, if not satisfactorily resolved after review by the employee's immediate supervisor and Department Director, under this Ordinance and/or the Rules and Regulations implementing this Ordinance, concerning wages, hours of employment, or work conditions, whose decision on these matters shall be final.

- B.** Make any investigation into matters over which the Commission has jurisdiction or which may be required by the Council or City Manager to make concerning the administration of personnel in the municipal service, and to report to the Council and City Manager their final decisions.
- C.** Perform the services hereafter provided with respect to the municipal civil service rules.
- D.** Perform such other duties with reference to personnel administration, not inconsistent with the City Charter and Code of Ordinances, as the City Council may require.
- E.** In order for the Commission to conduct full and fair hearings and investigations on matters pertinent to its mandate, no person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any employee, whether in the classified civil service or not, who (a) has taken steps to file or has filed an appeal or grievance under these rules; (b) supported or assisted with the filing or with the preparation of an appeal or grievance under these rules; (c) testifies or intends to testify for an employee on an appeal or grievance to be heard by the Commission or in an investigative hearing before the Commission.

### **Section 2.3 Meetings of Commission**

The Commission shall meet on a regular basis as established by the Commission and at such other times as shall be necessary to conduct the Commission's business. Meetings are open to the public and are subject to the provisions of the Texas Open Meetings Act. The Commission shall appoint a Chair to preside over the meetings and a Secretary to keep minutes and records of the meetings.

The Human Resources Director and his/her staff will maintain records of all City employees holding classified positions including the following information: name, job title, slot number, budgeted salary, actual salary, hire date, personnel or disciplinary actions, records of appeals/grievances, and documentation regarding education, training and experience.

The Human Resources Director and his/her staff may draft forms, for consideration and adoption by the Commission, including but not limited to forms that may be used for (a) filing an appeal; (b) filing a grievance; Such forms shall be provided to an employee upon request, free of charge.

The Commission may draft a guide for handy reference, in both English and Spanish, of the appeal and grievance process.

**RULE III  
CLASSIFICATION SYSTEM**

**Section 3.1 Classified Employees**

All employees below Department Director are eligible for classification under the civil service system unless prohibited by other law or an employee is placed by operation of the general laws of the State in a different civil service system. All eligible persons employed by the City at the time of the adoption of this provision who have served continuously in their respective offices or employment for twelve (12) months prior to the establishment of the civil service system shall immediately receive civil service classification. Also, an employee who is on probation at the time of the adoption of this provision, will enter into the Classified Civil Service after completing the balance of his/her probationary period as of that date. That employee does not begin a new 12 month probationary period before it may enter into the Classified Civil Service.

The following described categories of employees are exempt from the eligibility to civil service classification:

- A.** Appointed officials, that is, those employees and officials who are required or authorized to be appointed by the Mayor and City Council and/or the City Manager or whose appointment is subject to the confirmation of the City Council including, but not limited to, the City Manager and all of the department heads of the various city departments.
  
- B.** Temporary employees, that is, those employees who are retained for seasonal work, work of fixed duration or other work which does not have a reasonable expectancy to continue indefinitely, provided that this employment lasts for a period less than one year.
  
- C.** The City Council may by ordinance, recommended by either the Civil Service Ad Hoc Committee or the standing committee on civil service, confer upon the commission such further and additional rights and duties as may be deemed necessary to enforce and carry out the principles of this section.

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**RULE IV  
PROBATIONARY PERIOD**

All new employees are placed on probationary status for twelve (12) months. During the probationary period, the employee serves on an “at-will” basis and may be terminated at any time for any reason that is not unlawful. Termination of employment during the probationary period cannot be the basis for a grievance or an appeal of any sort. An employee who is promoted during the probationary period is continued on probation for the remainder of the twelve-month period. The probationary period is not restarted by virtue of the promotion.

**RULE V**  
**REASSIGNMENTS, DEMOTIONS, LATERAL TRANSFERS AND REINSTATEMENTS**

**Section 5.1 Reassignments**

A reassignment is an assignment of an eligible employee to perform the duties of another position. Reassignments are grievable.

**Section 5.2 Demotions**

A demotion is the movement of an employee from his/her present position to one with a lower grade and/or rate of pay. A demotion may be made for the purpose of voluntary assumption of a less responsible position, as a disciplinary measure or because of unsatisfactory performance in a higher position, or as a result of elimination of a higher position. An employee who is demoted will be placed in an appropriate slot with a salary within the budgeted amount for that slot. An employee may not be demoted as a disciplinary measure unless the progressive disciplinary procedures outlined in these rules are followed. A demotion is appealable if it is undertaken as a disciplinary matter and/or employee's salary is reduced; otherwise it is grievable.

**Section 5.3 Lateral Transfers**

An employee who is transferred to a generally equivalent position with a similar rate of pay will have the same evaluation period. Lateral transfers are grievable.

**Section 5.4 Reinstatements**

Is a re-employment of an employee who voluntarily or involuntarily left his/her employment; the rescission or reversal of the termination of a classified employee by order of the Municipal Civil Service Commission or of a district court as the result of an appeal filed by the employee with the Municipal Civil Service Commission; or the reinstatement of an employee by court judgment/order or settlement agreement of a claim, with or without litigation, for unlawful termination under a federal, state or Texas common law other than by decision and order of the Municipal Civil Service Commission.

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**RULE VI**  
**DISCIPLINARY ACTION**

Disciplinary action may be taken against an employee in the classified civil service only for "just cause." The following acts or omissions may constitute valid grounds for disciplinary action.

**Section 6.1 Offenses related to Leave**

- A.** Tardiness or unexcused absences.
- B.** Misuse of leave.
- C.** Has made a false statement in order to obtain leave.
- D.** Has been classified as absent without leave (AWOL), or has failed to call or notify his/her supervisor when unable to report for duty unless such failure to call or report is due to no fault of the employee, or has failed to report upon expiration or revocation of leave or when reason for leave has ended.
- E.** Falsification of time sheets or payroll records.

- F. Knowingly accepting wages for time not actually worked.
- G. Falsification of documents that reflect travel expenses and/or request for reimbursement.
- H. Clocking in or out for another employee.
- I. Arranging for someone to clock in or out for an employee.
- J. No offense under Section 6.1, A or B may constitute grounds for the disciplinary action unless the offense charged is based on standard, objective criteria that is uniformly applied to all employees within the same department and the employees are informed of that standard before it may be enforced against an employee.

### **Section 6.2 Offenses related to Job Performance**

- A. Insubordination – unwillingness or refusal to follow the reasonable, job-related orders of a supervisor or higher level of authority.
- B. Failure, without good cause, to perform job duties.
- C. Failure, without good cause, to meet productivity goals or needs of the department when based on standard, clearly set goals and needs communicated to the employee and that are uniformly established for similarly situated employees.
- D. Poor job performance based on standard, clear, and objective criteria uniformly applied in evaluating the job performance of similarly situated employees.
- E. Dishonesty – behavior characterized by a lack of truth, honesty, or trustworthiness.

### **Section 6.3 Offenses related to Job Qualifications**

- A. Fraud or intentional misrepresentation regarding qualifications or references during the selection process discovered after employment.
- B. Failure, without good cause, to obtain and/or maintain any position qualifications, license or certifications required by the employee’s position description.
- C. Failure, without good cause, to submit requested documentation to the Human Resources Department-Employee Health and Wellness division concerning a medical condition of the employee which may present a contradiction to continued employment.

### **Section 6.4 Misconduct in the Workplace**

- A. Violation of well-known and/or well-established job safety rules or regulations.
- B. Fighting or otherwise disrupting relations between employees, except in self-defense or in defense of another employee or to end a physical encounter or avoid the escalation of a physical encounter.
- C. Endangering the safety of others through negligent or willful acts including, but not limited to misuse of City motor vehicles, etc.
- D. Sabotage.
- E. Bullying and/or physical or verbal abuse of fellow employees, supervisors, subordinates, or the public.
- F. Use of foul or abusive language in the workplace is prohibited.
- G. Discourtesy to the public and the act of discourtesy is documented, including the identity of the complaining citizen.
- H. Violation of the City’s Sexual and Other Forms of Harassment Policy.
- I. Wearing attire inappropriate to the workplace of the employee based on a well-known and/or well established dress code that is uniformly applied to all employees; Hygienic issues.
- J. Sleeping on the job unrelated to an illness or other health condition.
- K. Violation of the City Drug and Alcohol Policy.
- L. Violation of any of the provisions of the Charter of the City of Laredo.
- M. Failure, without good cause, to report an on-the-job injury or illness immediately or promptly thereafter (in the event it cannot be reported immediately).

- N. Knowingly creating or submitting false and/or slanderous reports regarding fellow employees, supervisors, subordinates, or the public that does not involve political speech and/or touches on a matter of public concern.
- O. Solicitation or acceptance, directly or indirectly, of any gift, favor, entertainment, loan, or other thing which has monetary value in exchange for some action or forbearance by the employee in the employee's official duties for the City.
- P. Accepting gifts from contractors, vendors or other persons who are employed by persons/entities who are dealing with or attempting to deal with the City.
- Q. Theft of city property, steals, or is careless or negligent with property of the City.
- R. Use of City property, time, equipment, material or supplies for personal gain, for political purposes, or for other activities not related to City business.
- S. Knowing release of confidential information or misuse of information obtained through employment with the City.
- T. Allowing the use of a City vehicle or other property by a non-City employee except in cases of emergency or for repairs.
- U. Gambling or betting while on City time.
- V. Violation of the City's Workplace Violence Policy.
- W. Violation of the City's Return to Work Policy.
- X. Violation of the City's Cash Handling Policy.
- Y. Committing any violation of the City ethics code or any other wrongful, improper, or unlawful conduct.
- Z. Violation of any established internal departmental policy.

#### **Section 6.5 Other Offenses**

- A. Outside employment that interferes with the employee's work performance.
- B. Failure, without good cause, to notify the Department Director of any outside employment.
- C. Performing outside employment on City time.
- D. Receipt of additional compensation from a source other than City for work performed for the City.
- E. Having a financial interest that conflicts with or influences the performance of duties for the City.
- F. Conviction of a crime of moral turpitude as described in these rules. A crime of "moral turpitude" is one that involves dishonesty, fraud, deceit, misrepresentation, or that reflects adversely on a person's honesty, trustworthiness, or fitness to act as a City employee.
- G. Conviction of any felony or a Class B misdemeanor above.
- H. Violation of a professional license rules and regulations that are governed by state or federal agency.

#### **Section 6.6 Limitation Periods Relating To Disciplinary Actions**

Disciplinary action may not be commenced for an action that occurred more than forty-five (45) days from the date the city knew of its occurrence or should have known unless related to criminal activity.

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### **RULE VII PROGRESSIVE DISCIPLINE**

In order to allow employees the opportunity to correct infractions of the rules and regulations, a policy of progressive discipline will be applied to civil service employees to permit those who violate policies or who exhibit unsatisfactory job performance an opportunity to comply with department requirements. Where practical as when in the best interest of the City, as reasonably determined by the Department Director, progressive discipline will be used. However, certain situations require the immediate use of more severe disciplinary action, and the use of progressive sanctions may be inappropriate.

City of Laredo employees are expected to conduct themselves responsibly and with propriety in their work. They are further expected to abide by all policies and regulations of the City and of their individual departments. All departmental policies should be clear and reasonable. Departments should clearly communicate their performance expectations to their employees. Any violations of a policy or any failure to meet performance expectations should be investigated before disciplinary action is taken. Disciplinary action should be taken as promptly as possible under the circumstances and be uniformly applied.

### **Section 7.1 Forms of Discipline**

- A. Each department has the authority and responsibility to take disciplinary action for “just cause” against an employee in the classified civil service for acts or omissions listed in the Municipal Civil Service Rules and Regulations. The forms of disciplinary action are as follows:
1. Verbal Warning (Optional)
  2. Warning
  3. Suspension
  4. Demotion
  5. Termination
- B. In determining the form of discipline to impose, the Department Director should consider factors relevant to the situation at hand including, but not limited to, the following:
1. The nature and seriousness of the offense;
  2. The level of performance of the employee in his/her job duties;
  3. The position the employee holds;
  4. The employee's employment history within their current department; and
  5. Disciplinary actions within the same department.
- C. These factors and any others considered by the Department Director must be fully disclosed in writing to the employee and to the Commission when the disciplinary action is taken.

### **Section 7.2 Resignation in Lieu of Discipline**

Depending on the nature and seriousness of the offense, an employee who faces disciplinary action may be given the option by the Department Director to voluntarily resign prior to the issuance of a disciplinary action. Resignation shall not be forced or coerced upon the employee by the department. If an employee chooses to resign, he/she may submit his/her resignation in writing to his/her Department Director. Resignation will not preclude the City of Laredo from pursuing criminal prosecution or civil remedies in the event of wrongdoing by an employee.

### **Section 7.3 Verbal Warning (Optional)**

Verbal counseling is the most common method of directing an employee in performing his/her duties. Verbal warnings may also be used to remind an employee of how his/her duties are to be performed or to correct an employee's minor misconduct, error, or omission. Each such verbal warning must be noted in the department's supervisory file including the date and content of the warning. Verbal warnings are not part of the employee's official Human Resources personnel file and are not grievable or appealable.

## **Section 7.4 Written Warning**

A written warning must state on its face that it is a "written warning." It must advise the employee of the misconduct, act, omission, or failure to perform duties that gave rise to the written warning. It also shall advise the employee what corrective action must be taken and that further, more severe, disciplinary action will be assessed if that corrective action is not taken. The employee must sign (signature does not indicate agreement, but verifies that warning was discussed and reviewed) the written warning to acknowledge its receipt, and a copy will be placed in the employee's official Human Resources personnel file. Written warnings are grievable. If an employee receives three (3) written warnings regarding the same infraction, an employee is subject to termination.

## **Section 7.5 Suspension**

A suspension is the temporary release from duty of an employee for up to thirty (30) calendar days without pay depending on the severity of the infraction. The days of suspension within each level may vary accordingly. The Department Director is required to conduct a prompt and thorough investigation within a reasonable period of time. A suspension is used when a prior warning does not produce satisfactory results in correcting behavior, or when the department determines that a violation of a rule or policy is serious enough to warrant a suspension without prior use of a less severe form of discipline. A suspension is appealable.

## **Section 7.6 Demotion**

A demotion is the involuntary reassignment of an employee to a position with lower pay and, normally, less responsibility. An employee may be demoted when a prior warning or suspension does not produce satisfactory results in correcting behavior or performance. An employee may also be demoted when a Department Director determines that the violation of a rule or policy is serious enough to warrant a demotion without the prior use of a less severe form of discipline. Finally, an employee may be demoted when a department determines that the employee cannot or will not adequately perform the duties of his/her position. A demotion is appealable.

## **Section 7.7 Termination**

Termination is the involuntary discharge of an employee. Termination is appropriate when a prior warning, suspension, or demotion does not produce satisfactory results in correcting behavior or performance, or when the Department Director determines that a violation of a rule or policy is serious enough to warrant a termination without prior use of less severe discipline. Prior to termination of a classified employee, a Personnel Advisory Committee/PAC (comprised of the respective Department Director, City Attorney/designee, and Human Resources Director/designee) meeting must be held to review and discuss potential reasons for termination. A termination is appealable.

**RULE VIII  
DISCIPLINARY ACTION FORM/TERMINATION LETTER**

The Disciplinary Action Form/Termination Letter shall include the following:

- A.** The specific violation;
- B.** Previous violations (if any);
- C.** Action to be taken on current violation;
- D.** Section for employee to provide an explanation;
- E.** A statement advising the employee of the right to appeal to the Civil Service Commission and the time frame for filing a written appeal;
- F.** Employee signature section (signature does not indicate agreement, but verifies that warning was discussed and reviewed);
- G.** Supervisor/Division Manager signature section;
- H.** Department Director signature section (required). The Disciplinary Action Form/Termination Letter, if practicable, should be given to the employee and the employee shall sign for receipt of the form. Failure of the employee to acknowledge receipt does not affect the Disciplinary Action Form/Termination Letter or the imposition of the disciplinary action. If it is impractical to personally deliver the notice, it shall be sent by certified mail, return receipt requested, to the employee's last known address, and delivery is deemed complete at time of mailing.

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**RULE IX  
APPEALS**

**Section 9.1 Appeal Procedure**

- A.** Within ten (10) working days after the receipt of such Disciplinary Action Form/Termination Letter, a classified employee may appeal in writing to the Commission for reconsideration of any adverse action taken against him or her. An adverse action is any action taken against a classified employee to terminate, suspend, or reduce his or her class or pay. Failure, without good cause, to meet the time limit for initial filing constitutes a forfeiture of the right to appeal the adverse action.
- B.** Once the employee submits the "Request for Appeal" form to the Human Resources Department, the Human Resources Director/designee shall coordinate a hearing before the Commission. Each party must submit to the Human Resources Department twelve (12) copies of any documentation it wishes the Commission to consider within ten (10) business days of the employee submitting the "Request for Appeal" form to the Human Resources Department.
- C.** A commission member shall immediately recuse himself or herself from participating in any matter within the jurisdiction the commission which creates or the appearance of a conflict of interest. A conflict of interest exists when there is a personal or financial relationship that could influence or be perceived to influence the decision of a commission member.
- D.** When an employee or representative is notified by the Human Resources Director/designee, of a specific date, time, and place for a hearing, failure without good cause, of the employee to report or notify the Commission of employee's inability to attend the hearing may constitute forfeiture of the employee's right to appeal.
- E.** The Commission may request further investigation of which it might deem proper.

- F. The Commission shall render its final decision in writing. A copy of the final decision by the Commission on the case will be given to the employee, respective Department Director, Human Resources Director, and City Manager.
  - G. The appeal hearing shall be undertaken pursuant to the procedures outlined in Exhibit A which is incorporated by reference and made a part of these rules.
  - H. The right of appeal and all other rights related thereto will not be waived or forfeited if “good cause” by the employee is established for the failure to comply with the time limits or duties set under this section.
  - I. An employee and witness may testify in their predominant language, which shall be translated into English during the hearing.
  - J. An employee may be represented at the appeal hearing by a representative of his or her choosing. The representative may be an attorney, union or association representative, non-employee or other employee. The employee’s representative may file the appeal on behalf of the employee.
  - K. The City shall have the burden of proof, under a preponderance of the evidence standard, in an appeal of a disciplinary action.
  - L. The Commission shall make a decision by either: (A) affirming; (B) reversing; (C) modifying; or (D) dismissing the appeal. Where the disciplinary action is reversed or modified, the Commission may reinstate the employee.
  - M. A Commission member may respectfully dissent from the majority decision and briefly state the reasons therefore in the Commissioner’s final decision letter.
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## **RULE X GRIEVANCES**

### **Section 10.1 Definitions**

- A. A grievance is a written complaint made by an employee.
- B. An employment practice not subject to appeal that addresses a violation, misapplication, or misinterpretation of the statutes, policies, rules, or written agreements applicable to the employee regarding classification, compensation, terms and conditions of employment, employment status, discrimination, harassment, favoritism, or any action, policy, or practice constituting a substantial detriment to or interference with the effective job performance of the employee, or the health and safety of the employee.

### **Section 10.2 Grievance Requirements**

- A. A grievance may be filed at any time concerning an employment practice or condition that is of a continuing nature.
- B. Failure to meet the time limit for initial filing constitutes a forfeiture of the right to grieve that occurrence or condition. However, the right to file a grievance within the time limits set under

this section shall not be waived or forfeited if “good cause” is established for failure to comply with the time limits. Upon a showing of “good cause” the time limit shall be enlarged and the grievance considered timely filed.

### **Section 10.3 Grievance Procedure**

- A.** The grieving employee or its representative must first present his or her “Notification of Grievance” form to the immediate supervisor unless the grievance concerns the immediate supervisor or there is no immediate supervisor, in which case it shall be presented to the Department Director.
- B.** The immediate supervisor must inform the employee or its representative in writing, of his/her decision within five (5) working days after the grievance is received. The supervisor must make a written notation of the grievance and of his/her decision for the record. If the immediate supervisor does not render a decision within five (5) working days, the grievance shall be deemed to be denied, and the employee may then proceed beyond the immediate supervisor with the grievance.
- C.** In all instances where the employee chooses to pursue his or her grievance beyond the immediate supervisor, the grieving employee must, in the written grievance, specify the remedy sought.
- D.** If the initial grievance presentation to the supervisor fails to settle the grievance, the employee may proceed with a written grievance to the Department Director within five (5) working days after receiving the immediate supervisor’s decision.
- E.** The Department Director must review the grievance within five (5) working days and render a decision in writing to the grieving employee. If the Department Director does not render a decision within five (5) working days, the grievance shall be deemed to be denied, and the employee may then proceed beyond the department director with the grievance.
- F.** If the grievance to the Department Director fails to be resolved to the employee’s satisfaction, the employee may, within five (5) working days of receipt of the decision, submit his/her grievance to the Human Resources Director/designee.
- G.** Once the employee submits the completed “Notification of Grievance” form to the Human Resources Department, the Human Resources Director/designee shall coordinate a hearing before the Commission. Each party must submit to the Human Resources department twelve (12) copies of any documentation it wishes the Commission to consider within ten (10) business days of the employee submitting the “Notification of Grievance” form to the Human Resources Department.
- H.** A commission member shall immediately recuse himself or herself from participating in any matter within the jurisdiction the commission which creates or the appearance of a conflict of interest. A conflict of interest exists when there is a personal or financial relationship that could influence or be perceived to influence the decision of a commission member.
- I.** When an employee or representative is notified by the Human Resources Director/designee of a specific date, time, and place for a hearing, failure without good cause, of the employee to report or notify the Commission of employee’s inability to attend the hearing may constitute forfeiture of the employee’s right to appeal.

- J.** The grieving employee and the Department Director or their representatives may fully present their positions to the Commission at the grievance hearing in an attempt to resolve the grievance issue. The employee and the City may support their respective position on the grievance through witnesses and other documentary evidence. See Exhibit B, for hearing procedures.
- K.** The Commission shall render its final decision in writing. A copy of the final decision shall be given to the employee, respective Department Director, Human Resources Director, and the City Manager.
- L.** The Commission shall sustain a grievance, in whole or in part, if the employee proves to their satisfaction, by a preponderance of the evidence that the grievance is justified and must be resolved and remedied. The decision shall state “sustained” or “denied”, either in whole or in part. The reasons therefore shall be expressly stated in its decision and/or order.
- M.** A grievance hearing before the Commission will be held according to the procedures set out in Exhibit B, attached hereto.

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**RULE XI  
HEARING PROCEDURES BEFORE THE COMMISSION**

**Section 11.1 Setting the Matter for Hearing**

The Commission will set the matter for hearing.

**Section 11.2 Notice of Hearing**

- A.** The employee must keep the Human Resources Director/designee advised of his/her current contact information.
- B.** The Human Resources Director/designee will notify all parties of the hearing date, time and location. This notice will be given at least seven (7) working days prior to the date of the hearing.

**Section 11.3 Request for Continuance**

Any request to continue a hearing date must be made in writing at least five (5) working days prior to the scheduled hearing. By agreement of the parties, the Commission will cancel and re-set the hearing date. If an emergency arises, the Commission may re-set the hearing. The Commission will not re-set a hearing more than twice unless “good cause” is shown by the party requesting same or by agreement of the parties. Each reset cannot exceed 30 days unless “good cause” shown. Under no circumstance will a third continuance be granted to any party.

**Section 11.4 Requesting Hearing Withdrawal**

Any request to withdraw a grievance or appeal filed with the Commission, must be made in writing five (5) working days prior to the scheduled hearing date.

### **Section 11.5 Attendance at the Hearing**

- A.** The employee must be present at the hearing and may represent himself/herself. The employee may also be represented by an attorney, union or associate representative, non-employee or other employee only upon notifying the Human Resources Director/designee within five (5) working days prior to the scheduled hearing. In doing so, the employee must fill out a “Municipal Civil Service Employee’s Designation of Representative” form. The representative shall act as the spokesperson for the employee during the grievance/appeal process. The time the employee is present at the hearing will be paid time if it is within the employee’s regular work schedule.
- B.** If the employee is not present at the time of the hearing, the Commission shall dismiss the case and enter a written order to that effect.

### **Section 11.6 Hearing the Appeal/Grievance**

- A.** All Commission meetings shall be in public in accordance with the Texas Open Meetings Act.
- B.** Five (5) Commission members shall constitute a quorum for the purpose of allowing the hearing to proceed.
- C.** The appeal/grievance hearing shall otherwise follow the procedures reflected in Exhibit A and B respectively, which is attached hereto and incorporated by reference.
- D.** The Commission shall render a final decision on an appeal or grievance within 7 working days from the date of the appeal or grievance hearing.

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## **RULE XII APPLICABILITY OF OTHER RULES AND POLICIES**

### **Section 12.1 Applicability of Other City Personnel Policies**

The Rules of the Commission apply where not in conflict with the Policies and Personnel Rules of the City of Laredo.

### **Section 12.2 Department Policies**

Any Department Director shall have the right to create and implement rules and regulations regarding the operation of his department and the conduct of the employees therein, provided that such rules do not conflict with the City Charter, Code of Ordinances, City policies, or these Rules.

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## **RULE XIII MISCELLANEOUS PROVISIONS**

### **Section 13.1 Agreement to Waive or Forfeit Rights is Void**

Any agreement that may or attempts to waive or forfeit any right, protection or benefits that an employee has under the Municipal Civil Service Rules and Regulations and any other laws incorporated by reference herein is void except as otherwise provided under these rules.

### **Section 13.2 Good Cause to Extend Deadlines or for Compliance with Other Duties**

Every time limit or deadline under these rules may be extended for good cause shown.

### **Section 13.3 Settlement of Appeals and Grievances**

Nothing under these rules prohibits the reaching of a settlement by the parties – the City and the employee or its representative, involving an appeal or a grievance covered by these rules. Settlements must comport with the strict requirements under these rules.

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#### **RULE XIV SEVERABILITY PROVISIONS**

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, sections, sentences, clauses, phrases, and words of these rules, but they shall remain in effect, it being the legislative intent that these rules shall stand notwithstanding the invalidity of any part.

## **EXHIBIT A**

### **APPEAL HEARING PROCEDURES**

The following general procedures will be utilized for all Municipal Civil Services Hearings. The City Attorney's Office shall be assigned to represent the City's Department Director/designee.

- 1.** In an appeal hearing, the City has the burden of proof on the disciplinary action it has taken against an employee within the classified civil service. It therefore has the right to open and close the presentation of its case at the hearing.
- 2.** The Chair shall administer the oath of all witnesses. Once sworn in, witnesses will be subject to penalties of perjury under the Municipal Civil Services Rules & Regulations. If the Chair is unable to attend the hearing, a vote must be made within the Commissioners present of who will assume the Chair's responsibilities.
- 3.** The Chair shall read the content of the employee's Request for Appeal, including nature of the disciplinary action, effective date of the occurrence, and the remedy sought by the classified employee.
- 4.** The City and a City Attorney will present their case to the Commission first. They will demonstrate factual basis for the disciplinary action and that the disciplinary action was proportionated to the nature and severity of the offence.
- 5.** Each party may make a brief opening statement to the Commission.
- 6.** Once the City finishes its presentation, the employee or representative may then present its case, witnesses, evidence, and/or argument.
- 7.** Each party may call upon witnesses, with the approval of the Chair. Each party will be allowed to cross-examine each other's witnesses. Testimony shall be confined to the subject matter contained in the appeal. The Chair may limit the number of witnesses appearing at the hearing.
- 8.** The Commission may ask the parties and/or witnesses any necessary questions. They may also recall any witness if clarification or additional information is needed.
- 9.** Any witnesses may be released by the Commission after giving testimony.
- 10.** The City and their assigned City Attorney may make a closing statement, followed by the employee or representative.
- 11.** The Commission may recess to deliberate in Executive Session. Once the Commission has reconvened, the Commission shall render a final decision in open session within 7 working days of the appeal hearing.

### **RECORDING OF HEARING**

A digital copy of the hearing shall be made of all appeal hearings and remain on file with the Human Resources Department. Subject to availability of space, any party in interest, at his/her own expense, may request a copy of the recorded hearing. Written request must be made to the Human Resources Director/designee.

### **DECISION OF THE COMMISSION**

- A.** The Commission shall conduct its business in accordance with the Texas Open Meetings Act and take action in public meeting by motion and second as in other matters.
- B.** The final decision of the Commission will be based on the evidence presented. In either an appeal or grievance hearing, the Commission shall make its findings based on the preponderance

of the evidence standard. The preponderance of the evidence standard means that a party has shown that its version of facts, causes, damages, or fault is *more likely* (a greater than 50% chance) *than not* the correct vision.

- C.** The Commission's final decision shall be made in writing, state its findings of fact, including credibility determinations regarding witness' testimony, and state the reasons for its opinion in conformity with these rules.
- D.** The Commission shall make a final decision by either: (A) affirming; (B) reversing; (C) modifying; or (D) dismissing the appeal. Where the disciplinary action is reversed or modified, the Commission may reinstate the employee.
- E.** A Commission member may respectfully dissent from the majority decision and briefly state the reasons therefore in the Commissioner's final decision letter.
- F.** The final decision of the Commission requires a simple majority of the composed quorum of Commissioners. The majority decision must be signed by those members who join the majority opinion. The Commission members who dissent shall note their dissent and sign the decision as such. A brief dissenting opinion may be filed by one or more dissenting Commissioners.
- G.** Recusal of Commission Member: A Commissioner must recuse himself/herself from participating in an appeal or grievance where a conflict of interest or the appearance of a conflict of interest exists. A conflict of interest exists when there is a familial relation (within the second degree by affinity or within the third degree by consanguinity), personal or financial relationship that could influence or be perceived to influence the decision of a commission member.

## **EXHIBIT B**

### **GRIEVANCE HEARING PROCEDURES**

The following general procedures will be utilized for all Municipal Civil Services Hearings. The City Attorney's Office shall be assigned to represent the City's Department Director/designee.

1. In a grievance hearing, the employee has the burden of proof on the grievance. The employee therefore has the right to open and close the presentation of its case at the hearing.
2. The Chair shall administer the oath of all witnesses. Once sworn in, witnesses will be subject to penalties of perjury under the Municipal Civil Services Rules & Regulations. If the Chair is unable to attend the hearing, a vote must be made within the Commissioners present of who will assume the Chair's responsibilities.
3. The Chair shall read the content of the employee's Notification of Grievance, including nature of the disciplinary action, effective date of the occurrence, and the remedy sought by the classified employee.
4. The employee or representative will present their case to the Commission first. The employee or representative has the right to attempt to set aside the decision of the department director by disproving the factual basis asserted by the department actions or by demonstrating that the action was disproportionate to the nature and severity of the offense.
5. Each party may make a brief opening statement to the Commission.
6. Once the employee or representative finishes their presentation, the City and their assigned City Attorney may then present its case, witnesses, evidence, and/or argument.
7. Each party may call upon witnesses, with the approval of the Chair. Each party will be allowed to cross-examine each other's witnesses. Testimony shall be confined to the subject matter contained in the appeal. The Chair may limit the number of witnesses appearing at the hearing.
8. The Commission may ask the parties and/or witnesses any necessary questions. They may also recall any witness if clarification or additional information is needed.
9. Any witnesses may be released by the Commission after giving testimony.
10. The employee or representative may make a closing statement, followed by the City and their assigned City Attorney.
11. The Commission may recess to deliberate in Executive Session. Once the Commission has reconvened, the Commission shall render a final decision in open session within 7 working days of the grievance hearing.

### **RECORDING OF HEARING**

A digital copy of the hearing shall be made of all appeal hearings and remain on file with the Human Resources Department. Subject to availability of space, any party in interest, at his/her own expense, may request a copy of the recorded hearing. Written request must be made to the Human Resources Director/designee.

### **DECISION OF THE COMMISSION**

- A. The Commission shall conduct its business in accordance with the Texas Open Meetings Act and take action in public meeting by motion and second as in other matters.
- B. The final decision of the Commission will be based on the evidence presented. The Commission shall make its findings based on the preponderance of the evidence standard. The preponderance

of the evidence standard means that a party has shown that its version of facts, causes, damages, or fault is *more likely* (a greater than 50% chance) *than not* the correct vision.

- C. The Commission's final decision shall be made in writing, state its findings of fact, including credibility determinations regarding witness' testimony, and state the reasons for its decision in conformity with these rules.
- D. The Commission shall sustain a grievance, in whole or in part, if the employee proves to their satisfaction, by a preponderance of the evidence that the grievance is justified and must be resolved and remedied. The decision shall state "sustained" or "denied", either in whole or in part. The reasons therefore shall be expressly stated in its decision and/or order.
- E. A Commission member may respectfully dissent from the majority decision and briefly state the reasons therefore in the Commissioner's final decision letter.
- F. The final decision of the Commission requires a simple majority of the composed quorum of Commissioners. The majority decision must be signed by those members who join the majority opinion. The Commission members who dissent shall note their dissent and sign the decision as such. A brief dissenting opinion may be filed by one or more dissenting Commissioners.
- G. **Recusal of Commission Member:** A Commissioner must recuse himself/herself from participating in an appeal or grievance where a conflict of interest or the appearance of a conflict of interest exists. A conflict of interest exists when there is a familial relation (within the second degree by affinity or within the third degree by consanguinity), personal or financial relationship that could influence or be perceived to influence the decision of a commission member.

These Rules and Regulations shall take effect immediately upon its passage by the City Council of the City of Laredo in accordance with the ordinance provisions set forth in the City Charter, as amended.

10 PASSED BY THE CITY COUNCIL AND APPROVED BY MAYOR ON THIS THE  
DAY OF February, 2017.

  
Pete Saenz  
Mayor



ATTEST:  
  
Heberto "Beto" Ramirez  
Acting City Secretary

APPROVED AS TO FROM:  
  
BY: KRISTINA K. LAUREL HALE  
INTERM CITY ATTORNEY