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Representative At-Large  
  
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Representative District 1



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Representative District 2/Mayor Pro-  
Tem

**Victor Perez**  
Representative District 3

**vacant**  
Representative District 4

**Willie Norfleet, Jr.**  
City Manager

## ***Amendment No. 5***

### ***Ordinance 186***

***AN ORDINANCE OF THE CITY OF SOCORRO, TEXAS ADOPTING AN AMENDED ORDINANCE NO. 186 OF THE CIVIL SERVICE RULES AND REGULATIONS FOR CIVIL SERVICE SYSTEM AND FOR THE CIVIL SERVICE COMMISSION FOR THE CITY OF SOCORRO, TEXAS AMENDMENT NO. 5.***

***WHEREAS***, the City Council has determined that it is necessary to amend and update the City's Civil Service Rules and Regulations as set forth in Ordinance 186 Amendment No. 4, revised March 8, 2011.

***NOW THEREFORE: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOCORRO, TEXAS, THAT:***

#### **SECTION 1. FINDINGS**

That the matters and facts stated in the preamble hereof be, and same are hereby, found and adjudicated to be true and correct.

#### **SECTION 2. AMENDED CIVIL SERVICE REGULATIONS ORDINANCE 186.**

That Ordinance No. 186 revised December 18, 2014, Amendment No. 5 for the City of Socorro, which is attached hereto as Exhibit A and incorporated herein for all purposes, is hereby approved and adopted by the City Council to be effective immediately.

#### **SECTION 3. REPEAL OF CONFLICTING ORDINANCES.**

That all Ordinances of the City of Socorro, or parts thereof, that conflict with this Ordinance are, to the extent of said conflict, hereby repealed, but only to the extent of said conflict.

#### **SECTION 4. EFFECTIVE DATE.**

This Ordinance shall be in full force and effect from the date of adoption and shall become part of the City Code.

**SECTION 5. PREREQUISITES.**

That this ordinance was duly enacted with all requisites and formalities incident thereto the enactment of ordinance and any existing ordinance or amendments is hereby repealed and such is evidenced by the below signatures.

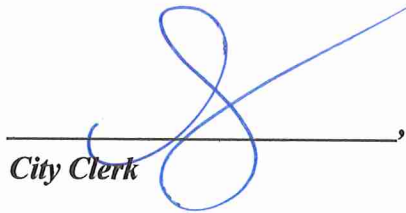
***PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SOCORRO, TEXAS.***

*This 18<sup>th</sup> day of December, 2014.*

A handwritten signature in black ink, appearing to read "Jesus Ruiz", written over a horizontal line.

*Jesus Ruiz, Mayor*

***ATTEST:***

A handwritten signature in blue ink, written over a horizontal line. The signature is stylized and appears to be a single continuous stroke.

*City Clerk*

***Introduction and First Reading: November 20, 2014***  
***Second Reading and Adoption: December 18, 2014***

**CITY OF SOCORRO, TEXAS  
CIVIL SERVICE REGULATIONS  
ORDINANCE 186  
AMENDMENT 5**

**Exhibit “A” To Ordinance 186 Amendment 5**

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## I. PURPOSE

Pursuant to Article XI of the Socorro City Charter, the City Council has established a Civil Service System for the benefit of the employees and the City of Socorro. The Civil Service System shall be governed by the regulations set forth in this ordinance

## II. CIVIL SERVICE COMMISSION FUNCTIONS DUTIES, PROCEDURES AND RULES

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A. **Duties:** The Commission shall hold regular meetings (at least once a month) on a day prescribed by the Commission. Special meetings shall be held as required for the proper discharge of the duties of the Commission. Special meetings may be called only by written order of the Chairman or by any three members of the Commission. Due notice of all meetings shall be given in accord with the Texas Open Meetings Act.

It shall be the duty of the Commission to:

A. Hear and determine appeals or complaints by or concerning members of the classified service that fall within the commissioner's jurisdiction as established by this ordinance.

B. Appoint and replace hearing officers as necessary and appropriate.

C. Adopt rules for holding meetings and conducting hearings that are not inconsistent with this ordinance or the jurisdiction of the Commission. Staff shall assist the Commission to properly post notice of meetings, maintain minutes of all meetings and records of all hearings conducted before the Commission.

B. **Quorum:** Four (4) members of the Civil Service Commission will constitute a quorum.

C. **Jurisdiction:** The Commission shall have limited jurisdiction which shall include the authority to conduct hearings and render appropriate decisions regarding the following matters:

1. Administration of testing and qualification of candidates for positions in the classified services.
2. Hear grievances and appeals and render fair and equitable remedies, having due regard for the interests of the City and the non-probationary classified employees in the following instances, Jurisdiction for grievance and appeals is limited to non-probationary classified employees.
  - a. Demotion or reassignment where the employee's regular salary is reduced.
  - b. Suspension without pay for a period exceeding three (3) days, or any suspension without pay that exceeds six (6) days in any six (6) month period. The Commission does not have jurisdiction over suspensions without pay for

three or fewer days or suspensions without pay that do not exceed six (6) days in any six (6) month period.

- c. Termination.
  - d. Appeals related to testing and management of eligibility lists as provided in this Ordinance.
  - e. Other matters as referred for decision or recommendation by the City Council of the City of Socorro.
3. All complaints, appeals or grievances must be filed with the HR Director, on official forms supplied by the HR Director, within ten (10) days of the event or action complained of. If this Ordinance or any other ordinance provides a shorter period of time for an appeal or complaint related to a particular matter, the shorter time shall apply to that matter.
4. Jurisdiction with respect to the Chief of Police is set forth in Section III.D. of this Ordinance.
5. All matters not within the limited jurisdiction of the Commission are within the authority of the City Manager and/or the City Council.

**D. Qualifications:** Members of the Commission must be residents of the City at the time of their appointment and remain a resident of the City throughout their term of office. No Commissioner may hold any salaried public office or other employment compensated by the City or any entity funded in whole or part by the City, and any violation of this provision shall be deemed malfeasance in office and cause for removal therefrom. At least two Commissioners must hold or have retired from positions other than managerial or professional. No more than three Commissioners may be former City employees or officers, and any such Commissioners are not eligible for appointment until one year following separation from any employment or office with the City. Any Commissioner may be either actively employed or retired.

**E. Seats. 7 Members:** Members shall be selected by members of City Council and the Mayor, to hold the following positions:

Place 1 ----- District 1  
Place 2 ----- District 2  
Place 3 ----- District 3  
Place 4 ----- District 4  
Place 5 ----- District 5  
Place 6 ----- Mayor  
Place 7 ----- Mayor

**F. Terms. 4-year terms:** The City Council may by separate order, either reappoint the entire Commission as of the date of this amendment or adjust the terms of current commission members to provide for initial terms to establish a system of staggered terms. The initial terms for these positions will be as follows:

Place 1 initial term expires December 1, 2013  
Place 2 initial term expires December 1, 2013  
Place 3 initial term expires December 1, 2013  
Place 4 initial term expires December 1, 2016  
Place 5 initial term expires December 1, 2016  
Place 6 initial term expires December 1, 2016

Place 7 initial term expires December 1, 2016

Persons appointed to fill positions after the initial terms shall serve full four (4) year terms.

- G. **Replacement/Removal:** Commission members may be removed by the nominating members of City Council for any reason at any time by posting the removal and announcing same into the record of any City Council meeting.
- H. **Organization:** At the first meeting in December of each year, the Commission shall elect from its membership a Chairman and Vice Chairman. The Commission shall select a Secretary who may, or may not, be a member of the Commission. The Chairman and all members of the Commission may vote on all matters coming before the Commission unless the member is prohibited from doing so by a conflict of interest as provided herein.
- I. **Conflict of Interest:** No member of the Commission shall take any part in, or vote, on any matter involving an employee related to the commission member within the second degree by affinity or the third degree by consanguinity.
- J. **Term Limits:** Commissioners serving consecutive terms shall be limited to two full successive terms, regardless of the date of their original appointments. No person may serve as a member on the Commission for more than a total of ten years throughout their lifetime and no person may be appointed as a member on the Commission if, serving out the full length of the term to which they would be appointed, would result in the person having more than a total of ten years of lifetime service.
- K. **Staff:** The Director of Human Resources shall serve as Director of the Civil Service and provide staff assistance related to employee testing and qualifications; and the City Manager shall assign sufficient support staff and resources to permit the Commission to perform its duties. The City Attorney or an Assistant City Attorney shall serve as counsel to the Commission.
- L. **Rules.**
1. **Public Employees Right to Privacy.** The public interest in public meetings as set forth in the Texas Open Meetings Act ("TOMA") and disclosure of minutes of open meetings as set forth in the Texas Public Information Act ("TPIA") is expressly recognized. However, the employee's rights to privacy under TOMA are also acknowledged. There are limited instances when a public employee may require that a hearing be held in public. The Commission can hear any proceedings in Executive Session as authorized by law. In any proceeding before the Commission which may otherwise be required to be public, the City, or any employee under the jurisdiction of the Commission, may request a closed meeting in chambers to receive legal advice or in conformity with other exceptions in TOMA. After a closed hearing or meeting, the Commission will reconvene in open session and any vote will be made in open session.
  2. The Commission may adopt rules for hearings and meetings that are not inconsistent with this Ordinance, TOMA, and TPIA.
- M. **Power of Subpoena Witnesses.** The Commission shall have the power to subpoena witnesses (excluding members of the City Council), require the

production of evidence, and administer oaths. The Council shall provide, by Ordinance, penalties for contempt for failing or refusing to obey a subpoena, or to produce evidence, and shall have the power to punish any of these acts of contempt in the manner provided in the Ordinance. Costs incident to actions under this section shall be borne by the party requesting the subpoena.

- N. **Civil Suits.** The Commission may prosecute all civil suits necessary for the proper enforcement of this Ordinance and of the Rules of the Commission and defend all civil suits which may be brought against the Commission. The Commission may be represented in such suits by the legal staff of the City. Special Counsel may be employed in the event of conflict with the consent of the City Council.
- O. **Reports.** The Commission shall file with the Council an annual report on:
  - a. Recommendations for promoting efficiency in the public service;
  - b. Details of expenditures made; and
  - c. A summary of the work of the Commission.
- P. **Records.** Records of the Commission will be administered as permitted by the Texas Public Information Act.
- Q. **Non-Discrimination.** All personnel actions must be free of discrimination based on race, religion, color, nation origin, age, sex, or disability.
- R. **Hearing Officers.** The Commission may appoint hearing officers to hear appeals. Hearing officers will perform those duties and functions necessary to render a recommendation to the Commission on the matter in dispute. The hearing officers will serve at the Commission's pleasure, and will not be classified. Reasonable compensation shall be paid by the City, as determined by the Commission, subject to City Council approval. Hearing Officers will be selected by the Commission on the basis of their knowledge, skills, training and experience in the field of labor and employment law. Hearing Officer decisions will be advisory only. However, Hearing Officers will exercise independent judgment, which shall not be subject to the authority of the Commission or City Council.

### III. DIVISION OF THE CIVIL SERVICE

- A. **Division.** All offices and positions of trust or employment in the service of the City are hereby divided into the unclassified and classified services.
- B. **Unclassified Services.** The unclassified service shall include only the following positions:
  - 1. The City Attorney;
  - 2. City Manager;
  - 3. All department heads of the City of Socorro, including the following:
    - a. Human Resources/HR Director;
    - b. Planning Director;
    - c. Public Works Director;
    - d. City Clerk;
    - e. City Engineer;
    - f. Fire Chief;
    - g. Municipal Judge;

- h. Municipal Court Clerk;
  - i. Director of Parks and Recreation;
  - j. Director of Sanitation;
  - k. Director of Community Service; and
  - l. Any new Department Head positions heretofore created by the City Council
4. Hearing officer(s) and the Commission Recorder;
  5. All elected officials;
  6. All members of all City boards, commissions, and committees;
  7. Independent Contractors; and
  8. Employees who hold positions funded or contracted for by State or Federal Grants.
  9. Part time employees, those employees who are regularly employed to work less than thirty (30) hours per week.
  10. Temporary employees.
- C. **Removal of Unclassified Personnel.** Hearing officers and the Commission Recorder may be removed only by a majority vote of the Commission, based on a quorum of five (5). Unclassified employees, with the exception of Department Heads, shall be hired, terminated, disciplined or suspended, with or without pay, by the City Manager. With the consent of the City Council, the City Manager may hire, suspend, with or without pay, for more than three days, demote, reassign or terminate any Department Head. The City Manager shall have the authority without the consent of the City Council to suspend any Department Head, with or without pay, for up to three days.
- D. **Special Procedure Related To Police Chief.** The Chief of Police is a classified employee covered by the Civil Service Rules and Regulations of the City. The Commission shall recommend the selection of the Chief of Police to the Mayor and City Council in conformity with the Socorro City Charter. In view of this unique position the following regulations and procedures shall apply to any Complaint, Appeal or Grievance filed by the Socorro Police Chief;
1. The Complaint shall be governed by these Civil Service Regulations as to the filing and the hearing of the Complaint, Appeal or Grievance; and,
  2. At the conclusion of the hearing regarding the Chief of Police, the Commission shall vote to decide the matter as in any other case, except the Commission's decision will be an advisory decision, which will be submitted to the City Council as a recommendation for final decision by the City Council, either on the record made before the Civil Service Commission or such supplemental or further hearing that the City Council shall choose to conduct.
- E. **Classified Services.** The classified services include all positions not listed in this Article.

#### IV. HUMAN RESOURCES DIRECTOR

- A. **Qualifications.** The Human Resources Director (HR Director) is a regular, department head of the City of Socorro and shall be appointed by the City Manager with the consent of the City Council. The HR Director must have recent, successful experience in personnel administration and be fully knowledgeable of current personnel practices.
- B. **Duties.** The HR Director shall:
1. Direct the personnel functions of the City under the supervision of the City

- Manager and City Council.
2. Attend the regular and special meetings of the Commission and the proceedings before a hearing officer, either in person, or through a qualified representative.
  3. Provide such staff assistance to the Commission as the Commission requests in carrying out its responsibilities.
  4. Maintain the official personnel records of all employees, which shall include, but not be limited to, records of performance and efficiency, increases and decreases in salary, promotions, sick and vacation and other leave and, orders of layoffs and reinstatements.
  5. Provide for, formulate and hold, competitive tests under the direction and supervision of the Commission, to determine the relative qualifications of persons who seek employment in or promotion to any position in the classified services, and as a result thereof, establish eligibility lists. In formulating the questions for examinations, the HR Director will consult with the head of the department and consider the job description for the position as may be appropriate.
  6. Keep such other records as may be necessary for the proper administration of the Civil Service.
  7. Provide and maintain a system for checking payrolls, estimates and accounts for payment of salaries to officers and employees in the classified services. No officer of the City may approve the payment of or be in any manner concerned in paying, auditing or holding a position or office in the classified service unless a payroll, estimate or account for such salary, wage or other compensation containing the names of persons to be paid and a statement that such services have been performed first, has been approved and certified by the HR Director.
  8. Conduct studies concerning the administration and effect of the Civil Service and of the Rules made hereunder and report such finding and recommendations to the Commission and the Council as appropriate.
  9. Make an annual report to the Commission and the City Council.
  10. Perform such other and additional duties as may from time to time be prescribed by the City Manager or the City Council.
  11. Conduct, direct, or supervise post-entry training.
  12. Maintain eligibility lists.
  13. As the Director of the Civil Service, the HR Director is to review all appeals and other hearing requests filed with the Civil Service and notify the Chairman of said filing. The HR Director, after consultation with the Chairman, may dismiss any appeal or other filing where it clearly appears from the information contained in the filing that the matter is not within the Commission's jurisdiction. At the next regular meeting, the HR Director shall provide the Commission with a full report on any matters dismissed under this authority.

## **V. DEPARTMENT HEADS**

Except as specifically provided in the Socorro City Charter the employment, retention, suspension, termination and discipline of all Department Heads within the City of Socorro shall be under the

1180829 <sup>6</sup>

exclusive jurisdiction of the Socorro City Council and the City Manager.

## VI. GRADES AND COMPENSATION

- A. **Classes and Grades.** After consideration of the recommendation of the Commission, the City Council shall arrange all positions and offices into classes, subdivisions, or grades.
- B. **Grade Specifications.** The HR Director will maintain a record of each grade of positions in the classification plan, showing:
1. The applicable title, duties performed, and responsibilities;
  2. The minimum qualifications, required knowledge, skills, and abilities to be required of job applicants;
  3. The standard scale of compensation; and
  4. The official copy of each specification will be endorsed with the date of adoption and the signature of the HR Director and the department head where appropriate. All Amendments to the specifications will be similarly endorsed.
- C. **Specifications Interpreted.** The specifications of classes of positions in the classification plan have the following force and effect:
1. They are descriptive and explanatory and are not restrictive. The use of a particular expression or illustration as to duties, qualification, or other attributes will not be held to exclude others not mentioned, if such others are similar in kind or quality.
  2. When a substantial change of duties is made, or duties are added that are incidental to the main employment, such changes will be reported to the HR Director for the purpose of possible reclassification of the position.
- D. **Classification of New Positions.**
1. New positions may be created only with approval of the Council based on needs demonstrated by the department head concerned.
  2. Whenever a new position is proposed, the department head shall forward to the HR Department a description of the proposed duties and responsibilities of the position along with a proposed job description. The HR Director shall, after a study of the required duties, responsibilities and qualifications of the position, recommend the appropriate grade in the classification plan to which the position should be allocated.
  3. If no appropriate grade exists, a new grade shall be developed by the HR Director, which shall be submitted to the Civil Service Commission for approval, and then to the City Council for adoption.
  4. In determining the classification of a position, consideration shall be given to the general duties and responsibilities of the position, the recommended minimum entrance qualifications, and relationships to other positions.
- E. **Reclassification of Positions.**
1. The Commission or the HR Director may investigate of its own accord, or upon the request of a department head, any change in the duties and responsibilities of a position from those upon which it was originally classified. If it is found that the duties and responsibilities of the position

have changed so significantly that the former classification is a substantially inaccurate description of the current duties and responsibilities, the Commission may request the City Manager to direct the HR Director to place the position in its proper grade. A change in compensation applying to all positions of the same grade will not affect the seniority or other rights of those in the Civil Service. The HR Director may at any time secure from the appointing authority, department heads or employees involved, statements of the duties and responsibilities of the position under review. The comments of the appointing authority, department heads, and employees concerned will be considered before the revised grade is approved. The decision is subject to review by the Commission at the request of any interested party.

2. Whenever the reclassification of a position has been authorized, the Commission, after conferring with the appointing authority and department head concerned and the HR Director, will determine whether:
  - a. the position in the new grade will continue to be held by the incumbent of the reclassified position; or
  - b. is to be filled through a non-competitive or competitive examination.

**F. Review of Classification Plan.** If City Council, under a reclassification of existing positions in the Civil Service, classifies a position at a higher grade than that to which the incumbent was certified as eligible, the Commission may require the incumbent to demonstrate his or her fitness to perform the enlarged duties of the position through a noncompetitive or competitive examination. Failure on such an examination will be cause for the employee to be retained in the position for ninety (90) days while the HR Director undertakes to locate another position at the employee's current grade for which the employee is qualified, and to which he or she may be reinstated in accordance with the order of certification. If the HR Director is unable to locate an appropriate vacancy within the ninety (90)-day period, the employee will be laid off and placed on the appropriate reinstatement list.

**G. Appointment of Former City Employees.** Appointment of former City employees to classified positions shall normally be made at the minimum or first year rate. However, in accordance with this Ordinance, the City Council may permit appointment at a higher rate in cases where the person appointed has previously served in the same or in a similar position as a department head or assistant department head.

## VII. COMPENSATION

### **A. Compensation.**

1. Where graded scales of compensation have been established for positions in the Civil Service, appointment to such positions from either original or promotional eligibility lists will normally be made at the lowest compensation rate. Former department heads or assistant heads may be hired at a rate governed by this Ordinance, subject to approval of the Commission and Council.
2. The salary of a person already in a permanent position in the classified or unclassified service of the City will not be reduced upon entry or promotion to another position in a higher graded class.
3. A transfer from one position to another position in the same grade will not deprive the person transferred of his credit for length of service in the

former position.

4. Advancement from rate to rate within a pay range will be made on the basis of meritorious service and efficiency.
5. Special merit raises may be given to employees by the City Manager for outstanding service if permitted by the City Council. Such raises shall be in addition to the employee's base pay. The employee shall retain the merit raise so long as the employee remains in the Civil Service at the same or a lesser pay grade as the one in which the employee was serving at the time of the merit raise. Should the employee be promoted to a new grade, the base salary, plus the merit raise will be used to equalize the salary in the new grade, and the employee will be advanced one additional step. After the first fiscal year in which the employee receives the merit raise, the percentage amount will be translated into a dollar figure, which will remain with the employee's salary, rather than the percentage increase in the following fiscal years. The amount of any merit increase will be counted as part of the employee's salary for final compensation for pension purposes. Such raises shall be considered only once during the fiscal year, and then only if permitted by the City Council. Such raises shall be given in accordance with the employee's performance of assigned duties, reliability, initiative, responsibility, creativeness, and overall outstanding service as documented and recommended by the employee's supervisor and department head, and approved by the City Manager.
6. Employees are not allowed to work overtime without authorization from proper authority. Employees who work unauthorized overtime will be paid for time worked, but may be appropriately disciplined for insubordination. Supervisors are responsible for ensuring that all over time work is authorized and reported. Exception to preapproved overtime will only be permitted under extraordinary circumstances. The supervisor (or proper authority) may adjust the employee's work hours by requiring the employee to take time off work, so that the employee works 40 hours during the workweek.

**B. Compensation Reduction.** The Council has no power to reduce the pay of any City employee or group of employees, except when such reduction is necessary to equalize the pay, according to the provisions of the classification and compensation plans, or for reasons of economy. If a pay reduction is for reasons of economy or pay equalization, it must be uniform throughout the classified service.

**C. Compensation Changes.**

1. The wages and salaries of all persons in the Civil Service will be reduced by the same percentage whenever the budget set by the Council for all wages and salaries is less than that normally required by the classification and compensation plans.
2. Except for reclassification, pay increases necessary to maintain competitive pay scales in departments, merit increases or similar circumstances, general increases in wages and salaries will be applied uniformly to all persons in the Civil Service.

**D. Salary Standardization.** Grades for classes of positions having substantially similar requirements as to duties, authority, responsibility, training, and experience must be uniform for all civil service positions. Payment of different rates within grades must be based only on factors of longevity, merit increases, step increases, and shift differentials.

**E. Transfer to Same Grade.** Whenever an employee in any department of the City is transferred to a position in another department, the employee shall retain his

grade and step, provided:

1. The position is the same grade as the one from which transfer is made; and
2. The employee has been performing services substantially similar in nature and having similar requirements as to training and experience to those of the new position, as determined by the HR Director, subject to review by the Commission. Seniority credit where applicable will be given to the employee for the number of years he/she has been performing similar work in the former department.

## VIII. ORDER OF CERTIFICATION

A. **Order of Certification.** Upon receipt of a requisition from an appointing officer to fill a vacancy, the HR Director shall certify the names of qualified eligibles. Except as otherwise provided in this Article, that certification shall be in accordance with the following order of certification of those persons who are:

1. Incapacitated from performing their position, but fully qualified to perform the essential duties and functions of the open position;
2. Separated, without fault or delinquency on their part, within ninety (90) days of the date of the requisition, from positions in the same department in which a vacancy exists, excluding those who have resigned;
3. Separated, without fault or delinquency on their part within ninety (90) days of the date of the requisition, excluding those who have resigned, and who are being reinstated to a position of the same job description as their former position, but not in the same department;
4. On a promotional list;
5. On a reinstatement list and who were not formerly employed in the same department within ninety (90) days of the date of the requisition, excluding those who have resigned;
6. On a reinstatement list as a result of resignation in good standing within ninety (90) days of the date of the requisition, and who are being reinstated to a position of the same job description from which they resigned;
7. On a transfer; and
8. On an original entrance list.

B. **Rule of Three.** Upon receipt of a requisition to fill a vacancy, names of the three (3) highest scoring on the eligibility list shall be certified for one (1) vacancy, and one (1) additional name (the next highest) for each additional vacancy shall be certified, except in cases where a reinstatement is being made.

In cases where there are fewer than three names on the proper eligibility list, the HR Director may certify names from the next lower list(s) until three names are certified. In making certification from promotional lists, however, the City Council, in accordance with Ordinance, may direct that those persons serving in the department in which the vacancy exists, be certified in preference to persons on the same list serving in other departments, if it appears that this would improve the efficiency of the department.

C. **Other Provisions.**

1. **Certification from Lower Grade.** When an employee is eligible for appointment to a position, but there is no vacancy in that position, the employee may be certified to an appropriate lower grade position. Appointment to a lower grade position establishes the employee in that position provisionally. If a vacancy occurs in the higher grade position, while

- the employee is in good standing on the eligibility list, the employee may be appointed to that position in accordance with the order of certification.
2. **Certification to More Than One Vacancy.** Where certification has been made to more than one (1) vacancy, the relative seniority of those appointed will be determined by procedures established in this Ordinance.
  3. **Positions Vacant Through Leaves of Absence.** Any position made vacant by temporary leave of an employee may be filled temporarily only. Persons who are temporarily employed to take place of employees on leave will take their original place on the eligibility list upon termination of the leave, provided the individual is in good standing at that time.
  4. **Waiver.** The City Council will permit persons on eligibility list to waive certification, reinstatement, or appointment three (3) times. Requests for waivers for appointment must be filed with the HR Director within two (2) working days from the date of certification; and, if approved, the name of the eligible may not be certified until the waiver has been withdrawn or expires. Waivers, whether continuous or otherwise, may not be permitted for a period of longer than one (1) year. The names of persons on eligibility lists will be removed after three (3) waivers.
  5. **Requisition.** To initiate the employment of any classified employee, the appointing officer will submit a requisition to the HR Director to fill all vacancies. Requisitions will be made on a form prescribed by the HR Director in making a proper certification.
  6. **Certification.** The HR Director will certify to the appointing officer upon receipt of a requisition, the names, and addresses of eligibles in the order outlined below. The names of the three (3) highest scoring individuals on the eligibility list will be certified for the first vacancy, and one (1) additional name (with the next highest score) for each additional vacancy in all cases, except those where a reinstatement under the provision of this Ordinance, is being made. (The term "reinstatement" as here used does not include certification from an examination list, even though a person so certified may have been formerly employed, and in every case where certification is made from an original examination list, the ordinary rule of certification of three (3) for one (1) vacancy and one (1) name for each additional vacancy, will be followed). The order of certification will be:
    - a. First, persons who are incapacitated from performing the duties of their position, but fully qualified to perform the essential duties and functions of the open position;
    - b. Second, persons separated without fault or delinquency on their part, from positions in the same department in which a vacancy exists (within ninety [90] days of the date of the requisition), excluding those who have resigned. Whenever any position or office is vacant and the name of the former incumbent of that position or office is on a reinstatement list (who has been separated from employment with the City for less than ninety [90] days), excluding those who have resigned, the name of the former incumbent only will be certified for the position or office. The employee or officer so appointed will not be required to pass a probationary test or period of service. He will receive the salary fixed for the position or office at the time of reinstatement, and will hold the same seniority status as though he had not been separated from the position or office;
    - c. Third, persons separated, without fault or delinquency on their part

(within ninety [90] days of the date of the requisition), excluding those who have resigned, and who are being reinstated to a position of the same job description as their former position, but not in the same department;

- d. Fourth, persons on a promotional list;
  - e. Fifth, persons on a reinstatement list who were not formerly employed in the same department (within ninety [90] days of the date of the requisition), and who are being reinstated to a position of a different but similar job description as their former position, excluding those who have resigned;
  - f. Sixth, persons on a reinstatement list as a result of resignation in good standing (within ninety [90] days of the date of the requisition) and who are being reinstated to a position of the same job description from which they resigned;
  - g. Seventh, persons for whom a transfer from one department to another has been approved under the rules governing transfers;
  - h. Eighth, persons standing on original entrance lists. When there are no persons eligible under paragraphs "A" through "G" above, names are to be certified from the original entrance list up to the number required by this Ordinance.
7. **Certification of Multiple Vacancies.** If more than one vacancy exists for a given position, the order of certification shall conform to a first choice from the first three (3) eligible for appointment (i.e., the second (2nd), third (3rd), and fourth (4<sup>th</sup>) names on the appropriate eligibility list), and so on until the complete number of appointments has been made.
8. **Failure to Respond to Offer of Appointment.** The failure of an eligible person to report to the appointing officer within six (6) working days from the date of mailing of notice of appointment, or within two (2) working days of the date of sending the notice by special messenger or electronic mail to the last address shown on the records of the HR Director, will be considered sufficient cause for removal of the name of the person from an eligibility list. If the person declines or does not respond to the notice properly sent, certification of the name of the eligible name next in order on the list will be made.
9. **Objection by Appointing Officer.** The appointing officer will make a selection from the eligibility list solely on the basis of merit and fitness. If he or she has information regarding any person certified tending to show that the person is unfit for the position to be filled, he or she will communicate that information, in writing, to the HR Director and the Commission. Such information may relate to disqualification.
- a. Because of which the Commission might have refused to examine the applicant as set forth below, or
  - b. Which may have arisen subsequent to the filing of the application and holding of the examination
- In every such case the Commission will enter its findings in the record. The Commission will withdraw from the certification the name of any eligible whom it finds to be not qualified for the position under consideration, and will certify an additional name for each eligible so withdrawn. The Commission will also determine in each such case whether there is sufficient cause to remove the name of the person affected from the eligibility list, and if so, withdraw it.
10. **Limit on Certification.** The HR Director will permit persons on eligibility

lists to waive certification, reinstatement, or appointment three (3) times. Certification for temporary appointment will not be counted as one of such certifications

11. **Cancellation of Certifications.** At any time after an eligible person has been certified by the Commission at the request of an appointing officer, and the appointing officer decides not to fill the vacancy, or decides to fill the vacancy by other methods, which meet with the approval of the Commission and are in accordance with the provisions of this Ordinance, the certification will be canceled, the eligible persons so notified, and entry made on the record by the HR Director
12. **Notice of Appointment and Separation.** Each appointing officer will immediately notify the HR Director of all appointments in a manner prescribed by the HR Director, in each case giving the name of the appointee, his or her address, the title of his position, the compensation grade, and date of commencement of service and salary or compensation. He or she will also notify the HR Director immediately of any separation of a person from the service or any other change therein, and such additional information as the HR Director may, from time to time require, in order to maintain the list of employees in the Civil Service.

## IX. APPOINTMENTS

- A. **Regular Appointments.** The HR Director will transmit the certification list to the City Manager who will appoint a person or persons from the list to fill the applicable vacancies to which the list applies.
- B. **Provisional Appointments.** With approval of the City Manager, provisional appointments may be made upon receipt of a request to fill a vacancy for which no reinstatement or other eligibility list exists or to which, after certification of names on the lists, no one responds or will accept appointment. Any person so appointed must meet the minimum qualifications established for the position. Under no condition may a newly created position be filled by a provisional appointment. No person may receive more than one (1) provisional appointment in any twelve (12) months. Provisional appointment will be effective only until a regular appointment is made from a certification list. In no case may a provisional appointment exceed six (6) months. Provisional appointments may be made in accordance with this Ordinance provided that as soon as an eligibility list is secured for a position filled by provisional appointment, the HR Director will certify to the appointing officer the names of the eligibles standing highest on the list, and the appointing officer will make a regular appointment within fourteen (14) working days of the date of the certification. If no appointment is made, the provisional appointment will terminate at the expiration of the six (6)-month period provided in this Ordinance.
- C. **Temporary Appointments.** When services to be rendered are of a temporary character, a temporary appointment may be made by the City Manager from one (1) of the first three (3) persons on a certification list who is willing to accept the appointment. The person appointed will retain all rights to certification for full-time appointment as though no temporary appointment had been made. If it is not practicable to make a temporary appointment from a certification list, the City Manager may authorize the employment of a noneligible until regular appointment can be made. The duration of temporary appointment may not exceed six (6) months and is subject to reappointment. Temporary appointments may be made in accordance with this Ordinance, provided that any non-eligible person so appointed must possess the minimum qualifications required for the position as described and set forth in the classification plan. A provisional or temporary appointment will not confer upon the appointee any privileges of promotion, transfer, or reinstatement to any other position in the service.
- D. **Temporary Appointment Made Regular.** The appointment of any person temporarily serving may be made full-time, provided conditions set forth are met. Any person who has been appointed temporarily from the appropriate eligibility list, and who at the time of the appointment was one of the top three (3) eligibles, willing to accept the appointment under the conditions stated, may, in case the position is made full-time, be permanently appointed in the position. This appointment is authorized regardless of the number of higher eligibles willing to accept full-time appointment but only:
1. On approval by the City Manager;

2. If it is shown to the City Manager's satisfaction that the fact that the position would become full-time was not known to the appointing officer at the time the temporary appointment was made; and
  3. If the eligibility list from which the temporary appointment was made is, or was, the most appropriate eligibility list for such full-time appointment.
- E. **Notice of Certification.** The HR Director will send a notice of certification of a person's name for reinstatement or appointment to him or her at his or her last address that is on file with the HR Department.
- F. **Nepotism.** It is the duty of every appointing officer to inquire of all prospective appointees whether a relationship or kinship as defined in this Ordinance and the City Charter exists, and to report to the HR Director the existence of such a relationship. The HR Director shall refuse to certify the salary of any person appointed without compliance with these provisions.
- G. **Independent Contractors.** As an exception to the order of certification, independent contracts may be made, with approval of Council where, for reasons of economy, efficiency, or immediate and temporary need, it is necessary to contract with persons outside the Civil Service. The reasons shall be limited to a need for:
1. Temporary service, in which case the contract may not exceed one (1) year, and may not be renewed or extended;
  2. Professional services; or
  3. Personal services; or
  4. Any other service contracts authorized in this Ordinance.
- In order for any independent contracts to be made outside the Civil Service, it must be shown to the City Council that such contracts are only for the reasons of economy, efficiency, or immediate and temporary need. No such contract will be approved by the City Council if it is determined that such contract is being made for the purpose of circumventing the Civil Service provisions of this Ordinance.

The following definitions will apply:

1. Independent Contractor shall be defined as one who, exercising an independent employment, contracts to do a piece of work according to his or her own methods and without being subject to the control of the employer except as to the result of his or her work.
  2. Professional services shall be defined as those in which the labor and skill required are predominantly mental or intellectual rather than physical or manual, and are those which require years of education and experience in order to obtain competence, and those professions having standards of study that are widely recognized.
  3. Personal services shall be defined as those in which the contract price is largely for employee wages rather than for machinery, profit, taxes, insurance, and other items.
- H. **Reappointment to Temporary Employment.** Any person who has been appointed to a temporary position from an eligibility list, being one of the three (3) persons highest on the list willing to accept appointment at this time, may be reappointed to another temporary position, provided such reappointment is requested by the department head and approved by the City Manager.

## X. APPLICATIONS

- A. **Filing of Applications.** Applicants for all positions, except those in the common labor service, must file an application with the Human Resources Department not later than the date specified in the announcement for the examination and in the manner prescribed in the job announcement. Under no circumstances will application forms of any examination be distributed after the close of the filing period:

1. The HR Director will fix the limits of time within which applications for a given examination must be presented, but such period will in no case be less than ten working days.
2. Any false statement knowingly made by an applicant in his or her application for admission to any examination, or made at his or her request, or with his or her knowledge in any certificate which may accompany his or her application, or any other fraudulent conduct will be sufficient grounds to:
  - a. Exclude him or her from such examination, or;
  - b. Remove his or her name from any register or eligibility list, or;
  - c. Remove him or her permanently from his or her position if he or she has secured appointment from such examination.

Any applicant who knowingly falsifies his or her application will be ineligible to apply for any City position for a period of three (3) years from the date the falsified application was submitted. Additionally, that person's name will be removed from any eligibility list on which it currently appeals.

3. In case of applicants for positions, the duties of which require special qualifications, the HR Director will require evidence of a sufficient degree of education, training, or experience. He or she may also demand such certificates of competency or licenses as the law may require for the practice of the profession, art or trade involved.
4. The HR Director, subject to appeal to the Commission, will refuse to examine an applicant, or after examination to certify him or her as ineligible, and will remove Applicant's name from the eligibility list for any of the following reasons, in each case to be fully documented:
  - a. Applicant is found to lack any of the preliminary requirements established in the classification for the position and grade for which he or she applies; or
  - b. Applicant is unable physically or mentally to perform the duties of the position to which he or she seeks appointment; or
  - c. Applicant has been convicted of a felony, or a misdemeanor involving moral turpitude, which is determined to be job related to the position sought; or
  - d. Applicant has been dismissed from public service for delinquency or misconduct, which is determined to be job related to the position sought; or
  - e. Applicant if found to have committed any act, either while in

the service of the City, or otherwise, or to have any deficiency or disqualification which, would be sufficient to constitute a just cause for discharge from the Civil Service as defined in this Ordinance.

5. A person may at any time leave on file with the HR Director, his or her name and mailing address and the name of the position for which he or she wishes to take an examination. Such application will remain on file for a period of one (1) year. The HR Director will send notice of the date of the examinations to persons who have so filed such notice to be sent, if possible at least ten (10) working days prior to examination.
- B. **Applications Not to be Returned.** Applications filed with the City will become the property of the City, and under no circumstances will they be returned to applicants or be altered or revised.
- C. **Unused Application.** Applications for one (1) examination will not be used for any other or later examination.
- D. **Disqualification From Examination.** Applicants who are disqualified from taking an examination for any of the above reasons and who wish to file an appeal must do so within eight (8) calendar days after the mailing of such notice of disqualification. Such appeals will be forwarded to the Commission for its review and determination. Untimely appeals will not be accepted. If the examination is held before the appeal is heard and determined, the HR Director may allow the applicant to take the examination conditionally pending a Commission determination. In such cases, the applicant will have no examination review rights unless the Commission rules in the applicant's favor.
  1. **Fees.** No fees will be charged in any examination..
  2. **Age.** Appointment to any position in the classified service shall be made without discrimination based on age, except where age constitutes a "bona fide occupational qualification." Age limits for classes of positions will be established by the City's employment policies.

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

## **XI ORIGINAL ENTRANCE EXAMINATIONS AND ELIGIBILITY LISTS**

- A. **Residence Preference.** Preference will be given to all original entrants who reside within the City. The Commission may make exceptions, either full-time or temporary, because of particular job-related circumstances.
- B. **Examination Standards.** Whenever necessary, the City Council shall hold original, competitive entrance examinations for positions in the classified service. Examinations will be held only after due notice, as defined in this Ordinance. Persons attaining at least the minimum rating required for the examination shall

be placed on an eligibility list in the related order of scores achieved. Tests shall be confined to subjects which will determine fairly the capacity of the persons examined to perform the duties of the position to which appointment is to be made. When it is not practicable to give examinations (as in the case of labor positions which do not require any specialized knowledge, skills and abilities), priority in filing applications will establish priority of standing on the eligibility list.

No question in any examination will relate to the applicant's religion or political affiliation. Subject to review by the Commission, the HR Director may refuse to examine or to certify an applicant judged disqualified for any just reason, as delineated in this Ordinance.

- C.** **Penalty For Deceit In Examination.** An applicant in any examination who uses or attempts to use any unfair or deceitful means to pass the examination shall be excluded from further participation in the examination, and will not be eligible to reapply for any employment with the City of Socorro for three (3) years.
- D.** **Medical and Physical Examinations.** All applicants for classified positions must meet any physical requirements to be set in the classification manual, or required by the City's employment policies.
- E.** **Oral Examination and Practical Tests.** The HR Director in consultation with the Department head involved may include oral examinations or performance tests of fitness, as appropriate for the position involved.
- F.** **Police Investigations.** All applicants for examination or for employment must agree to participate in identification procedures and provide information, for purposes of background investigation, to the Human Resources Director. Refusal to comply with this section will result in rejection of the application.
- G.** **Eligibility Lists.** Eligibility lists will be compiled and maintained by the Human Resources Director. They will be in force for at least one (1) year, and removal from eligibility lists will be governed by this Ordinance.
- H.** **Consolidation of Eligibility Lists.** When there are names on an eligibility list for a position for which a new list is approved, the lists will be consolidated and all names will be placed on the consolidated list. Those persons who are named on the first list, who have not taken the new examination, will have their names removed from the consolidated list on the cancellation or expiration of the earlier list.
- I.** **Removal From Eligibility List On Account Of Nonappointment.** The Human Resources Director must remove the name of any eligible person from the list who:

  - 1. Refuses regular appointment three (3) times after an offer of employment is made, or, who is not accepted for appointment after certification to any position three (3) times;
  - 2. No longer fulfills the requirements for the position; or
  - 3. Is appointed from a higher list.

## **XII. EXAMINATION, MARKING AND RATING**

- A.** **Minimum Rating Required.** The method of determining passing scores in each

part of an examination will be determined by the HR Director and approved by the Commission. The method of scoring and grading tests will be objective and applied uniformly to all candidates. Where an examination consists of two or more parts, the HR Director may set minimum scores to be required in any part of the examination. An applicant who fails to attain this minimum score will be considered to have failed the entire examination and will not be entitled to take the balance of the examination. The HR Director shall establish a passing score on an examination for professional and technical positions (from a listing of same to be established by the Commission) at seventy-five (75%) percent. Minimum passing scores may be established for each component where an examination consists of more than one component and such scores shall be published in the notice concerning the examination.

Any applicant who has failed an examination for a position within one (1) year of the date of the failure will not be allowed to retake an examination for the same position, unless he or she can demonstrate to the Commission that he or she has acquired new skills or knowledge related to the position.

**B. Special Credit for Veterans.**

1. Veterans of any of the wars or other armed conflicts of the United States, including the Coast Guard, who are otherwise qualified, who have obtained a passing score on an original entrance examination, and who present an honorable discharge from military service, will have their ratings in the examination advanced five (5) points. A veteran is defined as any person who has served on active duty in the Armed Forces of the United States, or any division thereof, including the Coast Guard, in time of war or armed conflict for a period of 180 days and has been separated under honorable conditions from said service.

**C. Penalty for Deceit in Examination.** Where deceit in an examination is alleged, and the applicant denies the fact of deceit, or if the examiner in charge of the examination believes extenuating circumstances exist, the applicant will be permitted to finish the examination, and a full report shall be submitted immediately to the HR Director, who shall forward it to the Commission along with comments and recommendations. The applicant will be given an opportunity to be heard. Should the Commission find the applicant guilty of deceitful conduct in connection with the examination, it may either cancel the examination papers of the applicant, or may reduce the examination score,

**D. Tie Ratings.** In case two or more persons receive the same rating after the addition of seniority efficiency credits, the resulting tie will be resolved by application, in succession, of the following procedure:

1. If the persons tied are already in the classified service, the one having the greatest seniority in the City service will have precedence on the list,
2. If two (2) or more tied persons have the same seniority, the one among this group with the highest overall efficiency rating in the last two (2) efficiency reports for each will have precedence.
3. If the persons tied are not in the classified service or if a tie still exists after using paragraphs 1 and 2 above, the tied person who has been a resident of Socorro for the greatest continuous length of time immediately

- preceding the examination, shall have precedence.
4. If the persons tied are not in the classified service or if a tie still exists after using paragraphs 1, 2 and 3 above, the tie shall be broken by drawing lots.
- E. **Notice to Candidate of Result of Examination.** Each candidate will be notified of the rating he has received, and, if such rating is above the required minimum, he or she shall be given his or her comparative standing. Any candidate who, though admitted to the examination, has been rejected for reasons other than failure to receive a rating above the required minimum will likewise be notified of the reasons for rejection.
- F. **Preservation of Examination Papers.** Examination papers of each examination shall be preserved for at least the length of the life of the resulting eligibility lists. The examination papers written by an applicant certified for appointment will be open to the inspection of the appointing officer during such time as the papers are on file with the HR Director.
- G. **Identification Marks.** Any competitor in a written examination who places any form of identification mark upon his examination answer sheets will be deprived of all benefits under such examination. No written examination answer sheets having identification marks will be marked or graded. The following are some, but not all, of the examples of marks of identification within the meaning of this section:
1. The real name or address of the applicant;
  2. Any assumed or fictitious name or address;
  3. Names of individuals or firms;
  4. Any initials, lines, signs, marks, or characters that may indicate the identity of the applicant
- H. **Review of Examination and Appeals.**
1. An examinee will be allowed to file a written appeal from any portion of a written examination. Such appeal should contain specific points or objection to specific questions, actions, or procedures. The HR Director will schedule one (1), one (1) hour protest period, for such appeals to be filed, at the convenience of the HR Department on the date of the examination, or, during the five (5) consecutive working days following the administration of the written examination. The protest schedule will depend on the size of the applicant group, and the availability of space and personnel staff. Several sessions may be scheduled, if necessary, to handle large groups. However, each individual will be allowed to attend only one (1) session. The time of such protest period will be announced prior to, or at the time of the written examination.
  2. During the one (1)-hour period, the following materials will be available to examinees: unmarked test booklet, correct answers to questions, and protest forms. Examinees may bring their own reference materials. At the end of one (1) hour, all protests must be turned in to the Human Resource Department staff. No protests regarding the examination will be accepted after this time. Any individuals attending such session may write down the number of the test questions protested, and remove such written

- notations from the testing room. No other notes or papers shall be carried out by any individual attending such a session.
3. If the HR Director finds that any of the objections are justifiable due solely to clerical or other errors, he or she may make appropriate corrections in scores, subject to the right of appeal by the examinee to the Commission. The HR Director will make a written report to the Commission on any clerical changes made during such a protest period.
  4. Commencing the sixth (6<sup>th</sup>) day after the date of the written examination, the HR Director will make available to the examinees scored answer sheets, a scoring key, and a written disposition of appealed items. Such information will be available to the examinees for five (5) days thereafter, during regularly scheduled work hours.

### XIII. ORIGINAL ENTRANCE EXAMINATIONS

- A. Character.** All examinations will be job-related and consist only of subjects which will fairly test the relative capacity of the person examined to discharge the particular duties of the grade to which appointment is sought.
- B. Content.** Examinations held to establish an eligibility list for any grade will consist of one (1) or more of the following components as determined by the HR Director subject to the review of the Commission.
  1. **Written Test.** The written part, when required, will include a written demonstration designed to show the familiarity of competitors with the knowledge involved in the grade of positions to which they seek appointment, their ability in the use of English (where job related), the range of their general information, or their general education attainments. An essay upon one (1) or more subjects may be required, if advisable.
  2. **Oral Interview.** The oral interview, when required, will include personal interviews with the competitors for classes of positions where ability to deal with others, to meet the public, or other special personal qualifications or verification of special technical or professional knowledge are involved. Normally, such interviews will be given only to the upper group of candidates as ranked by previous examination components.
  3. **Performance Test.** The performance test, when required, will include tests to measure the skill or ability of competitors to perform the work involved.
  4. **Physical Test.** The physical test, when required, will consist of tests of bodily condition, muscular strength, ability and the general physical fitness of competitors. The results either may be given a weight in the total examination, or may be used to exclude from further examination applicants who do not achieve the minimum required physical standards.
  5. **Psychological Tests.** The psychological test, when required, will include tests to determine mental alertness, the general capacity of applicants to adjust their thinking to new problems and conditions, or to ascertain their special character traits and aptitudes related to the job to be performed.

6. **Training and Experience.** An evaluation of training and experience, when required, will be based on the statements of education and experience contained in the application form or such supplementary data as may be required by the HR Director. The HR Director may investigate the truth of any statements by the applicant as to training and experience. If any such statement is false, the HR Director shall recommend to the Commission appropriate action as governed by this Ordinance.
- C. Subject and Weights.** The HR Director, after consulting the Department head involved, will determine subjects to be included in the examination and the weights to be ascribed each. The weights will represent reasonably the value of the associated subject in ascertaining the fitness of the applicants being examined.
- D. Special Examiners.** The HR Director may use other persons, qualified in a particular field, to prepare, conduct, or mark an examination.
- E. Medical Examinations.** All eligibles for employment in the Civil Service may be required to pass a medical examination before physicians designated for such purpose by the Human Resources Director to determine their physical and/or mental fitness for the position for which they are applying
- F. Notice of New Examination.** A circular of information stating the date, time and place of examination, age, residence, and other qualifications or limitations, definition of duties, salary schedules, and such other data as may be desirable will be prepared by the HR Director and will be available for review to every person who applies for the position. He or she will also publish this information in a newspaper of general circulation at least once a week of two (2) consecutive weeks and will post the information on the official public bulletin board at City Hall.
- G. Notice to Persons on Eligibility Lists of New Examinations.** When a new examination is called for a position for which there is an inadequate eligibility list, the persons whose names are on the existing eligibility list will be notified by the HR Director and given the opportunity to take the new examination for the purpose of establishing their names on the new eligibility list and raising their grades. Such persons' places on the eligibility list will be determined by the higher rating received in either examination.
- H. Postponement or Continuance of Examination.** Whenever it appears to the HR Director, by reason of the small number of applicants for any examination, that such examination has not been given sufficient publicity, or for any other good and sufficient reason, he or she may postpone the examination to a later date, or cancel it. A postponement which does not exceed sixty (60) days, will not necessitate readvertisement; but all persons who have applied will be notified of the postponement by the Director in writing and will be further notified of the time at which they are to appear for such examination.
- I. Development and Administration of Examination.** Every examination will be under the responsible direction of the HR Director. The HR Director will make periodic reports and recommendation to the Commission on testing procedures. The Commission may review at any time all examination procedures developed by the Human Resources Department.
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- J.** **Concealing Identity on Written Examinations.** On the date of formal written examination the identification sheets of the candidates will be sealed and the identity of each will remain concealed until the papers have been graded. When specified ratings have been required in one or more subjects prior to the completion of the examination, the identification envelopes may be opened on the establishment of such ratings in order to notify applicants to appear for the remainder of the examination. The identity of the candidates completing the examination will be concealed again in the above manner.

#### **XIV. PROMOTION**

- A.** **Examination.** Promotion to any position in the Civil Service shall be by examination weighed by seniority and performance record, except as otherwise provided in this Ordinance. Examination standards shall be as described herein. Promotional examinations shall be held whenever a vacancy or anticipated vacancy exists for which there is no reinstatement or appropriate promotional list, unless the Commission and the City Manager determine that it is not reasonably possible to do so. Examinations may also be held when fewer than three (3) eligibles are available on a current list, if requested by the department head or appointing authority.
- B.** **Eligibility.** A person will be eligible for promotion following successful completion of the initial probationary period and after meeting any criteria established in this Ordinance
1. A person is eligible to take promotional examinations after actual service in a full-time position for six (6) months and upon fulfilling the qualifications for the grade as specified in the job description.
  2. Employees who are on probation in positions to which they were recently promoted will not be allowed to take promotional examinations, unless completion of the probationary period is not necessary for the employee to meet the minimum experience requirements of the promotional position.
  3. Persons on leave or on reinstatement lists, if otherwise qualified, are eligible to take promotional examinations.
  4. Persons holding appointment in a regular, full-time position in the Civil Service will not, while holding such appointment, be permitted to participate in any subsequent examination held for other positions within the same grade. Any examination standing secured in violation of this section will be void. No person may be an appointee in a full-time position in one (1) grade in the Civil Service and at the same time be eligible for another position in the same grade. Such applicants will be rejected.
  5. No person may take a promotional examination if he or she cannot physically perform the essential duties of the position to which he or she seeks promotion.
  6. No employee who is demoted for disciplinary reasons is eligible for any promotional examination within two (2) years of the effective date of his or her demotion.
  7. Any employee who is removed or who resigns during his or her

probationary period is ineligible to take any Civil Service examination for a period of two (2) years from the date of removal or resignation. This provision may be waived by the Commission if in its judgment the cause of the removal or resignation will not affect the employee's usefulness in some other position.

- C. **Rating of Seniority.** The credit given for seniority is as follows: One-half (1/2) point will be added to the score of an applicant for each of the first (1<sup>st</sup>) four (4) complete years of continuous service in a full-time Civil Service position, to a maximum of two (2) points; except, as provided in this Ordinance, and provided that the minimum passing grade is achieved on the examination or evaluation. Seniority will be computed from the date of the person's last promotion and to the date of the examination. If the employee has never received a promotion, seniority will be computed from the date of appointment to the position from which promotion is sought.

## XV. SPECIAL PROVISIONS

- A. **Probation Period.** All persons employed by the City of Socorro will be on probation for a period of six (6) months of actual continuous service, except the probationary period for Police Department employees will be twelve (12) months of actual continuous service. Promoted employees whose probationary appointment is not made full-time will be reinstated in their former positions
- B. **Impact of Staff Reductions.** The HR Director is authorized and directed, subject to approval by the City Council, to establish systems for reducing the impact on the Civil Service of Staff reductions caused by operating economies:
- C. **Nepotism Prohibited.** Except in the case in which an appointing officer appoints the highest scoring individual certified from a promotional or original entrance eligibility list, or from a reinstatement list involving the appointment of a former incumbent, no person may be appointed to or reinstated in any classified position who, at the time of appointment or reinstatement, is related in the first (1<sup>st</sup>) or second (2<sup>nd</sup>) degree of consanguinity or in the first (1<sup>st</sup>) or second (2<sup>nd</sup>) degree of affinity, to the City Manager, the appointing officer, the HR Director, or the direct superior of the position being considered. Kinship to members of the City Council shall be governed by the terms of the City Charter.
- D. **Governing Provisions.** The provisions governing the character and content of examinations set forth previously herein above will also apply to promotional examinations.
- E. **Frequency and Examination.** Promotional examinations will be given whenever needed to fill a vacancy for which an adequate promotional list does not exist, or when a request is received to fill a vacancy and a promotional examination has not been offered for the grade within the past year. More frequent testing will be held by the HR Department for those classes which have been shown to have a high or moderate demand, whether or not a requisition is received or a vacancy occurs. Unless the Commission finds that the needs of the City would be otherwise better met, an original and promotional examination will be given simultaneously.

- F. **Notice of Examination.** Notice of promotional examinations will be posted by the HR Director for at least ten (10) working days prior to the examination on the official bulletin board in City Hall and in such other City buildings as are appropriate to ensure that all employees are fully informed. The notice will give the date, time and place of the examination and the minimum qualifications of the position.
- G. **Application for Promotional Examination.** Each eligible who cares to compete for promotion must fill out the prescribed application for promotional examination, and file this application at the office of the HR Director on or before the closing date specified in the announcement of the examination. The eligible must be able to read and write, and must fill in his or her own application, unless the HR Director after consulting the Department head involved, determines that such abilities are not necessary to the performance of the duties of the higher position.
- H. **Promotion Within Department.** Promotional examinations will be open to all persons properly qualified, without regard to the department in which they are serving. In making certification from promotional lists, however, the HR Director may direct that those persons on the promotional lists who are serving in the department or other organization in which the vacancy to be filled exists, be certified in preference to persons on the same lists serving in other departments or organizations, if it appears that the efficiency of the service would be improved thereby, in accordance with this Ordinance. In making certification from promotional lists wherein the department head wishes to appoint the top ranking eligible serving in the same department in preference to others on the promotional list, the department head will first interview the top three (3) candidates on the promotional eligibility list, to ensure that the efficiency of the service would be improved by preferential certification of the person serving in the same department.
- I. **Promotion Following Creation of Higher Position With Overlapping Duties.** Whenever a new and higher position is created having substantially the same duties as one already existing, the incumbent of the old position, whether abolished or not, may be appointed to the new position without examination. It must be shown to the satisfaction of the Commission that the person is performing the duties of the position satisfactorily, and the additional duties were not assigned to the person for the purpose of evading the necessity of a competitive examination.
- J. **Promotion After Reclassification.** Where a position has been formally reclassified because of additional duties and responsibilities, or to correct an error in classification, the incumbent of the former position may be promoted or appointed without examination, upon request of the proper appointing officer. It must be shown to the satisfaction of the Commission that the person for whom promotion or appointment is requested has fully performed the additional duties and assumed the responsibilities on account of which reclassification was allowed, and is fully qualified to fill the higher grade position. It must further be shown to the satisfaction of the Commission that the additional duties were not assigned to the person for the purpose of evading the appointment to a position by

competitive examination, and the necessity for the creation of the higher position has been established.

- K. **Temporary Promotions.** An interim or temporary promotion to a higher position made necessary by reason of sickness, disability or other absence of a regular employee for at least thirty (30) days, may be authorized by the City Manager, without examination upon written request of the department head, who will set forth full information regarding such request. All such temporary promotions will continue only during the period of sickness or disability. In no event will such temporary appointment be effective for longer than six (6) months without a new request being made by the appointing officer and approved by the Commission. An individual appointed in this manner must meet the minimum qualifications for the position to which promotion is being made. Such promotions are limited to individuals within the same department from which the temporary absence exists. If a promotional list exists for the position, the appointing authority should give first (1<sup>st</sup>) consideration to persons within the department who are on such list

## XVI. ELIGIBILITY LISTS

- A. **Duration of Eligibility Lists.** Eligibility lists, other than reinstatement lists, will expire automatically one (1) year from the date they are certified unless extended by the Commission prior to the expiration date.
- B. **Change of Address.** Each person on an eligibility list will file with the HR Director written notice of any change of address, and failure to do so may cause his or her name to be removed from the list after notification has been attempted and subject to appeal to the Commission.
- C. **Impact of Changes.** Changes of rank, or addition or subtraction of names, made on lists of eligibles because of clerical errors or re-ratings, will not change the date of the adoption of such lists nor give any persons the right to claim any beginning date of eligibility other than the date of the adoption of the original eligibility list that created their eligibility.
- D. **Revocation of List.** An eligibility list, other than a reinstatement list, may be revoked and another examination ordered only when in the judgment of the Commission such action is deemed advisable because of errors, fraud, or inappropriate standards prescribed in connection with an examination. All competitors in the first (1st) examination will be given an opportunity to compete; and new eligibility list will be established except in the case of inappropriate minimum qualifications, in which event only competitors in the first (1st) examination who meet the new qualifications may be tested. No eligibility list will be altered or revoked except upon written notice to all persons whose standing may be affected.
- E. **Removal From Eligibility List Through Loss of Qualifications.** The name of any eligible who no longer fulfills any preliminary requirement required at the time of examination (such as residence or the possession of a license or certification) will be removed from eligibility lists by the HR Director.
- F. **Removal From The Promotional List Of Persons Permanently Separated**

**From Service.** The names of persons permanently separated from the service on account of resignation, discharge or other cause will be removed from all promotional lists by the HR Director.

**G. Removal From Lower List if Appointed From Higher List.** A person whose name is on lists of different grades or lists with different salary schedules will be removed from a lower grade eligibility list or one with a lower salary schedule upon appointment to a higher grade position or one with a higher salary schedule. Upon giving up such appointment to the higher grade position, an employee may request and have his or her name restored by the HR Director to any eligibility list from which it was removed under this section.

**H. Removed on Account of Non-Appointment.** Certification for temporary appointment and certification on which waiver is requested and approved will not count as one of the certificates under this Ordinance.

**I. Circulation of Eligibility List.** The HR Director may at any time in anticipation of a request for certification circulate the names of persons on any eligibility list to determine if they will accept appointment or if they wish their names to remain on, or be deleted from the list. The HR Director will be governed in certification and the keeping of such names on the list by the returns from such circulation. A circulation of a list need not be made within a period of six (6) months of a previous circulation for greater salary or greater permanency. Eligibles who have declined appointment need not be certified to new vacancies within the six (6) month period. However, anyone eligible who has declined but who thereafter notifies the HR Director in writing of his or her willingness to accept will not be passed over within the period.

## **XVII. LAY-OFF; VACATIONS; LEAVE; RESIGNATION AND REINSTATEMENT**

**A. Conditions For Layoff.** Whenever it becomes necessary through lack of work or funds, or through the abolishment of a position or grade, or for any other reason not involving delinquency on the part of the employee, to reduce the number of employees in any grade, the appointing authority may order a layoff. The reduction will be made in the following order:

1. Temporary and provisional employees;
2. Unclassified employees hired under this Ordinance; and
3. Full-time classified employees in the reverse order based on seniority in all City positions held.

Procedures governing this section will be prescribed in this Ordinance.

**B. Job Rights.** Employees who are removed from their positions as the result of abolishment or a layoff (to include subsequent displacement action) will have the right to be appointed to any vacant position for which they are qualified, provided the vacancy occurs within ninety (90) days and the grade to which appointment is sought is at or below the employee's class grade at the time of removal. If such an appointment cannot be made, the employees will have the right of appointment to positions, occurring within ninety (90) days, in any department in a lower grade, in the same grade, or to a grade in which the employees have served, provided that:

1. The employees are fully qualified for the position; and
  2. The employees who may be displaced as result of the appointment have less seniority than the employees claiming the job.
- C.** **Reinstatement Lists.** Laid off employees who cannot be placed in other positions at a pay grade equivalent to or below their current grade will have their names placed on reinstatement lists for a period of ninety (90) days, and will be considered in accordance with Order of Certification for subsequent vacancies, as they occur.
- D.** **Leave of Absence.** After consideration of an employee's request and the recommendation of the department head, the City Manager may grant an employee leave under conditions set forth in the City's leave policies in the Socorro official Employee Handbook.
- E.** **Reinstatement Following Leave Of Absence.** Upon the expiration of an approved leave, an employee is reinstated as provided in the City's leave policies in the Socorro official Employee Handbook.
- F.** **Failure to Return After Leave.** Failure to report at the expiration of a leave will be cause for separation from the service. However, if the employee so separated shows to the satisfaction of the City Manager that the failure to report was excusable the City Manager may order reinstatement.
- G.** **Sick Leave; Military and Family Medical Leave.** Classified employees are entitled to an annual sick leave, as provided in the City's leave policies in the Socorro official Employee Handbook. Military and Family Medical Leave will be provided as required by State and Federal Law and the Socorro Employee Handbook.
- H.** **Vacations.** Classified employees are entitled to annual vacation with pay as provided in the City's vacation leave policies in the Socorro Employee Handbook.
- I.** **Resignation.** The head of the department receiving and accepting a resignation will immediately notify the Human Resource Director of the resignation.
- J.** **Reinstatement Following Resignation.** Any person who has held a classified position and has resigned from the service in good standing and without fault or delinquency will, upon recommendation of the City Manager and Council approval, be placed on the proper reinstatement list below those on the list because of layoff or job abolishment.
- K.** **Removal From Reinstatement List.** Any person on any reinstatement list who becomes ineligible to hold the position or who moves from the City will be removed from the list. All names of persons on the reinstatement lists will expire and be removed ninety (90) days after the individual's separation from employment.

## **XVIII. TRANSFER AND REDUCTION**

- A.** **When Transfer Is Permissible.** Transfers may be made from a position in one department to a similar position at the same grade in another department, provided that requirements of the order of certification are met and that the heads of the two departments concerned approve the request.

- B. **When Transfer Not Permissible.** Transfer will not be allowed where the:
1. Examination upon which the appointment of an employee was based was not of a character and standard to test the fitness of the employee for the position to which it is proposed to make the transfer.
  2. Grade of the position to which the employee is seeking transfer is higher than the employee's current grade; or
  3. Transfer is requested to avoid a layoff when there are persons of greater seniority targeted for lay off.
- C. **Reorganization.** When an official reorganization of the City staff results in the transfer of a position from one department to another without substantive change in duties, the incumbent will, with recommendation of the Commission and approval of the City Council, be transferred with the position, without regard for the Order of Certification.

## **XIX. RESIGNATION**

- A. **Effect of Resignation.** Whenever an employee of the Civil Service resigns, he or she severs his or her connection with the City and loses all rights seniority and all rights to reinstatement.
- B. **Effective Date.** Resignations are effective immediately upon delivery.
- C. **Responsibility of Department Head.** The Department Head shall immediately forward all resignations to the Human Resources Director.

## **XX. EVALUATION RATINGS**

- A. **Frequency.** Each employee will give a written efficiency rating on a form to be prescribed by the Human Resources Director in accordance with the following schedules:
1. Provisional, temporary, and probationary employees at the end of the listed periods of employment.
  2. Full-time employees every six (6) months in January and July, except for department heads and assistant department heads who shall be evaluated annually in August.
  3. Unscheduled reports may be rendered at any time the rater considers necessary.
- B. **Responsibility.** The immediate supervisor of the employee is responsible for rating his or her efficiency. The individual so charged will be designated in writing by the department head. Each draft report will be reviewed by the rater's supervisor before it is finalized. Department heads shall be evaluated by the City Manager who shall determine the Performance Evaluation Rating.
- C. **Performance Standards.** Performance ratings will be based on written performance standards to be prepared by the rater and reviewer approved by the HR Director and reviewed with the employee.
- D. **Counseling.** An integral part of the efficiency rating system is frequent job and efficiency counseling. As a minimum, it will be done in conjunction with each written efficiency report, normally by the rater.

- E. **Use.** Efficiency ratings are used in conjunction with career development, promotion, separation, reassignments, merit increases, and similar personnel action. Therefore, ratings should be frank, objective assessments of the employee's job performance that informs the employee of performance weaknesses in order to permit the employee to improve performance.
- F. **Performance Scale.** The following scale will be used in describing employee performance:
  - Poor - fails to perform duties as assigned.
  - Below Average - performs duties but requires regular supervision.
  - Satisfactory - performs duties requiring little supervision.
  - Good - performs duties without incident.
  - Excellent - performs duties exceptionally well without need for supervision.
- G. **Appeals.** A classified, non-probationary employee has the right to appeal any rating he or she considers unfair, discriminatory, or otherwise objectionable. Such appeal must be made to the Commission utilizing approved forms within ten (10) days after the employee has had final review on the rating with his or her department head. If an employee terminates employment with the City of Socorro, for any reason, any pending performance evaluation appeal shall be considered withdrawn and no further action shall be taken on the performance evaluation.

## XXI. DISCHARGE, APPEAL, HEARING

- A. **Discharge during Probation.** The appointing authority or appointing officer may discharge a new employee at any time during the probation period for any reasons but, for the record, a full statement of those reasons must be filed with the HR Director within three (3) days of the discharge. Probationary employees have no right to appeal any employment action, including their termination or discharge.
- B. **Discharge of Full-time Employees.** The appointing authority or head of the department in which an employee is serving may, with the consent and approval of the City Manager, for any cause defined herein and in the City's employment policies, discharge, suspend or reduce in rank or position.
- C. **Appeals.** Any full-time classified, non-probationary employee may appeal to the Commission any suspension (without pay) as limited in Section II, termination or reduction in grade, which is believed to violate the rights granted employees by this Ordinance. Appeals must be filed with the Human Resources Director within ten (10) days from the date of the alleged violation and must be on a form provided by the Human Resources Director and must clearly state the order complained of and all reasons why the employee believes the action violated the employees rights.
- D. **Hearing Options.** Upon receiving notice of appeal, the Commission may in its discretion hear the appeal directly or refer it to a Hearing Officer. Hearings will be conducted in accord with procedural rules adopted by

the Commission.

## XXII. SUSPENSION, REDUCTION, DISCHARGE

- A. **Causes Of Suspension, Reduction, Or Discharge.** The following may constitute cause for discharge, suspension, or reduction of full-time nonprobationary, classified employees. That an officer or employee in the Civil Service:
1. Has been convicted of a felony, or a misdemeanor involving moral turpitude, or;
  2. Has willfully, wantonly, or through culpable negligence, been guilty of brutality or cruelty to an inmate or prisoner, or to a person in custody provided, the act committed was not necessarily or lawfully done in self defense, or to protect others, or to prevent the escape of a person lawfully in custody, or;
  3. Has been under the influence of intoxicants or drugs or the use thereof while on duty, or in violation of City employment policies, or;
  4. Has contracted a disease or has some physical or mental ailment or defect which makes him or her unfit to perform the essential duties of the possession; or
  5. Is wantonly offensive in his or her conduct or language towards the public, supervisors, or his or her fellow employees, or;
  6. Is consistently inefficient in the performance of the duties of his or her position so that his or her general average of efficiency is below the minimum standards established, or;
  7. Is negligent and/or destructive in the care of City property, or;
  8. Has an unexcused absence from duty for a period of three (3) or more successive days, or three or more times in any twelve (12) month period, or;
  9. Has used or threatened to use or attempted to use personal or political influence in securing promotion, leave, transfer, change of grade, pay, or character of work, or;
  10. Has induced, or has attempted to induce an officer or employee in the service of the City to commit an unlawful act, or to act in violation of any lawful departmental or official regulation or order; or has taken any fee, gift, or other valuable thing in the course of his or her work, or in connection with it, for his or her personal use from any person, when such fee, gift or other valuable thing is given in exchange for a favor or better treatment than accorded other persons, or promise of favorable treatment, or;
  11. Has induced or attempted to induce any person, firm or corporation doing business with the City to give employment to any relative of the City officer or employee, or has induced or attempted to induce any such person, firm or corporation to show any material favor or consideration of any kind to the City officer or employee, or any relative of the City officer or employee, when the officer or employee holds a position in a

- department having direct contact with such person, firm or corporation, or;
12. Has exerted improper influence on behalf of a relative, or;
  13. Has, after the date of the adoption of this Ordinance, been actively engaged in the management of partisan political campaign; or acted as any election; or has been concerned in the soliciting of money for any political purpose; has engaged in the distribution of badges, posters, bills, or printed or written matter favoring a candidate for nomination or election to any municipal office while on duty, or in a City uniform, or in the offices or buildings of the City of Socorro; or has publicly endorsed any candidate for municipal election; or has contributed money or other valuable thing for any political purpose in connection with any municipal election; or has attempted, during his or her hours of duty as a City employee, to support or oppose any candidate for nomination or election to office or any proposition to be submitted to a vote of the people or so attempt, whether on duty or not, while the person sought to be influenced is on duty as a City employee; or otherwise used the City's time or resources for any political purpose; or has engaged in any political activity while wearing a City uniform; or has attempted to influence the vote or political action of any other City employee by a threat or promise under circumstances that reasonably gives such other employee to understand that he or she will be rewarded for complying, or punished for not complying, with the wishes of the person seeking to influence him or her; or as an employee in a superior position, has required or brought pressure on any subordinate to support or engage in political activity on the superior's behalf by demanding or implying support as a condition of favorable personnel action, or, demanding or encouraging involuntary campaign work; or has sought political office without first resigning as provided herein, or;
  14. Has violated the City's employment policies or the Department's Code of Conduct.
  15. For just cause.

Nothing in this section will be construed to interfere with the right of an employee in the Civil Service to become a member of a political club or organization, to attend political meetings, to express his or her opinion on all political subjects, to enjoy freedom from all interference in casting his or her vote, or to exercise rights granted the individual by the Constitution and laws of the United States or the State of Texas.

**B. Dismissal Notice.** The discharge of a full-time non-probationary classified employee will not become effective until the appointing authority or department head has first served upon such employee or mailed (certified mail, return receipt requested) a written notice of discharge. The notice must contain one (1) or more reasons or grounds for discharge together with such specification of facts as will enable the employee to make an explanation and place him or her fairly upon his or defense. A copy of such notice of discharge, together with the explanation, if any, made by the employee will be filed with the HR Director.

**C. Resignation before Appeal Decision.** The acceptance by an appointing office or authority of the resignation of a person discharged before final action on the part of the Commission will be considered a withdrawal of the charges and the

separation of the employee concerned will be recorded as a resignation and the proceeding will be dismissed.

**D. Disqualification For Reappointment.** Any employee who is dismissed for cause or who resigns while not in good standing will be disqualified from taking any Civil Service examination for two (2) years thereafter; and his or her name will be removed from all eligibility lists.

**E. Non-Certification of Suspended Persons.** The names of persons suspended will not be certified from eligibility lists during the period of suspension.

**F. Action By Commission.**

1. If the Commission hears the appeal in a disciplinary case, it will, by majority vote of its members present and voting, determine whether the charges are sustained by the evidence. If the Commission determines that the charges are sustained, in whole or in part, it will at once determine whether the good of the service requires that the appealed action be upheld or reduced. If the Commission determines that the charges are not sustained, the accused will be reinstated immediately and without prejudice, and will not be deprived of any salary for any period of suspension preceding the hearing.
2. In cases involving alleged discrimination or other administrative matters such as promotions, assignments, grading and examinations, the Commission shall review all factors in the cases and direct appropriate corrective steps, if necessary.
3. In conducting any hearing, the Commission must in all cases, afford full and free opportunity to all parties in interest to present evidence relevant to the issue or issues involved. The burden of proving an alleged offense and of establishing just ground of discharge, suspension, or reduction rests upon the department head or officer by whom the action was taken. A preponderance of the evidence is required to substantiate any charge.

**G. Hearing Officer.** The powers and duties of the Hearing Officer are here delineated:

1. **Pre-hearing Conference:** The hearing officer may conduct pre-hearing conferences, during which that officer may:
  - a. Encourage parties to pursue actively a settlement of the dispute;
  - b. Require parties to designate their representative when desired;
  - c. Require submission of exhibits and witness list with brief summaries of their proposed testimony;
  - d. Rule on evidentiary questions and reject irrelevant or unnecessary cumulative exhibits or testimony;
  - e. Accept exhibits and stipulations of fact between the parties;
  - f. Authorize the preparation and submission of written interrogatories and depositions;
  - g. Issue subpoenas to compel the attendance of witnesses;
  - h. Prepare a written record of all stipulations, the issues in dispute, the

rulings made on exhibits and witnesses and any agreements on terms of settlement arrived at between the parties; and

2. **Hearings.** Preside at all hearings, maintaining order and decorum, taking testimony under oath or affirmation, disposing of all objections, asking questions when necessary and assuring that a clear and complete record is made of all proceedings;
  3. **Continuance.** Grant or deny continuances;
  4. **Preparation of opinions.** Prepare a written recommendation (including findings of fact and conclusions of law) affirming, reducing, or reversing the action appealed in conformance with the procedures and time limitations set forth in the Ordinances. This opinion must be submitted to the Commission for action as specified below with a copy to the appellant and the person whose actions are being appealed and to any attorneys representing the parties involved in the matter;
  5. **Further Appeal.** Forward to the Commission recommendations concerning any rehearing or review when a motion for rehearing has been filed by one (1) of the parties;
  6. **Related Duties.** Perform such other duties as may be necessary to implement and maintain an efficient, fair, and speedy system of appeal adjudication, and perform any additional duties imposed by the Commission.
- H. **Subsequent Action.** Upon receipt of the Hearing Officer's opinion and recommendations where applicable, the Commission will review the written record of the hearing, review any written briefs or oral arguments which the parties are permitted by the Commission to submit, and take one of the following actions:
1. Accept or modify the Hearing Officer's recommendations; or
  2. Remand the matter to the Hearing Officer for development of such additional facts and findings as the Commission deems necessary. Consistent with the remand, the Hearing Officer must conduct an additional hearing and render further opinion or recommendation to the Commission for its further action pursuant to this provision.
- I. **Referral of Charges By Citizens**  
Any citizen of the City has the right to prefer sworn written charges, before the Commission, alleging misconduct against any employee subject to its jurisdiction. The Commission may order investigation of the charges when it deems proper and in its discretion may hear and dispose of the charges in the same manner as prescribed above. This section does not apply to any charges or appeals which may be brought before the Commission under other sections of this Ordinance.
- J. **Constitutional Rights.** Nothing in this Ordinance shall be construed as denying or abridging any constitutional right.

## XXIII. HEARINGS

- A. **Hearing by Commission.** Any party to Commission proceedings may invoke the

rule as to witnesses, as known to the practice in the District Courts of the State of Texas, and the Commission or Hearing Officer may, on their own motion, impose such rule, the effect of which will be to exclude from the hearing room, all witnesses, except the person preferring the charges or acting in the discharge, suspension or reduction of the accused employee, while other witnesses are being questioned or other testimony given.

**B. Continuance of Appeal Hearings.** The following rules will apply when either party before the Commission or a Hearing Officer in a disciplinary appeal hearing requests a continuance of the hearing:

1. When either party requests a continuance or adjournment of up to fifteen (15) days, such request must be in writing and in the hands of The Hearing Officer or the Secretary of the Commission at least twenty-four (24) hours prior to the hearing time. The Hearing Officer or Commission may allow a continuance for emergency reasons with less than twenty-four (24) hours prior notice.
2. Upon receipt of notice for continuance, the Secretary of the Commission will notify the Chairman, who may accept and approve the request on behalf of the entire Commission, thus precluding the need for the entire Commission to convene and accept the notice. This will apply only to a party's request for continuance of up to fifteen (15) days.
3. Any continuance beyond fifteen (15) days or in addition to first request for continuance must be:
  - a. By mutual agreement of the parties; or
  - b. By the Hearing Officer or Commission at either party's request after a hearing on the merits of the continuance
4. Failure to comply with the provisions of this section will be grounds for denial of the continuance requested.

#### **XXIV. EMPLOYEES SEEKING PUBLIC OFFICE**

No employee of the Civil Service shall seek election for a public office, as listed below, without having first resigned from his or her position in the Civil Service.

- A. Any City office; or
- B. Any partisan office within the City of Socorro or a jurisdiction that includes the City of Socorro; or
- C. Any public office if the employee is serving in a supervisory or managerial position with the City; or
- D. Any public office in a jurisdiction which has direct or indirect contractual relations with the City and which would present a conflict of interest to the employee's position in the City.

#### **XXV. GRANT FUNDED POSITIONS**

Employees who hold positions funded or contracted for by state or federal grants, shall have no right to continue holding such positions when state or federal funding ceases. If said positions, at the end of state or federal funding, become Civil Service positions, they shall be filled as

provided in this Ordinance.

## **XXVI. DEPARTMENTAL RULES**

Any department head shall have the right to promulgate rules of conduct and regulations (Code of Conduct) regarding the operation of the department, and the conduct of the employee therein, provided that such rules do not conflict with this ordinance or the City's employment policies. Large departments having various subdepartments may, in their rules, have rules and regulations pertaining to subdepartments in addition to general rules and regulations regarding the department. Any department head may, as provided in this Ordinance, suspend, discharge, or demote any employee for insubordination, for failure to comply with departmental rules and regulations, for failure to comply with the Rules of the Commission or for failure to obey any lawful order of a superior officer.

## **XXVII. LAYOFFS, JOB RIGHTS, REINSTATEMENT**

### **A. Layoffs.**

1. When layoff of employees is necessary in accordance with this Ordinance, notice of such proposed layoff will be provided to the HR Director immediately. The HR Director will certify to the appropriate department head the names of the employees to be laid off and will coordinate all procedures to affect the layoff.
2. In certifying the names of the employees to be laid off, in the case of a tie in the amount of seniority of full-time, classified employees in the affected position, the HR Director will certify for layoff the employees with the lowest efficiency ratings based on an average of the last three (3) rating periods.
3. Thirty (30) days prior to the actual layoff date, the HR Director will freeze the filling of all City vacancies in the same occupational group at or below the grade of the affected employees. No such vacancy will be filled without first considering the eligibility of affected employees for the vacant positions. The HR Director will attempt to place affected employees in such vacancies within the thirty (30) day period. This procedure will not affect vacancies which occur after the thirty (30) days.
4. The HR Director will counsel all affected employees to ensure that all such employees are aware of their rights and obligations during the layoff.

### **B. Job Rights.** An employee, who is to be removed from a position as the result of abolishment or layoff, has the right, within the order of certification, to be appointed to a vacant position in the following manner.

The opportunity to be appointed to a vacant position within the same department at or below the employee's grade at the time of removal will be offered to each employee to be laid off in the order of the employee's seniority with the City. In the event of multiple layoffs, the HR Director will ensure that the most senior employees receive the greatest rights hereunder.

Vacancies will be offered to the employee in order of the categories listed below.

1. Vacancies which exist within the same department in the same grade series of the position in which the employee serves at or below the employee's current position;
2. Vacancies which exist within the same department in the

- same grade series of the position in which the employee serves at or below the employee's current position; and
3. Vacancies which exist within the same department in the same occupational branch as the position in which the employee currently serves at or below the employee's current position.

The refusal of an employee to accept an offer to fill a vacancy made under this section will result in the employee being placed on a reinstatement list. If no vacancy exists in any of the above categories, the employee will have the right to displace a person in a position in the same department in a lower grade, in the same grade, or in the same grade series in which the employee is currently serving. If no such position exists, then the employee will have the right to displace a person in the same department in a grade series in which the employee to be laid off has previously served. Displacement rights will be given to employees in order of their seniority. Persons who are displaced as a result of the above procedure shall then have the same right to displace persons serving in positions as outlined above. No person may be displaced in any action if the person holding the position has greater seniority than the employee claiming the right to displace.

If a person accepts a position, either through filling a vacancy or displacement, at a lower grade, the person, if otherwise qualified, may take promotional examinations for any grade above that grade. No person who accepts appointment to a vacant position or displaces another person under this section shall be placed on a reinstatement list for the position from which the person was removed.

For purposes of this Ordinance, the following definitions apply:

- a. **Same grade series:** one (1) or more classes that are similar in all respects except for the level of skills, ability, qualifications, and responsibilities required.
  - b. **Occupational groups:** groups of one (1) or more related grade series.
  - c. **Occupational branch:** major subdivision of related occupational groups.
  - d. **Vacancy:** A position which is vacant or is occupied by a temporary or provisional employee.
  - e. **Qualified:** Meeting all minimum qualifications and requirements as set forth in the classification description for the position.
- C. **Reinstatement.** Individuals on reinstatement lists as a result of a lay-off who are interested in reinstatement to a specific position in a different but similar grade in any City department must notify the HR Director in writing of such interest. If the HR Director has already certified the names to a vacancy when such notification arrives, that certification will not be canceled, but the individual will be contacted prior to certifying names for future vacancies in which the individual has expressed an interest. If an examination announcement for the vacancy has been posted, the individual must notify the HR Director of his or her interest no later than the last

day of the filing period for the examination. The HR Director will, subject to Commission review, determine whether or not the position in question is of a similar nature, evaluate the individual's qualifications for the position, and determine whether or not the individual must take a qualifying examination or be determined eligible based on his or her possession of the minimum qualifications and similarity of previous job duties.

Notwithstanding any other terms or regulations herein, all rights of reinstatement after layoff, or abolishment, or other job displacement will expire on the ninetieth (90th) day after the individual is laid off, displaced or separated.

## **XXVIII. EX PARTE COMMUNICATIONS**

Unless required for the disposition of unrelated matters or as authorized by law, or in connection with the scheduling of meetings and hearings, Civil Service Commissioners, hearing officers, or employees of the City assigned to render a decision, may not communicate, directly or indirectly, in connection with any issue of fact, or law, with any agency, person, party, or their representatives, except on notice and opportunity for all parties to participate. A Commissioner or hearing officer may communicate *ex parte* with employees of the City who have not participated in any hearing in the case for the purpose of utilizing the special skills or knowledge of the City and its staff in evaluating the evidence.

Commissioners or hearing officers shall not participate in deliberations of the Commission or rendering the decision in a case where they have participated in the case in an advocacy role. The Commission may take judicial notice of facts which a court of Texas could take judicial notice of, and in addition the Commission or hearing officer may take notice of generally recognized facts within the area of the Commission's specialized knowledge.

## **XXIX. DEFINITIONS OF TERMS**

**Definitions:** The following definitions apply to this Article.

**Abolishment:** Either temporary or full-time discontinuance of a given office, service, or position, by reason whereof the functions and duties of the office, service, or employment cease; generally evidenced by the deletion of a position from a departmental manning table.

**Advancement:** A salary increase within a range of compensation provided for each position which is conditioned upon a given minimum term of meritorious services in the same position.

**Appeal:** The procedure by which an employee gives written notice in the prescribed form to the Commission requesting review of a protest of any adverse employment action.

**Appointing Officer:** The department head having the power of appointment to subordinate offices or positions.

**Appointment:** Selection by the appointing officer of an individual from the certification list to fill vacancy or by the appointing authority in the case of department heads.

**Certification:** The process by which the names and addresses of persons on a proper

eligibility list are placed in the correct order in which vacancies are to be filled and thereby become entitled to be considered to fill a vacancy.

**Certification list:** The list of names from an eligibility list sent to the appointing authority or appointing officer for consideration in filling a vacancy.

**Grade:** A group of positions within the same title so arranged because of similarity in duties and responsibilities and for which the same basic examination, compensation and minimum qualifications apply.

**Classification:**

1. A classification plan consisting of a systematic arrangement or index or grade titles arranged by:
  - a. occupation groups;
  - b. grade series; and
  - c. grade title within series.
2. A compensation plan consisting of:
  - a. a minimum rate, serving as the entrance rate for new appointees to any position in the grade;
  - b. a maximum rate representing the highest rate to be paid to any employee in the grade; and
  - c. a series of specific rates, between the minimum and maximum rate, together with rules outlining elements of efficiency and length of service to be used in determining when and under what conditions an employee is to receive an intermediate rate.
3. An administrative plan consisting of rules for the application and administration of the classification plan and the compensation plan.

**Classified:** All offices and positions in the Civil Service, excluding those defined as being "unclassified" in this Ordinance,

**Commission (when used by itself):** The Civil Service Commission

**Competitive Examination:** An examination in which the candidates are in competition and from which an eligibility list is promulgated.

**Department:** Any City agency, office, bureau, or other organizational unit.

**Dismissed, Discharged, Removed:** Actions under which employees are separated from their respective positions for cause.

**Efficiency or Service Records:** Records of the manner in which an employee's service was rendered, the records being made at stated intervals by the several department heads and submitted to the HR Director.

**Eligibility list:** A list of names of persons who have been determined to be qualified through applicable criteria, for employment in positions allocated to a specified grade, arranged in order of merit. Includes Original Entrance, Promotional, and Reinstatement Lists.

**Grade:** Term representing a specific range of compensation

**Layoff:** The involuntary temporary separation of employees from their positions, often on a seasonal basis, without fault or delinquency on their part, normally by reason of lack of work or funds; generally evidenced by the retention of a vacant position within the department. If the position is deleted from the department's manning table, the "layoff" becomes an "abolishment."

**New Position:** A position created through the authorized addition to a department of a

position not previously existent or a position created through an authorized change in classification.

**Full Time Employee:** Any classified employee who has been regularly appointed after serving a probationary period to a position normally involving continuous year round service and involving regular working hours of more than thirty hours per week.

**Position (when used by itself):** A specific set of duties to be performed by an employee.

**Probationary Employee:** An employee who has been employed or promoted and is within the period of probation established for the position.

**Promotion:** A change from a position in a lower grade to a position in a higher grade, involving a change of duties or responsibilities as well as an upward change in compensation.

**Provisional Employee:** Any employee temporarily filling a position without competition pending the establishment of a certification list.

**Resignation:** The voluntary separation from employment of a classified employee, notice of which is tendered, in writing, to the employee's department head, superior, Human Resource Director or other authorized agent of the City.

**Reinstatement:** The act of reinstalling a person separated from a classified position to that position or some other position.

**Rules:** When used by itself, the Rules of the Commission.

**Suspension:** Action under which an employee is for cause temporarily separated for a definite or indefinite period, may be with or without pay.

**Temporary Employee:** An employee whose services are of a temporary nature or for a limited period, usually six (6) months or less.

**Unclassified:** Those positions exempted from the Civil Service provisions of this Ordinance.

**Work Day:** Any day that the City HR Department is open to the public for the transaction of business.

### XXX. TRANSITION

**Existing Laws and Constitutionality.** All existing Ordinance provisions pertaining to Civil Service are hereby repealed, and all Ordinance or parts thereof in any wise conflicting or inconsistent with this Ordinance or any provisions hereof are hereby expressly repealed. However, the enactment of this Ordinance will in no wise affect the rights of persons whose appeals have been filed and are pending before the Commission or in the courts at the time of its adoption. Such pending appeals or other pending matters may be decided by the Commission or appropriate tribunal in the light of the provisions of the Civil Service Regulations existing at the time the appeal was filed.

Adopted by the Socorro City Council December , 2014.