

Committee of the Proposed City Charter
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CIVIL SERVICE COMMISSION INFORMATION

The establishment of a civil service commission is a municipal affair that the proposed city charter may expressly control. The Committee has requested information in regard to a civil service commission for the City of Carson ("City").

A civil service commission is an administrative body responsible for serving impartial rulings on employment matters for a public body. A civil service commission may conduct hearings for disciplinary appeals and rule on matters related to unfair labor practices, discrimination complaints, examination appeals, and employee representation issues. Most civil service commissions predominately hear appeals for disciplinary matters, such as suspensions and removals. Civil service commissions may also hear employee grievances, including complaints from employees concerning unfair or discriminatory treatment.

The membership of a civil service commission varies, and usually depends on the size of the public entity it serves. Generally, civil service commissions have three to five city council-appointed commissioners, which are union members and/or community members, but not otherwise employees of the public entity. Commissioners may have the authority to elect their own chairman within the commission to preside over meetings or execute documents on behalf of the commission. Term limits for commissioners may vary, but appointments are generally four years in length.

Civil service commissions generally have the authority to conduct investigations and hearings, to subpoena and examine witnesses and the production of documents, and to make recommendations to the city council regarding the personnel rules and policies.

A civil service commission serves as a formal and dedicated body for handling employee disciplinary matters and procedures. Currently, the City grants authority to conduct disciplinary actions to department heads and the City Manager who have other responsibilities that may influence the decision making process. Having a dedicated administrative body to deal with disciplinary matters arguably creates a committee that can develop expertise specific to the City. On the other hand, depending on the duties and obligations of a civil service commission, as established by a city charter or by city council ordinance, a city may have difficulty or significant delays in disciplining employees should commission involvement be required for all disciplinary matters. This may create difficulty if the City seeks to quickly discharge an employee and hire a new employee to that position.

Furthermore, the City's existing personnel rules contain many of the procedures and requirements a typical civil service commission would adhere to, with the exception that the City Manager serves as the hearing officer for disciplinary matters and the final decision for grievance matters, rather than an appointed board.

I. Carson Policies for Disciplinary and Grievance Matters

Rules XIV, XV, and XVI of the City's Personnel Rules (Attachment A) and Articles IX, X, and XI of the MOU between the City and AFSCME, Local 809 (Attachment B), generally establish the disciplinary, appeal, and grievance procedures for city employees.

A. Disciplinary Policies

The City allows disciplinary action, including discharge, demotion, and suspension, for a list of legitimate reasons. Upon the occurrence of a legitimate reason that prompts disciplinary action, it is the duty of the department director to initiate that disciplinary action, schedule a pre-disciplinary conference with the employee, and make recommendations to the City Manager on what action to take. However, the department director cannot impose any disciplinary action without final approval of the City Manager.

The pre-disciplinary process requires that the employee be notified in writing of the nature of and reason for the proposed disciplinary action and the employee's right to respond. Employees are also permitted to represent themselves throughout the disciplinary process or to be represented by a union representative or legal counsel.

City employees are permitted to appeal the imposition of a disciplinary action by submitting a written request for a hearing identifying the issue, the grounds for appeal, and the relief requested to the Director of Human Resources within ten days after the disciplinary action has been imposed. The City Manager acts as the hearing officer, unless the City Manager designates a department director or other third party as the hearing officer. At the hearing, both the employee and the City have a right to present any written or oral evidence, and may produce and confront witnesses. The burden is on the City to prove the charge against the employee. The hearing officer's decision is final, and no longer appealable within the City's administrative processes.

B. Grievance Policies

The City's grievance policies cover matters relating to the terms and conditions of employment within the City, including employee complaints concerning unfair or discriminatory treatment affecting employee wages, hours, and working conditions. Formal grievances are filed with the department director, who will render a decision. The employee may seek further review of their grievance with the Director of Human Resources, and even further review by the City Manager. The City Manager's decision is not appealable within the City's administrative process.

III. Sample Civil Service Commission – City of Signal Hill

The City Charter for the City of Signal Hill establishes a five-member civil service commission appointed by the city council. (Attachment C). The commission is responsible for the disciplinary process of employees, as well as for establishing and implementing a system for the review of disciplinary decisions, the protection of employees' rights, and for all necessary record-keeping.

The charter grants initial authority for the commission to hear disciplinary appeals and to conduct investigations, issue subpoenas, and examine witnesses that appear before it in relation to any disciplinary appeal requested by an employee. The Signal Hill Municipal Code, Section 2.80.560, details the procedures for how the hearings are conducted. The charter further provides that after a hearing before the commission, any person aggrieved may appeal the decision of the commission to the city council. Any council decisions to sustain or overturn a vote are final, and no longer appealable within the city's administrative processes.

Attachment A

City of Carson

Personnel Rules XIV, XV, XVI

RULE XIV

DISCIPLINARY PROCEDURES

Section 1. Legitimate Reasons for Disciplinary Action. Disciplinary action consists of the discharge, involuntary demotion or suspension of an employee. An employee shall not be discharged, involuntarily demoted or suspended except for a legitimate reason. A legitimate reason for disciplinary action may include but shall not be limited to the following:

- (a) Violation of standard management procedures;
- (b) Failure to properly perform assigned duties;
- (c) Theft of city property;
- (d) Insubordination;
- (e) Conviction of a felony, or conviction of a misdemeanor relation to the employee's fitness to perform assigned duties;
- (f) Unauthorized absence from employment;
- (g) Tardiness;
- (h) Failure to maintain satisfactory working relationships with other employees or the public;
- (i) Reporting for work, or being at work, under the influence of or in possession of alcohol, or non-prescribed controlled substances;
- (j) Improper use of city funds;
- (k) Unauthorized use of city property;
- (l) Failure to properly care for city property;
- (m) Misstatement of material fact;
- (n) Failure to maintain any employment qualification;
- (o) Failure to comply with safety standards;

- (p) Other failure of good behavior either during or outside of employment such that the employee's conduct causes discredit to the city;
- (q) The use of threats of physical violence against and in the presence of employees and/or the general public; self defense is not grounds for discipline.
- (r) Involvement in an altercation/fight while at work. The recommended disciplinary action for fighting may be discharge. Employee will retain the right to appeal the disciplinary action.

Section 2. Disciplinary Authority. The department director shall have the responsibility to institute disciplinary action, to schedule and conduct any predisciplinary conference and to recommend the imposition of disciplinary action. The department director shall not impose disciplinary action against an employee without the prior approval of the appointing authority.

Section 3. Notice of Discipline. Prior to recommending the imposition of any disciplinary action, the department director shall notify the employee in writing of the nature of the proposed disciplinary action and its proposed effective date, the reason for the proposed disciplinary action, any specific charges against the employee, and of the employee's right to receive copies of the written documents and materials upon which the proposed disciplinary action is based, and of the employee's right to respond to the charge, either orally or in writing.

Section 4. Representation. If an employee requests or is required to meet with a department director or supervisor and such meeting involves the possible imposition of disciplinary action against the employee, the employee, upon request, shall be entitled to have one representative present at such meeting.

Section 5. Emergency Suspension. When a department director determines that an employee's conduct threatens or has caused injury to persons or property, the department director may impose a suspension against the employee, effective immediately, until a predisciplinary conference is conducted pursuant to the personnel rules. Within three (3) days of such emergency suspension, the department director shall notify the employee, in writing, of the nature of any proposed disciplinary action, the reason for the disciplinary action, and of any specific charge against the employee, and of the employee's right to receive copies of the written documents and materials upon which the disciplinary action is based, and of the employee's right to respond to the charge, either orally or in writing. The department director, unless otherwise requested by the employee, shall conduct a disciplinary conference in not less than ten (10) days after the effective date of the emergency suspension. The imposition of any emergency suspension against an employee does not preclude the department director from proposing a more severe disciplinary action against such employee receiving an emergency suspension. The appeal rights of an employee receiving an emergency suspension shall be governed by the procedures provided for in these personnel rules for employees disciplined in the usual situation.

Section 6. Reprimand. A reprimand is a written criticism of an employee's work performance and issued to an employee in accordance with standard management procedures. An employee may use the grievance procedure provided for in these personnel rules to challenge the issuance of a reprimand.

RULE XV

APPEAL PROCEDURES

Section 1. Request for Disciplinary Hearing. Employees shall have the right to appeal the imposition of disciplinary action. When an employee requests a disciplinary hearing, the request shall be in writing, signed by the employee, and presented to the director of personnel within ten days after the notification date of the imposition of the disciplinary action. Any such request shall be addressed to the director of personnel and shall identify the subject matter of the appeal, the grounds for the appeal, and the relief desired by the employee. All disciplinary hearings shall be conducted in private unless the employee requests, in writing, a public hearing. If the employee fails to request a disciplinary hearing within the prescribed time, the employee shall have waived the right to a hearing and all rights to further appeal of the disciplinary action.

Section 2. Scheduling of Disciplinary Hearing. The Director of Personnel shall schedule any disciplinary hearing within a reasonable time after the filing of the employee's request, considering the availability of a hearing officer and the convenience of the employee and witnesses. If the disciplinary action recommended by the department director is discharge, the disciplinary appeal hearing shall begin within fifteen (15) days after the filing of the employee's request, unless a time extension is agreed to by both the hearing officer and the affected employee.

Section 3. Hearing Officer. The appointing authority shall be the hearing officer for disciplinary hearings except that the appointing authority may designate a department director or third party as the hearing officer for any disciplinary hearing.

Section 4. Representation at Disciplinary Hearing. At the disciplinary hearing, the employee may appear personally and may be represented by counsel or other representative. Employees whose positions are represented by the Municipal Employees' Union, Local 809, may appear personally and may be represented by an employee designated by the union. The employee and the city shall have the right to produce and confront witnesses, and to present any relevant oral or documentary evidence.

Section 5. Burden of Proof and Evidence. The city shall have the burden of proof at the disciplinary hearing shall be required to prove the charges against the employee by a preponderance of the evidence. The disciplinary hearing shall not be conducted according to the technical rules of evidence.

Section 6. Conduct of Disciplinary Hearing. The conduct of the disciplinary hearing shall be under the control of the hearing officer with due regard for the rights and privileges of the parties. During the examination of a witness, the hearing officer may exclude from the hearing, any and all other witnesses. The hearing officer shall have the power to issue subpoenas to compel the attendance of witnesses or the production of documents.

Section 7. Hearing Officer's Decision. Within a reasonable time after the disciplinary hearing, the hearing officer shall issue a written decision containing findings of fact and conclusions of law. The hearing officer shall have the authority to affirm, revoke or reduce the disciplinary action imposed against the employee. Except as otherwise provided for in these personnel rules, the hearing officer's decision constitutes a final resolution of any disciplinary action and no further appeal shall be permitted within the city's administrative process.

RULE XVI

GRIEVANCE PROCEDURES

Section 1. Propose of Grievance Procedure. The grievance procedure shall be used to resolve employee complaints concerning terms and conditions of employment with the city. The grievance procedure shall not be used for:

- (a) The resolution of any complaint concerning any disciplinary action; or
- (b) The resolution of any complaint concerning any aspect of the examination process;
- (c) The resolution of any complaint relating to any concerted refusal to work.

Section 2. Informal Discussion of Grievance. When an employee has a complaint, the employee shall first informally discuss the matter with the employee's immediate supervisor within five (5) working days from the incident or decision generating the grievance. If after the discussion with the immediate supervisor, the complaint has not been satisfactorily resolved, the employee shall have the right to informally discuss the complaint with the supervisor's immediate superior. If after such a discussion, the complaint has not been satisfactorily resolved the employee shall have the right to file a formal grievance.

Section 3. Formal Grievance Procedure. The formal grievance shall be used to resolve an employee's complaint not satisfactorily resolved by informal discussion.

(a) An employee shall have the right to present a formal grievance, in writing, within five (5) working days after the informal discussion of the grievance with the immediate supervisor and the immediate supervisor's superior. All formal grievances shall state the reasons for the complaint and the employee's suggested solution.

(b) The formal grievance shall be presented to the department director. The department director shall discuss the grievance with the employee or the employee's representative. Within five (5) working days after receipt of the formal grievance, the department director shall render a written decision regarding its merits. If the department director's decision does not satisfactorily resolve the complaint, the employee may present the formal grievance to the director of personnel. The grievance shall be considered resolved and no further review of the subject matter of the grievance shall be permitted under this rule when the employee does not seek further review of the grievance within five (5) working days after receipt of the decision of the department director. Failure of the department director to render a written decision on the grievance within five (5) working days constitutes a decision denying the grievance.

(c) When the employee presents a formal grievance to the Director of Personnel, the Director of Personnel shall discuss the grievance with the employee, or the employee's representative. Within ten (10) working days after receipt of the formal grievance, the Director of Personnel shall render a written decision regarding its merits. If the decision of the Director of Personnel does not satisfactorily resolve the complaint, the employee may present the formal grievance to the City Administrator. The grievance shall be considered resolved, and no further review of the subject matter of the grievance shall be permitted under this rule when the employee does not seek further review of the grievance within five (5) working days after receipt of the decision of the Director of Personnel.

(d) When the employee presents a formal grievance to the City Administrator, the City Administrator shall discuss the grievance with the employee, or the employee's designated representative. Within fifteen (15) working days after receipt of the formal grievance, the City Administrator shall render a written decision regarding its merits. The decision of the City Administrator shall resolve the grievance and no further review of the subject matter of the grievance shall be permitted within the City's administrative process.

(e) A division head shall have the right to present a formal grievance to the department director within (10) working days from the date of the incident or decision generating the grievance. A grievance filed by a division head shall be reviewed by the department director in the same manner as described in subsection (b) except that if the decision of the department director does not satisfactorily resolve the complaint, the division head may present the formal grievance to the City Administrator.

(f) When the division head presents a formal grievance to the City Administrator, the City Administrator shall discuss the grievance with the division head, or the division head's representative. Within fifteen (15) working days after receipt of the formal grievance, the City Administrator shall render a written decision regarding its merits. The decision of the City administrator shall resolve the grievance and no further review of the subject matter of the grievance shall be permitted within the city's administrative process.

(g) The city shall not institute any reprisals against any employee or any representative resulting from the use of the grievance procedure. The City Administrator may designate a department director or third party to serve as the final reviewer for either employee grievances or division head grievances.

Attachment B

City of Carson

Resolution No. 14-100

Articles IX, X, and XI of the MOU between the City and AFSCME, Local 809

6.2 The City shall pay for medical examinations required for Class A and B Driver's Licenses.

SECTION 7 - FIRST AID AND CPR:

Provided that the subject training can be provided by certified in-house staff, on a voluntary basis, the City will provide First Aid training and certification and Cardio-Pulmonary Resuscitation (CPR) training and certification to all unit members within the Crafts and Trades Unit who work out in the field, at no cost to the unit members. Training for new unit members within the Crafts and Trades Unit who work out in the field shall be offered at least annually and re-certification trainings will be offered in conformance with the required recertification dates of the American Red Cross.

ARTICLE IX
DISCIPLINE AND DISCHARGE

SECTION 1 - JUST CAUSE:

A Unit member covered by this MOU may be suspended without pay, demoted or discharged for just cause. A Unit member's suspension without pay may be achieved through a temporary decrease in step without any loss of work by the Unit member; the step decrease shall not exceed the period of time necessary to achieve the loss of pay equivalent to a stated suspension; and it shall not affect the Unit member's step anniversary date. Unit members, other than probationary, shall have the right of appeal.

SECTION 2 - REPRESENTATION:

- 2.1 Unit members may be represented by a Union representative or legal counsel at predisciplinary conferences and/or post-disciplinary appeal hearings.
- 2.2 Advocates of the Union who are City Unit members shall at all times be treated with respect by the City.

ARTICLE X
GRIEVANCE PROCEDURE

SECTION 1 - GRIEVANCE DEFINED:

A grievance is a complaint that there has been a violation of this MOU. The Unit member and/or the Unit member's designated representative bringing such a claim shall state how the violation affects their wages, hours, working conditions, or job security as provided for in this MOU.

SECTION 2 - INFORMAL DISCUSSION OF GRIEVANCE:

When a Unit member has a complaint, the Unit member and/or the Unit member's designated representative shall first informally discuss the matter with the Unit member's immediate supervisor within twelve (12) working days from the incident or decision generating the grievance. If after the discussion with the immediate supervisor, the complaint has not been satisfactorily resolved, the Unit member and/or Unit member's designated representative shall have the right to informally discuss the complaint with the supervisor's immediate superior. If after such a discussion, the complaint has not been satisfactorily resolved, the Unit member shall have the right to file a formal grievance.

SECTION 3 - FORMAL GRIEVANCE PROCEDURE:

The formal grievance shall be used to resolve a Unit member's complaint not satisfactorily resolved by informal discussion.

- 3.1 A Unit member shall have the right to present a formal grievance, in writing, within twelve (12) working days after the discussion of the grievance with the immediate supervisor and the immediate supervisor's superior. All formal grievances shall state the violation of this MOU and how it affects the Unit member's wages, hours, working conditions or job security, and the Unit member's suggested solution.
- 3.2 The formal grievance shall be presented to the Division Manager. The Division Manager shall discuss the grievance with the Unit member and/or the Unit member's designated representative. Within twelve (12) working days after receipt of the formal grievance, the Division Manager shall render a written decision regarding its merits. If the Division Manager's decision does not satisfactorily resolve the complaint, the Unit member and/or Unit member's designated representative may present the formal grievance to the Department Director of the work group. The grievance shall be considered resolved and no further review of the subject matter of the grievance shall be permitted under this article when the Unit member does not seek further review of the grievance within twelve (12) working days after the receipt of the decision of the Division Manager. Failure of the Division Manager to render a written decision on the grievance within twelve (12) working days constitutes a decision denying the grievance.
- 3.3 When the Unit member presents a formal grievance to the Department Director, the Department Director shall discuss the grievance with the Unit member and/or the Unit member's designated representative. Within twelve (12) working days after receipt of the formal grievance, the Department Director shall render a written decision regarding its merits. If the Department Director's decision does not satisfactorily resolve the complaint, the Unit member and/or Unit member's representative may present the formal grievance to the City Manager. The grievance shall be considered resolved and no further review of the subject matter of the grievance shall be permitted under this article when the Unit member does not seek further review of the grievance within twelve (12) working days after the receipt of the decision of the Department Director. Failure of the Department Director to render a written decision on the grievance within twelve (12) working days constitutes a decision denying the grievance.
- 3.4 When the Unit member presents a formal grievance to the City Manager, the City Manager shall discuss the grievance with the Unit member and/or the Unit member's designated representative. Within twelve (12) working days after receipt of the formal grievance, the City Manager shall render a written decision regarding its merits. The decision of the City Manager shall resolve the grievance and no further review of the subject matter of the grievance shall be permitted within the City's administrative process. Should the City Manager fail to render a written decision within twelve (12) working days, the Unit member may consider the administrative procedures completed and sue for redress of the grievance.
- 3.5 If the decision of the City Manager does not resolve the grievance to the Unit member's satisfaction, the Unit member, and/or the Union, may sue for redress of grievance.

SECTION 4 - NON-DEPARTMENTAL GRIEVANCES:

- 4.1 Grievances resulting from decisions or actions outside the departmental chain-of-command shall be initiated by the Unit member and/or the Unit member's representative with the Department Director of the work group from which a complaint generates. The Unit member and/or the Unit member's designated representative shall first informally discuss the matter with the Department Director (or Assistant City Manager, if the complaint is the result of decisions or actions generated by the City Manager's work group) within twelve (12) working days from the incident or decision generating the grievance. If the informal discussion does not satisfactorily resolve the grievance, the Unit member shall have the right to file a formal grievance, in writing, with the Department Director (or Assistant City Manager, if applicable), within twelve (12) working days after the informal discussion of the grievance with the Department Director (or Assistant City Manager, if applicable). The formal grievance shall state the violation of this MOU and how it affects the Unit member's wages, hours, working conditions or job security, and the Unit member's suggested solution.
- 4.2 When the Unit member presents a formal grievance to the Department Director (or Assistant City Manager, if applicable), the Department Director (or Assistant City Manager, if applicable) shall discuss the grievance with the Unit member and/or the Unit member's designated representative. Within twelve (12) working days after receipt of the formal grievance, the Department Director (or Assistant City Manager, if applicable) shall render a written decision regarding its merits. If the Department Director's (or Assistant City Manager's, if applicable) decision does not satisfactorily resolve the complaint, the Unit member and/or Unit member's representative may present the formal grievance to the City Manager. The grievance shall be considered resolved and no further review of the subject matter of the grievance shall be permitted under this article when the Unit member does not seek further review of the grievance within twelve (12) working days after the receipt of the decision of the Department Director (or Assistant City Manager, if applicable). Failure of the Department Director (or Assistant City Manager, if applicable) to render a written decision on the grievance within twelve (12) working days constitutes a decision denying the grievance.
- 4.3 When the Unit member presents a formal grievance to the City Manager, the City Manager shall discuss the grievance with the Unit member and/or the Unit member's designated representative. Within twelve (12) working days after receipt of the formal grievance, the City Manager shall render a written decision regarding its merits. The decision of the City Manager shall resolve the grievance and no further review of the subject matter of the grievance shall be permitted within the City's administrative process. Should the City Manager fail to render a written decision within twelve (12) working days, the Unit member may consider the administrative procedures completed and sue for redress of the grievance.
- 4.4 If the decision of the City Manager does not resolve the grievance to the Unit member's satisfaction, the Unit member, and/or the Union, may sue for redress of grievance.
- 4.5 Grievances resulting from decisions or actions of the Human Resources Officer shall be initiated by the Unit member and/or the Unit member's representative with the Human Resources Officer. The Unit member and/or the Unit member's designated representative shall first informally discuss the matter with the Human Resources Officer within twelve (12) working days from the incident or decision generating the grievance. If the informal discussion does not satisfactorily resolve the grievance, the Unit member shall have the right to file a formal grievance, in writing,

with the Human Resources Officer, within twelve (12) working days after the informal discussion of the grievance with the Human Resources Officer. The formal grievance shall state the violation of this MOU and how it affects the Unit member's wages, hours, working conditions or job security, and the Unit member's suggested solution.

- 4.6 When the Unit member presents a formal grievance to the Human Resources Officer, the Human Resources Officer shall discuss the grievance with the Unit member and/or the Unit member's designated representative. Within twelve (12) working days after receipt of the formal grievance, the Human Resources Officer shall render a written decision regarding its merits. If the Human Resources Officer's decision does not satisfactorily resolve the complaint, the Unit member and/or Unit member's representative may present the formal grievance to the Administrative Services Department Director. The grievance shall be considered resolved and no further review of the subject matter of the grievance shall be permitted under this article when the Unit member does not seek further review of the grievance within twelve (12) working days after the receipt of the decision of the Human Resources Officer. Failure of the Human Resources Officer to render a written decision on the grievance within twelve (12) working days constitutes a decision denying the grievance.
- 4.7 When the Unit member presents a formal grievance to the Administrative Services Department Director, the Administrative Services Department Director shall discuss the grievance with the Unit member and/or the Unit member's designated representative. Within twelve (12) working days after the receipt of the formal grievance, the Administrative Services Department Director shall render a written decision regarding its merits. If the Administrative Services Department Director's decision does not satisfactorily resolve the complaint, the Unit member and/or the Unit member's designated representative may present the formal grievance to the City Manager. The grievance shall be considered resolved and no further review of the subject matter of the grievance shall be permitted under this article when the Unit member does not seek further review of the grievance within twelve (12) working days after receipt of the decision of the Administrative Services Department Director. Failure of the Administrative Services Department Director to render a written decision on the grievance within twelve (12) working days constitutes a decision denying the grievance.
- 4.8 When the Unit member presents a formal grievance to the City Manager, the City Manager shall discuss the grievance with the Unit member and/or the Unit member's designated representative. Within twelve (12) working days after receipt of the formal grievance, the City Manager shall render a written decision regarding its merits. The decision of the City Manager shall resolve the grievance and no further review of the subject matter of the grievance shall be permitted within the City's administrative process. Should the City Manager fail to render a written decision within twelve (12) working days, the Unit member may consider the administrative procedures completed and sue for redress of the grievance.
- 4.9 If the decision of the City Manager does not resolve the grievance to the Unit member's satisfaction, the Unit member, and/or the Union, may sue for redress of grievance.

SECTION 5 - REPRISALS:

The City shall not institute any reprisals against any Unit member or designated representative resulting from the use of the grievance procedure.

ARTICLE XI
APPEAL PROCEDURES

SECTION 1 - REQUEST FOR DISCIPLINARY HEARING:

A non-probationary Unit member, or a Unit member who is on a promotional probationary period who is disciplined for other than failure to pass probation, who believes he or she has been suspended, or demoted without alleged just cause shall have the right to appeal the imposition of that disciplinary action. When a Unit member and/or the Unit member's designated representative or the Unit member's legal counsel, requests a disciplinary hearing, the request shall be in writing, signed by the Unit member, and presented to the Human Resources Officer within twelve (12) working days after the notification date of the imposition of the disciplinary action. Any such request shall be addressed to the Human Resources Officer and shall identify the subject matter of the appeal, the grounds for the appeal, and the relief desired by the Unit member. All disciplinary hearings shall be conducted in private, under no circumstances shall the hearing be open to the public. If the Unit member fails to request a disciplinary hearing within the prescribed time, the Unit member shall have waived the right to a hearing and all rights to further appeal of the disciplinary action.

SECTION 2 - SCHEDULING OF DISCIPLINARY HEARING:

The City shall schedule any disciplinary hearing within a reasonable time after the filing of the Unit member's request, considering the availability of a hearing officer and the convenience of the Unit member and the witnesses.

SECTION 3 - HEARING OFFICER:

- 3.1 The City Manager or his/her designee shall be the hearing officer for disciplinary hearings that do not involve suspensions of more than forty (40) hours, demotions or terminations, or where the Union does not participate in the appeal and pay half of all hearing costs.
- 3.2 The hearing officer shall be a neutral third party for all disciplinary appeals involving suspension of more than forty hours or termination.
 - a. The hearing officer shall be selected from a list of seven (7) names submitted by an outside source mutually agreed upon by the City and the Union. For the purpose of this section, the outside source shall be the American Arbitration Association, unless otherwise mutually agreed upon in writing between the Union and the City. This provision supersedes any and all side letters previously entered into between the City and the Union with respect to the selection of hearing officers for disciplinary appeals.
 - b. The selection process shall consist of the City and Union alternately striking a name from the list until one name remains which will be the appointed hearing officer. A coin toss will determine which side begins the above mentioned process.
 - c. The cost for the hearing officer shall be shared equally by the City and the Union.

SECTION 4 - REPRESENTATION AT DISCIPLINARY HEARING:

At the disciplinary hearing, the Unit member may appear personally, and shall have the right to be represented by the Union or by legal counsel. The Unit member and the City shall have the right to produce and confront witnesses, and to present any relevant oral or documentary evidence.

SECTION 5 - BURDEN OF PROOF AND EVIDENCE:

The City shall have the burden of proof at the disciplinary hearing and shall be required to prove the charges against the Unit member by a preponderance of the evidence. The disciplinary hearing shall not be conducted according to the technical rules of evidence.

SECTION 6 - CONDUCT OF DISCIPLINARY HEARING:

The conduct of the disciplinary hearing shall be under the control of the hearing officer with due regard for the rights and privileges of the parties. During the examination of a witness, the hearing officer may exclude from the hearing, any and all other witnesses. The hearing officer shall have the power to issue subpoenas to compel the attendance of witnesses or the production of documents. Disciplinary hearings shall be tape-recorded.

SECTION 7 - HEARING OFFICER'S DECISION:

Within thirty (30) calendar days after conclusion of the evidentiary and argument portions of the disciplinary hearing, the hearing officer shall issue a written decision containing findings of the fact and conclusions of law. The hearing officer shall have the authority to affirm, revoke or reduce the disciplinary action imposed against the Unit member. The hearing officer's decision constitutes a final and binding resolution of any disciplinary action and no further appeal shall be permitted.

ARTICLE XII
CITY RIGHTS

SECTION 1 - EXCLUSIVE CITY RIGHTS AND AUTHORITY:

The City retains the exclusive right to manage and direct the performance of City services and the work force performing such services. The following matters shall be within the exclusive authority of the City.

- 1.1 The consideration of the merits, necessity, or organization of any service or activity conducted by the City shall include but not be limited to the City's right to:
- 1.2 Determine issues of public policy;
- 1.3 Determine and change the facilities, methods, means, and personnel by which City operations are to be conducted;
- 1.4 Expand or diminish services;

Attachment C

City of Signal Hill

City Charter Sections 702 - 703