

**CHAPTER 7 DISCIPLINE AND GRIEVANCE PROCEDURE**

- 7-1 Disciplinary Action
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**7-1 Disciplinary Action**

An employee whose conduct constitutes grounds for disciplinary action shall be subject to any of the following discipline: verbal warning, written reprimand, suspension with or without pay, demotion, involuntary transfer to a position with less remuneration, or termination. This provision shall not be construed as requiring that discipline proceed in any particular order, and any one of the foregoing disciplinary actions may be imposed for any incident, including for a first offense however, the city does, whenever possible, strive to follow a progressive disciplinary process.

**7-2 Review of Specified Disciplinary Actions: Termination, Demotion, Involuntary Transfer, or Suspension of Over Two (2) Days without Pay.**

The review process set forth in this section shall apply whenever an employee is subject to any of the following actions: termination, demotion, involuntary transfer to a position with less remuneration, or suspension of over two (2) days without pay. For purposes of this section, the term "employee" shall not include any of the following positions:

- (a) an appointed employee;
- (b) an introductory employee;
- (c) a part-time employee;
- (d) a temporary or seasonal employee

The review process for employees (as defined in this section) who are subject to termination, demotion, involuntary transfer to a position with less remuneration, or suspension of over two (2) days without pay, shall be as follows:

**STEP ONE: PRE-DISCIPLINARY HEARING**

The employee shall be given written notice of the hearing which includes the date and time of the hearing, an explanation of the conduct constituting the grounds for the potential disciplinary action against the employee and notice that discipline up to and including termination, demotion and/or suspension of over two (2) days without pay is being considered. The Pre-Disciplinary Hearing shall be conducted by the Mayor and the council person over that department for the purpose of allowing the employee to respond to the conduct constituting grounds for the potential disciplinary action and present information the employee believes is relevant to the decision. A decision as to the disciplinary action to be taken, if any, shall be made by the Mayor and the council person over that department and the employee shall be notified in writing within a

reasonable time after the hearing. In the event disciplinary action is imposed, the Mayor shall provide the employee with written notice of the disciplinary action along with a written explanation of the employee's rights for appeal, if any.

#### STEP TWO: APPEAL TO PERSONNEL BOARD (APPEAL BOARD)

In the event the Pre-Disciplinary Hearing results in the employee's termination, involuntary transfer to a position with less remuneration, and/or suspension of over two (2) days without pay, qualifying employees have the right to appeal the decision of the Mayor to the Plain City Employee Personnel Board, which shall then act as the "appeal board" required by §10-3-1106 of the Utah Code. (See Ordinance 2010-02). The Plain City Employee Personnel Board shall consist of five (5) members; two (2) of whom shall be members of the City Council, selected by the Mayor. Three members of the appeal board shall be chosen by and from the employees of the City. All W-2 employees shall be eligible for service on the appeal board. City employees shall select their three members by secret ballot with the three employees receiving the most votes serving on the board. The selection of the three employees by secret ballot shall be administered by the City Recorder.

The employee's appeal to the Plain City Employee Personnel Board must be in writing and delivered to the City Recorder within ten (10) days of the written notice of disciplinary action. Upon receipt of the appeal, the City Recorder shall forthwith refer the matter to the Plain City Employee Personnel Board, which shall then forthwith fully hear and determine the matter. In connection therewith, the Plain City Employee Personnel Board shall schedule a hearing on the appeal. At the hearing on the appeal, the Mayor's designee shall conduct the hearing and present all evidence on behalf of the City and shall allow the employee:

- (a) to appear in person and to be represented by legal counsel (at the employee's expense);
- (b) to present his/her own witnesses and submit his/her own evidence;
- (c) to have a public hearing;
- (d) to confront any witnesses whose testimony is to be considered; and
- (e) to examine the evidence to be considered.

The Plain City Employee Personnel Board shall receive and consider all of the evidence reasonably presented by the Mayor's designee on behalf of the City and all of the evidence reasonably submitted by the employee, or on behalf of the employee, before making its decision.

The decision of the Plain City Employee Personnel Board shall be by secret ballot and shall be certified in writing (including findings of fact) to both the City Recorder and the employee within fifteen (15) days from the date of the final day of the appeals hearing, except for good cause, the Plain City Employee Personnel Board may extend this period to a maximum of sixty (60) days if the City and the employee both consent to such an extension. The Plain City Employee Personnel Board may only uphold or reverse the City's action and may not modify it.

In the event the Plain City Employee Personnel Board does not uphold the employee's discharge, involuntary transfer to a position with less remuneration, and/or suspension of over two (2) days without pay, the written decision of the Plain City Employee Personnel Board shall provide that

the employee shall receive either the employee's salary for the period of time during which the employee was discharged or suspended without pay, or any deficiency in the employee's salary for the period of time during which the employee was demoted to a position of less remuneration.

In the event the decision of the Plain City Employee Personnel Board does uphold the employee's discharge, demotion and/or suspension of over two (2) days without pay, the written decision of the Plain City Employee Personnel Board shall contain a written explanation of the employee's rights for appeal.

### **STEP THREE: APPEAL TO THE CITY APPOINTED HR PROFESSIONAL**

Any final action or order of the Plain City Personnel Board may be appealed by either the employee or City by filing with the City Recorder a notice of appeal no later than 30 days from the date of issuance of the final action or order of the Personnel Board.

### **STEP FOUR: APPEAL TO THE COURT OF APPEALS**

Any final action or order of the City Council may be appealed by either the employee or City by filing with that court a notice of appeal no later than 30 days from the date of the issuance of the final action or order of the City Council.

## **7-3 Suspension Pending Investigation and Decision**

At the City's sole discretion, an employee may be suspended (with or without pay) pending an investigation. If after an investigation, the charge is found to be without merit, the employee shall be restored to his or her position and/or compensated for any lost pay.

## **7-4 Cause for Discipline**

Each of the following shall constitute cause for discipline, up to and including termination. The offenses listed are not intended to be comprehensive, and the enumeration of these commonly-accepted violations shall not be deemed to prevent the discipline of an employee for other violations not enumerated.

- Personal or gross negligence on or off duty which prevents or substantially hampers job performance
- Negligently using, abusing, or damaging City property
- Any violation of City or departmental policies or procedures
- Violations of commonly accepted employment standards
- Sexual harassment
- Illegal discrimination
- Disregard for safety rules
- Insubordination by refusing superior's order, verbal abuse of a superior, or unwillingness to submit to proper authority
- Failure to follow specified job instructions
- Unwillingness to work harmoniously with other employees
- Unauthorized solicitation on City property

- Distributing unauthorized printed matter on City property
- Tardiness
- Creating or contributing to unsanitary conditions
- Unauthorized operation of tools, machinery, equipment
- Gambling on City property
- Failure to timely report an injury or accident
- Unauthorized sleeping on the job during work hours or leaving the site early without permission
- Abuse of personal leave
- Fighting or attempting to provoke a fight on City property
- Deliberately restricting output
- Failure to maintain production and performance standards
- Theft
- Possession and/or use of alcoholic beverages or controlled substances while on duty
- Possession and/or use of alcoholic beverages or controlled substances while operating City equipment
- Reporting for work while under the influence of alcoholic beverages or controlled substances
- Assault on a supervisor or any other City employee
- Threatening or intimidating other City employees or supervisors
- Falsifying City records
- Intentionally misusing, abusing, or damaging City property or the property of another City employee
- Unauthorized removal, falsification, or alteration of City records or intentional release of confidential information
- Failure to report for work without appropriate notice
- Failure to obtain pre-approval for any overtime
- Repeated violation of rules and procedures
- Use of profanity or any offensive language directed at any individual
- Dishonesty, deceit or fraud
- Excessive complaining or poor attitude
- Spreading of rumors and gossip
- The commission of any criminal conduct
- Any conduct which reflects negatively upon the City or upon the character of any City employee
- Brandishing or exhibiting any dangerous weapon in an angry or threatening manner, or destroying property or throwing objects in a manner perceived to be threatening. This prohibition does not include law enforcement officers acting in their official capacity
- Inappropriate use of City computers including e-mail, the internet and chat rooms, city cell phones including excessive personal use, text messaging and the internet and any other violations as noted in the IT policy.