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Ordinance No. 023324 Council Bill No. B 275-17

**AN ORDINANCE**

amending Chapter 19 of the City Code as it relates to personnel policies, procedures, rules and regulations; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 19 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 19-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated in this section:

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*Complaints.* A written document filed:

(a) By the affected employee regarding any ~~Any~~ inequitable, unsafe, or malicious imposition upon an employee by a ~~superior, coworker, subordinate, employee from another department or division or individuals somehow~~ person associated with city government that alleges any violation of the terms and provisions of the existing personnel procedures; or ~~official business being conducted by the employee.~~

(b) By the affected employee regarding a dispute regarding the meaning, interpretation or application of personnel procedures; or

(c) By the affected collective bargaining group regarding a dispute regarding the meaning, interpretation or application of a collective bargaining agreement.

Complaint does not include any disciplinary action or the review of a job performance.

*Confidential employee.* Any public employee who works with or has access to information subject to use by the public employer in negotiating or who works in a close continuing relationship/capacity with public officers or representatives associated with negotiating on behalf of the employer.

*Curtailment of work.* A situation in which the need for the employee's services are no longer required because the city no longer performs the function to which the employee was assigned, to the degree that the same number of employees are needed.

*Disciplinary review.* A review requested by the employee of written discipline submitted to the human resources department other than suspension without pay, dismissal or disciplinary demotion.

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*Grievance.* Any dispute regarding ~~the meaning, interpretation, application, or alleged violation of the terms and provisions of the existing personnel procedures, or~~ any ~~determination~~ discipline involving suspension without pay, dismissal or disciplinary demotion.

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*Permanent employees.* A permanent appointment is one made to a position created without intent of limitation, and intended to exist for at least one budget year. A permanent appointment may be for a full-time position or a part-time position. In order to be considered a permanent appointment, a part-time position shall be specifically planned, approved and budgeted for a minimum of one thousand forty (1,040) hours per year.

*Personnel procedures.* Ordinance requirements under chapter 19; city manager's administrative rules issued under section 19-27; departmental rules issued under section 19-22 and applicable to the employee or the collective bargaining unit recognized under section 19-25.

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*Unclassified service.* The following offices and positions are in the unclassified service: All department heads; all assistant department heads; deputy city manager; assistant city manager; assistant to city manager; deputy city counselor; prosecutor; assistant city counselor; internal auditor; sustainability manager; civic relations officer; deputy fire chief; assistant fire chief; deputy police chief; assistant police chief; deputy city clerk; city management fellowship; trust administrator; PMO manager, controller; treasurer; budget officer; purchasing agent; risk manager; accounting supervisor; budget supervisor; information technology manager; geospatial services manager; cultural affairs manager; engineering and operations manager; solid waste district administrator; administrative services manager; police lieutenant, with the exception of the seven (7) police lieutenants who occupy the position in such classification on August 30, 2016 who shall be

grandfathered in classified service. Any grandfathered lieutenant may irrevocably elect to terminate grandfathered status and become unclassified by written notice to the human resources director.

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Sec. 19-25. Employee relations.

(a) The city manager shall have the authority to recommend to the city council (following certified elections or other assurances of interest deemed appropriate by the city manager and not inconsistent with state legislation) recognition of appropriate representative units of employees with a mutually acceptable community of interest for the purpose of meeting, conferring and discussing salaries and other conditions of employment which are mutually agreed upon as proper subjects for such discussions.

(b) The city manager shall designate representatives of the city to meet and confer with employee group representatives. City management representatives shall request to meet and confer with employee group representatives on proposed ordinance modifications to chapter 19 or the negotiation of collective bargaining agreements for the purpose of discussing proposals before a public vote of the city council.

(c) The city council, as a council or as individuals, shall not, in any manner, engage in any form of collective bargaining with employees, employee groups, or employee representatives; and the city council shall issue instructions on labor relations matters and working agreement provisions only to the city manager, and the city manager shall keep the council informed of all developments and potential impacts in a timely manner.

(d) The following timetable is established as a guideline for the meet-and-confer process. It is not intended to limit the right of employee groups to present proposals to the city relative to salaries and other conditions of employment. Neither is it intended to establish absolute deadlines for subsections (1) through (3). Subsections (4), (5) and (6) must be requested timely and after completion of the preceding section. Untimely requests made under subsections (4), (5) or (6) shall be scheduled the following year in the appropriate month unless both employee representatives and management agree otherwise.

(1) January. Representatives of the ~~city and the~~ various employee groups may prepare written summaries of their goals and objectives for the meet-and-confer process. If an employee group desires to make a presentation to the city council related to goals and objectives for the meet and confer process, the summaries shall be submitted to the city management representatives at least ten (10) days prior to the first regular city council meeting in January. At a work session scheduled prior to a regular city council meeting in January, the various employee groups shall be given the opportunity to make oral presentations to the council. The city council shall establish policy guidelines

to be followed by the city's representatives during ~~meet to discuss goals and objectives for~~ the meet and confer process.

(2) February. Representatives of the various employee groups and city management representatives shall prepare written proposals for revisions to ordinances or existing collective bargaining agreements. Proposed changes shall be provided to the other party by the first day of February each year, or, for a multiyear collective bargaining agreement, the first day of February in the year the collective bargaining agreement expires ~~summaries of their goals and objectives for the meet-and-confer process. The summaries shall be submitted to the city council prior to the first meeting in February. At the first regular meeting in February, or at a work session meeting in February, the various employee groups shall be given the opportunity to make oral presentations to the council. The city council shall establish policy guidelines to be followed by the city's representatives during the meet-and-confer process~~.

(3) February and March. Discussion sessions for non-economic issues shall proceed, with a goal of concluding discussions on non-economic issues by March 31st.

(4) April – June. Discussion sessions for economic issues and any remaining non-economic issues shall proceed. All discussions shall conclude for the year on or before June 21st. After April 1 and before May 1, any employee group dissatisfied with the progress of the meet-and-confer sessions may present their views directly to the city council at a work session meeting. The council shall meet at least once with the employee group requesting the opportunity of presenting its views directly to the city council.

(5) ~~May~~ June. ~~After May 1 and~~ On or before June 1, the city's representatives or any employee group dissatisfied with the progress of the meet-and-confer sessions may request the services of a mediator from the federal mediation and conciliation service or any other mediator mutually agreed upon by the employee group and the city's representative. The cost of any such mediation shall be borne equally by the employee group and the city. If the mediator concludes that the parties have negotiated to impasse, either party may ask that the mediator render a non-binding opinion for a proposed resolution of the issues still in dispute. The mediator has the authority to render such an opinion if the negotiations are at an impasse, the requesting party has negotiated in good faith and the mediator believes the rendering of an opinion may aid in the resolution of the dispute. The decision of whether to render an opinion is within the unreviewable discretion of the mediator, who is not required to provide an opinion. If rendered, the opinion must provide the recommended outcome and mediator's rationale for the recommended outcome. The mediation will be confidential, and before proceeding with mediation, both parties must agree in writing that any

information produced in the mediation, other than the terms of an agreement but including the mediator's recommendation and rationale, will not be used for any purpose outside the mediation, including subsequent litigation or proceedings relating to the labor negotiations.

~~(6) June. After June 1 and before July 1, if discussions have reached an impasse, any employee group or the city's representatives may request the services of a fact finder mutually agreed upon by the employee group and the city's representatives. The cost of any fact-finding shall be borne equally by the employee group and the city.~~

Sec. 19-26. Reserved management rights.

Specific areas of responsibility shall be reserved to management if the public service mission of the city is to function effectively and if rules and regulations are to be administered fairly, consistently, equitably and without discrimination ~~and these rights shall not be diminished by action of labor organizations and any related working agreements~~. The management of the city shall:

(1) Determine the nature, scope, and definition of the city organization including: classification, selection, number, retention, promotion, reorganization, transfer, deployment, assignment, lay-off, recall and scheduling of employees;

(2) Determine the methods, means, tools and equipment and personnel by which operations are to be conducted, including the right to contract and subcontract existing and future work;

(3) Direct employees;

(4) Discipline, suspend, demote, and/or discharge employees in accordance with the ordinances of the city;

(5) Require as a part of normal employee development, and in order to attain at least the minimal skills required of the classification, and in order to aid in the professionalization and general upgrading of the department, that employees take appropriate related training either on or off duty, in order to fulfill the responsibility of the position;

(6) Take the necessary measures to maintain optimum productivity in operations;

(7) Determine the necessity for and assignment of overtime in compliance with appropriate related legislation and/or court rulings;

(8) Determine the scope, priority, and amount of budget allocations;

(9) Determine eligibility for employee participation in employee representative unit activities in terms of the following exclusions: supervisory, confidential, or temporary employees, or those employees lacking community of interest with the general orientation of recognized representative unit activities, and where such community of interest may conflict with aforementioned management responsibilities ((1) through (8) above). This provision shall not serve to prevent supervisory employees from participating in representative unit activities as a separate unit with their own respective community of interest.

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Sec. 19-97. Standby/on-call provisions.

(a) A department head or duly authorized supervisor shall prepare a roster of permanent employees assigned to standby duty. Employees shall receive, insofar as possible, a month's notice, and assignments shall be posted on accessible bulletin boards. Emergency employees such as police and fire may be excluded from this provision pursuant to departmental rules and regulations.

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(d) Standby duty normally shall be one (1) week in duration, rotated among qualified employees. An employee shall be removed from standby duty if deemed incapable due to illness, or other sanctioned, cleared emergency as determined by the duly authorized supervisor; and remunerated on a daily basis. A permanent employee must have been in pay status during the normal working day in order to be eligible for the daily ~~thirteen dollars ($13.00)~~ fifteen dollars ($15.00) standby remuneration, except on weekends or normally scheduled days off. If an employee requests sick leave during a part or whole day standby duty is assigned, it shall be up to the supervisor to determine whether or not the employee should be allowed to remain on standby, taking into account all circumstances pertinent to the matter.

(e) Employees designated by the city manager or department head may be provided with beepers or cellular telephones so that they may be reached in the event of an emergency. Unless such employees are specifically told that they are in on-call status or are instructed as set out in subsection (b) above they are not on standby or on-call status and are not entitled to additional compensation.

(f) A permanent employee on standby shall receive standby compensation of ~~thirteen dollars ($13.00)~~ fifteen dollars ($15.00) per day except that an employee on standby during the permanent employee's scheduled day off shall receive standby compensation of ~~sixteen dollars ($16.00)~~ twenty dollars ($20.00) per day. A permanent employee on standby during a recognized city holiday shall receive an additional ~~thirteen dollars ($13.00)~~ fifteen dollars ($15.00) for being on standby on such a day.

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Sec. 19-100. Meal allowance; job site meal compensation.

(a) Eligible fire department employees on a fifty-six-hour week schedule shall be allowed ~~thirteen dollars ($13.00)~~ fourteen dollars ($14.00) per day for meal reimbursements for days actually worked. Eligible airport fire/safety officers on a sixteen-hour shift assignment shall be allowed ~~eight dollars and sixty-six cents ($8.66)~~ nine dollars and thirty-three cents ($9.33) per day for meal allowance for days actually worked.

(b) Except as otherwise indicated, an overtime eligible employee shall be allowed an allowance ~~a maximum reimbursement~~ of ~~ten dollars ($10.00)~~ eleven dollars ($11.00) for a meal after having worked a continuous two (2) hours in excess of the employee's regular shift of at least eight (8) hours without time off for meals. An additional ~~maximum~~ meal ~~reimbursement~~ allowance of ~~ten dollars ($10.00)~~ eleven dollars ($11.00) will be allowed for every five (5) consecutive hours worked thereafter. ~~Time for the meal shall not exceed thirty (30) minutes, will be counted as working time, and will be at a place designated by the supervisor.~~ Individuals on continuous sixteen- or twenty-four-hour shift assignments shall be exempt from this provision.

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Sec. 19-110. General benefits.

(a) Employee health care plan. The city shall pay into the employee benefit fund four ~~hundred forty-eight dollars and eighty-seven cents ($448.87)~~ four hundred eighty dollars and twenty-nine cents ($480.29) per month for the cost of medical employee health care plan coverage, and ~~thirty-one dollars and sixty-three cents ($31.63)~~ thirty dollars and twenty cents ($30.20) per month for the cost of employee dental plan coverage, for each eligible permanent employee and each eligible employee otherwise required to be covered by the city who participates in the plan. The city shall pay a portion of dependent care coverage for those eligible permanent employees who elect to purchase dependent health plan coverage under the city plan, subject to the following maximum amounts:

| | |
|---|---|
| Employee + Spouse | ~~$545.31~~ 576.73 |
| Employee + Child(ren) | ~~512.82~~ 544.24 |
| Employee + Family | ~~681.43~~ 712.85 |

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Sec. 19-182. Complaint procedures for allegations of discrimination.

Employees or job applicants who feel that they have been discriminated against pursuant to EEO provisions of these policies, rules, regulations and procedures may contact the human resources department to resolve the issue, or may utilize available remedies under existing local, state and federal legislation.

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Sec. 19-211. Separation because of curtailment of work.

(a) In the event of separation because of curtailment of work or lack of funds, such reductions in force shall be limited to the department involved and shall be made in the following order: ~~(The order within each designated category shall be determined by the department head's evaluation of the employee's relative value toward coping with the remaining work-load of the department, giving consideration to classification and length and quality of city and departmental service.)~~

(1) Temporary part-time employees.

(2) Temporary full-time employees or employees on specially budgeted programs.

(3) Permanent part-time employees serving probationary periods.

(4) Permanent part-time employees who have completed a probationary period.

(5) Permanent full-time budgeted employees serving probationary periods.

(6) Permanent full-time employees with probation completed.

Employees who have been promoted but who are serving a qualifying period at the time of such reduction in force shall be considered as holding a position in the highest classification in which they have completed a probationary or qualifying period.

(b) When making decisions regarding separation within each category listed in paragraph (a), the department head shall base decisions regarding separation on an evaluation of the following factors:

(1) The remaining workload of the department.

(2) The classification and type of experience of the affected employees.

(3) The length of city and departmental service of the affected employees.

(4) The quality of city and departmental service of the affected employees.

(c) If the city intends to propose separation because of curtailment of work or lack of funds to city council for council's consideration, and the affected employees are members of an employee bargaining group recognized by the city in accordance with section 19-25, the employee bargaining group shall be given notice of the proposed

separation prior to the date the proposal is scheduled to be presented to city council at a council meeting.

(~~b~~ d) Any employee ~~Employees~~ separated because of lack of funds shall be given formal written notice at least two (2) weeks in advance of the date of separation or two (2) weeks of regular pay in lieu of such notice.

(e) Any employee separated because of curtailment of work or lack of funds shall be eligible for severance pay in accordance with section 19-102.

(~~c~~ f) The names of any employee ~~employees~~ separated due to lack of funds who has ~~have~~ completed a probationary period shall be placed on a "reemployment list ~~lists~~" for first consideration in case of call-backs in the same or similar capacity, provided the employee has requested such consideration and is available at the time of recall.

(~~d~~ g) As determined by operational needs and feasibility of administration, and with the approval of the director of human resources and the city manager, a ~~A~~ department head may~~, with the approval of the city manager,~~ elect to either:

(1) Reduce the total working hours of an employee ~~employees~~, and/or

(2) Reduce the level of pay ~~payment~~ and responsibility of any current classification ~~classifications~~ in order to minimize the effect of general lay-offs ~~as determined by operational needs and feasibility of administration of these options~~.

(~~e~~ h) For permanent employees, ~~Inconsistent~~/discriminatory application of this section ~~shall~~ may be reviewed in accordance with ~~subject to complaint procedure provisions of~~ section 19-182.

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Sec. 19-224. Appropriate corrective action.

Corrective actions shall at all times be promptly administered and executed, thoroughly documented, appropriate to the infraction committed and shall never be on account of political considerations, personal bias, ~~or~~ prejudice, or for classified employees, administered without just cause.

Sec. 19-225. Guidelines for corrective action.

(a) The seriousness of an offense will often vary with the circumstances prevailing at the time it occurred and the motives which prompted it. All factors must be considered when determining the appropriate action to take in a particular situation. The violations set forth in this provision may be considered as just cause for suspension or

discharge. The list of offenses presented here does not purport to be all inclusive; neither is it intended that these guidelines should be rigidly followed.

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(b) The human resources director shall assist department heads by reviewing disciplinary actions in order to inform the department head of possible inconsistency and lack of uniformity.

Sec. 19-226. Explanation of action; appeal.

Any disciplinary action taken shall be documented and explained to the employee. Employees who are disciplined ~~shall be discharged or reduced in rank or compensation~~ shall be presented with written reason ~~for such discharge or reduction~~ at the time of the action or as soon as practical after the action and not later than ten (10) calendar days after the action is taken for discipline involving suspension, demotion or dismissal and five (5) calendar days for all other discipline. The written reasons shall be on a form provided by the human resources director, and include:

(1) A plain statement of why the action was taken.

(2) A list of evidence and documents supporting the discipline.

(3) The facts leading to the discipline.

(4) The law, ordinance or rule violated.

(5) Any other information deemed relevant to the disciplinary action taken.

A copy of the disciplinary action shall be provided to the human resources director. Eligible employees may appeal disciplinary actions against them resulting in suspension without pay, dismissal or disciplinary demotion pursuant to the city's grievance procedure. Eligible employees may appeal other disciplinary actions against them pursuant to the city's disciplinary review procedure.

Sec. 19-227. Suspension or termination.

The city manager has the authority to suspend or terminate the services of any employee because of:

(1) A reduction in force due to lack of funds or a curtailment of work.

(2) For misconduct, insubordination, violation of regulations (as set forth in this section).

(3) When such action becomes necessary for the good of the service.

Action taken pursuant to this section will be taken in conformity with this chapter, including sections 19.206 and 19.211 and, for eligible employees, are subject to the grievance, disciplinary review and appeal procedures in chapter 19, article VI, division 7.

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Sec. 19-236. Definition.

For the purposes of this division, "working day" shall be defined as Monday through Friday, except designated city holidays. The first working day following an event shall be the next day that is not a Saturday, a Sunday or holiday as established in section 19-121.

Sec. 19-237. Grievances, ~~and~~ complaints and disciplinary reviews.

(a) All classified employees shall have the right, except as specified herein, to utilize the grievance, ~~and~~ complaint and disciplinary review procedures of this division when they believe an action taken against them was without just cause. The grievance, ~~and~~ complaint and disciplinary review procedures of this division shall not be available to the following:

(1) Probationary employees.

(2) Employees who are serving a qualifying period subsequent to their initial probationary period except in matters not related to their status in the position in which they are serving the qualifying period.

(3) Employees or job applicants who feel they have been discriminated against based on race, creed, color, religion, sex, age, sexual orientation, gender identity, national origin, ancestry, marital status, political affiliation or disability. Such discrimination cases shall be handled pursuant to section 19-182.

(4) Temporary employees, as defined by section 19-4 and section 19-157.

(b) It shall be the policy of the city insofar as possible to prevent the occurrence of grievances and complaints and to deal properly with those which occur.

Sec. 19-238. Procedures for grievances, disciplinary review and complaints.

(a) Whenever an employee or employee bargaining group eligible to file a grievance, disciplinary review or complaint desires to do so, the employee or employee bargaining group shall follow the procedures set out in this section. An employee may have the assistance of an attorney, a representative of the employee's bargaining group or other representative in any stage of the process. Notification of such assistance shall be given in writing signed by the employee on a form to be provided by the human resources

department. A represented employee shall participate fully at all stages of the process. All documents and other submissions by employee's representative shall be read and signed by the employee to verify that submission is truthful and accurate. Employees and their representatives may, with the permission of their supervisors, be granted time off with pay for the purpose of necessary discussions and conferences with city supervisors and administrators relating to the resolution of specific grievances and complaints.

(b) Employees who feel that they have been discriminated against pursuant to equal employment opportunity provisions of city ordinance, state or federal laws shall follow the complaint procedures set out in section 19-182.

(c) An employee ~~complaining about~~ objecting to the content of a job performance review may ~~complain~~ forward the objection directly to the employee's department head and if the employee, department head, and supervisor cannot reach agreement, the human resources director, or the human resources director's designee, will attempt to conciliate the matter. If the ~~human resources director's recommendation~~ conciliation effort does not resolve the problem, the human resources director shall issue a final decision regarding the objection ~~all documentation shall be forwarded to the city manager for final determination~~.

(d) Complaint procedures. ~~All other grievances or complaints must be taken to the person who issued the discipline. Unresolved grievances or complaints will proceed through the department's chain of command as established by the department head.~~

(1) An employee or employee bargaining group may file a complaint. All complaints shall be in writing on a form provided by the human resources director and shall be submitted to the human resources department within ten (10) working days following knowledge of the basis for the complaint. The human resources department will refer the complaint to the department head of the appropriate department. No complaint may be filed when a grievance has been or is filed related to the same issues. The department head will have ten (10) working days from the day the complaint is received from the human resources department to try to informally resolve the complaint. The department head will provide the human resources department and the employee or employee bargaining group with a notice of the outcome of the informal discussions on a form provided by the human resources department. ~~Grievances or complaints must be taken to the person who issued the discipline within seven (7) working days following knowledge of the occurrence of the problem. If possible, the grievance or complaint should be settled at this level through discussions with the involved parties. If informal discussions do not resolve the issue, the employee may sign and submit a written grievance or complaint to the human resources department within this same seven-day time period. The human resources department shall assign the grievance or complaint a number for tracking purposes and immediately forward it to the relevant supervisor. The written grievance or complaint must describe specific circumstances and state the remedial~~

~~action requested. The person who issued the discipline shall have five (5) working days from receipt of the grievance or complaint to respond in writing.~~

(2) If at the end of ten (10) working days the complaint has not been resolved to the satisfaction of the employee or employee bargaining group, the employee or employee bargaining group may submit a request for elevated review to the human resources department within five (5) working days.

The human resources director, or the director's designee, will attempt to conciliate the matter within ten (10) working days of receipt of the complaint. In the alternative, if the complaint was submitted by an employee bargaining group and involves a dispute concerning the meaning, interpretation or application of a collective bargaining agreement, either party may request mediation, in which case the mediation procedure described in this section will apply. ~~If step (1) does not resolve the situation, the employee may forward the grievance or complaint to the next supervisory level within five (5) working days following receipt of the supervisor's response. Each supervisor shall have five (5) working days to respond in writing except that when a grievance or complaint is referred to the department head, the department head shall have seven (7) working days to respond.~~

(3) If at the end of ten (10) working days of conciliation efforts, or at the conclusion of the mediation, the issue is not resolved, the employee or employee bargaining group may request in writing that the original complaint be forwarded to the city manager for determination. The request must be made within five (5) working days of the conclusion of conciliation or mediation. Within ten (10) working days of such a request, the human resources director shall make a recommendation to the city manager and forward the complaint, the department response, and all other written material deemed relevant to the city manager. ~~If step (2) does not satisfactorily resolve the grievance or complaint, the employee or department head may forward all written documentation concerning the case to the director for assistance within five (5) working days following step (2). The director will provide a response to the parties involved within seven (7) working days of receipt of the request.~~

~~Organized employee groups may arrange to modify this step, allowing the negotiating teams an opportunity to meet and resolve the grievance or complaint. The city's representative would be the director, and the duly authorized and recognized employee representative(s) would represent the employee(s). If the negotiating teams do not resolve the grievance or complaint, the documentation may be forwarded directly to the city manager or in cases of suspensions, dismissals, or disciplinary demotions, to the personnel advisory board pursuant to section 19-239.~~

(4) The city manager shall, within fourteen (14) working days:

(a) Make a final determination; or

(b) Take no action and thereby uphold the human resources director's recommendation, making the recommendation final.

~~Unresolved grievances or complaints involving concerns other than suspensions without pay, dismissals, or disciplinary demotions may be filed with the city manager's office within seven (7) working days of receipt of the director's response. The city manager shall render a decision within fifteen (15) working days, and this decision shall be final and binding.~~

(5) No complaint may be filed for the purpose of harassing or annoying any person. The filing of complaints for that purpose may be grounds for disciplinary action or being barred from filing complaints. ~~Prior to the expiration of reply deadlines set out herein, the human resources director may, under reasonable circumstances, grant extensions to such deadlines.~~

~~(6) Grievances or complaints which are not specifically resolved and not continued by the employee within the aforementioned time sequences shall be considered as satisfied and not subject to further consideration. Grievance or complaint responses by duly authorized management representatives which are contrary to established time sequences shall automatically proceed to the next higher authority or step in the grievance/complaint procedure.~~

~~(7) Employees may, at their discretion, give written permission on a form to be provided by the human resources department to be represented at any stage of the grievance or complaint procedure by representatives of their choosing. A represented employee shall participate fully at all stages of the grievance. All documents and other submissions by employee's representative shall be read and signed by the employee to verify that submission is truthful and accurate. Employees and their representatives may, with the permission of their supervisors, be granted time off with pay for the purpose of necessary discussions and conferences with city supervisors and administrators relating to the resolution of specific grievances and complaints.~~

(e) Disciplinary review procedures.

(1) An employee may request disciplinary review of written discipline, other than suspension without pay, dismissal or disciplinary demotion. Any employee requesting disciplinary review shall file the request for review in writing on a form provided by the human resources department within ten (10) working days of receiving the written notice under section 19-226. The request must be filed with the human resources department, which shall promptly forward a copy to the employee's department head. Within ten (10) working days, the

department head, or the department head's designee, shall meet with the employee and any other necessary staff for a determination of the request, as well as review any documentation relating to the disciplinary action. The department head's designee shall not be the same person who imposed the discipline. Upon completing the review, the department head, or the department head's designee, shall issue a decision on a form provided by the human resources department either affirming the disciplinary action or making such modification as the department head, or the department head's designee, deems appropriate, and shall give notice of that decision to the employee and the human resources department.

(2) If the employee is dissatisfied with the department head's decision, the employee may request that the original complaint be forwarded to the human resources department within five (5) working days for elevated review. The human resources director, or the director's designee, may attempt to conciliate the matter within ten (10) working days. The determination of whether to modify the discipline shall be made by the department head.

(f) Grievance procedures.

(1) Employees suspended without pay, dismissed or given disciplinary demotion, including discharged employees, may file a grievance in response to receiving the written explanation of disciplinary action required by section 19-226. An employee may also file a grievance following notice of separation as allowed by section 19-211(f).

(2) The employee must file the grievance with the human resources department within ten (10) working days of receiving the written notice under section 19-226 or the written notice under section 19-211(c).

(3) The written reasons shall be on a form provided by the human resources director, and include:

(a) A plain statement of the action taken.

(b) A list of evidence, documents and witnesses supporting the grievance.

(c) The summary of the facts supporting the grievance.

(d) The applicable laws, ordinances or rules.

(e) The specific relief requested.

(f) Any request that the human resources director review documents unavailable to the employee.

(g) As an attachment, any notice received by the employee regarding the action.

(h) Any other information deemed relevant by the employee.

(4) Within ten (10) working days of receipt of the notice from the employee, the human resources department shall provide a notice of receipt of the filing of the grievance to the department head. Within ten (10) working days of receipt of the notice from the human resources department, the department head will provide a written response to the grievance on the form provided by the human resources department. If not resolved with the issuance of the department head's written response, within five (5) working days of receiving the department head's response, the human resources director shall assure that all required procedural steps have been taken by the department issuing the action and, if the required steps have not been taken, return the disciplinary action to the department, which shall, within five (5) working days, correct any deficiencies or rescind the action.

The human resources department may independently investigate the matter and will notify the employee and the department head if an investigation is conducted. If the human resources director determines that the disciplinary action, as currently documented, appears inconsistent with prior departmental or city disciplinary actions, the human resources director, or the director's designee, shall meet with the department head to determine if any modification to the action should be taken; the determination of whether to modify the discipline shall be made at that time by the department head.

The director of human resources shall inform the employee of the outcome of the review and conference with the department head. If the employee is not satisfied with the outcome of the review, the employee may request mediation or appeal to the personnel advisory board pursuant to section 19-239. An appeal to the personnel advisory board must be taken within five (5) working days of the date on which the human resources director informs the employee of the outcome of the review or within five (5) days of the written notice from the mediator issued pursuant to section 19-238(g) that the mediation has concluded.

(g) Mediation procedure. The human resources director shall arrange for mediation through the University of Missouri School of Law, or a mutually agreed mediator. The mediation will be held at a mutually agreeable time and location within the City of Columbia. The mediator shall work to reach a resolution of the dispute that is agreeable to all parties. The mediation may continue beyond the initial session if agreed by all parties, including the mediator.

If the mediator concludes that the parties have negotiated to impasse, either party may ask that the mediator render a non-binding opinion as to the proper outcome of the dispute. The mediator has the authority to render such an opinion if the negotiations are at an impasse, the requesting party has negotiated in good faith and the mediator believes the rendering of an opinion may aid in the resolution of the dispute. The decision on whether to render an opinion is within the unreviewable discretion of the mediator, who is not required to provide an opinion. If rendered, the opinion must provide the recommended outcome and mediator's rationale for the recommended outcome. The mediation will be confidential and, before proceeding with mediation, both parties must agree in writing that the any information produced in the mediation, other than the terms of an agreement but including the mediator's recommendation and rationale, will not be used for any purpose outside the mediation, including subsequent litigation or proceedings relating to the labor negotiations.

If the mediation concludes without an agreement, the mediator shall immediately inform all parties in writing of the date on which the mediator determines that the mediation has concluded.

(h) Prior to the expiration of deadlines set out herein, the human resources director may, under reasonable circumstances, grant extensions to such deadlines. The human resources director shall provide notice of any extension to all parties.

(i) Grievances, disciplinary reviews or complaints which are not specifically resolved and not continued by the employee within the aforementioned time sequences, including extensions, shall be considered as satisfied and not subject to further consideration. Grievance, disciplinary review or complaint responses by the department head which are contrary to established time sequences may be elevated to the next step of the process by the human resources director on request of the employee or the employee bargaining group. The human resources director will have discretion in determining whether to elevate the dispute, but shall assure that the process is managed expeditiously.

Sec. 19-239. Appeals to personnel advisory board.

Eligible city employees may appeal ~~shall have the privilege of appealing~~ grievance determinations involving suspensions without pay, dismissals or disciplinary demotions against them to the personnel advisory board provided the grievance procedure has been utilized by the employee.

~~*Note:* Organized employee groups may, through negotiations with the city, arrange to appeal all unresolved grievable issues to the personnel advisory board.~~

Personnel advisory board appeal procedures are as follows:

(1) The employee ~~or department head within five (5) working days of receipt of the director's response~~ may file a written request with the human resources department for a hearing before the personnel advisory board. An appeal to the personnel advisory board must be taken within five (5) working days of

the date on which the human resources director informs the employee of the outcome of the review provided under section 19-238(f) or within five (5) days of the written notice from the mediator issued in accordance with section 19-238(g) indicating that the mediation has concluded. ~~Such~~ The request shall be on a form provided by the human resources department ~~set forth in substance the employee's grievance and reasons for appeal of action taken thereon~~. ~~Such~~ A hearing shall be scheduled as soon as possible and shall be conducted by procedures and rules established by the personnel advisory board. The hearing shall be closed. The employee shall have the right to be heard and to present evidence. Testimony shall be given under oath and a record made of the hearing.

Each party, as well as the board, may engage counsel and call witnesses. The board shall upon request of any party issue subpoenas and shall in a proper case issue subpoenas duces tecum for the hearing, but not for depositions. Subpoenas shall be issued, served and enforced in the same manner as subpoenas issued under RSMo Ch. 536. by agencies created by the constitution or state statute. Technical rules of evidence shall not apply. After hearing and consideration of the evidence and within ten (10) working days after the hearing, the board shall render its recommendations in writing to the city manager. As soon as possible after the hearing, a certified written transcript of the hearing along with all exhibits produced at the hearing shall be delivered to the city manager. The city manager shall review the transcript and exhibits and, within thirty (30) days of receiving the transcript, render a decision supported by findings of fact and conclusions of law which shall be final, binding and not subject to further administrative appeal except to the extent allowed by state law.

(2) ~~Unresolved grievances involving concerns other than suspensions, dismissals, and/or disciplinary demotions may be filed with the city manager's office within five (5) working days of receipt of the director's response. The city manager shall render a decision within ten (10) working days, and this decision shall be final and binding.~~

~~Problems~~ For problems involving sexual harassment or a potential discriminatory situation ~~may be pursued either through the outlined grievance/complaint procedure; or~~, the employee may contact the human resources department or may utilize available remedies under existing local, state and federal legislation ~~directly~~.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this 18th day of September, 2017.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor