

## CHAPTER 25.

### PERSONNEL.\*

#### Sections:

#### Article I. In General.

- 25-1. Purpose.
- 25-2. Definitions.
- 25-3. Classifications.
- 25-4. Compensation plan—Step increases.
- 25-5. Appointment procedure/appointing authority.
- 25-6. Certification of eligibility lists.
- 25-7. Appointment.
- 25-8. Application for appointment.
- 25-9. Emergency appointments.
- 25-10. Promotion.
- 25-11. Effect of separation on promotions.
- 25-12. Notice of vacancy.
- 25-13. Screening process and components of selection procedures.
- 25-14. Qualifications.
- 25-15. Fraud.
- 25-16. Selection procedure regulations.
- 25-17. Change of address.
- 25-18. Reduction in force—Layoff—Abolition of positions.
- 25-19. Appeals from disciplinary action.
- 25-20. Probationary period.
- 25-21. Records.
- 25-22. Vested rights.
- 25-23. Reports.
- 25-24. Performance appraisal report.
- 25-25. Strikes prohibited.
- 25-26. Residency requirements.

#### Article II. Employer—Employee Relations.

- 25-27. Statement of purpose.
- 25-28. Definitions.
- 25-29. Meet and confer in good faith.
- 25-30. Consultation in good faith.
- 25-31. Employee rights.
- 25-32. City responsibilities and rights.
- 25-33. Advance notice of action.
- 25-34. Management, confidential and professional employees.
- 25-35. Registration of employee organizations.
- 25-36. Representation units.
- 25-37. Recognition of employee organizations.

- 25-38. Designation of city council representatives.**
- 25-39. Rules and regulations.**
- 25-40. Impasse procedure.**
- 25-41. Memorandum of understanding.**
- 25-42. Grievance procedure.**
- 25-43. Establishment of grievance board.**
- 25-44. Employees at meetings.**
- 25-45. Timetable for submission of requests.**
- 25-46. Membership dues deduction.**
- 25-47. Use of bulletin board.**
- 25-48. Use of city facilities.**

**Article III. General.**

- 25-49. Adoption of personnel resolution and authority to establish personnel rules.**
- 25-50. Construction.**
- 25-51. Affirmative action.**
- 25-52. Amendments.**
- 25-53. Severability.**

\* For state law as to civil service in cities generally, see Gov. C., §§ 45000 to 45210. For power of city manager to employ, discipline and remove all heads of departments, see § 2-6 of this Code. For provisions pertaining to employment of personnel at the airport, see § 4-5.

**Article I. In General.**

**Sec. 25-1. Purpose.**

The purpose of this chapter is to facilitate effective and economic service to the public and to provide for a fair and equitable system of personnel management. This chapter is intended to set forth those policies which ensure equitable treatment for those who seek original appointment and career ladder promotions as well as providing for a city personnel system. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-2. Definitions.**

For the purpose of this chapter, words and phrases shall have the meanings normally ascribed to them unless from the content it is apparent that a different meaning is intended. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-3. Classifications.**

The personnel officer shall cause to have made periodic studies of the classification of each position and shall submit to the city manager for approval any changes deemed desirable to better classify positions within the city services. Such collection of positions shall be known as the classification plan of the city of Salinas.

Upon approval of the city manager, classifications, including specifications, shall be referred to the city council for final consideration and adoption. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-4. Compensation plan—Step increases.**

The compensation plan adopted by the city council by resolution shall provide for salary schedules, rates, ranges, steps, time of increases, establishment of salary, and any other special compensation or terms related to the total compensation paid to employees. Step increases shall be governed by the following:

(a) The first step is the minimum rate and normally the hiring rate for the class. In classes where it is difficult to locate qualified personnel, or if a person of unusual qualifications is engaged, the city manager is authorized to hire at any step in the authorized range.

(b) The second step is an incentive adjustment to encourage an employee to improve his or her work. Employees will be eligible to advance to this step after the completion of at least six months of service at the first step and upon recommendation of the department head and approval by the city manager.

(c) The third step represents the middle value of the salary range and is the rate that is applicable to a fully qualified, experienced, and ordinarily conscientious employee who has completed a reasonable period of service. Employees shall be eligible to advance to this step after completion of at least twelve months of fully satisfactory service in Step 2 and upon the recommendation of the department director and approved by the city manager. It shall be the general policy that all employees after serving one year in Step 2 should proceed to Step 3, unless it is determined that his or her quality of work or work behavior for some reason does not meet the average standards for qualified employees.

(d) The fourth step is reserved for employees who are considered to be fully qualified in their classification. An employee shall be eligible to advance to this step after completion of at least twelve months of service in Step 3 upon recommendation of the applicable department director and approval of the city manager. It shall be the policy that all employees will advance to Step 4 of their pay range unless the quality of their work or other work behavior dictates otherwise.

(e) The fifth step is reserved for employees whose work meets the job standards established for their classification. An employee shall be eligible to advance to this step after completion of at least twelve months of service in Step 4. Advancement will be made upon submission of written communication from the department director substantiating that the quality of the employee's job performance meets the established job standards for the position held. Approval of the city manager is required.

(f) The sixth step is a longevity step. To be eligible for the sixth step, an employee must have five years of full-time service with the city of Salinas. The employee's most recent performance evaluation must be "meets standard" or greater. The employee must have been at the fifth step for at least one year. Years of service are determined based upon regular employment status. An employee advanced to the sixth step of the pay range shall retain such pay status as long as his or her performance remains at a level which meets job requirements.

(g) A person who is promoted or reclassified to a classification with a higher salary range shall be raised to the first step of the new range or to one step above his or her old step rate, whichever is higher; provided, however, that in cases where application of this procedure would result in an obvious inequity, the city manager is authorized to allow an additional adjustment of one step or more.

(h) Notwithstanding any provision of this section to the contrary, upon written recommendation of the department director substantiating that the quality of the employee's work

is that of a fully qualified, experienced, and conscientious employee, the city manager may approve the advancement of an employee from one step in a salary range to any other step within the same salary range or may accelerate that employee's movement through the salary range by eliminating or modifying the amount of time that must be spent in a given step before advancement to the next step. (Ord. No. 2000 (NCS), § 2; Ord. No. 2115 (NCS), § 1; Ord. No. 2452 (NCS), § 1.)

**Sec. 25-5. Appointment procedure/appointing authority.**

Appointments to city service shall be under the direction and control of the city manager or city attorney in cases of attorney and paralegal employees. The city manager may delegate this responsibility to department directors. (Ord. No. 2000 (NCS), § 2; Ord. No. 2113 (NCS), § 2.)

**Sec. 25-6. Certification of eligibility lists.**

All original employment and promotions shall be made from eligibility lists established by the personnel officer. Persons shall be placed on an eligibility list after successfully passing the selection process designated for that particular classification by the personnel officer.

Whenever certification is to be made, the personnel officer shall determine from which eligibility list certification shall be made. The personnel officer shall advise the appointment authority as to the availability of the employees for reinstatement, reemployment, request for transfer, or demotions, and of eligibles on eligibility or promotional lists for the class. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-7. Appointment.**

After interview and investigation, (including but not limited to physical, psychological, polygraph testing, etc.) the authorized appointing authority shall make appointments from among those certified and shall immediately notify the personnel office. If the applicant accepts the appointment and presents him or herself for duty at the prescribed time, he or she shall be deemed appointed; otherwise, he or she shall be deemed to have declined the appointment and his or her name shall be removed from the eligibility list. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-8. Application for appointment.**

All applicants for any type of appointment shall complete the application documents required by the city. Such application forms shall be received by the city personnel officer in the manner and time required by the city. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-9. Emergency appointments.**

To meet the immediate requirements of any emergency or extraordinary condition such as fire, flood, or earthquake which threatens public life or property, any department director may employ such persons as may be needed for the duration of the emergency without regard to this chapter or other rules affecting appointments. All such appointments shall be reported to the personnel officer as soon as possible and shall be limited to a three-day period unless approved in writing by the city manager for a longer duration. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-10. Promotion.**

Vacancies in positions above the lowest rank in any class in the classified service shall be filled as far as practical by the promotion of employees in this service. The personnel officer shall, in each case, determine when an open competitive examination or promotional examination will best serve the interest of the service in attracting well-qualified candidates. Executive, department directors, and management vacancies may be considered separately. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-11. Effect of separation on promotions.**

The name of any employee who has been permanently separated from the service of the city shall be removed from any promotional eligibility list(s). (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-12. Notice of vacancy.**

The personnel officer shall prepare recruitment announcements containing a summary of the job description which outline the duties to be performed, a summary of experience desired, education or experience requirements, and other essential information about positions. Notification of the public shall conform with the city personnel rules. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-13. Screening process and components of selection procedures.**

All applicant screening and components of selection process shall be under the direction of the personnel officer.

All selection procedures held under the provisions of this chapter shall be competitive and shall be conducted in a fair and impartial manner in accordance with these rules.

Selection procedures for employment shall be practical and reasonably related to the duties of the position to which the applicant seeks appointment and which fairly test the relative capability of the applicant to discharge the duties of the position. The city shall establish the specific selection components which may include any and all of those components established by the city personnel rules. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-14. Qualifications.**

The city shall establish minimum qualifications for positions within the city's service. Applicants not meeting the minimum qualifications shall not be considered for employment. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-15. Fraud.**

Fraudulent conduct or false statement by an applicant or by others with the applicant's knowledge and acquiescence shall be deemed cause for exclusion from a selection procedure, removal from an eligibility list, or discharge from the service after appointment; provided, that the applicant shall be offered an opportunity prior to removal to be heard by the personnel officer in his or her own behalf. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-16. Selection procedure regulations.**

Applicants for employment or promotion shall attend at the place designated by the personnel officer for the conduct of selection procedures at the time for which they are scheduled, and any applicant who appears late may be excluded. Failure to appear at any of the

components of the selection process may exclude the applicant from further consideration. Applicants will only be admitted to the place to which the selection procedures are conducted upon the production of a notice sent to them or other vehicle approved by the city. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-17. Change of address.**

Applicants changing their post office box or place of residence after filing an application shall notify the personnel office of such changes in writing immediately. Failure to do so will be treated as the fault of the applicant and may result in his or her failure to be notified of an examination, or his or her failure to be certified for appointment, or failure to receive any other notice or communication which the personnel officer may send him or her. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-18. Reduction in force—Layoff—Abolition of positions.**

Procedures for reduction in force shall be specified in the city personnel rules. Whenever it becomes necessary, in the opinion of the city council, to abolish a regular position or reduce the number of officers or employees in a given class in the classified service and to discharge the officer or officers, employee or employees holding such position or positions, for economy reasons or for any other cause, the city council may do so by stating in its proceedings the reasons therefor. Should such position be reestablished or such position or positions be refilled within one year, the officer or employee previously discharged shall be appointed thereto if they are still available for employment. All layoffs shall be governed by the personnel rules and regulations. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-19. Appeals from disciplinary action.**

Any regular or probationary employee shall have the right to appeal from disciplinary action as defined in the personnel rules. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-20. Probationary period.**

All original and promotional appointments shall serve a probationary period established in the city personnel rules. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-21. Records.**

The official employee records shall be maintained by the personnel office under the control of the personnel officer. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-22. Vested rights.**

Provisions of this chapter and of the personnel resolution and the personnel rules with respect to vacation, sick, or annual leave overtime, other leaves or benefits shall not give rise to any vested right or interest of any employee and may be modified or repealed, in whole, or, in part, at any time subject to city code, state law and federal law.

At the time of adoption, nothing herein shall be deemed to reduce or remove vacation, sick leave, overtime, other leaves or benefits that have accrued to any employee. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-23. Reports.**

Each department shall report to the personnel officer in writing as follows:

- (a) All appointments, promotions, transfers or demotions in city service;
- (b) All separations from city service;
- (c) All disciplinary actions;
- (d) Employee evaluations;
- (e) All other personnel actions. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-24. Performance appraisal report.**

A system of compulsory periodic ratings performed at least once a year shall be established by the personnel officer for all employees in the classified city service. The process and procedure shall be established by the personnel rules. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-25. Strikes prohibited.**

All strikes by public employees that create a substantial and imminent threat to the health or safety of the public are illegal and are prohibited as provided by law. Violation of this provision by an employee may be cause for discharge or other disciplinary action. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-26. Residency requirements.**

The city may establish residency requirements pursuant to law and the city personnel rules. (Ord. No. 2000 (NCS), § 2.)

**Article II. Employer—Employee Relations.**

**Sec. 25-27. Statement of purpose.**

It is the purpose of these rules:

- (a) To insure an equitable and uniform basis for employer-employee relations within the city government;
- (b) To maintain open channels of communication and permit the exchange of information and ideas in a cooperative manner;
- (c) To promote understanding of the rights and obligations of this city's government and recognized employee organizations concerning employer-employee relations;
- (d) To bring together the points of view of management and employees in order to promote improved performance combined with the well-being of those employees. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-28. Definitions.**

Terms used herein that are used in Government Code Section 3500 et seq. will have the same meaning as in said code, and have been restated herein for the purpose of convenience, together with certain other definitions which are unique to this section.

- (a) "Appropriate unit" means a unit established pursuant to Section 25-35 of this Code.
- (b) "City" means the city of Salinas, a municipal corporation, and where appropriate herein, city refers to the city council, the governing body of the city, or any duly authorized management employee as herein defined.

(c) "Employee" means any person who has completed a probationary period employed by the city in the classified service excepting members of the city council, members of appointed boards and commissions.

(d) Employee, Confidential. "Confidential employee" means an employee who is privy to decisions affecting employer-employee relations.

(e) Employee, Management. "Management employee" means:

(1) Any employee having significant responsibilities for formulating and administering city policies and programs, including but not limited to, the city manager and department directors;

(2) Any employee having authority to exercise independent judgment, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or having the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature, but requires the use of independent judgment. This definition is intended to maintain the levels and types of classifications on a list of management positions in effect on the date this ordinance is adopted.

(f) "Employee organization" means any organization which includes employees of the city and which has as one of its primary purposes, the representation of such employees and their relations with the city.

(g) "Employee representatives" means the authorized representative of a recognized employee organization.

(h) "Employer-employee relations" means the relationship between the city and its employees and their employee organization, or when used in general sense, the relationship between city management and employees or employee organizations.

(i) "Grievance" means any disagreement concerning the interpretation of the appropriate MOU or application of this ordinance or the rules and regulations governing personnel practices or working conditions.

(j) "Impasse" means a deadlock in discussions held between the majority representatives and the city council representatives over any matters concerning which they are required to meet and confer in good faith or over the scope of such subject matter.

(k) "Majority representative" means an employee organization or its duly authorized representative that has been granted formal recognition by the city council as representing the majority of employees in an appropriate unit.

(l) "Meet and confer in good faith" means the performance by duly authorized city council representatives and the duly authorized majority representatives of a recognized employee organization of their mutual obligation to meet and confer in good faith regarding matters within the scope of representation, including wages, hours and other terms and conditions of employment in an effort to:

(1) Reach agreement on those matters within the authority of such representatives; and

(2) Reach agreement on what will be recommended to the city council on those matters within the decisionmaking authority of the city council. The good faith attempt to reach an agreement does not require either party to agree to a proposal or to make a concession.

(m) "Memoranda of understanding" or "MOU" means a written understanding reached by representatives of city and recognized employee organizations.

(n) "Recognized employee organizations" means any employee organization which has been formally acknowledged by the city council as an employee organization that repre-

sents employees of the city. Formal recognition includes the right to meet and confer in good faith with the city council representatives as the majority representative in an appropriate unit.

(o) "Scope of representation" means all matters relating to employment conditions, and employer-employee relations including wages, hours, and other terms and conditions of employment. City responsibilities and rights as outlined in Section 25-32 are excluded from the scope of representation. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-29. Meet and confer in good faith.**

Within a reasonable time after being requested by either party, the city council representatives and recognized employee organization representatives shall meet and confer in good faith as defined in this article regarding matters within the scope of representation including wages, hours and other terms and conditions of employment within the appropriate unit. The city council representatives shall not be required to meet and confer in good faith on any subject preempted by federal law, state law or by the city Charter, nor shall it be required to meet and confer in good faith on employee or city rights as defined in the appropriate sections of this article. Proposed amendments to this article are excluded from the scope of meeting and conferring. Only recognized employee organizations, shall have access to the meet and confer process. Upon request, pursuant to this article, representatives of a recognized employee organization shall have the right to meet and confer in good faith with the appropriate city representatives regarding wages, hours and other terms and conditions of employment as defined in this article and the applicable state law. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-30. Consultation in good faith.**

All matters affecting employer-employee relations, including those that are not subject to meeting and conferring, may be subject to consultation. The city council representative or designee shall consult in good faith with representatives of all recognized employee organizations on employer-employee relations matters which affect them. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-31. Employee rights.**

The employees of the city shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations, including but not limited to wages, hours, other terms and conditions of employment.

The employees of the city shall also have the right to refuse to join or participate in the activity of employee organizations, and shall have the right to represent themselves individually in their employment relations with the city.

The city and employee organizations shall not interfere with, intimidate, restrain, coerce, or discriminate against employees because of their exercise of their rights under this section. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-32. City responsibilities and rights.**

City rights include but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; to determine the procedures and stan-

dards of selection for employment and promotions; to direct its employees; to assign work to employees in accordance with the requirements determined by the city; to establish and change work schedules and assignments; to determine the content of job classifications; to hire, transfer and to lay off employees for lack of work; to suspend, discipline and discharge employees for proper cause; to expand or diminish the services; to subcontract any work or operation; and to determine the methods, means and personnel by which government operations are to be conducted. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-33. Advance notice of action.**

Except in cases of emergency, each recognized employee organization affected shall be given reasonable written notice of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the city council, and shall be given the opportunity to meet with the city council representative prior to its adoption. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-34. Management, confidential and professional employees.**

The city council authorizes the city manager to designate the employees by job Title which have been determined to be management, confidential or professional employees. Management or confidential employees shall not hold office, serve on a committee involved in matters within the scope of representation, or represent any employee organization which includes employees who are not management employees, nor may any employee organization representing nonmanagement employees represent management employees or management organization represent nonmanagement employees. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-35. Registration of employee organizations.**

(a) Application For Registration. An organization that desires to be registered as a recognized employee organization shall file with the personnel office the following documents signed by its presiding officer:

- (1) Name and address of employee organization;
- (2) Name and titles of its officers;
- (3) Names of two employee organization representatives who are authorized to speak on behalf of its members;
- (4) Certified copy of the employee organization's constitution or bylaws;
- (5) A statement whether the employee organization is a chapter or local of or affiliated directly or indirectly in any manner with a regional or state or national or international organization, and if so, the name and address of each regional, state, national or international organization;
- (6) The names and addresses of no more than two persons to whom notice sent by regular United States mail will be deemed sufficient notice to the employee organization;
- (7) A statement that the employee organization has no restriction on membership based upon race, color, creed, sex, national origin, age, or handicapped status;
- (8) A list of names of the employees it represents, together with each employee's class, title and department;
- (9) A request that the city council recognize the employee organization as a representative of the employees and the appropriate unit for the purpose of meeting and conferring in good faith on all matters within the scope of representation;

(10) Organizational Changes. Once registered, the employee organization shall notify the city manager in writing of any changes the employee organization makes in those items required by Section 25-35(a)1, (a)2, (a)4, and (a)6 within ten days of such change.

(b) Registration. Upon receipt and verification of all the information required by the above section, the city manager shall in writing notify the organization of the city's position as outlined in the sections above in this article. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-36. Representation units.**

(a) Appropriateness of Unit. The appropriateness of a representation unit shall be governed by the following factors:

(1) That it is the broadest, feasible group based upon internal and occupational community of interest;

(2) That the history of representation is used as one factor to determine appropriateness;

(3) That the unit does not contain classifications or individuals restricted by this article;

(4) That the classifications in the unit have a community of interest such as skills, working conditions, job duties or similar educational requirements;

(5) That no city classification shall be in more than one representation unit.

(b) Establishment A representation unit may be established by petition of eligible employees within their proposed unit or by the employee relations officer. Petitions shall be filed with proof of employee approval equal to at least fifty percent of the eligible employees within the proposed unit. Petition shall be filed with the city manager who will review the appropriateness of the representation unit. He or she shall also give notice of filing to the employees in the proposed units and to any recognized employee organization that has filed a written request for such notice. The petition for the establishment of a representation unit may be combined with the petition that seeks to certify an employee organization as a recognized employee organization and must include a decertification petition as outlined in this article, (25-37(g)) if it is a reconstruction of an existing unit.

Petition for the establishment of a representation unit which would involve reconstruction of an existing unit may be made only during the month of October preceding the expiration date, if any, of an MOU to which the existing unit is a party.

(c) Challenge by Employee Organization. If an employee organization desires to challenge the appropriateness of the proposed representation unit and seeks to establish a different unit, it shall file a petition with the city manager requesting a unit determination within thirty days of the filing of a petition that it seeks to challenge.

(d) Challenge by the City Manager. If the city manager decides to challenge the appropriateness of the proposed representation unit, he or she shall give notice within thirty days of filing the original petition to the petitioner concerned of such challenge.

(e) Certification of an Unchallenged Unit. If there has been no petition or notice filed challenging the petition to establish a representation unit within thirty days, the city manager shall certify to the petitioner that the representation unit has been established.

(f) Amendment of Petitions. If a challenge is lodged, the city manager shall notify the original petitioner in writing. If an amended petition is not filed within seven days of such notice, the petition and challenge shall be transmitted to the State Conciliation Service as provided below. Upon the filing of an amended petition, the original petition shall be deemed

revoked and the amended petition shall be processed as an original petition as set forth above.

(g) **Determination of a Dispute.** If a challenging petition has been duly filed and the challenge has not been resolved by amendment or withdrawal, the city manager shall first transmit the petition of the challenge with a request for determination to the State Conciliation Service which shall utilize its procedures to determine the appropriate representation unit or units. On suggestion of the State Conciliation Service, an alternate dispute resolution agency may be selected whose cost shall be borne equally by the city and the employee organization originating the request for establishment of the unit. In resolving a representation unit dispute, it is recommended that the State Conciliation Service or alternate agency shall in each case determine the broadest feasible grouping based upon such factors as internal and occupational community of interest and the history of representation. No city classifications shall be included in more than one representation unit. The State Conciliation Service, or alternate agency, may adopt rules governing its process of determination and may consolidate the petitions for hearing. The decision of the State Conciliation Service, or those of an alternate agency, shall be transmitted to the city manager and the petitioner. The decision of the State Conciliation Service or alternate agency shall be a determining factor subject to appeal to the city council whose decision on appeal shall be final. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-37. Recognition of employee organizations.**

(a) **Petition.** An employee organization that seeks certification as a recognized employee organization shall file a petition with the city manager. The petition shall identify the representation unit requested or established pursuant to Section 25-35, for which petitioner seeks recognition and shall include a statement of reasons for the composition of the unit, including the community of interest. The petition shall be accompanied by all the documents required by Section 25-35 in the request for registration.

(b) **Majority and Minority Petitions.** The city manager shall determine the percentage of proof of employees' approval greater than fifty percent of the employees within a representation unit which shall be certified as a majority petition. A petition accompanied by proof of employee approval of between thirty and fifty percent of the employees within the representation unit shall be certified as a minority petition.

(c) **Challenge.** The city manager shall give written notice of his/her certification of a majority or minority petition to the petitioner, to the employees involved, and to the recognized employee organization that has filed a written request for receipt of such notice. Another employee organization may file a challenging petition seeking to become the recognized employee organization within the representation unit.

(d) **Election—Challenge Majority Petition.** If the minority petition is filed against the majority petition for a certified employee organization that is accompanied by proof of employee approval equal to at least thirty percent of the employees within the representation unit, the city manager shall refer the matter and a request for an election to the State Conciliation Service, or suggested alternate, which shall call and conduct a secret ballot election pursuant to Section 25-36(g).

(e) **Election—Minority Petition.** If a minority petition is filed, the city manager shall request the State Conciliation Service, or suggested alternate, to conduct a secret ballot election pursuant to Section 25-36(g), whether or not a challenging petition is filed. If a challeng-

ing petition is filed against the minority petition and is accompanied by proof of employee equal to at least ten percent of the employees within the representation unit, the election agency shall include the challenging employee organization on the ballot.

(f) Election Procedures. Whenever an election agency calls for an election pursuant to this article, it shall include the choice of no organization on the ballot. Employees entitled to vote on the representational election shall be those current employees within the representation unit whose names also appear on the payroll immediately prior to the date of election. An employee organization shall be certified by the city manager as the recognized employee organization within the representation unit if the majority of those casting valid ballots at the election choose said organization.

In an election where none of the choices receive a majority of ballots cast, a run-off election shall be conducted between the two choices receiving the largest number of ballots cast.

There shall be no more than one representation election in any twelve month period within the same representation unit.

(g) Decertification Procedure. A decertification petition may be filed with the city manager by employees or an employee organization to determine whether or not a recognized and certified employee organization continues to represent a majority of employees within the representation unit. Such a petition may be received by the city manager only during the month of October preceding the expiration date of an existing MOU. When such valid petition has been filed, the State Conciliation Service, or suggested alternate, shall conduct an election to determine whether or not the incumbent recognized employee organization shall be decertified if the majority of those casting ballots vote for decertification, or in appropriate cases, if the majority vote for the petitioning organization. In the absence of decertification, the certification of a recognized employee organization shall continue on a year-to-year basis. If a decertification petition contains proof of at least seventy-five percent of the employees in the representation unit, the city manager will decertify the incumbent employee organization without an election provided, however, that an employee organization must comply with Section 25-36 of this article. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-38. Designation of city council representatives.**

The city council shall designate by resolution a representative to represent the city in all matters of employer-employee relations with the authority to meet and confer in good faith on matters within the scope of representation, including wages, hours and other terms and conditions of employment. The city council representative so designated is authorized to delegate these duties and responsibilities. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-39. Rules and regulations.**

The city council may adopt such rules and regulations as they deem necessary or convenient to implement the provisions of this article and Chapter 10 Division 4, Title 7 of the Government Code of the state of California (Section 3500 et seq.). (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-40. Impasse procedure.**

The impasse procedure shall only be utilized when all reasonable attempts to reach an agreement through negotiations have been unsuccessful.

The parties may mutually agree to mediation of the impasse. If the parties agree to mediation but are unable to agree on a mediator, the parties shall request the services of the State Conciliation Service, or alternate agency, to provide a mediator. Cost will be borne equally between the city and the recognized employee organization. The mediator or mediator agency shall make no public recommendation nor take any public position concerning the issues, but shall work directly with the parties involved. If mediation is agreed upon but unsuccessful, either party may initiate the completion of the impasse procedure by filing with the other party affected a written request for an impasse meeting, together with a written statement of its position on all disputed issues. An impasse meeting shall then be scheduled by the designated council representative before the city council.

The purpose of such impasse meeting is twofold: (1) to permit a review of the positions of each party in a final effort to reach agreement from the disputed issues; and (2) if agreement is not concluded, the mediator, if any, shall prepare an advisory report with his/her recommendations for an agreement. Either party may then institute request for a meeting before the city council which shall be public. The city council decision and determination shall be final. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-41. Memorandum of understanding.**

If agreement is reached by city council representatives and a recognized employee organization, they shall jointly prepare a written memorandum of such understanding. If an MOU contains an expiration date, either party to the MOU may declare intentions to initiate meet and confer sessions with regards to revisions to the MOU within the time specified in Section 25-45. Notice of intention must be in writing and must be accompanied by a written statement setting forth revisions desired by the party serving notice. If the notice of intention is declared by the recognized employee organization, the notice shall be delivered to the city manager. If the notice of intention is declared by the city, the notice shall be delivered to the president of the organized employee association/union.

In the event neither party declares its intention to revise the MOU within the time specified in Section 25-45, the MOU will automatically be renewed for one more year. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-42. Grievance procedure.**

Any employee may file a grievance regarding an issue which arises out of the course and scope of his/her employment with the city for which proceedings are not otherwise provided. Complaints shall be processed in accordance with personnel rules established by the city.

See Personnel Resolution—Article XII. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-43. Establishment of grievance board.**

A grievance board is established to hear employee grievances pursuant to the personnel resolution. The composition of the city's grievance board will be four members appointed by the city council. The fourth member of the board will serve as an alternate member. No member of this board will be employed by or affiliated with the city. Each recognized employee organization will be authorized to submit the name of one candidate to the city council. The council will appoint one member of the board from this list and select one more of their own choosing. The third member will be selected by the two appointees. The fourth

member will be recommended by the board and submitted to the city council for approval. The term of appointment shall be for five years.

In the alternative, the composition of the grievance board may differ pursuant to the terms of a memorandum of understanding duly executed by the city and the recognized employee organization. Any such change in the composition of the grievance board shall not affect the jurisdiction of the board. (Ord. No. 2000 (NCS), § 2; Ord. No. 2342 (NCS), § 1.)

**Sec. 25-44. Employees at meetings.**

A maximum of two employees representing the recognized employee organization may be released from work without loss of pay or benefits to meet with the city council representatives in employer-employee relations. The limitation of two employees may be waived upon mutual written agreement between the city council representative and the recognized employee organization. Such employees shall obtain permission through supervisory channels before leaving their work or work location. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-45. Timetable for submission of requests.**

Requests from recognized employee organizations for changes in wages, fringe benefits and other terms and conditions of employment shall be submitted no later than ninety days prior to the expiration date of an existing MOU for consideration by the city council representative. Negotiations, once requested, shall begin with recognized employee organizations no later than sixty days prior to the expiration date of an MOU. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-46. Membership dues deduction.**

Only a recognized employee organization may have the regular dues of its members deducted from the employee's paychecks and only upon the written authorization of the individual employee. The form of the authorization shall be approved by the personnel officer. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-47. Use of bulletin board.**

Space shall be made available to recognized employee organizations on existing departmental and city bulletin boards within the respective work area, provided such use does not interfere with the needs of the department and the materials posted are not derogatory to the city, employees of the city, or other employee organizations in the judgment of the city council representative. (Ord. No. 2000 (NCS), § 2.)

**Sec. 25-48. Use of city facilities.**

Recognized employee organizations may distribute pamphlets, brochures and membership cards in city facilities only during the nonworking hours of the employees involved. No unrecognized employee organization shall engage in organized activities or distribution of pamphlets or similar literature in connection therewith on any city property. Recognized employee organizations may hold meetings of their members or representatives on city property during nonworking hours, provided space is available, and upon approval of the appropriate department director and the city representative. (Ord. No. 2000 (NCS), § 2.)

## **Article III. General.**

### **Sec. 25-49. Adoption of personnel resolution and authority to establish personnel rules.**

After due consideration, the city will adopt a personnel resolution authorizing the personnel rules and regulations for the city.

This chapter authorizes the establishment of personnel rules to implement the personnel resolution. (Ord. No. 2000 (NCS), § 2.)

### **Sec. 25-50. Construction.**

(a) Nothing in this article shall be construed to deny any person or employee the rights granted by federal and state laws and City Charter provisions.

(b) The rights, powers and authority of the city council in all matters, including the right to maintain any legal action, shall not be modified or restricted by this article.

(c) Nothing contained in this article shall abrogate any written agreement in effect between any employee organization and the city on the effective date of this article. All such agreements shall continue in effect for the duration of the terms specified therein unless modified or rescinded by mutual agreement of the parties thereto.

(d) The provisions of this article are not intended to conflict with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the state of California.

(e) The ordinance codified in this chapter supersedes any other ordinance or resolution regarding personnel matters adopted by the city. (Ord. No. 2000 (NCS), § 2.)

### **Sec. 25-51. Affirmative action.**

The city will recruit, hire, train and promote into all job levels the most qualified persons without unlawful discrimination on the basis of race, creed, color, religion, sex, national origin, age, marital status, physical, mental, or social disability as required by applicable federal and state laws. Similarly, personnel matters such as compensation, benefits, transfers, layoffs, city-sponsored training, education and tuition assistance programs will continue to be administered in accordance with this policy. All employment related decisions will be based on objective/job-related standards implemented in furtherance of the letter and spirit of equal employment opportunity. (Ord. No. 2000 (NCS), § 2.)

### **Sec. 25-52. Amendments.**

Amendments to this chapter may be recommended to the city council upon approval by the city manager. Prior to consideration, any amendment shall be communicated to each recognized employee organization not less than ten days prior to city council's consideration. (Ord. No. 2000 (NCS), § 2.)

### **Sec. 25-53. Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The city council declares that it would have passed the ordinance codified in this chapter on each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid. (Ord. No. 2000 (NCS), § 2.)