

V. **DISCIPLINARY ACTIONS AND SEPARATION**

5.1 DISCIPLINE, DEMOTION, AND TERMINATION OF EMPLOYEES WHO HAVE OBTAINED A REGULAR APPOINTMENT. Except as provided in Sections 1.2, 4.3, and 4.4, employees who have obtained a regular appointment may be disciplined, demoted, or terminated for just cause. Examples of just cause include but are not limited to: any conduct detrimental to the best interests of the Municipality; inefficiency or unwillingness to perform duties; tardiness or absenteeism; neglect, failure, or inability to perform duties at an acceptable level of performance; insubordination; dishonesty, theft, or falsification of any reports, records, or documents; assault, fighting or horseplay; sleeping on the job or taking unauthorized breaks; possession or use of intoxicants or illegal drugs while on duty, or being under the influence of intoxicants or illegal drugs while on duty; conviction of a felony or any criminal conviction involving moral turpitude or reflecting adversely on the Municipality or the employee's fitness for his or her position; reckless or willful damage to or loss of Municipal property; violation of departmental rules of conduct or safety regulations; abuse of sick leave; disrespectful conduct toward the public, or use of profane, abusive, or threatening language toward coworkers; sexual harassment; the uttering of racial or sexual slurs or innuendoes causing emotional discomfort or embarrassment to any other employee or member of the public; and any other conduct reasonably justifying the proposed form of discipline, up to and including discharge or termination.

5.2 RESERVED.

5.3 PROGRESSIVE DISCIPLINE PROCEDURE.

a. Potential Steps. If, in the opinion of the employee's Department Head or Supervisor, disciplinary action is necessary for any employee, the Department Head or Supervisor may begin discipline at any of the steps listed below or skip one or more steps in progressive discipline depending on the seriousness of the offense committed, the employee's overall record of performance, and any other appropriate mitigating or aggravating factors. No termination or discharge can occur without written approval of the Department Head and Administrator, and any suspension without pay or demotion shall only take effect if the employee fails to appeal the suspension or demotion, or after the Administrator upholds the suspension or demotion.

- (1) Oral Reprimand – with written note to personnel file
- (2) Written Reprimand
- (3) Suspension Without Pay
- (4) Demotion
- (5) Termination/Discharge

b. Administrator To Be Informed. The Administrator shall be kept informed in writing of any disciplinary action taken against any employee under Section 5.3

c. Applicability. Section 5.3 only applies to employees covered by Section 5.1 and does not apply to employees who are exempt, contract, temporary, or probationary.

5.4 PROTECTION FOR WHISTLEBLOWERS

a. The Municipality may not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because:

- (1) The employee, or a person acting on behalf of the employee, reports to a public body or is about to report to a public body a matter of public concern; or
- (2) The employee participates in a court action, an investigation, a hearing, or an inquiry held by a public body on a matter of public concern.

- b. The Municipality may not disqualify an employee who reports a matter of public concern or participates in a proceeding connected with a matter of public concern before a public body or court, because of the report or participation, from eligibility to
 - (1) receive land under a law of the state or an ordinance of the municipality;
or
 - (2) receive another right, privilege, or benefit.
- c. The Municipality shall post notices and use other appropriate means to inform employees of the protections provided under this section.
- d. An employee is not entitled to the protections provided by this section unless he or she
 - (1) reasonably believes that the information reported is or is about to become a matter of public concern; and
 - (2) reports the information in good faith.
- e. An employee is entitled to the protections provided in this section only if the matter of public concern
 - (1) is not the result of conduct by the employee seeking protection; or
 - (2) is the result of conduct by the employee that was required by the Municipality.
- f. Before an employee initiates a report on a matter of public concern under this section, the employee shall submit a written report concerning the matter to the Administrator. However, the employee is not required to submit a report if the employee
 - (1) reasonably believes that reports to the Administrator will not result in prompt action to remedy the matter of public concern;
 - (2) believes with reasonable certainty that the activity, policy, or practice is already known to one or more supervisors;
 - (3) reasonably believes that an emergency is involved; or
 - (3) reasonably fears reprisal or discrimination as a result of disclosure.
- g. In this section, "matter of public concern" means
 - (1) a violation of a state, federal, or municipal law, regulation, or ordinance;
 - (2) a danger to public health or safety;
 - (3) gross mismanagement, a substantial waste of funds, or a clear abuse of authority;
 - (4) a matter accepted for investigation by the office of the ombudsman under AS 24.55.100 or 24.55.320.

5.5 LAYOFFS. When it is necessary to reduce the number of employees because of any lawful reason including, but not necessarily limited to, lack of work or funds, or a reduction in force, the Department Head concerned, in conjunction with the Administrator, will thoroughly investigate the problem and develop a plan for necessary layoffs and curtailment of activities. Consideration shall be given to the length of service of employees affected and the possibility of demoting employees in higher grades to lower grades. Any layoff decision shall be made by the Department Head with approval of the Administrator. Employees with regular appointments separated through no fault of their own shall be given preference (all qualifications being equal) when new appointments are made to their former grades

within two (2) years of their date of separation. Rehired employees shall be placed and perform work, without preferential treatment, as directed by Department Heads.

5.6 RESIGNATIONS. An employee resigning his or her position shall give at least two (2) weeks' notice to the Department Head to enable the Municipality to make proper provisions for filling his or her position. This requirement may be waived by Department Heads where adequate provisions can be made in a shorter period of time. The Department Head shall furnish a copy of the accepted resignation to the employee for his records.

5.7 SEVERANCE PAY. When an employee with a regular appointment in good standing is laid off due to a reduction in force, the employee is entitled to severance pay of two (2) week's basic pay in addition to whatever wages are due. In the event of termination by death, his or her heirs, assigns, or estate shall be entitled to this severance pay.

5.8 FINAL PAY. An employee who leaves municipal service shall receive final wages prior to the end of the third working day following termination in accordance with AS 23.05.140(b).