

CHAPTER 6 - DISCIPLINE

A. Employee Conduct

Town employees are expected to maintain high standards of conduct, and to perform their work safely, efficiently, and effectively, ever mindful of the expectations the public has of its employees. Acceptable personal behavior in the workplace involves exercising good conduct, respect, good judgment, and integrity at all times. Discipline will be administered without regard to race, color, age, sex, national origin, religion, marital status, sexual orientation, disability or other legally protected class.

B. Discipline and Disciplinary Action

1. Employees are expected to conduct themselves in accordance with the normal and reasonable standards of workforce conduct as determined by the Town. The Town strives to ensure the fair treatment of all employees and to make certain that disciplinary actions are administered in a fair, consistent and impartial manner. The essential purpose of disciplinary action is to correct a performance deficiency and/or behavioral problem, prevent recurrence and provide clear communication to employees as to acceptable standards of performance and conduct.
2. The employment relationship between the Town and its employees for the first two (2) years is "at-will." As such, during those first two (2) years of employment with the Town, the employment relationship may be terminated by either the Town or by the employee at any time, for any reason, with or without cause.
3. The Town recognizes the investment it makes in training employees and may therefore elect to use progressive discipline at its sole discretion.

C. Grounds for Disciplinary Action

1. The following are grounds for formal disciplinary action. The offenses listed below will serve as a guideline for Department Heads and supervisory personnel and is not to be considered an all-inclusive list. Moreover, "at-will" employees may be terminated for any reason with or without cause. Offenses committed which are not listed here shall not interfere with the right or duty of the Department Head or Town Manager (or designee) to discipline or terminate employees on other grounds which are considered justifiable and in the best interest of the Town of Surfside. This may include administering discipline outside the normal progression dependent upon the severity of the action. Examples of prohibited conduct include:

- a. Violation of a Federal, State, County, or Town law;
- b. Violation of a provision of the Town of Surfside Charter or Ordinance;
- c. Violation of Town policies or procedures, or departmental rules and regulations including safety regulations;
- d. Failure to carry out any lawful direction or work assignment from an authorized authority where such failure amounts to any act of insubordination or a breach of proper discipline, or has resulted (or reasonably might be expected to result) in loss or injury to the Town, co-workers, or the public;
- e. Harassing and/or offensive conduct, language, communications whether written or verbal, or gestures toward the public, supervisors, or co-workers;
- f. Preventable or willful damage or taking of public or private property or waste of public supplies, property, or equipment;
- g. Neglect of duty;
- h. Intentional falsification or misrepresentation of any record, report, verbal or written statement, document, or misuse of Town funds;
- i. Misuse of leave, excessive tardiness or absenteeism, or unauthorized absence from duty without satisfactory explanation;
- j. Failure to report absence from duty to supervisor within required time and in accordance with department and division procedures, if established;
- k. Failure to report for duty after leave of absence has expired, been disapproved, or revoked;
- l. Job abandonment in which an employee has three (3) consecutive, unexcused absences;
- m. Exercising poor judgment on a matter within the employee's responsibility when such judgment results in a negative impact on the department or Town;

- n. Failure to be forthright, truthful, and cooperative in providing information during any internal, administrative, or external investigation or hearing;
- o. Display of antagonism toward supervisors or fellow employees, or engaging in destructive or disruptive conduct which interferes with the proper cooperation of employees and impairs the efficiency of public service;
- p. Unauthorized taking or using of Town time, property, equipment, or funds for personal use (this shall include improper or misuse of Town vehicles);
- q. Misuse of Town telephone, computer and/or computer network including Town issued and licensed computer software. This shall include but not be limited to utilizing a computer for non-Town business purposes, accessing computer game software during scheduled working hours, and obtaining, using, and/or downloading unlicensed copies of software (pirating) onto a Town computer or network. This may include downloading information or data from the Internet or other external source directly or from any other source (i.e. diskette), or copying or transferring information from an employee's home computer system without being scanned for viruses by the appropriate Information Technology personnel or department designee;
- r. Being under the influence of an alcoholic beverage during working hours, or use or possession of non-prescription narcotic drugs or hallucinogens;
- s. Failure to inform a supervisor that an employee is under medical care, including prescription narcotic drugs, which may impair his/her ability to operate vehicles or equipment, or may place an employee, co-workers, or the public in a dangerous or hazardous safety situation;
- t. Physical assault, verbal assault, attempted assault, or threatening to assault a supervisor, fellow employee, or the public during working hours and/or on Town property;
- u. Failing to maintain adequate physical health or fitness to satisfactorily perform essential job functions, with or without reasonable accommodation;
- v. Failing to maintain a personal driving record that enables the Town to maintain driver standards acceptable to its motor vehicle insurance carrier;

- w. Solicitation of public employees for any purpose, membership, product, or organization except Town authorized charities during the time the solicitor or person being solicited is working;
 - x. Insubordination or refusal to perform work assigned or to comply with written or verbal instructions of the supervisor or management;
 - y. Distribution of any literature not related to the employee's job duties during working hours in areas where the actual work of public employees is performed or when an employee is on duty; and
 - z. Participation in a strike or any other concerted activity against the Town by instigating or supporting, in any manner, a strike, work stoppage or other concerted activity.
2. Disciplinary action should be administered to the employee as soon after the event as practicable. Typically, where progressive discipline is deemed appropriate, it shall be implemented as follows:
- a. Verbal Counseling: Verbal counseling is used to notify and counsel an employee so that corrective action can be taken prior to formal written documentation. Verbal counseling is considered informal disciplinary action and need not be documented in the personnel file.
 - b. Written Warning: The counseling or disciplinary action shall be documented in writing with notice provided to the employee. The notice shall advise the employee that future offenses may result in additional disciplinary action, up to and including suspension or termination of employment. A copy of the written notice shall be provided to the employee and to the Human Resources Director for inclusion in the employee's official personnel file.
 - c. Repayment of Damages: Employees may be required to repay the Town for damages caused to Town property or equipment as a result of preventable accidents on the employee's behalf.
 - d. Suspension: Written notice as to the length of a suspension shall be provided to the employee. The notice shall advise the employee that any future offenses may result in additional disciplinary action up to and including termination. A copy of the written notice shall be provided to the employee and to the Human Resources

Director for inclusion in the employee's official personnel file. Suspension with or without pay requires approval by the Town Manager.

- e. Demotion: Discipline may include demotion. If the demotion is a result of a performance deficiency, the Department Head will attach a completed performance appraisal to any such demotion notification. A copy of the written notice shall be provided to the employee and to the Human Resources Director for inclusion in the employee's personnel file. Demotion requires approval by the Town Manager.
- f. Termination: The authority to discharge shall not be delegated below the Town Manager level. A written notice of termination shall be provided to the employee with a copy to the Human Resources Director for inclusion in the employee's official personnel file.

D. Appeals for Termination or Reduction in Pay or Rank

Any employee of the Town, except the Town Manager, Town Clerk and Town Attorney, who immediately prior thereto has been continuously employed by the Town for at least two (2) years, if he/she claims to have been discharged or reduced in pay or rank without cause, may file within twenty (20) days from his/her discharge or reduction in pay or rank, an appeal with the Personnel Appeals Board (the "Board").

E. Rules of Personnel Appeals Board

1. Any employee of the Town, except the Town Manager, Town Clerk and Town Attorney who has been employed by the Town for over two (2) years and who claims to have been discharged or reduced in pay or rank without cause, may file with the Board a written appeal (the "appeal"). The appeal must set forth the facts regarding his/her discharge or reduction in rank or pay, allege that he/she has been continuously employed by the Town for at least two years, and request a hearing.
2. The appeal must be filed by the employee within twenty (20) days from his/her discharge or reduction in pay or rank. An employee who has been demoted for failure to satisfactorily complete a promotional probationary period to a higher rank or position shall not have the right to appeal to the Board.

3. Within fourteen (14) days after the filing of the appeal, the Board shall give the employee written notice, at his/her last known address, of the date set for the formal hearing of the appeal (the "hearing"). The date of the hearing shall be no later than thirty (30) days after the date of the filing of the appeal.
4. The purpose of the hearing is to provide an informal forum for the presentation of information by the Town and the employee to determine whether the Town had cause to discharge or reduce the employee's pay or rank.
5. A quorum must be present at the hearing. Four members of the Board constitute a quorum.
6. At the beginning of the hearing, the Board shall select a chairperson. Although a formal evidentiary hearing is not contemplated, rulings on objections and other questions of law shall be made by the chairperson, with the assistance of the Town attorney. Only evidence material to the issue at hand shall be accepted by the Board.
7. At the hearing, the Board shall be represented by the Town Attorney. The Town Attorney shall advise and assist the chairperson and the Board in the conduct of the hearing, including questions of law and evidence. Before making any ruling(s), the chairperson or any member of the Board may request the opinion of the Town attorney.
8. The Town Manager, Department Head or other Town employee responsible for the discharge or reduction in pay or rank of the employee shall present his/her testimony to support the action taken by or through him/her.
9. The employee shall then have the right to present testimony to refute the charges brought against him/her.
10. The Board shall have the right to administer oaths; and the Board may, on its own motion or at the request of either party, call or subpoena any person or records for the purpose of ascertaining the facts.
11. Witnesses may be called to testify at the hearing by either the Town or the employee and their names shall be included on a witness list to be provided to the Board and the other party at least five (5) days prior to the hearing.

12. The decision of the Board must be based on whether the Town's discharge or reduction in pay or rank of the employee was for cause. In order for the Board to find the Town Manager or his/her designee acted without cause, the Board must find there was no basis for the adverse employment action. The Board shall then take one or more of the following actions: order a new hearing; dismiss the appeal on the merits; order the reinstatement of the employee, absolutely or on terms or conditions; or require such other action as may be just.
13. The decision of the Board, if concurred by four members, shall be binding upon the Town and the employee and shall be recorded by resolution.