

ORDINANCE NO. O- 15553
(New Series)

(O. 81-272)
JUL 27 1981

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 3, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 11 BY RENUMBERING SECTIONS 23.1105, 23.1106, 23.1107, 23.1108, 23.1109 AND 23.1110; AMENDING DIVISION 8 BY AMENDING SECTION 23.0802; AMENDING DIVISION 11 BY AMENDING SECTIONS 23.1101, 23.1103, 23.1104, 23.1106, 23.1108, AND 23.1110; AMENDING DIVISION 12 BY AMENDING SECTIONS 23.1202, 23.1204, 23.1205, 23.1206, 23.1207, 23.1208 AND 23.1209; ALL RELATED TO THE RULES OF THE CIVIL SERVICE COMMISSION.

WHEREAS, the provisions affecting Removal and Leaves of Absence are found in the Rules of the Civil Service Commission; and

WHEREAS, with the concurrence of the Civil Service Commission, amendments to these Rules were the subject of meet and confer with the employee organizations in the Spring of this year; and

WHEREAS, it is necessary to amend the Rules of the Civil Service Commission to implement these amendments; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter II, Article 3, Division 11, of the San Diego Municipal Code [Rule X of the Rules of the Civil Service Commission] be and the same is hereby amended by renumbering the following sections:

<u>Old Section Number</u>	<u>New Section Number</u>
23.1105	23.1106
23.1106	23.1107
23.1107	23.1108
23.1108	23.1109
23.1109	23.1110
23.1110	23.1111

Section 2. That Chapter II, Article 3, Division 8 of the San Diego Municipal Code, be and the same is hereby amended by amending Section 23.0802 to read as follows:

SEC. 23.0802 PERMANENT APPOINTMENT

Appointment of a person to a position established without limitation as to duration of employment, following successful completion of the appropriate probationary period as prescribed by the Civil Service Commission shall be considered a permanent appointment, and said person shall be considered a permanent employee.

a. The probationary period shall be regarded as a significant part of the examination process for permanent appointment. This period shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to the job, and for taking the appropriate action prescribed below whenever, in the opinion of the appointing authority, any employee does not meet required employment standards.

1. A permanent employee who does not meet employment standards during the probationary period following promotion shall be returned to the previous position or class held during said promotional probationary period without the right to be heard before the Civil Service Commission.

2. An employee who has not attained permanent status in any class, and who does not meet employment

standards during probation, shall be discharged without the right to be heard before the Civil Service Commission, provided that upon recommendation of the appointing authority, the Personnel Director may approve demotion of the employee to an appropriate class, with the understanding that the employee shall commence a new probationary period.

b. The Civil Service Commission shall establish in the Personnel Manual appropriate probationary periods of up to two years for each class.

c. It shall be the duty of the appointing authority, during the probationary period of each employee in the Classified Service, to investigate thoroughly the efficiency, conduct and integrity of such employees, and to determine whether or not the employee shall be retained in the City service in the class to which the employee has been appointed.

Section 3. That Chapter II, Article 3, Division 11, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 23.1101, 23.1103, 23.1104, 23.1106, 23.1108 and 23.1110, to read as follows:

SEC. 23.1101 GENERAL REQUIREMENTS

Eligible employees shall be entitled to holidays and annual leave, and shall be allowed other special leaves of absence as hereinafter in this rule provided. In addition, employees may be eligible for other types of leave approved by the City Council. All leaves of absence, whether with or without pay, shall be submitted in writing on prescribed

forms, and shall be subject to the provisions of this Rule and/or any applicable section of the Personnel Manual or Administrative regulations. All leaves contained in this Rule, except as hereinafter provided in the case of Compulsory Leave, Court Leave, and Special Meetings, must meet the approval of the appointing authority and Commission.

Except in the case of leave credits used for illness, family emergency, or military leave, the time during which any leave of absence shall be taken by an employee shall be designated by the appointing authority. Leaves of absence shall be indicated on the payroll time sheets submitted to the Personnel Director for certification. Failure to submit leave requests prior to the date on which pay warrants are released will result in withholding the warrants until such requests have been submitted and approved.

SEC. 23.1103 ANNUAL LEAVE

The intent of annual leave is to provide compensation to employees who are absent from duty because of illness, injury, death in the family, medical or dental care appointments, or personal business, or who utilize the time off as personal vacation.

(1) FULL-TIME ACTIVE SERVICE: A full-time eligible employee shall be entitled to an annual leave with full pay as follows:

(a) Seventeen workdays each fifty-two weeks, credited biweekly cumulative to 600 hours during the first through fifth years of active service.

(b) Twenty-two workdays each fifty-two weeks, credited biweekly, cumulative to 600 hours during the sixth through fifteenth years of active service.

(c) Those classifications designated by the Commission and the Council as eligible for the Management Benefits Plan shall be entitled to twenty-two workdays, credited biweekly each fifty-two weeks, cumulative to 600 hours during the first through fifteenth years of active service.

(d) Twenty-seven workdays each fifty-two weeks, credited biweekly cumulative to 600 hours during the sixteenth and succeeding years of active service.

(e) Employees employed less than one full year shall accrue and may use annual leave as earned on a prorated basis if approved by the employee's appointing authority. Employees separating from City service with less than one full year of service shall receive no payoff for accrued leave.

(f) After one year of active service, annual leave may be taken as accumulated with approval of the appointing authority.

(g) Eligible employees may be granted pay in lieu of annual leave as provided in the Personnel Manual.

(2) PART-TIME EMPLOYEES PAID ON A BIWEEKLY BASIS:
Eligible employees who are paid regularly one-half or three-quarters of the biweekly salary for their class shall

be entitled to the prorated number of days of annual leave specified in paragraph (1) above, at their usual rate of pay. Accrual limits for all employees shall be the same as those for full-time employees.

(3) ANNUAL LEAVE PAY UPON TERMINATION: Upon separation from service for any cause, an eligible employee who has completed at least one year of active service shall be entitled to pay in lieu for the number of accumulated annual leave days credited to his or her account under the provisions of this Rule. If, in the case of retirement, the employee elects to place himself or herself on terminal annual leave, the period of terminal annual leave shall be considered in computing currently earned annual leave.

(4) ANNUAL LEAVE - WORKERS' COMPENSATION: Those employees who are absent from duty because of a temporary disability which is defined as industrial under the Workers' Compensation Act, but who are not granted industrial leave may use annual leave credits; provided, however, that any such employee who receives a temporary disability allowance, as provided by the Workers' Compensation Law, must reimburse the City Auditor and Comptroller in the amount of the authorized compensation, in which case, only that amount of the employee's accumulated annual leave credits as when added to said disability allowance will result in a payment of not more than the employee's full salary or wages shall be charged against said accumulated annual leave credits.

(5) NONAPPLICABILITY: Hourly employees shall not be eligible to earn annual leave credits.

SEC. 23.1104 SICK AND EMERGENCY LEAVES

(1) SICK LEAVE INTENT, DEFINITION, PROVISIONS: The intent of this section is to allow continued use of sick leave credits accrued prior to September 4, 1981, for those employees who are unable on account of illness or injury to perform the duties of their positions or who would expose fellow workers or the public to contagious disease and are thereby forced to be absent from employment, and to provide necessary time off from work for medical and dental care, subject to administrative regulations designed to prevent malingering or abuse of these privileges.

(a) SICK LEAVE DEFINITION: Sick leave is defined as the necessary absence from duty of an employee on account of illness, injury, or exposure to contagious disease suffered by the employee, or the serious disability of the employee while on a scheduled leave, or absence authorized for medical or dental care.

(b) SICK LEAVE - WORKERS' COMPENSATION: Those employees who are absent from duty because of a temporary disability which is defined as industrial under the Workers' Compensation Act, but who are not granted industrial leave may use sick leave credit; provided, however, that any such employee who receives a temporary disability allowance, as provided under the Workers' Compensation Law, must reimburse the City Auditor and

Comptroller in the amount of the authorized compensation; in which case, only that amount of the employee's accumulated sick leave credits as when added to said disability allowance will result in a payment of not more than the employee's full salary or wages shall be charged against said accumulated sick leave credits.

(2) EMERGENCY LEAVE INTENT, DEFINITION, PROVISIONS:

The intent of this Section is to allow continued use on a limited basis, of sick leave credits accrued prior to September 4, 1981, by an employee who is confronted with serious emergency illness, injury, or death in the employee's immediate family.

(a) Emergency leave is defined as the necessary absence from duty of an employee because of emergency illness of a member of the employee's immediate family requiring the attendance of the employee upon said member until professional or other attendance can be obtained, or the absence from duty of an employee because of the death of an immediate family member.

(b) An eligible employee may be granted emergency leave with pay chargeable to accumulated sick leave credits not to exceed a total of 5 workdays for each instance of emergency illness or death in the employee's immediate family. In the case of illness followed by death, an employee may be granted a maximum of 10 consecutive workdays of emergency leave chargeable to sick leave credits.

SEC. 23.1105 EVIDENCE OF CAUSE OF ABSENCE

In all cases of absence because of sickness or injury of the employee, or illness or death in the immediate family, the employee may be required to furnish the appointing authority satisfactory evidence substantiating the facts justifying such leave. Failure to furnish such evidence upon request shall be sufficient reason for denying the leave of absence with pay.

SEC. 23.1106 TRANSFER OF LEAVE CREDITS

When an employee moves from one department or major division to another by transfer, promotion, or demotion, the accrued annual leave and sick leave (if applicable) credit shall be assumed by the receiving department or division.

SEC. 23.1108 COMPULSORY LEAVE

If, in the opinion of the department head, an employee is incapacitated for work on account of illness or injury, such employee may be required, for a period not to exceed 2 workdays, to absent himself from duty. If said incapacity may reasonably be expected to extend beyond 2 workdays, the department head shall require the employee to undergo an examination by a physician designated or approved by the Commission. If the report of the physician shows the employee to be in an unfit condition to work, the appointing authority shall have the right, subject to Commission approval, to compel such employee to take sufficient leave of absence,

not to exceed one year of leave without pay, so as to become fit for the proper performance of assigned duties.

SEC. 23.1110 COURT LEAVE

An employee, other than one paid on an hourly basis, who is required by court order to serve as a juror, or as a witness who is not a party to a court action, shall be granted leave for such purpose upon presentation of proof of the period of his required attendance to the appointing authority and the Personnel Director. The employee shall receive full pay for the time he serves on court duty, provided the money which he receives as a juror or witness is deposited with the City Auditor for credit to the proper fund. Request for such leave shall be made upon leave of absence forms.

Section 3. That Chapter II, Article 3, Division 12, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 23.1202, 23.1204, 23.1205, 23.1206, 23.1207, 23.1208 and 23.1209 to read as follows:

SEC. 23.1202 REMOVALS

Upon attaining permanent status, any employee in the classified service may be removed from employment for cause by the appointing authority. Any employee who has not achieved permanent status may be removed at the sole discretion of the appointing authority.

SEC. 23.1204 PROCEDURE FOR REMOVAL

The following steps shall be completed by the appointing authority prior to making a final decision to remove any

employee in the classified service who has attained permanent status, except when the appointing authority deems immediate removal necessary in order to maintain the safety of the community or the reputation, morale, or harmony of the organization. The employee must be:

- a. Given advance notice of the proposed action which includes a statement of the reasons for the action;
- b. Provided with a copy of the proposed charges and, if practical, a copy of the materials or documents upon which the charges are based;
- c. Given the right to respond either orally or in writing to the appointing authority;
- d. Notified that he or she may have representation at any time during this procedure.

After due consideration has been given to the information provided by the employee, personal service of written notice of removal or written notice delivered and left at or mailed to the employee's last place of residence shall be sufficient to put any such removal into effect. Such notice shall include a statement of the charges upon which the action is based and a statement advising the employee of any rights of appeal. A copy of such notice shall also be provided to the Civil Service Commission.

SEC. 23.1205 APPEAL OF REMOVAL

a. APPEAL PROCEDURE. Within five days of receipt of notice of removal, an employee in the classified service

who has attained permanent status may file an appeal by submitting a written demand to the Civil Service Commission for the right to be heard before the Commission.

1. Failure of the employee to submit said written demand to the Commission within five days after the receipt of notice of removal shall result in the waiver of the right to appeal and the forfeiture of all rights to a hearing in the case before the Commission.

2. The employee may at any time withdraw an appeal to the Commission. Such withdrawal may be either by written request prior to the public hearing, or may be made orally by the employee at or during the time of public hearing.

3. Any employee who has appealed to the Commission for a public hearing and who fails to make an appearance at the hearing either in person or through a duly authorized representative after having received notice of the time and place for such hearing may be deemed to have abandoned the appeal. In the event of such failure to appear, the appointing authority or the appointing authority's representative may move the Commission to dismiss the appeal. The Commission shall have the discretion to grant or to deny such motion.

4. On verified petition of any party, the Commission may order the testimony of any material witness be taken by deposition in the manner prescribed by law for depositions in Civil actions. The petition

shall set forth the nature of the pending proceeding; the name and address of the witness whose testimony is desired; a showing of the materiality of the testimony; a showing that the witness will be unable or cannot be compelled to attend; and shall request an order requiring the witness to appear and testify.

b. CONDUCT OF HEARING. With the fulfillment by the employee of the above appeal procedure, the Commission shall fix a time and place for a public hearing.

1. The employee under charges shall be given an opportunity to produce witnesses and testimony and to be represented by counsel. The appointing authority shall have the same rights.

2. The proceedings shall be as informal as is compatible with the requirements of justice, and the Commission need not be bound by the common law or statutory rules of evidence and procedure, but may make inquiry in the matter through oral testimony and records presented at the hearing, which is best calculated to ascertain the substantial rights of the parties and to carry out justly the spirit and provisions of the Charter. The testimony taken at the hearing shall be under oath and shall be recorded by a reporter.

3. The Commission shall have the power to subpoena and require the attendance of witnesses and the production of pertinent documents, and to administer oaths, and if necessary, to continue the hearing from time to time.

c. ORDER OF PROOF. The order of proof in any hearing of complaint shall be as follows:

1. The appointing authority shall present the evidence in support of the charges.

2. The employee shall then produce such evidence as he or she may wish to offer in defense.

3. The parties in interest may then offer rebuttal evidence.

d. FINDINGS AND DECISIONS. The Commission shall report its findings and decisions to the appointing authority responsible for the removal. Thereupon, said appointing authority shall make such final disposition of the matter as may be determined by the Commission. The Commission may at its discretion:

1. Notwithstanding Section 6 below, order the restoration of the employee to the position without loss of pay or with any intermediate degree of discipline during the period between the filing of the charges and a date specified in the Commission's order.

2. Order the demotion of the employee to a class for which a lower maximum rate of compensation is prescribed.

3. Order the removal of the employee from the position; provided that in case of such removal the Commission may at its discretion put the name of the employee on the eligible list for the class for certification when a vacancy occurs in some other department.

The decision of the Civil Service Commission in any such case shall be final. A copy of the written statement of reasons given for any removal, and a copy of any written reply thereto by the officer or employee involved, together with a copy of the findings of fact and decision of the Commission, shall be filed as a public record in the office of the Civil Service Commission.

SEC. 23.1206 PROCEDURE FOR SUSPENSION

Any employee in the classified service may be suspended without pay, for disciplinary purposes for one or more periods aggregating not more than ninety (90) days in a calendar year. The procedure and rights afforded any such employee prior to such suspension shall be the same as those prescribed in the rules relating to removal of an employee who has attained permanent status, including the provision for immediate suspension necessary in order to maintain the safety of the community or the reputation, morale, or harmony of the organization.

SEC. 23.1207 APPEAL OF SUSPENSION

The procedures and rights for any employee in the classified service appealing a suspension shall be the same as those prescribed in the rules relating to removal of an employee who has attained permanent status, except that the Commission, at its discretion, may appoint one or more of its members to hear the appeal and submit findings of fact

and a decision to the Commission. Based on the findings of fact, the Commission shall ratify or may modify the decision.

SEC. 23.1208 SUSPENSION PENDING INVESTIGATION

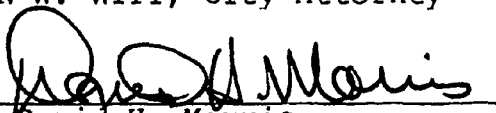
Any employee in the classified service may be suspended without pay, for up to thirty (30) calendar days, pending investigation of charges of misconduct, when in the opinion of the appointing authority such suspension is necessary in order to maintain the safety of the community or the reputation, morale, or harmony of the organization. Such suspension is not a disciplinary action and may not be appealed to the Commission. If the charges are substantiated, disciplinary action may be taken in accordance with the other provision of this rule. If the charges are unfounded, the employee shall be restored to duty and paid for the term of the suspension.

SEC. 23.1209 REDUCTION IN COMPENSATION

The compensation of any employee in the classified service may be reduced within the salary range of that employee's current classification by the appointing authority. Such reduction in compensation may be put into effect upon a determination that the employee's performance has not met the standards established for the employee's classification and/or position. The procedure for, and appeal of, a reduction in compensation shall be the same as those provided above for suspension.

Section 4. This ordinance shall take effect and be in force on September 4, 1981, which is more than thirty days after its passage.

APPROVED: JOHN W. WITT, City Attorney

By 
David H. Morris
Deputy City Attorney

DHM:lco:301

6/25/81

Or.Dept.:Personnel

Passed and adopted by the Council of The City of San Diego on
by the following vote:

JUL 27 1981

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *Barbara Berridge*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JUL 14 1981

JUL 27 1981

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *Barbara Berridge*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-15553 Adopted JUL 27 1981

CERTIFICATE OF PUBLICATION

San Diego, City of
12th Floor, 202 C St.
San Diego, CA 92101
BARBARA BERRIDGE

IN THE MATTER OF

NO.

ORDINANCE NO. 0-15553

ORDINANCE NO. 0-15553
(New Series)

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 3, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 11 BY RENUMBERING SECTIONS 23.1105, 23.1106, 23.1107, 23.1108, 23.1109 AND 23.1110; AMENDING DIVISION 11 BY AMENDING SECTION 23.0802; AMENDING DIVISION 11 BY AMENDING SECTIONS 23.1101, 23.1103, 23.1104, 23.1105, 23.1108, AND 23.1110; AMENDING DIVISION 12 BY AMENDING SECTIONS 23.1202, 23.1204, 23.1205, 23.1206, 23.1207, 23.1208 AND 23.1209; ALL RELATED TO THE RULES OF THE CIVIL SERVICE COMMISSION.

This ordinance amends the San Diego Municipal Code by amending and renumbering various sections of Chapter II, Article 3, all relating to Rules of the Civil Service Commission. These changes to the Rules are required in order to implement the revisions in City policies and procedures which were negotiated during the meet and confer process including (a) the elimination of the requirement for appointing authorities to provide administrative hearings to probationary employees upon failure of probation, and (b) the implementation of the new Annual Leave Program.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 12th Floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on July 14, 1981
Passed and adopted by the Council of The City of San Diego on June 27, 1981.

AUTHENTICATED BY: PETE WILSON, Mayor of The City of San Diego, California
CHARLES G. ABDELNOUR, City Clerk of The City of San Diego, California.
(SEAL)
By BARBARA BERRIDGE,
Deputy.
Publish August 10, 1981. 60-8026

I, Charlene Lance, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NO. 0-15553
(New Series)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

August 10, 1981

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 10th day of Aug., 19 81.

Charlene Lance
(Signature)

3 1/2 x 8.06 = \$52.34