

**ORDINANCE NO. 2003-014**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF APR 29 2003

**AN ORDINANCE AMENDING SECTION 3.60.410 OF THE  
SACRAMENTO CITY CODE, RELATING TO APPEAL OF  
A DEBARMENT DECISION**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.**

Section 3.60.410 of the Sacramento City Code is hereby amended to read as follows:

**3.60.410 Appeal of a debarment decision.**

- A. Any appeal of a decision of the City Manager regarding a debarment or the period or scope of debarment imposed shall be heard by a hearing examiner from a panel of hearing examiners designated for this purpose by resolution of the City Council. Such hearing examiners shall serve at the pleasure of the City Council. A hearing examiner may not be a City employee at the time of the hearing.
- B. The respondent or respondent's representative may appeal any decision made by the City Manager regarding a debarment or the period or scope of debarment imposed, by delivery to the City Clerk of a written notice of appeal no later than thirty (30) days after the date that notice of the City Manager's decision is mailed to the respondent. The written notice of appeal shall include a copy of the City Manager's debarment decision and shall comply with the requirements set forth in Article I of Chapter 1.24 of this title.
- C. If a valid notice of appeal is timely filed, the City Clerk shall establish the date of the hearing before the hearing examiner, and shall mail the respondent written notice of the hearing which specifies the location, time and date of the hearing, which shall be held no sooner than ten (10) days from the date of such notice of hearing.
- D. The hearing by the hearing examiner shall be a de novo hearing. The hearing examiner shall have no power to declare the provisions of this article unenforceable or unconstitutional, and the hearing examiner's decision shall be based on the criteria specified herein.

- E. The proceedings at the hearing shall be reported by a tape recorder. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense. The hearing examiner may, upon request of either party, grant continuances for good cause shown, or upon his or her own motion. The hearing examiner shall administer the oath or affirmation. Government Code Section 11513, subsections (a), (b) and (c), as presently written or hereafter amended, shall apply to hearings under this section, except that relevant hearsay evidence may be sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.
- F. At the hearing, the City Manager shall bear the burden of showing, by a preponderance of evidence in the record of facts and information presented to the City Manager and the hearing examiner, that there exist grounds for debarment in accordance with the provisions of this article. The hearing examiner may take official notice, either before or after the close of the hearing, of any fact which may be judicially noticed by the courts of this state or which may appear in any of the official records of the City or any of its departments.
- G. After the close of the hearing, the hearing examiner may uphold, reverse, or modify the City Manager's debarment decision. Any decision upholding or modifying the City Manager's decision shall be in writing, shall contain findings of fact, shall specify the grounds for debarment based on the record of facts and information presented to the City Manager and the hearing examiner, and shall specify any modifications to the City Manager's decision. A copy of the hearing examiner's decision shall be mailed to the respondent no later than five days after the decision is made.
- H. The decision of the hearing examiner shall be final. Judicial review of any decision made by a hearing examiner pursuant to this section shall be governed by Section 1094.5 of the Code of Civil Procedure.

DATE PASSED FOR PUBLICATION: APR 22 2003

DATE ENACTED: APR 29 2003

DATE EFFECTIVE: MAY 29 2003

*Heather Gray*  
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 MAYOR

ATTEST

*Valerie A. Bernover*  
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 CITY CLERK