

## SECTION 13

### DISCIPLINARY ACTION

#### 13.1 SCOPE

In recognition of the fact that each disciplinary instance differs in many respects from somewhat similar situations, the City retains the right to treat each disciplinary occurrence on an individual basis and without creating a precedent for other cases which may arise in the future. The City retains the right to suspend any disciplinary action that it may take, during good behavior for a specified term, at its exclusive discretion. Examples given in any rule do not limit the generality of the rule. The following rules and regulations are not to be construed as a limitation upon the retained rights of the City. The rules and regulations provide recommended penalties to apply for specific offenses.

#### 13.2 REASONS FOR DISCIPLINARY ACTION

Reasons for disciplinary action that may include suspension, discharge, or dismissal include, but shall not be limited to:

- (a) Failure to meet prescribed standards of work, morality, and ethics to an extent that makes an employee unsuitable for the kind of employment in City service in which he was serving at the time of the offense.
- (b) Has committed a criminal offense or misdemeanor involving moral turpitude; or criminal act.
- (c) Has willfully violated any of the provisions of the City Charter or of these rules; or has attempted to, or does commit any act or acts intended to nullify or mitigate any of the provisions thereof.
- (d) Has violated any lawful or reasonable regulations or order, or failed to obey any lawful and reasonable regulation or order, or failed to obey any lawful or reasonable direction made and given by a superior where such violations or failure to obey has or might result in loss or injury to the public or to persons or property in the custody of the City.
- (e) Has been on duty or reported to duty while under the influence of intoxicating liquors or beverages or narcotic drugs, or indulged in intoxicating liquors, beverages, or narcotic drugs while on duty.
- (f) Has been guilty of acts that amount to insubordination or of disgraceful conduct, whether such acts were committed while on or off duty.
- (g) Has been offensive in his conduct or language toward the public, toward City officers, or toward other employees.
- (h) Has been incompetent, negligent, or inefficient in the performance of his duty as determined by the Department Director and approved by the City Manager.
- (i) Is careless or negligent of the property of the City, or steals, misplaces or misuses equipment, materials, property, or any other things of value belonging to the City.
- (j) Has failed to pay, or to make reasonable provisions for the future payment of, his just debts, thereby causing annoyance to his superiors and discredit to the service.

- (k) Has used, or threatened to use, or attempted to use, political influence in securing promotion, leave of absence, transfer, or change in classification, pay or change in performance ratings.
- (l) Has accepted a fee, gift or other valuable thing in the normal course of his work or in connection therewith for his personal use from any person, firm or corporation, when such fee, gift or other thing is accepted with the understanding that the donor shall or actually does receive favors or service not customarily accorded to the general public.
- (m) Refused overtime or standby without reasonable cause.
- (n) Misrepresents himself or placed false information on an application or other City document.
- (o) Unauthorized use of a City vehicle.
- (p) Other reasons deemed suitable by the City Manager.

### **13.3 PROCEDURE FOR DISCIPLINARY ACTION**

The City of Melbourne will provide an employee with written notification when an employee is disciplined, suspended, demoted, or dismissed. Upon notification or intention to dismiss an employee, it is the policy of the City to ensure that the employee is given due process.

An employee may be disciplined, suspended, demoted, or dismissed when, in the judgment of the Department Director, the employee's work or conduct so warrants. After consulting with the Personnel Division, the Department Director shall present the employee with a written notification containing a statement of the reasons for the action. The employee shall be notified of the effective date of the action.

Upon determination that an employee should be dismissed, the Department Director shall prepare a "Notice of Suspension Prior to Dismissal and Appeal Rights" form, and have this served on the employee. This form is attached to and made a part of this policy. (Probationary employees are not afforded appeal\_rights under this section.) It is important that the charges against the employee be specifically stated on the "Notice of Suspension Prior to Dismissal and Appeal Rights" form which shall be placed in the employee's Personnel File. Such charges should reference specific provisions of union agreements or Personnel Policies, Procedures, Rules, and Regulations that have been violated.

The employee shall be afforded a reasonable time (not to exceed five (5) working days) to make a written request to the Department Director for a hearing to show cause why he or she should not be dismissed. The employee shall be placed on leave with pay during this time.

If no hearing is requested, the employee shall be terminated on the date indicated on the "Notice of Suspension Prior to Dismissal and Appeal Rights" form.

If a hearing is requested, the Department Director shall meet with the employee within five (5) working days after receipt of the request for a hearing unless such time is mutually extended in writing. The Department Director shall render a decision in writing to the employee within five (5) working days after meeting with the employee.

If the employee is not satisfied with the decision of the Department Director, the employee may proceed with the appropriate grievance procedure as provided for within the Personnel Rules and Regulations or the appropriate union contract.

**CITY OF MELBOURNE  
NOTICE OF SUSPENSION PRIOR TO DISMISSAL AND APPEAL RIGHTS**

To employee: \_\_\_\_\_

Date: \_\_\_\_\_

You are hereby suspended with pay from your employment with the City of Melbourne effective \_\_\_\_\_ A.M./P.M. on \_\_\_\_\_ for the reason(s) stated below:

At the conclusion of this suspension at \_\_\_\_\_ A.M./P.M. on \_\_\_\_\_ it is my intention to dismiss you from City employment.

If you desire a hearing to show cause why you should not be dismissed, you should submit a written request for this to me no later than \_\_\_\_\_ A.M./P.M. on \_\_\_\_\_. If you make this request, you shall remain suspended with pay until the appeal hearing has been held and a decision has been made.

\_\_\_\_\_  
Department *Director* Head

A copy of this written notice was personally delivered to the above employee at \_\_\_\_\_ A.M./P.M. on \_\_\_\_\_ by \_\_\_\_\_.

Received by:  
\_\_\_\_\_