



REASONS FOR SEPARATIONS AND DISCIPLINARY ACTIONS

(FROM THE WARNER ROBINS CITY CODE)

Sec. 18-39. - Separations.

An employee may be separated from the service of the city by any one of the six (6) different methods as described below:

- (1) *Resignation.* To resign in good standing, an employee shall give in writing to his or her department director at least ten (10) working days' prior notice. Normally, failure to comply with this rule shall be entered on the service record of the employee, shall result in a denial of reemployment rights and shall result in a reduction of accumulated annual leave by one (1) day of each calendar day less than the required ten (10) days' notice. However, in cases of exceptional circumstances, the department director, with the approval of the director of administrative services, may exempt an employee from any or all of these penalties.
- (2) *Layoffs.*
 - a. Any involuntary separation not involving delinquency, misconduct or inefficiency, shall be considered a layoff.
 - b. When, for any reason, it becomes necessary to reduce the working force in a department, employees shall be laid off on the basis of the following three (3) factors to be weighed equally: length of service in position, length of service with the city and the average performance rating for the last three (3) years of service or for the entire period if it is less than three (3) years.
 - c. When a department director believes that a certain individual is essential to the efficient operation of the department or organizational unit because the employee possesses special skills or abilities, and the director wishes to retain this individual in preference to a person with a higher rating as provided above, the director shall submit a written request to the director of administrative services for permission to do so. This request shall justify the director's request by setting forth in detail the specific skills and abilities possessed by the individual and the reasons why the individual is essential to the effective operation of the department. With the approval of the director of administrative services, the individual may be retained.
 - d. If a classified service employee is scheduled to be laid off, the employee shall be offered another position if a vacancy exists and the employee is qualified to fill the position.

- e. Prior to a reduction in force, the names and job titles of any and all employees scheduled for layoff shall be submitted to the mayor for approval and until he has approved and confirmed the names submitted for layoff, no layoff shall be consummated.
 - f. Employees to be laid off shall be notified in writing by the director of administrative services at least ten (10) working days prior to the effective date of the layoff.
- (3) *Disability.* In addressing the disability of any city employee, the city shall at all times comply with any and all provisions of the Americans With Disabilities Act, as amended.
- (4) *Dismissals.* A classified service employee may be dismissed for such a cause as will promote the efficiency of service and in accordance with sections [18-40](#) through [18-42](#)
- (5) *Death.* When a classified service employee dies while in the employment of the city, his estate shall be eligible to receive accumulated annual leave.
- (6) *Retirement.* Regulations governing retirement practices will be established in the personnel rules and regulations.
- (7) A terminated employee shall continue to receive his/her pay until a final decision on the termination has been rendered by the mayor and council.

(Code 1977, § 2-7024; Ord. No. 34-94, 8-1-94; Ord. No. 38-96, § 1, 5-20-96; Ord. No. 66-96, § 2, 8-19-96; Ord. No. 31-08, 9-2-08)

Sec. 18-40. - Disciplinary actions.

- (a) Except as may otherwise be provided by general statutes of the state, the following provisions shall govern disciplinary actions affecting classified service employees.
- (b) Employees of the city are members of a team working together to provide efficient service to the public. Department directors and supervisors shall make every effort to ensure that all employees have a thorough understanding of city expectations in the areas of job behavior and performance. These rules and regulations are not intended to restrict or impose on the privileges of anyone, but are designed to ensure the rights and safety of all city employees and to provide guidelines to assure equitable and businesslike department. The city retains the right to treat each occurrence on an individual basis without creating a precedent in any future case, and to suspend any disciplinary action which it may take during good behavior and for a specified time.
- (c) A department director, after consulting with the director of administrative services and subject to the procedural rights of employees stated herein, shall have the following alternatives for disciplinary action:
 - (1) Written reprimand;
 - (2) Collection of damages for injury to or loss of city property up to the sum of one hundred dollars (\$100.00);
 - (3) Reduction in compensation within the range provided in the grade group;
 - (4) Suspension without pay not to exceed ten (10) working days or shift equivalent in any fiscal year;
 - (5) Demotion; or
 - (6) Dismissal.

- (d) Disciplinary action may be taken for any recognizable offense against the employer-employee relationship. Causes for adverse action generally include inadequate performance of duties and improper conduct on or off the job.
- (1) Conviction or guilty plea to a felony, or misdemeanor or a nolo contendere plea to a DUI charge;
 - (2) Incompetent, negligent or inefficient performance of the duties of the position held;
 - (3) Careless, negligent or improper use of city property or equipment;
 - (4) Insubordination which creates a serious breach of discipline; refusal to perform work assigned or to comply with the written or verbal instructions of a supervisor;
 - (5) Wantonly offensive conduct or language toward the public or city officers or employees; fighting on city property or work sites;
 - (6) Misuse of sick or annual leave; excessive tardiness or absenteeism without good cause; failure to work assigned hours including overtime;
 - (7) Physical or mental incapacity to perform duties;
 - (8) Fraud in securing employment; including falsifying an employment application;
 - (9) Willfully giving false statements to supervisors, managers, officials or the public, including falsification of city records;
 - (10) Misappropriation, theft or conversion of city or employee funds or property, materials or equipment; this specifically includes the use of city property for personal reasons. In addition to any disciplinary action, the involved employee may be prosecuted;
 - (11) Misuse of city employment for personal profit or to grant special privileges;
 - (12) Political activity, outside employment, or acceptance of gratuities in conflict with the policies and restrictions set forth in the city Charter, Code of Ordinances or other personnel rules and regulations;
 - (13) Possession, sale, use or being under the influence of alcohol, unauthorized controlled substances or illegal drugs except medications taken within limits set by a physician;
 - (14) Possession of unauthorized firearms, explosives or weapons on city property or work sites;
 - (15) Performing work of a personal nature on city time;
 - (16) Gambling during working time or on city property;
 - (17) Sleeping during working hours;
 - (18) Instigation of, participation in, or leadership of a strike, work stoppage, slowdown or artificial restriction of productive work;
 - (19) Refusal to submit to a medical examination for the purpose of determining fitness to remain on the job;
 - (20) Violation of city administrative directives or safety, operational, or department rules;

(21) Criminal, infamous, dishonest, immoral or notoriously disgraceful conduct or other conduct prejudicial to the city;

(22) Any other good and sufficient cause which adversely affects the safety, welfare, efficiency, or successful performance of city services;

(23) An accumulation of infractions or violations which indicate an employee's inability or unwillingness to conform to appropriate standards of performance or conduct.

(e) Before initiating disciplinary action, the department director shall:

(1) Review the charges and any applicable laws, city policies or department rules;

(2) Review the evidence (documentation, statements of witnesses, etc.) that substantiates the validity of the charged violation including any mitigating factors and the employee's previous discipline record;

(3) Review previous disciplinary actions to ensure that the action being considered is consistent with previous action taken under the same or similar circumstances; and

(4) Consult with the director of administrative services or city attorney.

(f) Employees may not be disciplined for exercising their civil rights guaranteed by the Constitution and laws of the United States of America and the State of Georgia.

(g) The provisions of this section shall not apply to reductions in pay arising out of a state of financial exigency or fiscal emergency calling for a reduction in salaries, wages, hours of work, or positions, and for purposes of any such reduction in salaries, wages, hours of work, or positions employees of the city shall be deemed to be employed "at will."

(h) Pursuant to 29 C.F.R. Sec. 541.118(a), employees who are classified as "exempt" under the City Fair Labor Act policy shall not, for disciplinary purposes, be subject to suspension without pay for periods of less than a full work week.

(Code 1977, § 2-7025; Ord. No. 45-90, § 2, 8-6-90; Ord. No. 34-94, 8-1-94; Ord. No. 38-96, § 1, 5-20-96; Ord. No. 53-97, § 1, 8-18-97)

Sec. 18-41. - Notice; response; final action.

(a) *Actions other than written reprimands and short suspensions.* In any disciplinary action other than a written reprimand or suspension of five (5) days or less, the procedures for notification, response and final action shall be as follows:

(1) *Notice.* The employee against whom disciplinary action is proposed shall be provided with a written notice stating the proposed action and the reasons therefor. Copies of any statements, documents, and investigative reports shall be given to the employee or made available for his review. A copy of the notice shall be forwarded to the director of administrative services.

(2) *Response.* The employee may respond to the notice of proposed disciplinary action within two (2) days of delivery of the notice of charges unless a longer time is authorized in writing by the department director. The employee may respond through a designated representative, in person, in writing or any combination thereof. The right to answer personally includes the right to meet with the department director and make any presentation or submit any material or evidence which is

pertinent to the matter. The department director shall consider any presentations, statements, materials or any other evidence submitted by the employee with or as a response.

- (3) *Employee's status after notice.* Employees who receive a notice proposing dismissal shall be suspended for three (3) days with pay. Employees who receive proposed notices of disciplinary action other than dismissal shall be retained in their current active status during the response period.
 - (4) *Final action.* Three (3) days after delivery of the notice of proposed disciplinary action, the department director shall deliver a notice of final decision to the employee. The notice shall be delivered personally or by mail to the address in the employee's personnel file. The notice shall be dated and shall inform the employee of the discipline imposed and the right to appeal pursuant to [section 18-42](#). Disciplinary action shall be effective upon delivery or mailing. If the proposed action is being rescinded or modified, the notice shall so indicate.
- (b) *Short suspensions.* In the case of a suspension not exceeding five (5) days or the shift equivalent, the department director may impose immediate discipline without prior written notice or the right to respond subject to the following procedures.
- (1) *Notice.* The employee shall be orally notified of the suspension including the effective date and the duration thereof. By close of business on the next working day, a written notice stating the reasons for the action shall be provided to the employee. Copies of statements, documents, and investigative reports shall be given to the employee or made available for his review.
 - (2) *Response.* The employee may respond to the department director concerning the imposition of discipline within two (2) days of delivery of the written notice of charges. The response may be through a designated representative, in person, in writing or any combination thereof. The right to answer personally includes the right to meet with the department director and make any presentation or submit any material or evidence which is pertinent to the matter. The department director shall consider any presentations, statements, materials or any other evidence submitted by the employee with or as his response.
 - (3) *Final action.* At the end of three (3) days following the imposition of discipline, the department director shall either confirm or rescind the action, and give written notice of his decision to the employee. If the action is rescinded, credit for any back pay shall be given. If the action is confirmed, the employee shall be notified of any appeal rights under [section 18-42](#)
- (c) *Reprimands.* In any case in which it is proposed that a classified service employee receive a reprimand, the procedures for notice and response shall be as follows:
- (1) *Notice.* The department director shall provide the employee with a written notice of reprimand stating the reasons for the reprimand. A reprimand need not include statements of witnesses or other supporting documents, but shall set forth the circumstances in sufficient detail to permit the employee to understand the nature and basis for the action.
 - (2) *Response.* The employee shall have the right to submit a response to the reprimand and such response shall be placed in the employee's department of human resources files.

(Code 1977, § 2-7026; Ord. No. 45-90, § 2, 8-6-90; Ord. No. 34-94, 8-1-94; Ord. No. 38-96, § 1, 5-20-96)

Sec. 18-42. - Appeals.

- (a) Any employee who is demoted, suspended for more than five (5) days or shift equivalent, reduced in pay, or dismissed may appeal such disciplinary action as provided in [section 18-41](#). The appeal shall be in

writing and shall be delivered to the office of the human resources director within five (5) days following delivery of the final notice of disciplinary action.

- (b) Any employee who is suspended for five (5) days or less, or is assessed damages for injury to or loss of city property may appeal the disciplinary action to the mayor. The appeal shall be in writing and shall be delivered to the office of the human resources director within five (5) days following delivery of the final notice of disciplinary action.

If he deems it appropriate, the mayor may meet informally with the employee and department director, but no hearing is required and the appeal can be decided strictly on the record. The decision of the mayor shall be final and shall be delivered to the employee within ten (10) days of the filing of the notice of appeal.

- (c) There shall be no right for any employee to appeal a written reprimand or for a probationary employee to appeal any disciplinary action.

(Code 1977, § 2-7027; Ord. No. 45-90, § 2, 8-6-90; Ord. No. 34-94, 8-1-94; Ord. No. 38-96, § 1, 5-20-96; Ord. No. 19-14, § 1, 7-21-14)

Sec. 18-43. - Hearing procedures.

- (a) *Administrative law judge.* Hearings for employees who have a right of appeal under [section 18-42\(a\)](#) shall be conducted by an administrative law judge appointed by the mayor and council. The ALJ shall be a member in good standing of the State Bar of Georgia.

- (b) *Scheduling, etc.*

- (1) After receipt of a hearing assignment the ALJ shall schedule the hearing to take place within fifteen (15) days of the notice of appeal by the employee and cause appropriate notices to be sent. The time and place of the hearing shall be set after consultation with the employee and department director.

- (2) For good cause shown the ALJ can continue a hearing for up to twenty (20) days past its originally scheduled date.

- (3) Not later than ten (10) days prior to the date of the hearing, the attorney for the employee shall enter his appearance with the ALJ with copies to the city attorney and human resources director. The employee or his attorney shall also notify the human resources director of all witnesses he intends to call and shall request copies of all documents or other information which has not already been furnished.

- (c) *Group hearings.* In situations where two (2) or more employees are charged with violations arising out of the same or related incidents, the ALJ may conduct group hearings if in his discretion he determines that a single hearing will not likely result in confusion and no employee will have his interests substantially prejudiced by a group hearing.

- (d) *Conduct of the hearing.*

- (1) *Informality.* Hearings shall be conducted in an informal manner with every effort made by the ALJ to avoid the appearance of conducting a trial as in a court of law.

- (2) *Access to pertinent data.* The ALJ shall have access to any files, correspondence, memoranda, etc. which he feels might be pertinent to the case and shall have the right of questioning any officers or employees of the city whom he feels may be able to shed light on the circumstances involving the

disciplinary action in question. No officer or employee shall be subject to disciplinary action as a result of testimony given in such a hearing except in case of perjury.

- (3) *Witnesses.* The employee and department director are entitled to produce and examine witnesses. The city shall make its employees available as witnesses before the ALJ when requested by the ALJ after consideration of a request to him by either the employee or department director. Employees of the city are in a duty status during the time they are made available as witnesses.
 - (4) *Examination of witnesses.* Upon request by either party, the witnesses shall be placed under the rule of sequestration. All testimony shall be under oath or affirmation. The department director or the city attorney, if representing the department director (but not both), and the affected employee or his representative (but not both) and the ALJ may question witnesses about any matters logically relevant to the charge against the employee and the proper disposition of the matter. The ALJ has authority to limit unproductively long or irrelevant questioning.
 - (5) *Conduct of participants.* The ALJ may exclude any person from the hearing for contumacious conduct or misbehavior which obstructs the hearing.
 - (6) *Scope of hearing.* The ALJ shall limit the evidence and testimony at the hearing to (a) the question of whether the employee is guilty of the charge(s) as set forth in the notice of discipline or similar related or lesser included offenses, and (b) the appropriateness of the discipline imposed by the department director.
 - (7) *Rules of evidence.* The hearing need not be conducted in accordance with the rules of evidence but shall be conducted in a manner conducive to a determination of the truth. Any relevant evidence shall be admitted if it is the sort of evidence which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might prohibit the admission of such evidence in a civil action. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions and irrelevant or unduly repetitious evidence shall be excluded. Decisions made by the ALJ shall not be invalidated by any informality in the proceedings.
 - (8) *Burden of proof, etc.* The burden shall be on the department director to show that his action is supported by substantial evidence. Substantial evidence is that degree of relevant evidence which a reasonable mind, considering the record as a whole, might accept as adequate to support a conclusion that the matter asserted is true. He shall have the right to open and conclude.
- (e) *Record.* The hearing shall be reported by a certified court reporter and if ordered by the human resources director under subsection (g) shall be transcribed verbatim. All documents submitted to and accepted by the ALJ shall be made a part of the record. If the department director submits a document that is accepted, he shall furnish a copy to the employee. If the employee submits a document that is accepted, he/she shall make the document available to the city for reproduction. Any evidence and testimony offered at the hearing, but excluded by the ALJ, shall be described and that description made a part of the record.
- (f) *ALJ's decision.* Not later than five (5) days following the hearing, the ALJ shall forward copies of his report to the department director, the affected employee and the human resources director. Each report shall contain the following:
- (1) *Findings of fact and conclusions.* The ALJ shall enumerate his findings of facts and conclusions upon all material issues of fact presented at the hearing. Separate conclusions shall specifically set forth whether the employee is guilty of each violation in the notice of discipline or any similar related or lesser included offenses.

- (2) *Recommended disposition.* The ALJ shall recommend the appropriate disposition of the case which shall be one of the following:
- a. Reinstatement with or without all or part of the back pay;
 - b. Written reprimand;
 - c. Further suspension for a stated period of time without back pay to be followed by reinstatement;
 - d. Demotion;
 - e. Reduction in salary;
 - f. Payment of damages for injury to or loss of city property up to the amount originally charged;
 - g. Some combination of the above;
 - h. Termination effective the date of the notice of termination.
- (3) *Effective date.* The report shall set forth the date upon which it shall become final in the absence of a request for further review, which date shall be five (5) days from the date of the report.
- (4) *Notice of appeal.* The report shall advise both parties that they can request a review by mayor and council of the ALJ's findings and recommended disposition by delivering a notice of appeal to the office of the human resources director within five (5) days from the date of the report.

(g) *Review of the ALJ's report.*

- (1) The notice of appeal shall specifically set forth the appellant's reasons for requesting the review by setting forth precisely and in what respects the ALJ erred in his findings and recommended disposition. A request for review which states that the appellant desires to "appeal" without enumerating any errors committed by the ALJ is insufficient. The appeal will not be processed, and the employee and department director will be so notified by the human resources director.
- (2) The human resources director shall review the ALJ's report in light of the specific enumerations of error raised by the appellant and shall, if necessary for a proper review, direct that a verbatim transcript be prepared.
- (3) The department director and affected employee shall file any written comments or arguments which they desire to make in the human resources director's office within seven (7) days after the filing of the notice of appeal. The review shall be strictly on the record, and there shall be no further hearings before or oral presentations to the mayor and council.
- (4) Within three (3) days of receipt of any briefs from the employee and department director or the transcript, whichever is later, the human resources director shall transmit a copy of the charges, the transcript, the decision of the ALJ and any briefs to the mayor and council. The employee, department director and the city attorney shall be notified that the record has been transmitted to mayor and council.
- (5) The findings and order of the mayor and council shall be final and shall be rendered within thirty (30) days after receipt of the case for final action. A majority vote of the mayor and council shall be required to reverse the decision of the administrative law judge.

(Code 1977, § 2-7028; Ord. No. 12-89, § 1, 1-17-89; Ord. No. 45-90, § 2, 8-6-90; Ord. No. 34-94, 8-1-94; Ord. No. 38-96, § 1, 5-20-96; Ord. No. 19-14, § 1, 7-21-14)

Charter reference— Boards and commissions generally, [§ 4-501](#) et seq.

Cross reference— Boards and commissions generally, § 2-176 et seq.

Sec. 18-44. - Employee indicted, charged or bound over.

Any employee of the city who is arrested, bound over to a grand jury, charged by accusation, or indicted for any criminal offense shall report same to their supervisor within forty-eight (48) hours. Department directors shall report any such arrest, etc. to the mayor.

Upon such arrest, accusation or indictment, the department director or mayor, as appropriate, after consulting with the human resources director, and if need, the city attorney, shall determine the appropriate action to be taken as follows:

- (1) If the offense(s) charged is also an offense against the employment relationship with the city, the appropriate disciplinary action should be instituted and the employee discharged if appropriate. In some cases under this category, it may be necessary to delay final disciplinary action pending disposition of criminal charges. In such a case the employee may be suspended without pay by the mayor after affording the employee appropriate due process rights and the opportunity for a hearing before the mayor to contest the suspension.
- (2) If the conduct resulting in the criminal charges does not relate directly to the duties of the position held, but is of a serious and aggravated nature so as to interfere with the employment relationship or embarrass the city, the employee may be suspended without pay pending disposition of charges. Appropriate due process rights shall be afforded to the employee including the opportunity for a hearing before the mayor to contest the suspension.
- (3) If the conduct resulting in the criminal charges is completely unrelated to city employment and will not be likely to damage the employer-employee relationship, the employee should usually be allowed to continue working.

An employee suspended pending the disposition of criminal charges shall not report to work or be present in his normal work site during the period of suspension.

If no disciplinary action is taken to suspend or terminate the employee, but he is nevertheless unavailable for work within five (5) calendar days of the institution of criminal charges, the position may be declared vacant and filled in the normal course of filling vacancies.

(Code 1977, § 2-7029; Ord. No. 57-93, § 1, 11-15-93; Ord. No. 34-94, 8-1-94; Ord. No. 38-96, § 1, 5-20-96; Ord. No. 19-14, § 1, 7-21-14)

CITY OF WARNER ROBINS

REASONS FOR SEPARATIONS AND DISCIPLINARY ACTIONS

I certify that I have received a copy of the **REASONS FOR SEPARATIONS AND DISCIPLINARY ACTIONS**.

Print Name

Employee's Signature

Date