

ORDINANCE NO. 801

(CITY COUNCIL SERIES)

AN ORDINANCE OF THE CITY COUNCIL, OF THE CITY OF SANTA MONICA
ESTABLISHING ORDERLY PROCEDURES FOR THE ADMINISTRATION OF
EMPLOYER-EMPLOYEE RELATIONS

THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES
ORDAIN AS FOLLOWS:

Section 1.00 In General

1.01 Title of Ordinance

This Ordinance shall be known as the Employer-Employee Relations Ordinance of the City of Santa Monica.

1.02 Statement of Purpose

The purpose of this Ordinance is to implement Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500, et seq) captioned "Public Employee Organizations", by providing orderly procedures for the administration of employer-employee relations between the City and employee organizations and for resolving disputes regarding wages, hours, and other terms and conditions of employment.

1.03 Municipal Employee Relations Officer

The City Manager is hereby designated as the Municipal Employee Relations Officer and shall be the City's principal representative in all matters of employer-employee relations with authority to meet and confer in good faith on matters within the scope of representation with authorized representatives of recognized employee organizations. The City Manager is authorized to delegate these duties and responsibilities to other management officials.

1.04 Definitions

The following definitions are to be applied in the interpretation of this Ordinance:

- (a) "Appropriate Unit" shall mean a unit established pursuant to Section 3.02 or 3.03 of this Ordinance.
- (b) "City" shall mean the City of Santa Monica, a municipal corporation, and where appropriate herein, "City" refers to the City Council, the governing body of said City, or any duly authorized management official as herein defined.
- (c) "City Services" shall mean all governmental and proprietary functions, services, or activities hereinbefore or hereinafter performed, authorized to be performed or required to be performed by the City pursuant to the authority granted in the Constitution of the State of California, or as required or authorized by the Charter of the City of Santa Monica or any act of the Legislature of the State of California.
- (d) "Consult or Consultation in Good Faith" shall mean communicate orally or in writing for the purpose of

presenting and obtaining views or advising of intended actions,

(e) "Employee" shall mean any person regularly employed by the City except those persons elected by popular vote.

(f) "Employee, Confidential" shall mean an employee who is privy to decisions of City management affecting employer-employee relations.

(g) "Employee, Professional" shall mean employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physicals chemical and biological scientists.

(h) "Employee Organization" means any organization which includes employees of the City of Santa Monica which has as one of its primary purposes representing such employees in their employment relations with the City of Santa Monica.

(i) "Employer-Employee Relations" shall mean the relationship between the City and its employees and their employee organization, or when used in a general sense, the relationship between City management and employees or employee organizations.

(j) "Management Official(s)" shall mean the City Manager, department heads, and their designated representatives acting in their executive, administrative, or ministerial capacity as authorized or prescribed by the Santa Monica Municipal Code and/or the Charter of the City of Santa Monica.

(k) "Mediation" shall mean the effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the City and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(l) "Meet and Confer in Good Faith" (sometimes referred to herein as "meet and confer" or "meeting and conferring") shall mean performance by duly authorized representatives of the City and of recognized employee organization of their mutual obligation as set forth in Section 2. 05 of this Ordinance,

(m) "Ordinance" shall mean, unless the context indicates otherwise, the Employer-Employee Relations Ordinance of the City of Santa Monica.

(n) "Peace Officer" shall mean and include those employees defined as peace officers by the California Penal Code.

(o) "Recognized Employee Organization" means an employee organization which has been formally acknowledged by the City of Santa Monica as an employee organization that represents employees of the City of Santa Monica as provided in Section 3. 04 of this Ordinance,

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Section 2. 00 Rights; Representation; Meet and Confer; Memorandum of Understanding;
Mediation

2. 01 Employee Rights

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, and other terms and conditions of employment. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City.

- (a) No employee shall be interfered with, intimidated, restrained, coerced, or discriminated against by the City or employee organizations because of his exercise of such rights.
- (b) No employee, however, may be represented by more than one recognized employee organization for the purposes of this Ordinance.
- (c) Professional employees shall not be denied the right to be represented separately from nonprofessional employees.
- (d) Management or confidential employees shall not represent any recognized *employee* organization on matters within the scope of representation.
- (e) Department Heads charged with the duty and responsibility of enforcing state laws or local ordinances shall not form, join, or participate in recognized employee organizations.

2. 02 Peace Officers

Peace Officers may form, join, participate in, and be represented by employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations as provided by this Ordinance, provided such employee organizations:

- (a) Are composed solely of such peace officers.
- (b) Are not subordinate to any other organization.
- (c) Concern themselves solely and exclusively with the wages, hours, working conditions, welfare programs, and advancement of the academic and vocational training in furtherance of the police profession.

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2. 03 Scope of Representation

The scope of representation of a recognized employee organization shall include all matters relating to employment conditions and employer-employee relations including (but not limited to) wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order. Recognition of an employee organization as a recognized employee organization:

- (a) Does not preclude employees from representing themselves individually in their employment relations with the City.
- (b) Does not preclude or restrict the right of management officials to meet and consult with employees concerning their employment relations with the City.

2. 04 City Rights

Management officials of the City have and will retain the exclusive right to manage and direct the performance of city services and the work forces performing such services, including but not limited to:

- (a) The exclusive right to determine the processes, methods, means, manner, and personnel by which such services are to be performed.
- (b) The exclusive right to schedule and assign both the work to be performed and the work force or employees by which the work is to be completed.
- (c) The exclusive right to contract or subcontract all or any part of the work to be performed and to make work and safety rules and regulations in order to maintain the efficiency and economy desirable in the performance of city services.
- (d) The exclusive right, subject to compliance with the civil service provisions of the Santa Monica Municipal Code and the City Charter, to lay off employee members of the work force for lack of work, lack of funds, or for other legitimate reasons.

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- (e) The exclusive right, subject to compliance with the civil service provisions of the Santa Monica Municipal Code and the City Charter, to appoint, promote, or transfer members of the work force and for just cause to suspend, demote, discharge, or take other disciplinary action against employee members of the work force.

Management officials, in exercising these functions, will not discriminate against any employee because of his or her membership or nonmembership in any employee organization.

2. 05 Meet and Confer in Good Faith

The City, through its representatives, shall meet and confer in good faith with representatives of recognized employee organizations regarding matters within the scope of representation including wages, hours, and other terms and conditions of employment within the appropriate unit.

- (a) The City shall not be required to meet and confer in good faith on any subject pre-empted by Federal or State law or by the City Charter, nor shall it be required to meet and confer in good faith on proposed amendments to this Ordinance.
- (b) The mutual obligation of the representatives of the City and the recognized employee organization to meet personally and confer in order to exchange freely information, opinions, and proposals and to endeavor to reach agreement on matters within the scope of representation does not require either party to agree to a proposal or to make a concession.

2. 06 Memorandum of Understanding

If agreement is reached by the representatives of the City and a recognized employee organization, it shall be incorporated in a written memorandum of understanding which shall not be binding unless or until approved by the City Council. Said memorandum of understanding shall be signed by the duly authorized representatives of the City and the recognized employee organization and submitted to the City Council for determination.

2. 07 Mediation; Division of Cost

If after a reasonable period of time, representatives of the City and the recognized employee organization fail to reach agreement, the City and the recognized employee organization or recognized employee organizations together may agree upon the appointment of a mediator mutually agreeable to the parties. Costs of mediation shall be divided one-half to the City and

one-half to the recognized employee organization or recognized employee organizations.

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Section 3. 00 Recognition; Appropriate Unit; City Council Determination; Withdrawal of Recognition

3.01 Petition for Recognition

An employee organization that seeks formal recognition as a recognized employee organization for the purpose of meeting and conferring in good faith as the majority representative of employees in an appropriate unit shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:

- (a) The name and address of the employee organization, certified copies of the employee organization's constitution and by-laws, the names and titles of its officers and the names of employee organization representatives who are authorized to speak on behalf of its members.
- (b) A statement as to whether the employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with any county, regional, state, national or international organization and, if so, the name and address of each such county, regional, state, national or international organization.
- (c) A statement that the employee organization has no restriction on membership based on race, color, creed, sex or national origin and that the employee organization recognizes that the provisions of Section 923 of the Labor Code are not applicable to City employees.
- (d) A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City and the designation of those persons and their addresses, not exceeding one for each fifty members or major portion thereof, to whom notice sent by regular United States mail will be deemed sufficient notice to the employee organization for any purpose except service of legal process.
- (e) A statement of the number of members of the employee organization classified by department, division and job title in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith on all matters within the scope of representation.

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(f) A request that the Municipal Employee Relations Officer determine the appropriate unit, establish the election date for determining the majority representative, and formally acknowledge the majority representative as the recognized employee organization.

(g) The petition, including all accompanying documents, shall be verified as true and correct, under oath, by the Executive Officer and Secretary of the employee organization. All changes in the information required by section 3. 01 (a), (b), and (c) shall be filed in like manner within sixty days of any such change.

3. 02 Appropriate Unit

The Municipal Employee Relations Officer, after reviewing the petition filed by an employee organization seeking formal recognition as majority representative and acknowledgement as the recognized employee organization, shall determine whether the proposed unit is an appropriate unit. The principal criterion in making this determination is whether there is a community of interest among such employees. The following factors, among others, are to be considered in making such determination:

- (a) Which unit will assure employees the fullest freedom in the exercise of rights set forth under this Ordinance.
- (b) The history of employee relations in the unit, among other employees of the City and in similar public employment.
- (c) The effect of the unit on the efficient operation of the City and sound employer-employee relations.
- (d) The extent to which employees have common skills, job duties, working conditions, or departmental assignment.

Provided, however, no unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized.

3. 03 Appeal; City Council Determination

Any employee organization which is aggrieved by the determination of an appropriate unit by the Municipal Employee Relations Officer may, within ten days of such determination, appeal such decision to the City Council for final determination.

- (a) The appeal by the employee organization shall be in writing and copies shall be filed with the City Clerk and the Municipal Employee Relations Officer.
- (b) The City Council shall, within thirty days after the filing of the appeal, consider the matter and determine the appropriate unit, and such determination shall be final.

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3. 04 Majority Representative; Recognition

The Municipal Employee Relations Officer shall, after designation of an appropriate unit, determine the majority representative of City employees in such unit by arranging for a secret ballot election (to be conducted by the Personnel Director) in order to assure a free choice by the majority of such employees.

- (a) Any employee organization claiming representation of all or any part of the appropriate unit shall be entitled to a place on the ballot and shall be authorized one official observer to observe the balloting and the counting of such ballots.
- (b) The employee organization found to represent a majority of the employees in the appropriate unit, as determined by the secret ballot election, shall be formally acknowledged as the recognized employee organization by the Municipal Employee Relations Officer.
- (c) The recognized employee organization, determined as provided herein, is the only employee organization entitled to meet and confer in good faith on matters within the scope of representation on behalf of employees in such unit.

3. 05 Challenge; Withdrawal of Recognition

The recognition rights of any recognized employee organization shall not be subject to challenge for the longer term of either twelve months following the date of such recognition or during the term of any memorandum of understanding between such organization and the City.

- (a) Any other employee organization may, however, commence a proceeding to challenge such recognition rights not more than ninety days prior to the expiration of one year or the expiration of any memorandum of understanding, as the case may be, in the manner otherwise required herein for formal recognition.
- (b) The Municipal Employee Relations Officer shall withdraw the recognition rights of any recognized employee organization which has been found by secret ballot election to no longer represent a majority of the employees in an appropriate unit.

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Section 4. 00 Organizational Relationship; Grievances; Peaceful Performance of City Services

4. 01 Reasonable Notice

A copy (via the United States postal service) of the City Council and/or Personnel Board agenda for each meeting mailed to each authorized representative of any recognized employee organization seventy-two hours in advance of such meeting shall constitute reasonable written notice, and notice of an opportunity to meet with such agencies, on all matters within the scope of representation upon which the City Council or Personnel Board may act.

4.02 Employee Representatives; Meetings

Members of any recognized employee organization may, by any reasonable method, select not more than one employee member of such organization for each fifty members, or major portion thereof, to meet and confer with the Municipal Employee Relations Officer and other management officials (after written certification of such selection by an authorized official of the organization) on subjects within the scope of representation during regular duty or work hours, without loss of time, provided:

- (a) That no employee representative shall leave his or her duty or work station or assignment without specific approval by an authorized departmental management official.
- (b) That any such meeting is subject to scheduling by an authorized departmental management official so as to avoid interference with or interruption of assigned work schedules or work performance.

Nothing provided herein, however, shall limit or restrict management officials and employees or employee representatives from meeting and conferring before or after regular duty or work hours as a matter of mutual convenience.

4. 03 Access to Work Stations

Access to work or duty stations shall be limited to duty hours for employee members of any employee organization, except as hereinafter provided, and is prohibited at any time without special approval for nonemployee members and representatives of any employee organization or its affiliated

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organizations. Employee access during nonduty hours and nonemployee representative access during duty hours may be obtained with the specific approval in each instance of the Municipal Employee Relations Officer or an authorized departmental management official when such access does not interfere "with or interrupt work performance and does not place an unreasonable or undue burden upon the time of management officials.

4. 04 Peaceful Performance of City Services

Participation by any employee in a strike or a concerted work stoppage is unlawful and terminates the employment relation. Provided, however, that nothing herein shall be so construed as to affect the right of any employee to abandon or to resign his employment.

(a) Employee organizations shall not hinder, delay, or interfere with the peaceful performance of city services for the purpose of intimidating or coercing the City or any management official of the City in the performance of his lawful duties; and such employee organizations shall not compel, induce, intimidate, or coerce employees of the City to hinder, delay, or interfere with the peaceful performance of city services by strike, concerted work stoppage, cessation of work, slow-down, sit-down, stay-away, or unlawful picketing.

(b) In the event that there occurs any strike, concerted work stoppage, or any other form of interference with or limitation of the peaceful performance of city services prohibited by Section 4. 04(a) hereof, the City, in addition to any other lawful

remedies or disciplinary actions, may by action of the Municipal Employee Relations Officer cancel any or all payroll deductions, prohibit the use of bulletin boards, prohibit the use of city facilities, and withdraw recognition of the employee organization or organizations participating in such actions.

(c) Employee members of any employee organization shall not be locked out or prevented by management officials from performing their assigned duties when such employees are willing and able to perform such duties in the customary manner and at a reasonable level of efficiency.

4. 05 Organization Business Affairs

Internal business affairs of any recognized employee organization shall not be conducted by employees during their duty hours except by special permission of the Municipal Employee Relations Officer in limited

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instances involving mutual benefit of the organization and the City. The organization may meet in city facilities when such facilities are available and such use has been approved by the Municipal Employee Relations Officer or an authorized departmental management official.

4. 06 Bulletin Boards

A reasonable number of bulletin boards will be provided upon which any employee organization may post only notices of recreational and social affairs, notices of meetings, or elections and appointments and results of elections. The posting of any other classes of notices or written or printed cards, pamphlets, or literature of any kind at city work stations is prohibited without the prior written permission of the Municipal Employee Relations Officer or an authorized departmental management official.

4. 07 Responsibility for Statements and Literature

Each recognized employee organization shall approve or assume responsibility for (1) literature published or distributed in its name and (2) statements made by representatives otherwise authorized to speak on behalf of such organization.

(a) If any literature is published or distributed or if any statements are made concerning the City or its officers or management officials which could be reasonably interpreted as having a tendency to (1) create dissension and unrest among employees,

(2) disrupt or impair the public service, (3) interfere with enforcement of reasonable rules of conduct or the maintenance of proper discipline, or (4) interference with the right and duty of management officials to exercise and maintain reasonable supervision over city employees, for which any recognized employee organization is responsible, upon reasonable proof thereof, recognition of said organization or organizations as a recognized employee organization or organizations may be withdrawn.

(b) If any literature is published or distributed or if any statements are made concerning the City or its officers or management officials by an employee which is prohibited by Section 4. 07(a) hereof, the employee shall be held responsible for such literature or statements and, upon reasonable proof thereof, shall be dismissed for conduct unbecoming an officer or employee of the City.

*(c) Provided, however, that Sections 4. 07(a) or (b) shall not be interpreted, construed or applied so as to prohibit any constitutionally protected exercise of the right of free speech or publication.

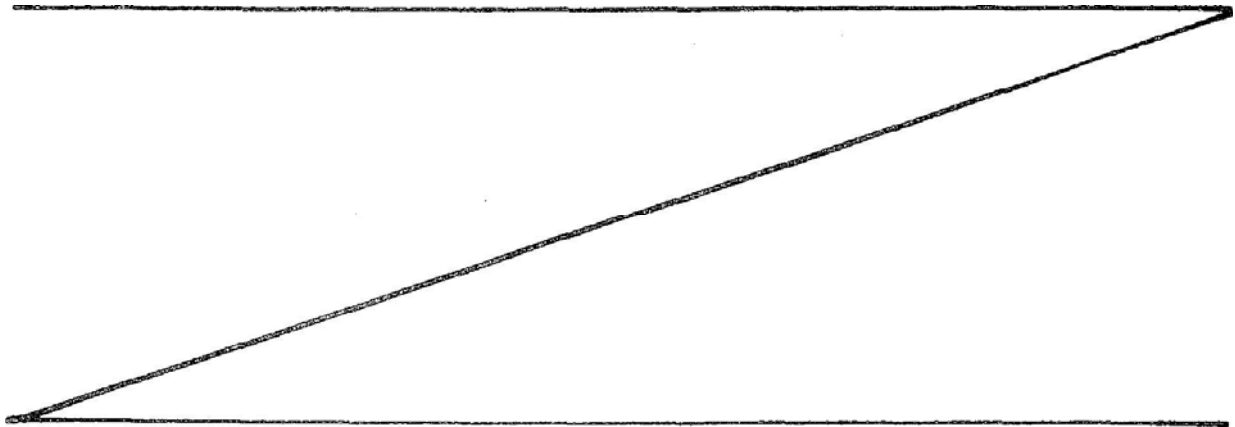
4.08 Grievances; Disputes; Disagreements

In the event any grievances, disputes, or disagreements arise concerning matters within the scope of representation of any recognized employee organization, such grievance, dispute, or disagreement shall be resolved as follows:

(a) Grievances, disputes, or disagreements concerning the interpretation or application of the terms of any memorandum of understanding shall be resolved, if possible, by meeting and conferring in good faith. If unresolved by such meetings, the parties shall consider submitting such issues to mediation as provided by Section 3505. 2 of the Government Code. In the absence of agreement to mediate, or failure of mediation, the issue shall be resolved by an action in a court of competent jurisdiction on motion by either party.

(b) Grievances, disputes, or disagreements involving removals, demotions, or suspensions shall be resolved as provided by the civil service provisions of the Santa Monica Municipal Code and the City Charter.

(c) Other grievances, disputes, or disagreements shall be resolved as provided by the civil service provisions of the Santa Monica Municipal Code; provided, however, that representation by any recognized employee organization shall be limited to grievances, disputes, or disagreements - which cannot or have not been resolved between the employee and his immediate supervisor or the employee and his department head. Representation by any recognized employee organization shall be limited, in this class of grievance, to appearances before the department head, Personnel Director, Municipal Employee Relations Officer, and the City Council.



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Section 5. 00 Miscellaneous

5.01 Construction

The provisions of this Ordinance are not intended to conflict with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500, et seq.) as amended in 1968 and nothing in this Ordinance shall be construed to deny any person or employee the rights granted by Federal and State laws and City Charter provisions.

- (a) 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 Ordinance.
- (b) Nothing contained in this Ordinance shall abrogate any written agreement between any employee organization and the City in effect on the effective date of this Ordinance. 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.

5.0Z Captions for Convenience

The captions herein are for convenience only and are not a part of this Ordinance and do not in any way limit, define, or amplify the terms and provisions hereof.

5.03 Severability

If any provision, or any portion thereof, contained in this Ordinance, or the application thereof to any person or circumstance, is held to be unconstitutional, invalid, or unenforceable, the remainder of this Ordinance and the application of any such provision, or portion thereof, to other persons or circumstances, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

5.04 Adoption

The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within fifteen days after its adoption. This Ordinance shall become effective after thirty days from its adoption.

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ADOPTED this 25th day of February, 1969.



Mayor *i*

ATTEST:

City Clerk

STATE OF CALIFORNIA) COUNTY OF LOS ANGELES
) CITY OF SANTA MONICA)

I do hereby certify that the foregoing Ordinance was duly and regularly introduced at a meeting of the City Council on the 11th day of February 1969; that thereafter the said Ordinance was duly adopted at a meeting of the City Council on the 25th day of February 1969, by the following vote:

AYES: Councilmen:

Dituri, Hoover, Kingsley, Reidy, Sorensen, Wamsley,
Spurgin

NOES: Councilmen:None

ABSENT: Councilmen:None

City Clerk

AS TO FOR

A handwritten signature in black ink, appearing to be "M. A. Spurgin", written over a horizontal line. The signature is cursive and somewhat stylized.

