

Disciplinary Action and
Grievance Procedure

Human Resources	1400		
1403	1	1/1/82	1/23/06

1.0 PURPOSE:

To describe the policies and procedures to be followed by the Human Resources Division and other City Departments when employees, except elected officials, Department Heads and protective service employees, are subject to discipline. To describe the policies and procedures to be followed by eligible City employees, the Human Resources Division and other City Departments in regard to grievances.

2.0 ORGANIZATIONS AND PERSONS AFFECTED:

This policy applies to all City of West Allis departments, boards, commissions, and City employees, except as otherwise noted and unless the disciplinary procedures for such individuals are specifically provided for in other City policies, ordinances, and/or statutory regulations.

3.0 POLICY:

It is the policy of the City of West Allis to follow a uniform set of procedures when a City employee is subject to possible discipline and to provide a grievance procedure pertaining to discipline, termination and workplace safety.

4.0 REFERENCES:

Section 2.76(7), City of West Allis Revised Municipal Code.
Rules and Regulations of the West Allis Civil Service Commission.

5.0 PROCEDURES:

- 5.1 Causes of Discipline. Causes for discipline include, but are not limited to, the factors set forth in Rule X, Section 1, of the City of West Allis Civil Service Commission Rules and Regulations.
- 5.2 Discipline Procedure. The procedures set forth in Section 2.76(7)(a) of the City of West Allis Revised Municipal Code shall be followed whenever a Department Head/Appointing Authority believes that an employee, other than employees in the Executive Service/City Officers, and protective service employees, has acted in such a manner to have merited discipline.
- 5.3 Grievance Procedure. The procedures set forth in Section 2.76(7)(b) of the City of West Allis Revised Municipal Code shall be followed when eligible employees choose to grieve a discipline, termination or workplace safety issue, all as defined therein.

Managerial Service (Division Head)
Conditions of Employment

Personnel

1400

1455 1-3 7/6/99

1.0 PURPOSE:

To describe the conditions of employment for employees in the Managerial Service (Division Heads) of the City of West Allis, including requirements, terms, salaries, and benefits.

2.0 ORGANIZATIONS AFFECTED:

This policy applies to the Department of Administration & Finance and the Department of Development, specifically as follows:

Department of Administration & Finance
Manager of Finance
Personnel Manager
Information Services Manager
Manager of Purchasing/Central Services

Department of Development
Planning & Zoning Manager
Manager of Economic Development
Manager of Housing

3.0 POLICY:

It is the policy of the City of West Allis to provide certain conditions of employment for its employees in the Managerial Service (Division Heads), including requirements, terms, salaries, and benefits.

4.0 REFERENCES:

City of West Allis Revised Municipal Code, as applicable.
City of West Allis Policies and Procedures Manual, as applicable.

5.0 PROCEDURES:

5.1 RESPONSIBILITY

5.1.1 Employees in the Managerial Service (Division Heads) shall perform at a professional level of competence the services, duties, obligations, regulations, and policies of the City which are now existing or which may hereinafter be enacted by the City, as applicable.

5.1.2 Employees in the Managerial Service (Division Heads) shall be responsible to the Department Head for the discharge of his/her duties and responsibilities which shall be exercised under the supervision to the Department Head on a day-to-day basis in accordance with all applicable directives. A Division Head shall devote full time to his/her duties and responsibilities and shall not engage in any pursuit which interferes with the proper discharge of his/her duties and responsibilities.

5.2 TERM

- 5.2.1 An employee in the Managerial Service (Division Heads) shall assume his/her responsibilities upon appointment.
- 5.2.2 Division Heads shall serve at the pleasure of the Department Head for an indefinite term and may be removed for cause upon thirty (30) days notice, disciplined in accordance with provisions of Section 2.76(7) of the City of West Allis Municipal Code.
- 5.2.3 A Division Head may terminate his/her responsibilities by submitting a written resignation thirty (30) days prior to the effective date.

5.3 SALARIES AND BENEFITS

- 5.3.1 In consideration for their duties and responsibilities, employees in the Managerial Service (Division Heads) shall be provided with the salaries and benefits as follows.
- (1) Salary: The salary will be established by the Department Head and paid in bi-weekly installments by the City, less deductions required by federal and state laws and regulations or authorized directives as permitted by City policies. The salary shall be reviewed annually by the Department Head in accordance with other City policies and procedures.
 - (2) Overtime: The normal work week shall be forty (40) hours. All services in excess of forty (40) hours per week, to include attendance at meetings of the Common Council and its Committees, shall be performed in accordance with City policies and/or as directed by the Department Head.
 - (3) Automobile Allowance: An automobile allowance shall be paid under the terms and conditions specified in Ordinance No. 4735. All other allowable and reasonable expenses shall be reimbursed in accordance with prevailing City policy.
 - (4) Vacations and Holidays: Division Heads will be afforded vacation days in accordance with the provisions of Section 2.076 of the Revised Municipal Code. Holidays shall be recognized as provided in Section 2.075 of the Revised Municipal Code.
 - (5) Life Insurance: The premiums for life insurance costs under the City's group life insurance program, established pursuant to Municipal Resolution No. 10392, will be paid by the City at the same level as provided for other full-time employees.
 - (6) Health and Dental Insurance: The premiums for medical, hospital, and surgical insurance costs and dental insurance costs will be paid by the City upon commencement of employment at the same level of services as provided for other full-time employees under Section 2.76(12) of the Revised Municipal Code.

- (7) Wisconsin Retirement Fund: The City shall pay to the Wisconsin Retirement Fund the employee's share and the employer's share of retirement contributions.
- (8) Deferred Compensation Plan: Division Heads will be offered the opportunity to participate in such deferred compensation plan as the City may establish.
- (9) Worker's Compensation Benefits: On becoming eligible for weekly worker's compensation payments, Division Heads will receive 80% of his/her full salary in lieu of such payments. Such salary shall be paid only during the period of temporary partial or temporary total disability. "Temporary partial" and "temporary total" are defined for purposes hereof according to Wisconsin law.
- (10) Sickness or Accidental Injury: Division Heads shall receive payments from the City on account of physical inability to work by reason of sickness or accidental injury occurring outside of employment as provided in Section 2.76(11) of the Revised Municipal Code.
- (11) Education, Training, Professional Fees: The City will pay educational, training, and professional membership fees on behalf of the Division Heads, as budgeted and in accordance with City policy.

5.4 OTHER TERMS AND CONDITIONS

- 5.4.1 Residency: Within eighteen (18) months, employees in the Managerial Service (Division Heads) shall establish and thereafter maintain their residence within the City of West Allis until termination of employment; no waiver of this condition shall be considered.
- 5.4.2 Other terms and Conditions: All other terms and conditions of employment not specifically detailed in this policy shall be governed by the provisions of the Revised Municipal Code of the City of West Allis and future amendments thereto, applicable to appointments in the unclassified service.
- 5.4.3 Conflicts: Any motions and/or resolutions heretofore adopted by the Common Council, which are inconsistent with the terms of this policy, are hereby superseded by this policy.

Disciplinary Action for City Officials and
Department Heads Appointed by the Mayor
and confirmed by the Common Council

Mayor

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405

1-4

01/23/06

1.0 PURPOSE:

To describe the procedures to be followed by the Mayor and Common Council when a non-elected City Official or Department Head is subject to possible disciplinary action.

2.0 ORGANIZATIONS AFFECTED:

This policy applies to all City of West Allis Officials and Department Heads appointed by the Mayor and confirmed by the Common Council. This policy shall also apply to those City Officials and Department Heads whose employment with the City is pursuant to the terms of a written employment contract in the event the contract is silent in this area. This policy does not apply to the Police Department, Fire Department, and Library.

3.0 POLICY:

It is the policy of the City of West Allis to follow a uniform set of procedures when a City Official or Department Head appointed by the Mayor and confirmed by the Common Council is subject to possible disciplinary action.

4.0 REFERENCES:

Wisconsin Statutes Sections 17.12 and 17.16
City of West Allis Revised Municipal Code Sections 2.09 and 2.76(7), (7a)
City of West Policies & Procedures Manual Section 1403.

5.0 PROCEDURES:

5.1 RESPONSIBILITY

5.1.1 It shall be the responsibility of the Mayor to coordinate all aspects related to any possible disciplinary actions for City Officials and Department Heads appointed by the Mayor and confirmed by the Common Council.

5.1.2 The Mayor shall coordinate, communicate with, and obtain input from the Alderpersons, City Administrative Officer, Human Resources Manager, and City Attorney on all such actions.

- 5.1.3 The Mayor shall also discuss all such actions with the appropriate Common Council Standing Committee Chair, who has functional oversight over the applicable City Official or Department Head.
- 5.1.4 The Mayor, with the approval of the Committee Chair, shall report the matter to the Administration & Finance Committee (personnel matters responsibilities), and/or all Common Council members.
- 5.1.5 It shall be the responsibility of the Mayor to serve as the first level appeal body to hear any objections by any City Official or Department Head to any personnel actions imposed by the Mayor.
- 5.1.6 It shall be the responsibility of the Common Council to serve as the appeal body to hear any objections by any City Official or Department Head to said personnel actions imposed by the Mayor.

5.2 GENERAL PROCEDURES

- 5.2.1 Any person may file a complaint about any City Official or Department Head appointed by the Mayor and confirmed by the Common Council. Said complaint shall be in writing and may be reported in that form to the Mayor, Common Council Standing Committee Chair (who has functional oversight), City Administrative Officer, City Attorney, or Human Resources Manager. Upon receipt of the written complaint by someone other than the Mayor, the matter shall be immediately referred to the Mayor. Anonymous complaints will be cautiously reviewed and shall be disregarded if it is determined that they cannot be substantiated without further information from the anonymous complainant.
- 5.2.2 Upon determining that the complaint has merit, the Mayor, in conjunction with any other City Official(s) that he/she deems appropriate to notify, shall authorize a study or investigation on the complaint.
 - 1.) The Mayor or, in his/her stead, the City Administrative Officer, City Attorney, Human Resources Manager, or outside consultant, as designated by the Mayor, will conduct the study or investigation. The Mayor shall notify the complainant and the Official/Department Head involved. Interviews shall be conducted as necessary.
 - 2.) The Mayor may determine that prior to proceeding with a study or investigation, it may be appropriate to refer the complaint to the Administration & Finance Committee and/or Common Council for consideration, direction, and approval.
- 5.2.3 Upon the conclusion of the study or investigation, the Mayor, or his/her designee, shall prepare a draft report. If a designee prepares the report, he/she shall present it to the Mayor. The draft report shall include, at a minimum, facts, conclusions, recommended personnel and other action, and supporting documentation. The Mayor (with advice and counsel from the City Attorney, City Administrative Officer, and Human Resources Manager) shall review the document, order such additions or deletions, and provide copies of the final draft to other City Officials, as he/she may deem appropriate. The Mayor shall coordinate the preparation of said report with the Standing Committee Chair and the Chair of the Administration & Finance Committee.

5.2.4 Upon finalization of the report by the Mayor, said report shall be submitted to the Administration & Finance Committee and/or Common Council for approval. Upon approval by the Administration & Finance Committee and/or Common Council, the Mayor shall take appropriate actions on behalf of the City as recommended and approved in the report, keeping in mind that, in the event suspension or removal of a City Officer is contemplated, the provisions of Sections 17.12 and 17.16 Wis. Stats., as well as any applicable employment contract, shall be followed.

5.2.5 The Mayor shall provide a copy of the report and notification of any personnel action and/or other recommendations to the City Official or Department Head involved and to the Human Resources Division. The Mayor shall also notify the complainant of the results, as appropriate.

5.2.6 Causes of Action.

- 1.) Allegations of criminal activity involving moral turpitude, immoral acts, theft of City funds, or other such offenses of a serious or grave nature, shall be reported to the Police Department and City Attorney's Office. The appropriate individual from these two departments shall notify the Mayor, Alderpersons, and other City Officials as deemed necessary.
- 2.) All other causes of action reportable to the Mayor may include, but not be limited to, the following:
 - a.) Violation of municipal ordinances, policies, rules, and procedures.
 - b.) Unethical, unprofessional, disgraceful conduct, or conduct unbecoming a City Official or Department Head.
 - c.) Use of grossly offensive language or violent or cruel behavior.
 - d.) Working under the influence of alcohol or drugs.
 - e.) Insubordination, misfeasance, malfeasance, etc.
 - f.) Incompetent or inefficient performance of duties and responsibilities.
 - g.) Careless or negligent use of City property or equipment.
 - h.) Inappropriate or prohibited political activities resulting in neglect of duties/responsibilities, personal benefit/reward, or favors.
 - i.) Violations of the City's Ethics Code, as set forth in Chapter II, Subchapter III of the RMC, shall be referred to the City's Board of Ethics.

5.2.7 Right to Appeal.

- 1.) Any City Official or Department Head appointed by the Mayor and confirmed by the Common Council has the right to appeal any personnel actions recommended/imposed by the Mayor.
- 2.) The initial appeal shall be to the Mayor, said appeal shall be in writing and submitted within five (5) working days of receipt of written notice of the disciplinary action. The Mayor shall issue his/her written determination of said appeal within five (5) working days of receipt of the appeal.
- 3.) In the event the matter is not resolved following the appeal to the Mayor, the Official/Department Head may appeal the matter to the Common Council by filing a written request for a hearing within ten (10) working days of receipt of the Mayor's written determination of the initial appeal.

- 4.) If a timely appeal is filed, the Common Council shall appoint a time and place for the hearing of the appeal, the time to be within three (3) weeks after filing of the same, and notify the Mayor and the Official/Department Head of the time and place of such hearing. This time period may be changed by mutual agreement of the parties and the Common Council. The failure of the Official/Department Head to provide the appeal notice within the time prescribed shall be deemed a waiver of any right to be heard and a bar to judicial review. The Common Council shall permit the Official/Department Head to be represented by counsel at no expense to the City. A continuation of the hearing may be requested by either party and allowed with concurrence of the other party and approval of the Common Council. At the conclusion of the hearing, the Common Council shall determine whether the action of the Mayor shall stand or whether such other action shall be taken as it deems appropriate under the circumstances. The decision of the Common Council shall be a "final determination" as defined in Section 68.12 of the Wisconsin Statutes. The decision shall be in writing, mailed to the Mayor and the Official/Department Head, and shall contain notice that any appeal to the Circuit Court of Milwaukee County must be commenced within 30 days of receipt thereof.
- 5.) Unless specified otherwise, any time limits prescribed above may be extended upon mutual, written agreement by the Mayor and/or the Common Council and the Official/Department Head.

5.2.8 Form of Discipline.

- ~~1.) Progressive discipline shall be used, as appropriate.~~
- 21.) The level of discipline shall reasonably relate to the act, violation, or offense.
- 32.) Discipline may include, but not be limited to, admonishment, verbal reprimand, written reprimand, suspension with pay, suspension without pay, demotion, or discharge.