

## **SECTION VII: DISCIPLINARY ACTION**

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### 1. GENERAL POLICY.

- A. It is the policy of the Tremonton City that management will inform its employees about what is expected at work, what constitutes employee misconduct, what management and the employee may do to correct any misconduct, and what the employee's rights are if disciplined.
- B. It is the responsibility of all employees to observe rules of conduct necessary for the proper operation of City government. Administrative procedures have been established for the handling of disciplinary measures when required. All such measures shall follow the presentation of charges to the employee.
- C. Disciplinary action, up to and including termination, may be imposed for misconduct.
- D. Written documentation concerning employee disciplinary action imposed will become a permanent part of an employee's Personnel Record.

### 2. TYPES OF DISCIPLINARY ACTION.

#### A. Verbal Warning.

- (1) Whenever grounds for disciplinary action exist, and the Mayor, City Manager, appropriate department head or crew chief/sergeant determines that more severe action is not immediately necessary, the deficiency demonstrated should be verbally communicated to the employee. (CC mtg 8/17/99)
- (2) Whenever possible, sufficient time for improvement should ~~proceed~~ precede additional disciplinary action.

#### B. Written Reprimand.

- (1) The Mayor, City Manager, appropriate department head, or crew chief/sergeant may reprimand an employee for cause. The Mayor, City Manager, appropriate department head or crew chief/sergeant shall furnish the employee with a written Employee Written Reprimand Notification (see Appendix Number 17 for details) setting forth the reason(s). (CC mtg 8/17/99)
- (2) A copy of the Employee Written Reprimand Notification, signed by the

City administration and the employee, shall be permanently placed in the employee's personnel file. If the employee refuses to sign the form; the City administration, will so state.

C. Suspension.

- (1) The Mayor, City Manager or appropriate department head may suspend an employee with or without pay for up to, but not exceeding, thirty (30) calendar days for cause.
- (2) On or before the effective date of the suspension, the Mayor or City Manager shall furnish the employee with a written Employee Suspension Notification (see Appendix Number 18 for details) setting forth the reason(s) for suspension.
- (3) A copy of the Employee Suspension Notification, signed by the Mayor and the employee, shall be permanently placed in the employee's personnel file. If the employee refuses to sign the form, the Mayor or City Manager will so state.
- (4) An employee on suspension shall be responsible for making full contributions to their employee medical insurance benefits.

D. Demotion.

- (1) The Mayor, City Manager or appropriate department head, may demote, or reduce in grade, an employee for cause.
- (2) On or before the effective date of the demotion, the Mayor or City Manager shall furnish the employee with a written Employee Demotion Notification (see Appendix Number 19 for details) setting forth the reason(s) for demotion.
- (3) A copy of the Employee Demotion Notification, signed by the Mayor and the employee, shall be permanently placed in the employee's personnel file. If the employee refuses to sign the form; the Mayor or City Manager will so state.

E. Termination.

- (1) The Mayor, City Manager or department head may terminate an employee by furnishing the employee with a written Employee Termination Notification (see Appendix Number 21 for details).

- (2) A copy of the Employee Termination Notification, signed by the Mayor and the employee, shall be permanently placed in the employee's personnel file. If the employee refuses to sign the form the Mayor or city administration will so state.

3. CAUSES FOR DISCIPLINARY ACTION.

A. Causes for disciplinary action, up to and including termination, may include, but are not limited to, the following:

- (1) violation of the laws of the State of Utah or the United States, other than minor traffic offenses.
- (2) violation of the code of personal conduct.
- (3) conduct which endangers the peace and safety of others or poses a threat to the public interest.
- (4) unjustified interference with work of other City employees.
- (5) misconduct.
- (6) malfeasance.
- (7) misfeasance.
- (8) nonfeasance.
- (9) incompetence.
- (10) negligence.
- (11) insubordination.
- (12) failure to maintain skills.
- (13) inadequate performance of duties.
- (14) unauthorized absence.
- (15) falsification or unauthorized alteration of records.
- (16) violation of City policies.

- (17) falsification of employment application.
- (18) discrimination in hiring, assignment, or promotion.
- (19) sexual harassment.
- (20) violation of the Personnel Policies and Procedures.
- (21) use of alcohol or drugs, other than medication prescribed by a physician, that affect job performance.
- (22) Falsifying of City Records.
- (23) Knowingly marking the time slip of another employee, authorizing one's time slip to be marked by another employee, unauthorized alteration of a time slip.
- (24) Unauthorized possession of firearms, weapons, or explosives on City owned property.
- (25) Carelessness which affects the safety of personnel.
- (26) Threatening, intimidating, coercing, or interfering with fellow employees on the job, or the public at large.
- (27) Theft or removal of any City property or property of any employee from the work area premises without proper authorization.
- (28) Gambling or engaging in a lottery at any City work area.
- (29) Misusing, destroying, or damaging any City property or the property of any employees.
- (30) Deliberately restricting output.
- (31) Drinking any alcoholic beverage during the workday, or being under the influence of illicit drugs or alcohol during the workday.
- (32) Sleeping during working hours, with the obvious exception of fireman employees.
- (33) Fighting (verbal or physical) on City premises.

(34) Bringing firearms or weapons onto the City premises, with the obvious exception of police officer employees.

(35) Any act which might endanger the safety or lives of others.

B. The Department of Transportation (DOT) has expanded the definition of events that require disqualification of CDL drivers from driving commercial vehicles. A driver must be disqualified from driving a Commercial Motor Vehicle (CMV) if the driver commits a "Major Driving Offense" while driving either a CMV or a non-CMV, including personal motor vehicles. The specific "Major Driving Offenses" and periods of disqualification are listed in Tables 1 through 4 at the end of this chapter. *(CC mtg. 01/07/03)*

#### 4. CONDUCTING AN INVESTIGATION.

A. The Mayor or City Manager shall conduct an investigation into the allegations which form the grounds for disciplinary action.

B. During an investigation to determine the facts upon which disciplinary action may be imposed, the Mayor or City Manager may place an employee on administrative leave.

C. Disciplinary action shall not be imposed until a Loudermill hearing, with appropriate written notice, has been completed by the Mayor or City Manager. The investigation shall include an opportunity for the employee to respond to the allegations.

#### 5. IMPOSING DISCIPLINARY ACTION.

A. The Mayor, or City Manager, shall conduct disciplinary action in a consistent manner.

B. Each employee shall be afforded prior access to City rules, policies, and procedures.

C. The employee shall receive timely notice of the pre-disciplinary meeting, overview of allegations, and potential disciplinary action.

D. Prior to imposing the disciplinary action, the employee shall have the opportunity to review the disciplinary action with the Mayor or City Manager. The employee shall have the opportunity to respond to the allegations. The employee's written response, if any, and other related documents shall be placed in the employee's personnel file.

- E. In determining the type and severity of the disciplinary action, the Mayor, or City Manager, may consider aggravating and mitigating circumstances such as: the repeated nature of misconduct; prior disciplinary action imposed; the severity of the misconduct; the employee's work record; the effect on City operations; and/or the potential of the misconduct to harm person(s) or property.
- F. For disciplinary action other than a verbal reprimand, the Mayor or City Manager, shall notify the employee, in writing, of the findings of the investigation. The written statement shall include:
  - (1) The grounds for disciplinary action, including a description of the specific misconduct for which the disciplinary action is being imposed.
  - (2) Any prior disciplinary action imposed.
  - (3) The disciplinary action to be imposed.
  - (4) The effective date and duration of the disciplinary action.
  - (5) The corrective action necessary for the employee to avoid further disciplinary action.
- G. Suspension, demotion, transfer, or termination of an employee shall require the approval of the Mayor or City Manager.
- H. The Mayor, or City Manager, may note the disciplinary action on their personal notes at the time the disciplinary action is imposed and/or on the employee's performance evaluation form.

6. APPEAL PROCEDURES.

- A. "Probationary employees" have no appeal rights.
- B. "Department heads" have no appeal rights.
- C. Employees have no "verbal warning" appeal rights.
- D. Employees have no "written reprimand" appeal rights.
- E. Appealing to an Appeals Board. Upon written receipt of an Employee Transfer or Termination Notice, some employees have the right to first appeal the disciplinary process and action imposed by the Mayor, or City Manager, to an Appeals Board (exceptions include Probationary Employees, Department Heads, Police

Department Employees, and Fire Department Employees):

- (1) An employee must submit their written notice of appeal to Tremonton City's clerk within ten (10) days or an employee will be deemed to have waived all appeal rights.
- (2) The Appeals Board shall be made up of five (5) members.
  - (a) Two (2) of the members will be from Tremonton City's City Council. The Appeals Board Chairperson will be one of Tremonton City's City Council members.
  - (b) Three (3) of the members will be employee representatives. Employee representatives will be elected by popular vote. Each Tremonton City employee will vote for three (3) employee representatives from Tremonton City's employees. The top three (3) vote-getters will become the employee representatives. If sufficient Tremonton City employee representatives are not available, comparable members may be chosen from the community who are mutually agreeable to both Tremonton City and the employee.
- (3) If the Appeals Board overturns the Employee Disciplinary Action:
  - (a) The Appeals Board may also reinstate any loss of pay associated with the Employee Disciplinary Action.
  - (b) The Mayor, or City Manager, shall remove the record of the disciplinary action from the employee's personnel file.
- (4) If the Appeals Board upholds the Employee Disciplinary Action, the employee may then appeal to the City Council.

F. Appealing to Tremonton City's City Council. Upon written receipt of an Employee Suspension, Demotion, Transfer, or Termination Notice, ~~some~~ employees have the right to appeal the disciplinary process and action imposed by the Mayor to Tremonton City's City Council (exceptions include Probationary Employees, Department Heads, and eligible employees who must first appeal to an Appeals Board in accordance with 6.E. above):

- (1) An employee must submit a written notice of appeal to Tremonton City's clerk within ten (10) days or an employee will be deemed to have waived all appeal rights.

- (2) If Tremonton City's City Council overturns the Employee Disciplinary Action:
  - (a) Tremonton City's City Council may also reinstate any loss of pay associated with the Employee Disciplinary Action.
  - (b) The Mayor, or City Manager, shall remove the record of the disciplinary action from the employee's personnel file.
- (3) If Tremonton City's City Council upholds the Employee Disciplinary Action, an employee has no additional appeal rights.

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