14. DISCIPLINARY ACTION AND APPEALS

When an employee is covered by a labor agreement the terms of the labor agreement supersedes this policy if there is a difference in this policy and the labor agreement.

14.1 Justification for Discipline

Disciplinary action, up to and including termination, may be taken against an employee for unsatisfactory performance or for misconduct including, but not limited to, the following:

1. Conduct unbecoming an employee in the City's service, or discourteous treatment of members of the public or a fellow employee, or any other act of omission or commission that impacts negatively on the public's perception of the integrity or credibility of the City or erodes the public confidence in the City.
2. Falsification of or making a material omission on forms, records, or reports including applications, time cards, and other City records.
3. Absence from work without permission or without notification of an appropriate supervisor or manager, habitual absence or tardiness, or misuse of sick leave.
4. Unauthorized possession, removal, or use of the City's property including, but not limited to, funds, records, keys, confidential information of any kind, equipment, supplies, or any other materials.
5. Insubordination, refusing to follow directions, or other disrespectful conduct directed toward a supervisor or manager.
6. Sexual harassment or other unlawful harassment of another employee, member of the public, vendor, or anyone doing business with the City, or anyone present on premises owned or controlled by the City.
7. Actual or threatened physical violence including, but not limited to, intimidation, overt or subtle threats, harassment, stalking, or any form of coercion, except as may be required of a peace officer in the course of his/her duties.
8. Possession or inappropriate use of drugs or alcohol on property owned or controlled by the City or while on duty or during an on-call status.
9. Possession, bringing, or aiding others in bringing unauthorized firearms, weapons, hazardous biological material or chemicals, or other dangerous substances onto property owned or controlled by the City.
10. Violation of safety or health policies or practices, or engaging in conduct that creates a safety or health hazard to other employees, the public, vendors, or him/herself.
11. Dishonesty, including intentionally or negligently providing false information, intentionally falsifying records, employment applications, or other documents.
12. Willfully or intentionally violating or failing to comply with the City's policies, rules, regulations, and/or procedures.

14.2 Forms of Disciplinary Action

Disciplinary action includes, but is not limited to, one or more of the following:

1. Verbal warning (document time, date, and subject)
2. Written reprimand
3. Suspension *(See Note Below)
4. Pay reduction
5. Demotion
6. Termination

*Note: Exempt employees are subject to the following rules regarding disciplinary pay deductions and unpaid suspensions:

a. Pay deductions may only be made in cases of violations of safety rules of major significance, including those rules related to the prevention of serious danger in the workplace or to other employees. An example would be violating a rule that prohibits smoking in explosive plants or around flammable material. Deductions can be made in any amount.

b. Unpaid suspensions may be imposed for infractions of workplace conduct rules, such as rules prohibiting sexual harassment, workplace violence, drug or alcohol use, or for violating state or federal laws. The suspension must be for serious misconduct, not for performance issues. Suspensions must be in full-day increments.

c. Suspensions for performance issues must be made in full-week increments.

14.3 Due Process

Prior to taking disciplinary action involving suspension, reduction in pay, demotion, or termination against any regular employee, the City will take action intended to ensure that the employee is afforded due process. Due process in regard to employment-related disciplinary action includes, among other actions, making certain the employee is provided notice of the reason for the disciplinary action and is given the opportunity to provide a response to the proposed disciplinary action prior to an appropriate supervisor making a final decision regarding the disciplinary action.

14.3.1 Written Notice

In situations where the proposed disciplinary action involves a suspension, a reduction in pay, a demotion, and/or termination, written notice of the proposed disciplinary action will be hand-delivered or sent certified mail to the employee. The notice will include the following information:

a. The nature of the disciplinary action proposed;

b. The effective date of the proposed disciplinary action;

c. A statement of the proposed disciplinary action with documentation, statements, and/or other evidence supporting the proposed disciplinary action;

d. A statement advising the employee of his/her right to file a written response, or to submit a written request for a pre-disciplinary conference with the Department Director within five (5) work days of receipt of the notice of proposed disciplinary action; and

e. A statement that the employee's failure to file a written response or request a pre-disciplinary conference in a timely manner, or to appear at the pre-disciplinary conference after requesting such, will constitute a forfeiture of the employee's rights to any further appeal.

14.3.2 Employee Review

If the employee requests, s/he will be given the opportunity, as soon as practical, to review the documents or other evidence, if any (except for confidential and privileged documents), on which the proposed disciplinary action is based. If the employee requests, the City will provide a copy of the documents used to support the proposed disciplinary action, including names of witnesses.

14.3.3 Conference Prior to Implementation

When the employee requests a conference after receipt of the proposed disciplinary process, but prior to any disciplinary action being imposed, the Department Head will schedule a meeting with the employee and his/her representative (if the employee requests a representative be present) in a timely manner to review the reason for and basis of the proposed disciplinary action. At this conference, the City will also provide the employee with an opportunity to present relevant information which may impact the nature or severity of the proposed disciplinary action.

14.3.4 Implementation of Discipline

No later than five (5) work days from receipt of the employee's written response or conclusion of the pre-disciplinary conference, the Department Head will issue a written decision to the affected employee. The written decision will inform the employee that:

a. The proposed disciplinary action will be implemented; or

b. The proposed disciplinary action will be modified, with an explanation; or

c. The proposed disciplinary action is rescinded, with an explanation.

14.3.5 Appeal

a. The affected employee may appeal the disciplinary action to the City Manager by filing a written appeal with the Personnel Director within five (5) work days of the effective date of the disciplinary action. The written appeal must state the basis of the appeal and contain a specific admission or denial of each of the material statements in the decision. If an employee fails to file a written appeal conforming to these requirements within the prescribed time limit, s/he is deemed to have waived the right to appeal.

b. After an employee has submitted a timely appeal to the Personnel Director, the Director will set a date for a disciplinary appeal hearing. At such hearing, the

employee will have the right to be represented by an attorney or other representative retained by the employee, to present evidence and argument in response to the disciplinary action, and to question and cross-examine adverse witnesses. The hearing may be conducted informally without conforming to the formal rules of evidence and such informality of the hearing process shall not invalidate the decision rendered. The City Manager will issue to the parties a decision following such hearing within five (5) work days. The decision of the City Manager is final and may only be appealed as provided for in a collective bargaining agreement or as provided under NRS 268.405.

14.4 Administrative Leave during Disciplinary Proceeding

By notifying the employee in writing, the City may place an employee on administrative leave, with or without pay pending an investigation of alleged misconduct or performance deficiencies, prior to or during a disciplinary proceeding, or during the review of the employee's response to a proposed disciplinary action. The notice of administrative leave will include a statement that the leave is not a disciplinary action. An employee placed on administrative leave without pay who is later reinstated without disciplinary action being imposed will be reimbursed for any pay lost during the administrative leave.