

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

Mayor

400

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.
- 2.) The level of discipline shall reasonably relate to the act, violation, or offense.
- 3.) Discipline may include, but not be limited to, admonishment, verbal reprimand, written reprimand, suspension with pay, suspension without pay, demotion, or discharge.