

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING CHAPTER 5 OF DIVISION 1 OF THE UKIAH CITY CODE, PERTAINING TO THE CIVIL SERVICE OF THE CITY OF UKIAH.

Pursuant to Section 1317 of the Ukiah City Code the City Council of the City of Ukiah hereby ordains as follows.

Section One.

Chapter 5, Division 1 of the Ukiah City Code is hereby amended by repealing sections 1311-1316 thereof and amending sections 1300-1310 to read as follows:

1300 - Classified Service

There is hereby created in the City of Ukiah a classified service which shall include all appointive positions of employment with the City of Ukiah, except:

a. All City Department heads, including, but not limited to, the City Attorney, City Manager, Assistant City Manager, Public Works Director, City Engineer, Director of Community Development, Finance Director, Director of Community Services, Director of the Electric Utility, Police Chief, Fire Chief, Director of Public Safety, and any other similar Department head position;

b. All uncompensated positions;

c. All part-time or temporary positions;

d. All personnel hired for a State or Federally funded program or other specially funded project of definite duration; and

e. All persons or entities employed to render professional, scientific or expert service of an occasional or exceptional character for a limited time period. Nothing in this section shall be construed to make such person or entity a city employee for any purpose, if hired as an independent contractor.

Section 1301 - Department of Personnel

There is hereby established in the City of Ukiah a Personnel Department, consisting of a Civil Service Board and a Personnel Officer.

Section 1302 - Civil Service Board, membership

a. Number. The Civil Service Board shall consist of three members. One shall be appointed by the City Council, one shall be appointed by the employees, and one shall be appointed by other two members.

b. Qualifications. The members of the Civil Service Board shall be residents of the City of Ukiah for a continuous period of at least one year immediately preceding appointment to said Board, shall be qualified electors of said City, and shall serve without compensation. No officer or employee of the City of Ukiah shall be appointed to said Board, nor shall any member, while a member of the Board or for a period of one year after he or she has ceased for any reason to be a member, be eligible for appointment to any salaried office or employment in the service of the City or to any City elective office.

c. Term of office. Terms of office shall be of an indefinite term, but not less than four years. After serving the first four years of the term, the nonemployee members may be removed without cause and replaced by the persons who made the appointment in the same manner as for an appointment. After serving the first four years of the term, the employee member of the Board may be removed by majority vote of the bargaining agents for each recognized employee collective bargaining unit. The employee member of the Board shall be appointed or replaced by the highest number of votes cast by all employees voting in an election based on secret ballots from among candidates nominated by recognized employee collective bargaining units. Each unit shall have the right to appoint one nominee. The election of the member appointed by employees shall be conducted by the Personnel Officer in accordance with procedures that comply with this ordinance and are approved by the Civil Service Board.

The term of a Board member may terminate at any time after appointment for the following causes: 1) death, resignation or incapacity, 2) no longer meeting the eligibility requirements for membership, or 3) failure to attend three scheduled meetings without prior approval of the other Board members. A Board member shall be removed under this paragraph by unanimous vote of the other board members.

d. Temporary vacancies. If any Board member is unable for any cause to hear a matter pending before the Board, the remaining Board members, in accordance with rules adopted by the Board, may select a temporary member to hear and decide that matter. Such a temporary inability or disqualification to hear a particular matter shall not constitute grounds to declare a permanent vacancy on the Board and the temporary member so selected shall serve only to hear and decide that matter.

e. Permanent vacancies. Permanent vacancies on the Civil Service Board, from whatever cause, shall be filled by appointment by the persons who made the original appointment. Each newly appointed member shall commence a new term of office. Each member of the Board shall serve until his or her successor is appointed and qualified.

Section 1303 - Civil Service Board, powers and duties

The Civil Service Board shall have the following powers and duties:

To hear and decide for the City appeals by employees under Section 1306. In exercising this authority the Civil Service Board shall have the following powers:

(a) To examine witnesses under oath and exercising the authority of the City Council under Government Code sections 37104-37109 compel the attendance of witnesses or the production of evidence before it by subpoenas signed by the Mayor and attested by the City Clerk. The Chief of Police shall cause all such subpoenas to be served. The subpoenas shall be enforced in the same manner as subpoenas issued by the City Council;

(b) To adopt rules of procedure, consistent with this Chapter, for the conduct of its proceedings, including, but not limited to, rules governing the appointment of a hearing officer to conduct hearings, make findings and recommend decisions to the full Board; and

(c) Subject to the availability of funds and procurement rules adopted by the City Council employ independent legal counsel to advise it in performing its duties under this Chapter. To be valid and binding on the City, any contract for legal services under this subsection must be signed by the City Manager.

1304 - Personnel Officer

The City Council shall appoint a personnel officer among whose duties it shall be to act in the capacity of a secretary and clerk to the Civil Service Board. The Personnel Officer shall be the custodian of all personnel records and shall be the official upon or with whom all notices, requests for hearings, complaints and other official documents shall be served or filed.

Said personnel officer shall establish and maintain a roster of officers and employees in the classified service. He or she shall also prepare a record of the length of service of each employee in the classified service, together with a concise statement of all duties being performed by said employee, the salary being paid, and the hours of work of said employee. He or

she shall render such additional service in connection with such Civil Service System as may be requested by the City Council or the City Manager.

The duties of the office of personnel officer may be combined with those of any other office in the event the work involved does not warrant, in the discretion of the City Council, the creation of a special position.

1305 - Appointments to positions in the classified service:

a. Regular appointments: All appointments to positions or employments in the classified service shall be made by the City Manager from eligible persons on the eligible lists, which lists have been established pursuant to the rules and regulations adopted under the authority of this ordinance. All employees in the classified service shall serve an introductory period as specified for their positions by the City Council, commencing on the date of their appointment. During the introductory period employees may be terminated with or without cause and without prior notice or opportunity for a hearing. If good cause exists, the introductory period may be extended by the City Manager for not to exceed six (6) months.

b. Temporary appointments: The City Manager may make temporary appointments to positions of employment with the City without being required to hire from eligible lists, in the following circumstances: 1) in the event that no eligible list has been prepared for a position that must be filled immediately, 2) all those on the eligible list are not available to fill a position that must be filled immediately, 3) during suspension of any officer or employee, or pending final action on proceedings to review a suspension, demotion or dismissal of an employee or officer, or 4) to perform duties for a time period of definite duration. The City may not fill any position by temporary appointment for longer than twelve consecutive months or fourteen total months in any two year period. No credit shall be allowed in the giving of examinations for service rendered under a temporary appointment.

1306 - Removal or suspension of employees:

Every officer and employee in the classified service shall retain his office or employment, so long as it exists under the same or a different title, during good behavior, and shall not be suspended, fined, demoted, removed, reduced in compensation as a punishment or otherwise penalized, except as in this paragraph provided. No person who has served the introductory period in a regular, full-time office, or employment, as hereinabove provided for, shall be removed therefrom or penalized therein except for good cause shown and in accordance with rules adopted by resolution of the City Council. Such rules shall provide such

employees subject to suspension without pay for more than 10 working days, demotion or termination of employment with a right to a hearing before the Civil Service Board in accordance with rules adopted by resolution of the City Council.

1307 - Elimination of positions and reductions in force

Notwithstanding the provisions of section 1306, employees in the classified service shall be subject to layoff due to the elimination of their positions or for lack of work or lack of funds. Whenever a classified employee is laid off pursuant to this section, the order of layoff within a class of employees shall be determined by length of service, provided employees with more seniority are qualified to fill the remaining positions in the department where the position or positions were eliminated. Except as otherwise provided in this section, the employee who has been employed the shortest time in that department shall be laid off first, unless employees with more seniority are not qualified to serve in the positions remaining in the department where the positions were eliminated. A special rule applies to an employee who was promoted to the department from another department within five (5) years from the date when the lay-off would occur and who would otherwise be laid off under this section. Such an employee shall not be laid off, if the employee has more seniority with the City than an employee in the department of origin. In such a case the employee in the department of origin who has been employed by the City the shortest time in that department shall be laid off first, provided the promoted employee is qualified for the resulting vacancy. Promoted employees who are transferred back to their department of origin under these rules shall receive the salary and benefits payable for the position into which they are transferred. Temporary employees not in positions of definite duration shall be laid off before any regular employee, if regular employees are qualified to fill the positions occupied by temporary employees.

Re-employment into the same or a similar position within a period of two years shall be in the reverse order of layoff. Such positions shall be filled as otherwise provided in this Chapter, if no qualified laid off employee is available to fill the position.

1308 - Solicitation of contributions:

No City officer, agent, clerk or employee shall directly or indirectly solicit or receive, or be in any manner concerned with soliciting or receiving any assessment, subscription, contribution or political service, whether voluntary or involuntary, for any political purpose whatever, from any one on eligible lists or holding any position under the provisions of this ordinance.

1309 - Penalty for violation:

Any person, persons, firm or corporation violating any section of this ordinance or the whole or any part thereof, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Three Hundred (\$300.00) or by imprisonment in the County Jail of Mendocino County, California, as the committing magistrate may direct, for a period of not more than three (3) months or by both such fine and imprisonment in the discretion of the Court.

1310 - Constitutionality:

If any section, subsection, subdivision, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid for any other reason, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, sub-section, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional or invalid.

Section Two.

This Ordinance shall be published as required by law and shall become effective 30 days after its adoption.

PROCEDURE FOR PROCESSING GRIEVANCES

1. Definitions:

- 1.1 A "grievance" is a formal written allegation by a grievant that he/she has been adversely affected by a violation of the specific provisions of this Agreement. Actions to challenge or change the provisions of this Agreement or the policies of the City as set forth in City policies or undertaken through separate legal processes. Matters for which a specific method of review is provided by law, by the rules and regulations of the City Council or by the administrative regulations and procedures of the City are not within the scope of this procedure.
- 1.2 A "grievant" is an employee of the City covered by the terms of this Agreement.
- 1.3 A "day" is any day in which City Hall of the City is open for business.
- 1.4 The "immediate supervisor" is the lowest level supervisor having immediate jurisdiction over the grievant who has been designated to adjust grievances.
- 1.5 A "conferee" is a person who is not a party to a grievance, who is asked by either party to serve as that party's advisor or representative.

2. Informal Level:

Before filing a formal written grievance, the grievant shall attempt to resolve it by an informal conference with his/her immediate supervisor.

3. Formal Level:

3.1 Level I:

Within fifteen (15) days after the occurrence of the act or omission giving rise to the grievance, the grievant must present the grievance in writing on the appropriate form to his/her immediate supervisor. No grievance shall be entertained or processed unless it is submitted at Level I within the fifteen (15) days time limit. If a grievance is not presented within the time limit set forth above it shall be considered waived.

This statement shall be a clear, concise statement of the grievance, the specific provision of the Agreement alleged to have been violated, the circumstances involved, the decision rendered at the informal conference and the specific remedy sought.

Within the specified time limits, the grievant or the immediate supervisor may request a personal conference.

The immediate supervisor shall communicate his/her decisions to the employee in writing within ten (10) days after receiving the grievance. If the immediate supervisor does not respond within the time limits, the grievant may appeal to the next level.

3.2 Level II:

In the event the grievant is not satisfied with the decision at Level I, he/she must appeal the decision on the appropriate form to the Department Head within ten (10) days.

This statement shall include a copy of the original grievance, the decision rendered, and a clear, concise statement of the reasons for the appeal.

The Department Head shall communicate his/her decision within ten (10) days after receiving the appeal. Either the grievant or the Department Head may request a personal conference within the above time limits. If the Department Head does not respond within the time limits, the grievant may appeal to the next level.

3.3 Level III:

If the grievant is not satisfied with the decision at Level II, he/she must, within ten (10) days, appeal the decision on the appropriate form to the Personnel Officer.

This statement shall include a copy of the original grievance and appeal the decisions rendered and a clear, concise statement of the reasons for the appeal.

The Personnel Officer shall communicate a decision to the grievant within ten (10) days. Either the grievant or the Personnel Officer may request a personal conference within the above time limits. If the Personnel Officer does not respond within the time limits, the grievant may appeal to the next level.

3.4 Level IV:

In the event that the grievant is not satisfied with the decision at Level III, he/she must appeal the decision in writing within ten (10) days to the City Manager. The City Manager alone has the power to render a final and binding determination of a grievance, subject to right of established judicial review.

General Provisions:

- a. Any party to a grievance may, at any step in the formal level, request one other person to serve as a conferee and to be present during the proceeding.

- b. A decision rendered at any step in these procedures becomes final unless appealed within the time limits specified.
- c. Time limits given in these procedures may be modified by written agreement of the parties involved.
- d. If the same complaint or substantially the same complaint is made by more than one employee against one party, only one employee on behalf of himself/herself and the other complainants, may process the grievance or complaint through the grievance procedure. Names of all aggrieved parties shall appear on all documents related to the processing of the grievance. This provision may be waived by all parties concerned.
- e. Any unit member may present grievances in accordance with this Article without intervention of the Unit, so long as the adjustment is not inconsistent with the terms of this Agreement.
- f. All documents resulting from the processing of a grievance shall be kept in a separate grievance file and will not be kept in an employee's personnel file.

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Procedure Grievances