BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

Re: Employee-Relations provisions of Former Ord. Code Division 34 Continued by this Resolution	RESOLUTION NO. 81/ 1165

In its capacity as the Board of Supervisors of Contra Costa County and of the Contra Costa County Flood Control and Water Conservation District, and of the Fire Protection Districts and other special districts governed by the Board, the Board RESOLVES THAT:

1. The provisions of employer-employee relations expressed in Division 34 of the Contra Costa County Ordinance Code at the time of its repeal today by Ordinance No. 81- 77 , are hereby adopted and established by this Resolution as the general rules governing employee relations in Contra Costa County and the Districts of which this Board is the governing body, in place of Ordinance Code Division 34, effective immediately.

2. The provisions relating to employee relations adopted and established by this Resolution [that is, former Division 34 of the Ordinance Code] are attached hereto and incorporated herein by this reference.

3. To the extent that the provisions of this Resolution (including the attachment hereto) conflict with any ordinance or Board resolution, the provisions of the latter control.

PASSED by the Board on October 6, 1981 , 1981, by the following vote:

AYES: Supervisors - Fahden, Schroder, McPeak, Torlakson, Powers.
NOES: Supervisors - None.
ABSENT: Supervisors Absent.

EVL:ls
(9-8-81)
cc: County Administrator
Director of Personnel
County Counsel
Auditor-Controller
Public Information Officer

ORDINANCE NO. 81- 77

(Repealing Division 34, Employer-Employee Relations)

The Contra Costa County Board of Supervisors ordains as follows:

SECTION I. Repeal of Division 34. So that terms and conditions of employment can be determined by Board Resolution, Division 34 of the County Ordinance Code, on Employer-Employee Relations, comprizing Chapters 34-2 on General Provisions, 34-4 on Definitions, 34-6 on Employee Rights, 34-8 on County Rights and Representatives, 36-10 on Informal Recognition Procedure, 34-12 on Formal Recognition Procedure, 34-14 on Representation Process, 34-16 on Impass Procedures, 36-18 on Employees Meeting on County Time, 34-20 on Use of County Facilities, 34-22 on Unfair Practices, 34-24 on Sanctions, 34-26 on Dues Deduction, and 34-28 on Grievance Procedure, is hereby repealed.

SECTION II. Ordinance Implements Memoranda of Understanding. This ordinance specifically relates to, and is necessary to implement, certain provisions of memoranda of understanding between recognized employee organizations and the County, and pursuant to Government Code §25123(e) (Stats. 1981, Chap. 141, SB-182) is to become effective immediately upon adoption.

SECTION III. Immediate Effective Date. As stated in Section II, this ordinance becomes effective immediately upon passage, and within 15 days of passage shall be published once with the names of Supervisors voting for and against it in the MARTINEZ NEWS-GAZETTE, a newspaper published in this County. PASSED ON October 6, 1981 by the following vote:

AYES: Supervisors: Fahden, Schroder, McPeak, Torlakson, Powers.
NOES: Supervisors: None.
ABSENT: Supervisors None.

ATTEST: J. R. OLSSON, County Clerk and ex officio Clerk of the Board

By: Diana M. Herman
Deputy
Diana M. Herman

Powers
Board Chair

[SEAL]

ORDINANCE NO. 81- 77

EVL:ls
(9-8-81)

81/1165

of competitive examinations to ascertain the fitness of applicants for employment and for the performance of any other service in connection with personnel selection and administration. The commission may call on persons connected with the county service to draw up, conduct or mark examinations, and it shall be deemed a part of the official duties of these persons to act as examiners without extra compensation. (Prior code § 2417: Ord. 325).

Division 34

EMPLOYER - EMPLOYEE RELATIONS*

Chapters:

34-2 General Provisions
34-4 Definitions
34-6 Employee Rights
34-8 County Rights and Representatives
34-10 Informal Recognition Procedure
34-12 Formal Recognition Procedure
34-14 Representation Process
34-16 Impasse Procedures
34-18 Employees Meeting on County Time
34-20 Use of County Facilities
34-22 Unfair Practices
34-24 Sanctions
34-26 Dues Deduction
34-28 Grievance Procedure

Chapter 34-2

GENERAL PROVISIONS

Sections:

34-2.002 Title.
34-2.004 Purpose.
34-2.006 Construction.

34-2.002 Title. This division shall be known as the "employer-employee relations ordinance of the county of Contra Costa." (Ord. 70-17 § 1 (part), 1970).

*For the statutory provisions regarding relations between public employers and public employee organizations, see Gov. C. § 3500 ff.,; for the authority to adopt reasonable rules and regulations for the administration of employer-employee relations, see Gov. C. § 3507; for the provisions regarding employee association dues, see Gov. C. § 1157.1 ff.

34-2.004 Purpose.* (a) The purposes of this division are to:

(1) Establish formal policies, rules and procedures to provide for the orderly and systematic presentation, consideration and resolution of employer-employee relations matters;

(2) Promote the improvement of personnel management and relations between the county and its employees; and

(3) Protect the public by assuring, at all times, the orderly and uninterrupted operation and services of county government.

(b) These provisions are intended to supplement and implement, and not to conflict with, the provisions of existing state law as expressed in Government Code Sections 3500 through 3509. (Ord. 70-17 § 1 (part), 1970).

34-2.006 Construction.** (a) Nothing in this division shall be construed to deny any person or employee the rights granted by federal and state laws.

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

(c) Nothing in this division shall be construed to modify Government Code Section 3509.

(d) Amendments to this division are subject to consideration as provided in Government Code Section 3507. (Ord. 70-17 § 1 (part), 1970).

*See Gov. C. § 3500.
**See Gov. C. § 3500 ff., 3507.

Chapter 34-4

DEFINITIONS

Sections:

34-4.002	Board.
34-4.004	Confidential employee.
34-4.006	Consult or consultation.
34-4.008	County.
34-4.010	Days.
34-4.012	Department head.
34-4.014	Dues deduction.
34-4.016	Employee.
34-4.018	Employee organization.
34-4.020	Employee relations officer.
34-4.022	Fact-finding.
34-4.024	Grievance.
34-4.026	Impasse.
34-4.028	Majority representative.
34-4.030	Management employee.
34-4.032	Management representative.
34-4.034	Mediation.
34-4.036	To meet and confer in good faith.
34-4.038	Proof of employee approval.
34-4.040	Professional employees.
34-4.042	Recognized employee organization.
34-4.044	Representation unit.
34-4.046	Representative.
34-4.048	Scope of representation.
34-4.050	Supervisory authority.

34-4.002 Board. Unless otherwise specially provided or required by the context, the following terms have the indicated meanings set forth in this chapter.

"Board" means the board of supervisors of the county. (Ord. 70-17 § 1 (part), 1970).

34-4.004 Confidential employee.* "Confidential employee" means an employee who is privy to decisions of county management affecting employer-employee relations. Once each year the employee relations officer shall issue a complete list of confidential employees, not exceeding three percent of all allocated positions. (Ord. 70-17 § 1 (part), 1970).

34-4.006 Consult or consultation.** "Consult or consultation" means oral or written communication for the purpose of presenting or obtaining views or advising of intended actions. (Ord. 70-17 § 1 (part), 1970).

34-4.008 County.* "County" means the county of Contra Costa, the Contra Costa County flood control and water conservation district, and fire protection and other special districts governed by the board. (Ord. 70-17 § 1 (part), 1970).

34-4.010 Days. "Days" means calendar days. (Ord. 70-17 § 1 (part), 1970).

34-4.012 Department head.** "Department head" means the chief administrative official of a county department either elected or duly appointed as provided by law, or the chief administrative official of the Contra Costa County flood control and water conservation district or a fire protection district or other special districts as provided in Section 34-4.008. (Ord. 70-17 § 1 (part), 1970).

34-4.014 Dues deduction.*** "Dues deduction" means deduction of employee organization membership dues from pay checks of employees with permanent or probationary status pursuant to Chapter 34-26. (Ord. 70-17 § 1 (part), 1970).

34-4.016 Employee.**** "Employee" means any person employed by the county in an allocated position in the county service, except those persons elected by popular vote. For the purpose of this division only, "employee" also includes physicians and dentists contracting with the county for their services. (Ord. 73-59 § 1, 1973: Ord. 70-17 § 1 (part), 1970).

34-4.018 Employee organization. "Employee organization" means an organization which includes employees of the county and which has as one of its primary purposes representing such employees in their employment relations with the county. (Ord. 70-17 § 1 (part), 1970).

*See Gov. C. § 3507.5.
**See Gov. C. § 3507.

*See Gov. C. § 3501(c).
**See Gov. C. § 3501(d).
***See Gov. C. § 1157-1ff.
****See Gov. C. § 3501(a).

34-4.020 Employee relations officer.* "Employee relations officer" means the county administrator. (Ord. 70-17 § 1 (part), 1970).

34-4.022 Fact-finding. "Fact-finding" means the investigation of an issue by an impartial individual(s) for the purpose of describing the issues in dispute and stating the facts and the positions of the parties. (Ord. 70-17 § 1 (part), 1970).

34-4.024 Grievance. "Grievance" means any real or imagined dispute by one or more employees concerning the interpretation or application of policies, procedures or agreements (including memorandums of understanding) on matters within the scope of representation (as defined in this chapter) or on the practical consequences that decisions on these matters may have upon an affected employee or employees. (Ord. 73-32 § 1, 1973: Ord. 70-17 § 1 (part), 1970).

34-4.026 Impasse. "Impasse" means a deadlock in discussions between a majority representative and the county on any matters within the scope of representation, or on whether a matter is within the scope of representation. (Ord. 70-17 § 1 (part), 1970).

34-4.028 Majority representative. "Majority representative" means an employee organization that has been granted formal recognition by the board pursuant to Chapter 34-12. (Ord. 70-17 § 1 (part), 1970).

34-4.030 Management employee.** "Management employee" means the county administrator, assistant county administrator-director of personnel, assistants to the county administrator, department heads, assistant department heads, heads and assistant heads of departmental divisions, programs or districts and employees exercising supervisory authority. (Ord. 70-17 § 1 (part), 1970).

34-4.032 Management representative. "Management representative" means any management or confidential employee designated by the employee relations officer to participate in the process of meeting and conferring in good faith with a majority representative, or to consult with and inform a recognized employee organization. (Ord. 70-17 § 1 (part), 1970).

*See also § 34-8.012 of this code.
**See Gov. C. 3507.5.

34-4.034 Mediation.* "Mediation" means the efforts of an impartial third party, functioning as an intermediary to assist the parties in reaching a voluntary resolution of an impasse through suggestion, advice, or other ways of stimulating agreement. (Ord. 70-17 § 1, (part), 1970).

34-4.036 To meet and confer in good faith.** "To meet and confer in good faith" means the process through which representatives of a majority representative and the employee relations officer, a management representative, or other representative of the county specifically designated by the board are mutually obligated to personally meet and confer on matters within the scope of representation in order to exchange freely information, opinions and proposals and to endeavor to reach agreement on:

(1) Matters within their authority; or

(2) What they will jointly recommend to the board on matters within the board's decision-making authority. (Ord. 70-17 § 1 (part), 1970).

34-4.038 Proof of employee approval. "Proof of employee approval" means evidence of employee approval to represent employees, to establish a representation unit, or to become a majority representative; which may be by:

(1) Filing a predetermined petition form with signatures executed and dated within forty-five days before filing;

(2) Filing employee organization authorization cards, with signatures executed and dated within forty-five days before filing; or

(3) Payroll dues deduction evidence, certified by the county auditor-controller, using the monthly payroll immediately prior to the date the request or petition is filed. (Ord. 70-17 § 1 (part), 1970).

34-4.040 Professional employees.*** "Professional employees" means 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, professional (registered) nurses, engineers, architects, teachers, and various types of physical, chemical and biological scientists. (Ord. 70-17 § 1 (part), 1970).

34-4.042 Recognized employee organization.* "Recognized employee organization" means an employee organization which has been informally recognized by the board pursuant to Chapter 34-10. (Ord. 70-17 § 1 (part), 1970).

34-4.044 Representation unit. "Representation unit" means a group of employees, deemed appropriate for representation in the employer-employee relations process, established pursuant to Chapter 34-12. (Ord. 70-17 § 1 (part), 1970).

34-4.046 Representative. "Representative" means a person with written designation and authorization by a recognized employee organization to represent it in dealing with the county. (Ord. 70-17 § 1 (part), 1970).

34-4.048 Scope of representation.**"Scope of representation" means all matters relating to employment conditions and employer-employee relations, including but not limited to wages, hours and other terms and conditions of employment, but not including consideration of the merits, necessity, or organization of any service or activity provided by law or executive order. (Ord. 70-17 § 1 (part), 1970).

34-4.050 Supervisory authority. "Supervisory authority" means authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances or effectively to recommend such action, if the exercise of such authority is not merely routine or clerical in nature but calls for the use of independent judgment. (Ord. 70-17 § 1 (part), 1970).

*See Gov. C. § 3501(e).
**See Gov. C. § 3505.
***See Gov. C. § 3507.3.

**See Gov. C. § 3501(b).
**See Gov. C. § 3504.

Chapter 34-6

EMPLOYEE RIGHTS

Sections:

34-6.002 Designated.
34-6.004 Protections.

34-6.002 Designated.* Employees 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. Employees also have the right to refuse to join or participate in the activities of employee organizations, and the right to represent themselves individually in their employment relations with the county. (Ord. 70-17 § 1 (part), 1970).

34-6.004 Protections. No person or agency, governmental or private, shall interfere with, intimidate, restrain, coerce or discriminate against an employee because of his exercise of these rights, which include the rights granted in Government Code Sections 3502 and 3506. (Ord. 70-17 § 1 (part), 1970).

Chapter 34-8

COUNTY RIGHTS AND REPRESENTATIVES

Sections:

34-8.002 Management—Decisions.
34-8.004 Management direction.
34-8.006 Merit system.
34-8.008 Emergencies.
34-8.010 Management and confidential employees.
34-8.012 Employee relations officer.

34-8.002 Management – Decisions.** It is the exclusive right of the county to make all decisions of a managerial or administrative character including, but not limited to decisions:

(1) On the type, extent and standards of services to be performed;

(2) On the methods, means and personnel by which the county's operations and services are to be conducted; and

*See Gov. C. §§ 3502, 3503.
**See Gov. C. § 3504.

(3) Necessary to exercise control over county government operations in the most efficient and economical manner practicable and in the best interest of all county citizens. (Ord. 70-17 § 1 (part), 1970).

34-8.004 Management direction. It is the exclusive right of the county to direct its employees including, but not limited to directions:

(1) Scheduling work, assigning work, or ordering overtime;

(2) Classifying positions, establishing and revising classification specifications; and/or

(3) Hiring, promoting, demoting, transferring, laying-off, discharging and disciplining employees. (Ord. 70-17 § 1 (part), 1970).

34-8.006 Merit system. It is the exclusive right of the county to administer the merit system as provided in Chapters 32-2 – 32-6. (Ord. 70-17 § 1 (part), 1970).

34-8.008 Emergencies. It is the exclusive right of the county to take whatever action may be necessary in an emergency situation. (Ord. 70-17 § 1 (part), 1970).

34-8.010 Management and confidential employees.* Management employees and confidential employees, who choose to remain or to become members of an employee organization which includes as members employees who are not management or confidential employees, shall not serve as representatives of such organization in relations with county management and/or the board on matters within the scope of representation, or in a grievance procedure. (Ord. 70-17 § 1 (part), 1970).

34-8.012 Employee relations officer.** (a) Designation: The county administrator is designated as the employee relations officer for the board of supervisors on employer-employee relations matters. He shall be responsible for administration of this division, and shall act as the official county spokesman on employer-employee relations.

(b) Delegation: He is authorized to delegate these functions and authorities; and he may

*See Gov. C. § 3507.5.
**See also Ch. 24-4, this code.

designate management representatives as he deems necessary. (Ord. 70-17 § 1 (part), 1970).

Chapter 34-10

INFORMAL RECOGNITION PROCEDURE

Sections:

34-10.002 Request.
34-10.004 Contents.
34-10.006 Recommendations of employee relations officer.
34-10.008 Right to consult.
34-10.010 Present organizations.
34-10.012 Changed information.

34-10.002 Request.* Except employee organizations heretofore granted payroll deduction, an employee organization claiming to represent employees of the county and seeking recognition shall file a written request for informal recognition with the board, which shall be referred to the employee relations officer for verification of the information required by Section 34-10.004. (Ord. 70-17 § 1 (part), 1970).

34-10.004 Contents.** The request shall contain:

(1) The name, mailing address (and business telephone number if any) of the organization;

(2) A statement whether the organization is a chapter or local of, or affiliated directly or indirectly in any manner with, any regional, state, national, or international organization, and if so, the name and mailing address of each such other organization;

(3) A list of the names and titles of officers of the organization;

(4) A statement that the organization includes employees of the county who are members, with proof of employee approval pursuant to Section 34-4.038 (2) and (3), showing class title(s) and department(s) where employed;

(5) A statement that one of the organization's primary purposes is representation of such employees in their employer-employee relations with the county;

(6) Current copies of the organization's constitution and by-laws;

(7) The designation of two persons, and their addresses, to whom notice, sent by regular United States mail, will constitute notice; and

(8) A statement that the organization has no restriction on membership based on race, color, creed, national origin, sex, age or physical impairment. (Ord. 70-17 § 1 (part), 1970).

34-10.006 Recommendations of employee relations officer. After the employee relations officer has verified that the employee organization has complied with the requirements in Section 34-10.004, he shall promptly recommend that the board grant informal recognition to the organization and the board shall grant such recognition within fourteen days. (Ord. 70-17 § 1 (part), 1970).

34-10.008 Right to consult. An employee organization granted informal recognition shall have the right to consult or consultation as specified in Section 34-4.006. (Ord. 70-17 § 1 (part), 1970).

34-10.010 Present organizations. Employee organizations presently on dues deduction shall, if such data is needed by the employee relations officer, furnish whichever of the above items is not already on file with the county. (Ord. 70-17 § 1 (part), 1970).

34-10.012 Changed information. A recognized employee organization shall, on request, furnish to the employee relations officer, in writing, any material changes in the facts submitted pursuant to this chapter. (Ord. 70-17 § 1 (part), 1970).

Chapter 34-12

FORMAL RECOGNITION PROCEDURE

Sections:

34-12.002 Petition.
34-12.004 Action of employee relations officer.
34-12.006 Appropriateness of proposed unit.
34-12.008 Unit determination.
34-12.010 Majority representation.
34-12.012 Election procedure.
34-12.014 Optional verification procedure.

*See Gov. C. § 3507.
**See Gov. C. §§ 3503, 3507.

34-12.015 Assignment of classes to units.
34-12.016 Modification of representation units.
34-12.018 Decertification procedure.

34-12.002 Petition.* An informally recognized employee organization may request formal recognition as a majority representative by filing a written petition with the employee relations officer with proof of employee approval of at least thirty percent of the employees in the proposed representation unit which shall be clearly defined therein. (Ord. 70-17 § 1 (part), 1970).

34-12.004 Action of employee relations officer. On receipt of such a petition the employee relations officer shall:

(1) Notify the board and recognized employee organizations of the petition;

(2) Post public notice of the petition at appropriate locations in county buildings; and

(3) Review the proposed unit to determine if it is an appropriate one. (Ord. 70-17 § 1 (part), 1970).

34-12.006 Appropriateness of proposed unit.** (a) Chief Criterion: The employee relations officer shall determine the appropriateness of the proposed representation unit by using as a principal criterion the largest feasible grouping of classes, the employees of which have a clear and identifiable community of interest.

(b) Other Criteria: He shall also consider the following criteria, among others, in making this determination:

(1) Which unit will assure employees the fullest freedom in the exercise of rights under this division;

(2) The effect of the proposed unit on the efficient operation of county services and sound employer-employee relations, including compatibility with the organizational structure of the county;

(3) The history of employer-employee relations in the proposed unit and among other employees of the county, except that no unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized;

(4) The extent to which employees have common skills, working conditions, job duties or similar education requirements;

(5) The effect of having a county classification in more than one representation unit;

(6) Professional employees shall not be denied the right to be represented separately from nonprofessional employees by a professional employee organization;

(7) Peace officers, as designated in Penal Code Section 830.1, may join or participate in employee organizations which are composed solely of such peace officers, which 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, and which are not subordinate to any other organization; the board finding that this provision is in the public interest. (Ord. 70-17 § 1 (part), 1970).

34-12.008 Unit determination.* (a) Intervention: Any employee organization that is recognized or has requested recognition may intervene in the unit determination process if within twenty-one days of posting of the notice of the petition the organization furnishes to the employee relations officer proof of employee approval of thirty percent of the employees in the proposed unit or proof of employee approval of thirty percent of the employees in an alternative unit which includes all or part of the employees in the unit originally petitioned for.

(b) Review of Appropriateness of Unit: The employee relations officer shall, within thirty days after the period for intervention expires, review the proposed unit(s) and make a preliminary determination on the appropriateness of the unit(s) including units proposed by him.

(c) Meet and Confer: After the time for review has expired, the employee relations officer, petitioning employee organization and intervening employee organization(s), if any, shall meet and confer to see if agreement can be obtained on the composition of an appropriate representation unit. Unless otherwise agreed, the period for meeting and conferring shall expire sixty days after the period provided for in subsection (b).

*See Gov. C. § 3507.
**See Gov. C. §§ 3507, 3507.3, 3508.

*See Gov. C. § 3507.

(d) Establishment of Unit where Parties Agree: When, after the meet and confer process, the parties agree on the composition of the unit, the employee relations officer shall recommend that the board confirm the unit as a representation unit.

(e) Establishment of Unit where Parties Disagree: When, after the meet and confer process, the parties cannot agree on the composition of an appropriate representation unit, the matter shall be referred to an impartial arbitrator for determination; or if all parties consent, the matter shall be referred to the board for determination.

(f) Arbitration: Within fourteen days after the expiration of the meet and confer process, the employee relations officer and employee organization(s) shall try to select a mutually acceptable arbitrator who agrees to serve. If the parties cannot agree, a list of five arbitrators will be obtained from the California State Conciliation Service, American Arbitration Association or some other source mutually agreed upon, and each party (beginning by lot) shall alternatively strike one name from the list until one name remains, who shall be the arbitrator if he agrees to serve. If he will not serve, the process shall be repeated until an arbitrator is found. If more than one employee organization is participating in the unit determination process, they, as a group, shall strike one name from the list for each name struck by the employee relations officer.

(g) Board Determination: If the matter is referred to the board, it shall be referred for determination based on the written presentations and recommendations of the parties; provided that the board, if it wishes, may order the presentation of oral testimony and/or oral argument to supplement the written presentations and recommendations of the parties.

(h) Costs: The fees of the arbitrator (including any per diem expenses, travel and subsistence expenses), the cost of any hearing room and the cost of preparing the transcript of the hearing, if any, for the arbitrator shall be borne half by the county and half by the employee organizations participating in the determination of the unit. All other costs and expenses shall be borne by the party incurring them.

(i) Criteria: The primary test for determining the appropriateness of a representation unit shall be the criteria found in Section 34-12.006, but the board or arbitrator may consider such other relevant matter as is presented by the parties. (Ords. 78-71 § 1, 73-32 § 2, 70-17 § 1; prior code § 34-7.1108: see Gov. Code §§ 3507, 3507.1 cp § 3505.2).

34-12.010 Majority representation.* After the representation unit has been determined, the county shall ascertain if a majority representative exists among the employees in the unit, by election or by verification procedures. (Ord. 70-17 § 1 (part), 1970).

34-12.012 Election procedure.* (a) The employee relations officer shall arrange for a secret ballot election.

(b) In an election the name of the petitioning organization and the name(s) of any recognized employee organization(s), which within twenty-one days of the establishment of the representation unit submit proof of employee approval of at least thirty percent of the employees in the unit, shall appear on the ballot together with the choice of "No Organization."

(c) The election will be conducted by a neutral party. Employees entitled to vote will be those in the representation unit who are employed in allocated positions and who were employed in those positions on the first of the month preceding the date of the secret ballot election.

(d) A majority representative will be selected by a majority of the valid ballots cast if fifty percent of the eligible employees vote in the election.

(e) If none of the choices on the ballot is selected as majority representative, a runoff election shall be conducted between the two choices receiving the largest number of votes, one of which may be "No Organization," and a majority representative selected if the criteria in subsection (d) are met.

(f) The employee relations officer shall report the results of any secret ballot election to the board; and, if an organization has been selected as majority representative, the board shall acknowledge its formal recognition thereof within fourteen days. (Ords. 78-71 § 2, 73-72 § 3, 70-17 § 1; prior code § 34-7.1112: see Gov. Code § 3507).

34-12.014 Optional verification procedure.* Instead of the election procedure, the employee

*See Gov. C. § 3507.

lations officer may ascertain that a majority representative exists among the employees in the unit by verification of payroll dues deduction cards which substantiate that an organization has proof of employee approval of at least fifty-one percent of the employees in the unit, in which case the board may formally recognize that organization within twenty-one days of the verification. (Ord. 70-17 § 1 (part), 1970).

34-12.015 Assignment of classes to units. (a) Initial Determination: When a new class title is established, the employee relations officer shall review the composition of existing representation units to determine the appropriateness of including some or all of the employees in the new class in one or more existing representation units, and within a reasonable period of time shall notify all recognized employee organizations of his determination.

(b) Final Determination: His determination is final unless within ten days after notification a recognized employee organization requests in writing to meet and confer thereon.

(c) Meet and Confer and Other Steps: He shall meet and confer with such requesting organizations (and with other recognized employee organizations where appropriate) to seek agreement on this matter within sixty days after the ten-day period in subsection (b), unless otherwise mutually agreed. Thereafter, the procedures in cases of agreement and disagreement, arbitration referral and expenses, and criteria for determination shall conform to those in subsections (d) through (i) of Section 34-12.008.

(d) Assignment of CETA Classifications: CETA (U.S. Comprehensive Employment Training Act) classifications established before July 1, 1979, shall be assigned to a representation unit when:

(1) He determines that the classification is appropriate for the representation unit as prescribed in Section 34-12.006; and

(2) More than fifty percent of the incumbents in that classiifcation submit to him evidence of membership in the recognized employee organization representing the representation unit. (Ord. 79-102, 73-32 § 4: see Gov. C. §§ 3507, 3507.1, cp. § 3505.2).

34-12.016 Modification of representation units. (a) If a representation unit has been established, that representation unit shall not be contested for twelve months from the most recent date of determination. Thereafter, another recognized employee organization may file a petition during the month of October for modification of the representation unit and formal recognition, by submitting proof of employee approval of at least thirty percent of the employees in the proposed modified unit. The same unit determination and election procedures shall be followed as for the initial establishment of a representation unit and determination of a majority representative, except that the effective date of modification of an established representation unit shall occur on July 1st after approval for modification: provided, however, the board by resolution approving a memorandum of understanding modify any of the foregoing provisions. (SEE REVERSE SIDE FOR CONTINUATION) ----------→

34-12.018 Decertification procedure.** The status of an organization as majority representative may be contested by employees of the unit after twelve months have elapsed from the most recent date of formal recognition by submission of a petition during the month of October with proof of employee approval of at least thirty percent of the employees in the representation unit. The majority representative shall be decertified if the results of a secret ballot election show that employees of the unit no longer desire representation by that organization, as indicated by the vote of "No Organization," or another recognized organization, as specified in the voting criteria cited in Section 34-12.012(d). Decertification of a majority representative shall not negate the term of an existing memorandum of understanding between the county and that organization; provided, however, the board by resolution approving a memorandum of understanding modify any of the foregoing provisions. (Ord. 77-73 § 2, 1977: 70-17 § 1 (part), 1970).

**See Gov. C. § 3507.

Chapter 34-14

REPRESENTATION PROCESS

Sections:

34-14.002 Timetable for requests.
34-14.004 Notice.
34-14.006 Meet to confer—Memorandum of understanding.
34-14.008 Other consultation.
34-14.010 Meet and confer on layoffs.

34-14.002 Timetable for requests.** Requests from recognized employee organizations for changes in salaries, wages, fringe benefits and other like terms and conditions of employment for employees generally shall be submitted to the employee relations officer, during a specified period determined annually by the board after

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34-12.016 Modification of representation units. (Cont'd.)

(b) (1) A majority representative may apply to transfer a class(es) from one unit to another unit when it represents both units by filing an application with the Employee Relations Manager. The application must include a written signature petition signed by at least thirty percent of the employees in the class(es) to be transferred, said signatures having been executed and dated within forty-five days before filing.

(2) The Employee Relations Manager shall determine the appropriateness of the proposed transfer of the class(es). If the Employee Relations Manager finds that the proposed transfer is not appropriate, the procedures set forth in Section 34-12.008 shall be followed.

(3) If a written signature petition is filed and approved, an election shall be held, as provided for by Section 34-12.012(a). Only employees in a class(es) proposed to be transferred from the unit may vote. The transfer shall be approved if at least 50% of the employees eligible to vote do vote and a majority of those employees vote for the transfer.

(4) If the written signature petition is signed by at least fifty-one percent (51%) of employees in the class(es) to be transferred, an election will not be required and the Employee Relations Manager shall finalize the transfer of the class(es) and issue a written report of the action to the County Board of Supervisors.

consultation between the employee relations officer and recognized employee organizations, so that proposals can be properly considered before the proposed county budget is submitted to the board. (Ord. 70-17 § 1 (part), 1970).

34-14.004 Notice.* (a) Right: Recognized employee organizations shall, except in cases of emergency, have the right to reasonable notice of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the board, or boards and commissions designated by the board, and to meet with the body considering the matter.

(b) Notice: The listing of an item on a public agenda in a reasonably descriptive way, or the mailing of a copy of a proposal at least seventy-two hours before the item will be heard, or the delivery of a copy of the proposal at least twenty-four hours before the item will be heard, shall constitute notice.

(c) Emergency: In cases of emergency when the board, or boards and commissions designated by the board, determines that it must act immediately without such notice or meeting, it shall give such notice and opportunity to meet as soon as practicable after its action. (Ord. 70-17 § 1 (part), 1970).

34-14.006 Meet to confer – Memorandum of understanding.** Majority representative(s) shall be entitled to meet and confer in good faith for employees in their representation units. If agreement is reached, a memorandum of understanding shall be prepared and signed by the employee relations officer and by an authorized representative(s) of the majority representative(s) and then submitted jointly to the board for final action. (Ord. 70-17 § 1 (part), 1970).

34-14.008 Other consultation.*** This process shall not preclude other recognized employee organizations or individuals from consulting with a management representative on the same matters, but any action taken by a management representative shall not be inconsistent with terms of any memorandum of understanding covering such employees. (Ord. 70-17 § 1 (part), 1970).

*See Gov. C. § 3504.5.
**See Gov. C. §§ 3505, 3505.1.
***See Gov. C. 3502, 3507.

34-14.010 Meet and confer on layoffs. When it appears to the department head and/or employee relations officer that the board may take action which will result in the layoff of employees in a representation unit, the employee relations officer shall notify the majority representative of the possibility of such layoffs and shall meet and confer with it regarding the implementation of the action. (Ord. 73-32 § 5, 1973).

Chapter 34-16

IMPASSE PROCEDURES

Sections:

34-16.002 Last resort.
34-16.003 Mediation.
34-16.006 Privacy.
34-16.008 Fact finding.
34-16.010 Selection.
34-16.012 Instructions.
34-16.014 Confidentiality.
34-16.016 Meeting and conferring.
34-16.018 Submission to board.
34-16.020 Cost.

34-16.002 Last resort. Impasse procedures shall be used only when all other attempts at reaching an agreement through meeting and conferring in good faith have been unsuccessful. (Ord. 70-17 § 1 (part), 1970).

34-16.004 Mediation.* When an impasse has been reached, the parties may mutually agree to request the assistance of a mediator from the California State Conciliation Service or any other source mutually agreed upon. (Ord. 70-17 § 1 (part), 1970).

34-16.006 Privacy.* All mediation shall be private. The mediator shall make no public recommendations nor take any public position concerning the issues. (Ord. 70-17 § 1 (part), 1970).

34-16.008 Fact finding. If an impasse continues after mediation, the parties may mutually agree to request the assistance of a fact-finder or fact-finding board of not more

*See Gov. C. § 3505.2.

than three members. (Ord. 70-17 § 1 (part), 1970).

34-16.010 Selection. (a) Single Fact-Finder: A single fact-finder shall be selected by mutual agreement of the parties. If the parties cannot agree, a list of seven fact-finders shall be obtained from the California State Conciliation Service, the American Arbitration Association or some other source mutually agreed upon by the parties, and each party (beginning by lot) shall alternatively strike one name from the list until only one name remains.

(b) Three-Man Board: When a three-man fact-finding board is desired, each party shall select one member and these two shall then select the third board member who will be the chairman. (Ord. 70-17 § 1 (part), 1970).

34-16.012 Instructions. The parties shall instruct the fact-finder on the specific facts they want ascertained and the specific issues on which they want his report. (Ord. 70-17 § 1 (part), 1970).

34-16.014 Confidentiality. The fact-finder's findings and report shall be confidential, initially, and shall be submitted directly to the parties concerned. (Ord. 70-17 § 1 (part), 1970).

34-16.016 Meeting and conferring. The parties shall attempt to reach an agreement by meeting and conferring in good faith on the basis of the fact-finder's findings and report. (Ord. 70-17 § 1 (part), 1970).

34-16.018 Submission to board. If the parties have not reached an agreement after seven days or a mutually agreed later date, they shall submit their positions on the unresolved issues, with a copy of the fact-finder's findings and report, to the board for determination. (Ord. 70-17 § 1 (part), 1970).

34-16.020 Cost. The cost of mediation and fact-finding proceedings shall be divided one-half to the county and one-half to the majority representative(s). (Ord. 70-17 § 1 (part), 1970).

Chapter 34-18

EMPLOYEES MEETING ON COUNTY TIME

Sections:

34-18.002 Employees.
34-18.004 Organization representatives.

34-18.002 Employees.* As heretofore authorized, county employees shall be allowed to attend meetings held by county agencies during regular working hours on county time:

(1) If their attendance is required at a specific meeting;

(2) If their attendance is sought by the hearing officer for presentation of testimony or other reasons;

(3) For meetings required for settlement of grievances filed pursuant to the county grievance policy;

(4) If they are designated as a union shop steward or member representative, in which case they may utilize a reasonable time at each level of the proceedings to assist an employee in processing a grievance;

(5) If they are designated as spokesman or representative of a recognized organization, in which case they make representations or presentations at meetings or hearings on wages, salaries and working conditions; provided in each case (except legally required attendance) that advance arrangements for time away from the employee's work station or assignment are made with department head, and that the county agency calling the meeting is responsible for determining that the attendance of particular employee(s) is required. (Ord. 70-17 § 1 (part), 1970).

34-18.004 Organization representatives.* In addition, official representatives of a recognized employee organization(s) shall be allowed time off on county time for meetings during regular working hours when formally meeting and conferring in good faith or consulting with the employee relations officer or other management representative(s) on matters within the scope of representation; provided that the number of such representative(s) shall not exceed two without prior approval of the employee relations officer, and that advance arrangements for the time away from his work station or assignment are made with the department head. (Ord. 70-17 § 1 (part), 1970).

*See Gov. C. § 3505.3.

Chapter 34-20

USE OF COUNTY FACILITIES

Sections:

34-20.002 Meeting areas.
34-20.004 Scheduling and conduct.
34-20.006 Equipment.
34-20.008 Bulletin boards.
34-20.010 Access to work areas.
34-20.012 Distributing literature.

34-20.002 Meeting areas.* (a) Recognized employee organizations shall be allowed the use of areas normally used for meeting purposes for meeting of county employees during nonwork hours when:

(1) Such space is available and is scheduled twenty-four hours in advance;

(2) There is no additional cost to the county;

(3) It does not interfere with normal county operations;

(4) Employees in attendance are not on duty and are not scheduled for duty; and

(5) The meetings are open and on matters within the scope of representation.

(b) Recognized employee organizations representing fire district employees shall be allowed the use of fire station areas normally used for meeting purposes. (Ord. 70-17 § 1 (part), 1970).

34-20.004 Scheduling and conduct.* The administrative official responsible for the space shall establish and maintain scheduling of such uses. The scheduling recognized employee organization shall maintain proper order at the meeting, and see that the space is left in a clean and orderly condition. (Ord. 70-17 § 1 (part), 1970).

34-20.006 Equipment.* The use of county equipment (other than items normally used in the conduct of business meetings, such as desks, chairs, ashtrays and blackboards) is strictly prohibited, even though it may be present in the meeting area. (Ord. 70-17 § 1 (part), 1970).

34-20.008 Bulletin boards.* (a) Recognized employee organizations shall be allowed to use designated portions of bulletin boards or display areas in public portions of county buildings, or in public portions of offices in which the employee organization has members; provided that the information displayed is within the scope of representation, and that the employee organization appropriately posts and removes the information.

(b) The county through the employee relations officer reserves the right to remove objectionable materials after consultation with the employee organization which posted it. (Ord. 70-17 § 1 (part), 1970).

34-20.010 Access to work areas.* Representative(s) of a recognized employee organization shall be allowed access to work locations in which the organization has membership, for the following purposes:

(1) To post literature on bulletin boards;

(2) To arrange for use of a meeting room;

(3) To leave and/or distribute a supply of literature as permitted by Section 34-20.012;

(4) To represent an employee on a grievance; and/or

(5) To contact a union officer on a matter within the scope of representation; provided that advance arrangements (including disclosure of which of the above purposes is the reason for the visit) are made with the departmental representative in charge of the work area, and that the visit does not interfere with county business. (Ord. 73-32 § 6,1973: Ord. 70-17 § 1 (part), 1970).

34-20.012 Distributing literature.* Representative(s) of a recognized employee organization (who, if a county employee, shall be off duty) shall be permitted to:

(1) Place a supply of employee organization literature at specific locations in county buildings arranged through the employee relations officer; and

(2) Distribute employee organization literature in work areas (except work areas not open to the public), if the nature of the literature and the proposed method of distribution are compatible with the work environment and work in progress. Approval of the nature of the literature and the method of the distribution shall be obtained in advance from the departmental representative in charge of the work area. (Ord. 73-32 § 7, 1973: Ord. 70-17 § 1 (part), 1970).

*See Gov. C. § 3507.

*See Gov. C. § 3507.

Chapter 34-22

UNFAIR PRACTICES

Sections:

34-22.002 County.
34-22.004 Employee organizations.

34-22.002 County. It is an unfair employer-employee relations practice for the county to:

(1) Interfere with, restrain or coerce employees in the exercise of the rights recognized or granted in this division;

(2) Dominate or interfere with the formation of any employee organization or interfere with selection of a majority representative;

(3) Contribute financial support to any employee organization; or

(4) Refuse to meet and confer in good faith (with representatives of formally organized employee organizations on matters within the scope of representation), or to refuse to consult with informally recognized employee organizations on matters within the scope of representation. (Ord. 70-17 § 1 (part), 1970).

34-22.004 Employee organizations. It is an unfair employer-employee relations practice for employee organizations or their representatives or members to:

(1) Interfere with, restrain or coerce employees in the exercise of the rights recognized or granted in this division;

(2) Coerce, attempt to coerce or discipline any member of an organization so as to hinder or impede the performance of his duties;

(3) Discriminate against any employee with regard to the terms or conditions of membership because of race, color, creed, sex or national origin;

(4) Refuse to consult, or meet and confer in good faith, with management representatives on matters within the scope of representation; or

(5) Initiate, engage in, cause, instigate, encourage or condone a work stoppage of any kind or other disruptive activities which are detrimental to the conduct of county business and services. (Ord. 70-17 § 1 (part), 1970).

Chapter 34-24

SANCTIONS

Sections:

34-24.002 Exclusive.
34-24.004 Against employee organizations.
34-24.006 Notice.
34-24.008 Appeal.

34-24.002 Exclusive. Notwithstanding the provisions of Title 1, the sanctions and appeals provided in this chapter are the only sanctions and appeals provided by county ordinance or regulation for violations of the provisions of this division. (Ord. 70-17 § 1 (part), 1970).

34-24.004 Against employee organizations.* The employee relations officer may, after reasonable notice, impose sanction(s) for unfair employer-employee relations practices, including but not limited to suspension or revocation of privileges provided a recognized employee organization, such as dues deduction. (Ord. 70-17 § 1 (part), 1970).

34-24.006 Notice. The employee relations officer shall immediately give the employee organization written notice of the sanction(s) imposed. (Ord. 70-17 § 1 (part), 1970).

34-24.008 Appeal. Sanctions invoked by the employee relations officer may be appealed to the board within ten days of the mailing of his notice, in which case the sanctions shall not be in force until the appeal has been ruled upon by the board. Such appeals shall be heard and decided at the next regular board meeting or an earlier special meeting. (Ord. 70-17 § 1 (part), 1970).

Chapter 34-26

DUES DEDUCTION

Sections:

34-26.002 Majority representatives.
34-26.004 New employees in unit.
34-26.006 Other employees.
34-26.008 Authorization.

*See Gov. C. § 3507.

34-26.010 Amount.
34-26.012 Indemnity and refund.

34-26.002 Majority representatives.* Only majority representatives may have dues deduction; but any other recognized employee organization with dues deduction on February 26, 1970, continues to have the privilege subject to this chapter. (Ord. 70-17 § 1 (part), 1970).

34-26.004 New employees in unit.** The majority representative has the exclusive privilege of dues deduction for new members recruited in its unit. (Ord. 70-17 § 1 (part), 1970).

34-26.006 Other employees.** Any recognized employee organization with dues deduction privilege (pursuant to Section 34-26.002) may have dues deduction from employees not in any representation unit. (Ord. 70-17 § 1 (part), 1970).

34-26.008 Authorization.* Dues deduction is based on the employee's voluntary written authorization. The authorization continues until the employee's county employment is terminated or until he cancels it in writing; but the board by resolution may restrict to certain periods an employee's right to cancel his authorization. (Ords. 74-50 § 2, 1974, 70-17).

34-26.010 Amount.* The dues deduction (for employee organization membership) shall be for a specified amount and uniform as between employee members of the organization. (Ord. 70-17 § 1 (part), 1970).

34-26.012 Indemnity and refund. (a) Employee organizations who have or achieved the dues deduction privileges shall indemnify, defend and hold the county harmless against any claims made and against any suit instituted against the county on account of dues deduction.

(b) Such an employee organization shall refund to the county any amounts paid to it in error upon presentation of supporting evidence. (Ord. 70-17 § 1 (part), 1970).

*See Gov. C.§§ 1157.1 ff., 3507.
**See Gov. C. § 3507.

Chapter 34-28

GRIEVANCE PROCEDURE

Sections:

34-28.002 General.
34-28.004 Fact finding.
34-28.006 Lowest level.
34-28.008 Second level (optional).
34-28.010 Departmental level.
34-28.012 Appeal to employee relations officer.
34-28.014 Appeal from employee relations officer.
34-28.016 Arbitration.
34-28.018 Board determination.
34-28.020 Time limits waiver.

34-28.002 General. (a) Initial Presentation: The initial (or lowest level) presentation of a grievance shall be to the immediate supervisor of the employee claiming to have a grievance, and it may be made either orally or in writing. If made in writing the written grievance shall comply with subsection (b)'s requirements for a formally presented grievance.

(b) Formal Presentation: The formal presentation of a grievance shall be written and shall state the circumstances over which the grievant claims to be aggrieved, how the interpretation, application or practical consequences of a policy, procedure or agreement is affecting him to his detriment, and the redress he seeks.

(c) Notice: The official with whom a formal grievance is filed by a grievant, who is included in a representation unit but is not represented by the majority representative, shall give the majority representative a copy of the formal presentation.

(d) Time Limit: Grievances must be filed within thirty days of the incident or occurrence about which the employee claims to have a grievance.

(e) Copies: A copy of each written communication on a grievance shall be filed with the director of personnel for record purposes.

(f) Effect of a Grievance: The making or filing of a grievance shall not prevent the county, a department head, a departmental supervisor or other authorized person from taking action deemed appropriate, nor shall it have the effect of suspending action previously taken even though the action may involve or be

a part of the subject matter of the grievance. (Ord. 73-32 § 8 (part), 1973).

34-28.004 Fact finding. (a) Upon the filing of a grievance appeal at the second level (optional) or departmental level, an impartial fact-finding team of two persons shall be selected. The grievant shall select one member of the team and the department head shall select the other member of the team from a list established by the employee relations officer.

(b) Investigation and Report: The fact-finding team shall promptly investigate the facts pertinent to the grievance and shall report in writing to the parties, but only on facts agreed to by both fact-finders. The report shall become a part of the record of the grievance.

(c) Waiver: Where the parties (grievant and management) stipulate in writing that the formal grievance states the facts, those facts shall become the facts of record for the grievance and the fact-finding procedure provided for herein shall be waived. (Ord. 73-32 § 8 (part), 1973).

34-28.006 Lowest level. An attempt shall be made to settle all grievances on an informal basis by discussion between the immediate supervisor or other appropriate supervisor and the employee and/or his representative as soon as practicable; and if such a meeting cannot be arranged informally, it shall be held within two working days after submission to the immediate supervisor of a written request for such a meeting. (Ord. 73-32 § 8 (part), 1973).

34-28.008 Second level (optional). (a) A grievance which is not settled at the lowest level may be appealed to a second level management representative designated by the department head. The appeal shall be submitted within seven days after the decision of the supervisor, and if so appealed the grievance shall be presented as provided in subsection (b) of Section 34-28.002. The second level management representative shall attempt to settle the grievance, and if the grievance is not settled shall reply in writing within seven days after receipt of the fact-finders' report.

(b) The provisions of this section apply in any department while the department head has so notified the employee relations officer in writing specifying the second level management representative(s) in his department. (Ord. 73-32 § 8 (part), 1973).

34-28.010 Departmental level. A grievance which is not settled at a lower level may, within seven days of the decision of the supervisor or second level management representative (whichever is appropriate), be appealed in writing to the department head, and if so appealed the grievance, unless previously formally presented, shall be presented as provided in subsection (b) of Section 34-28.002. The department head or his departmental representative authorized to make a final departmental decision shall attempt to settle the grievance, and if the grievance is not settled shall reply in writing within seven days after receipt of the fact-finders' report. If a fact-finders' report had previously been prepared, he shall reply within seven days after receipt of the written appeal. (Ord. 73-32 § 8 (part), 1973).

34-28.012 Appeal to employee relations officer. A grievance which is not settled at the departmental level may be appealed in writing, within seven days from receipt of the department's written reply, to the employee relations officer, and if so appealed he shall try to settle it and shall reply in writing within fourteen days. (Ord. 73-32 § 8 (part), 1973).

34-28.014 Appeal from employee relations officer. A grievance which is not settled by the employee relations officer may be appealed in writing for final determination to either the board or an arbitrator. The written notice of appeal must be filed with the employee relations officer within seven days of the receipt of his written reply and shall state the grievant's choice whether the board or an arbitrator is to make the final decision; otherwise the board shall hear and decide. (Ord. 73-32 § 8 (part), 1973).

34-28.016 Arbitration. If the grievant selects arbitration the following shall apply:

(1) Selection: Within fourteen days after receipt of the notice of appeal, the employee relations officer and the grievant(s) shall proceed pursuant to Section 34-12.008(f), mutatis mutandis.

(2) Evidence: Neither party shall be permitted to assert in the arbitration proceedings any fact contrary to the fact-finders' report or written stipulation or any evidence which had not been submitted to the other party during the prior levels of the grievance procedure.

(3) The Arbitration: The arbitrator shall promptly hold a hearing and shall issue his decision not later than thirty days from the date of the close of the hearing or, if oral hearings have been waived, from the date the final written statements and arguments are submitted to him by the parties. His decision shall be in writing and shall set forth his findings of fact, reasoning and conclusions on the issues. It shall be submitted to the board and to the grievant and shall be final and binding on the parties.

(4) Costs: The costs shall be divided pursuant to Section 34-12.008(h), mutatis mutandis.

(5) Limitation: The authority of the arbitrator to render final and binding decisions on grievances extends only to those matters over which the board or a department head may legally delegate its decision making powers. (Ord. 73-32 § 8 (part), 1973).

34-28.018 Board determination. If a grievance is submitted to the board for determination, it shall be submitted upon the record (which shall include the formally presented grievance, the fact-finders' report and the written determinations of the second level management representatives [if any], the department head and the employee relations officer) and the written presentations and recommendations of the parties; but the board, if it wishes, may order the presentation of oral testimony and/or oral argument to supplement the written materials presented to it. (Ord. 73-32 § 8 (part), 1973).

34-28.020 Time limits waiver. Any of the time limits contained in this chapter may be waived upon the mutual written consent of the parties. (Ord. 73-32 § 8 (part), 1973)