

EXHIBIT "A"

POLICY 11 DISCIPLINE

SECTION 1. PURPOSE:

In order to correct unacceptable conduct or deteriorating performance, disciplinary actions may be taken by the immediate supervisor of an employee, or the Department Head or Town Manager. Disciplinary actions include, but are not limited to: documented counseling sessions; verbal reprimands; written reprimands; suspensions without pay; probationary periods; demotions; and dismissal from employment. An employee may request a copy of any disciplinary documentation from their supervisor or their personnel file.

The department should take action within (30) working days of the occurrence or discovery of the infraction, unless extenuating circumstances exist including, but not limited to, investigation (s) of wrongful conduct, discrimination/sexual harassment or accident. The disciplinary action will depend on the totality of the circumstances including, but not limited to, the employee's disciplinary history, recent or similar infraction (s) and the severity of the infraction(s). Specific disciplinary actions are subject to Town grievance procedures.

SECTION 2. DEFINITIONS:

Appointing Authority - The Town Manager or other persons authorized by the Town of Oro Valley to make employment decisions.

Working Days - Monday thru Friday, 8 a.m. – 5 p.m. Holidays recognized by the Town of Oro Valley are not considered working days.

Disciplinary Action – Written reprimand, demotion, suspension, reduction in pay/position or discharge imposed for just cause.

Just cause – Justification to administer discipline to a Town employee when a Town code, policy, procedure, or administrative directive is violated.

SECTION 3. LEVEL OF RESPONSIBILITY:

- A. Responsibility of the Immediate Supervisor (other than Department Heads): Immediate Supervisors shall have the authority to give documented counseling, recommend placing employees on probationary period, and issue either verbal or written reprimands, and to recommend more serious disciplinary action to the Department Head. As needed, written reprimands shall be discussed with the Human Resources Director (or designee) prior to being given.
- B. Responsibility of the Department Head: In addition to the responsibilities of an immediate supervisor, place employees on probationary period and in consultation with the Human Resources Director, the Department Head may authorize suspension without pay for periods up to thirty (30) working days, demote employees within a pay grade or from one pay grade to another or from one classification to another, dismiss employees from Town employment.
- C. Responsibility of the Town Manager: The Town Manager, or designee, may exercise the powers of the Department Head provided for in this section and must be notified of any suspensions without pay, demotions or involuntary dismissals prior to these action being taken by the Department Head. For court employees, the Town Magistrate will exercise the autonomy required to maintain proper separation of powers.
- D. At every level of responsibility, the following shall be considered when implementing disciplinary action for just cause:
 - a. The employee was forewarned of the consequences of his or her actions.
 - b. The violated rule or order reasonably relates to the business efficiency and performance expectations of the Town.
 - c. A thorough, fair and objective investigation was conducted.

- d. The investigation produced substantial evidence or proof of employee's guilt.
- e. The codes, policies, procedures or administrative directives were applied evenhandedly and without discrimination.
- f. The discipline is reasonably related to the seriousness of the conduct and/or performance and the employee's past record.

SECTION 4. CONDUCT OR PERFORMANCE that may REQUIRE DISCIPLINE for CAUSE:

Depending on the seriousness of the situation and surrounding circumstances, including repeated offenses or chronic poor performance, the Department Head may authorize any disciplinary action deemed appropriate. Progressive discipline is not required under Town policies and procedures. Federal and state laws will be kept in consideration when enforcing discipline.

- 1. Dishonesty.
- 2. Falsification of Town documents or records, including application for employment.
- 3. Inefficiency.
- 4. Neglect of duty.
- 5. Unauthorized absenteeism.
- 6. Unauthorized tardiness.
- 7. Malingering.
- 8. Insubordination, including, but not limited to, conduct which is unruly.
- 9. Commission or Conviction of a crime.
- 10. Misuse of Town property.
- 11. Failure to perform job duties and responsibilities.
- 12. Failure to maintain minimum qualifications for position.
- 13. Incompetence.
- 14. Engaging in prohibited political activities.
- 15. Discrimination or failure to abide by Equal Employment Opportunity regulations.
- 16. Any action, on or off the job that brings discredit to the Town.
- 17. Possessing, dispensing, or being under the influence of alcohol, a narcotic, barbiturate, marijuana, or a tranquilizing or hallucinogenic drug, while on duty, except in accordance with medical authorization or in the lawful performance of the employee's regular assigned duties.
- 18. Violation of any Town codes, policies, procedures, administrative directives, ordinances, or State or Federal law.
- 19. Negligence.
- 20. Sexual or other workplace harassment.
- 21. Fraud in securing appointment or securing or attempting to secure worker's compensation benefits.
- 22. Discourtesy to another employee or member of the public.
- 23. Any other reason deemed valid by Town Administration.

SECTION 5. TYPES of DISCIPLINE:

- A. *Documented Counseling Session with or without Verbal Reprimand:* meetings between the employee and immediate supervisor or Department Head, for the purpose of improving conduct or performance that has begun to show the need for corrective action. Counseling sessions may include a reprimand communicated verbally or in writing to the employee by the immediate supervisor to specify conduct or performance that does not meet expectations. The session is documented to indicate date and nature of the concern, and any improvement actions agreed upon. The document will be kept by the supervisor or department head in accordance with Arizona Public Record laws and a copy provided to the employee. Normally, the document does not become part of the Town personnel file unless improvement is not made, however, reference to the counseling session or need for improvement may be included in the annual performance appraisal or if further disciplinary action occurs.
- B. *Written reprimand:* communicated in writing to an employee from an Appointing Authority. The written reprimand shall specify:
 - 1) the conduct or performance that does not meet expectations,

- 2) the impact of the unacceptable conduct or performance,
- 3) future expectations to improve the conduct or performance, and
- 4) potential future actions/outcomes in the event the employee is unable or unwilling to improve as expected.

The written reprimand document is placed in the official Town personnel file and retained in accordance with the State of Arizona Records Retention and Disposition Schedule. A Written Reprimand requires an Appointing Authority to provide a Notice of Intent to Discipline – Non-Dismissal in accordance with SECTION 8.

- C. *Probationary Period*: a period of time during which an employee's conduct or performance on the job will be closely evaluated for needed improvement in order to meet expectations, as opposed to an Introductory Period. A probationary period is normally imposed in response to repeated unacceptable conduct or the inability to improve performance to an acceptable level. Probationary periods will be for no less than (30) working days and no more than 6 months. The probationary period will be communicated to the employee in writing, with the notice retained in the personnel file in accordance with the State of Arizona Records Retention and Disposition Schedule. The notice will include:
- 1) a document (normally a written reprimand), to communicate the need for improvement during the probationary period;
 - 2) a performance improvement plan, including resources or other measures available to assist the employee in successfully completing the probationary period.
 - 3) an explanation of the consequences if adequate improvement is not demonstrated.
- D. *Suspension*: a period of suspension from work without pay for up to (30) working days. Suspensions shall be accompanied by written notification of the reason for the suspension. Such written notice will be kept in the personnel file and retained in accordance with the State of Arizona Records Retention and Disposition Schedule. A Suspension requires a Notice of Intent to Discipline – Non-Dismissal in accordance with SECTION 8.
- E. *Demotion*: involuntary reassignment of the employee to a position in a lower level classification than the current job, more suitable to their abilities based on inability or unwillingness to meet the expectations of the current job classification. An involuntary Demotion requires a Notice of Intent to Discipline – Non-Dismissal in accordance with SECTION 8.
- F. *Dismissal*: involuntary termination of the employee from employment with the Town. The employee will be provided with an opportunity to grieve the dismissal in accordance with SECTION 7 and as outlined in the Town grievance policy. A dismissal requires a Notice of Intent to Dismiss in accordance with SECTION 8.

SECTION 6. INVESTIGATORY SUSPENSION:

An Appointing Authority may suspend an employee with pay to effect an investigation or resolution of conduct. The Department Head, Human Resources Director and Town Manager must be notified of such investigatory suspensions before taking action if possible or within 24 hours if not possible due to the seriousness or expediency of the situation. Investigatory Suspension with pay is not a disciplinary action and is not subject to the Town's grievance procedure. The employee shall be contacted by the Human Resources Director, or designee, on or before the expiration of five (5) working days from when the investigatory suspension began, with information about the investigation and any further actions to be taken at that time.

Upon consultation with the Human Resources Director and with the approval of the Town Manager, a paid administrative suspension may be extended.

SECTION 7. INVESTIGATORY PROVISIONS

- A. If an employee or the Appointing Authority or designee reasonably believes that an investigation interview could result in suspension, demotion or dismissal, the employee may request to have a representative present.

- B. An interview does not have to be stopped in order to issue another Intent to Discipline or Dismiss based on allegations or information provided by the employee during the interview.
- C. The Appointing Authority or designee does not have to disclose any fact to the employee that would impede the investigation.
- D. An Intent to Discipline or Dismiss does not apply to an interview of the employee that is:
 - 1. In the normal course of duty, counseling or instruction or an informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other Appointing Authority.
 - 2. Preliminary questioning to determine the scope of the allegations or if an investigation is necessary.
 - 3. Conducted in the course of a criminal investigation.

SECTION 8. NOTICE OF INTENT to DISCIPLINE and OPPORTUNITY TO RESPOND:

A. Issuing Notice of Intent to Discipline

Prior to a Appointing Authority taking any disciplinary action involving a written reprimand, suspension without pay, involuntary demotion or dismissal of an employee, a Notice of Intent to Discipline or Dismiss, which includes Exhibit A will be issued to the employee informing the employee of his/her opportunity to present a written response and/or meet in person with the Appointing Authority at a scheduled time, date and place prior to imposing the disciplinary action, specifically referred to as the pre-discipline meeting.

The Notice of Intent will be issued accordingly:

- a. Non-Dismissal: At least two (2) working days in advance of the pre-discipline meeting.
- b. Dismissal: At least seven (7) working days in advance of the pre-dismissal review meeting. The employee will be placed on investigatory leave with pay from the time the Notice of Intent to Dismiss is issued until the pre-dismissal meeting.

B. Opportunity to Respond (Pre-Discipline Meeting)

The Appointing Authority schedules a pre-discipline meeting with the employee in accordance with Section 8.A. to provide the employee an opportunity to respond. The pre-discipline meeting with the Appointing Authority is not an adversarial hearing. The employee may respond in writing or in person to present reasons, along with information and documentation to refute the proposed disciplinary action. If the employee is accompanied by a representative, the representative's role is limited to consulting and advising the employee. The representative will be permitted to ask clarifying questions of the employee and present a statement on behalf of the employee.

The Appointing Authority must give proper consideration to the employee's written and/or oral response provided in the pre-disciplinary meeting, along with supporting information and documentation. Failure of an employee to submit a written response or appear at the pre-discipline meeting will constitute a waiver of the opportunity to respond and the proposed discipline will be imposed.

C. Notice of Decision

After the scheduled pre-discipline meeting, the Appointing Authority's decision shall be documented in the Notice of Decision and the copy provided to the employee within two (2) working days of the pre-discipline meeting. The original Notice of Decision and personnel action must be completed and include required signatures to be submitted with the final disciplinary packet to the Human Resources Department. Final Notice of Decision must be given before the employee may grieve the discipline.

Attachments:

- A - Notice of Intent to Discipline
- B - Notice of Intent to Dismiss
- C - Notice of Decision



Notice of Intent to Discipline (Non-Dismissal)

Employee Name	Department / Division	Date

YOU ARE HEREBY notified that the _____ Department intends to impose discipline as follows: _____.

Reasons for the proposed disciplinary action are stated in “Exhibit A” (attached)

NOTICE OF MEETING – In accordance with Town policies and regulations, you have an opportunity to meet with the Appointing Authority or designee to present reasons why the proposed disciplinary action should not occur. A meeting has been scheduled for:

DATE:

TIME:

PLACE:

NOTICE OF YOUR OPPORTUNITY TO RESPOND – You are entitled to present reasons, along with information and documentation, to refute the proposed disciplinary action at the meeting. The meeting with the Appointing Authority or designee is not an adversarial hearing. If you are accompanied by a representative, the representative’s role is limited to consulting and advising you directly. The representative will be permitted to ask you to clarify your statement and/or present a statement on your behalf.

If you do not wish to be present at the meeting, you may respond in writing and present any supporting information and documentation. This written response must be received by the Appointing Authority or designee prior to or at the scheduled meeting for consideration.

Failure to appear at the meeting or submit a written response will constitute a waiver of the opportunity to respond.

Date Served	How Served	By whom

I, _____ received a copy of this notice.
Employee Signature

Appointing Authority or designee signature

Date

If you are disciplined, you may appeal pursuant to the Town Grievance policy.



Notice of Intent to Dismiss

Employee Name	Department / Division	Date

YOU ARE HEREBY notified that the _____ Department intends to dismiss you from the Town. The dismissal is based on the following: _____.

See attached “Exhibit A”

NOTICE OF MEETING – In accordance with Town policies and regulations, a pre-dismissal meeting has been scheduled by the Appointing Authority or designee on:

DATE:

TIME:

PLACE:

NOTICE OF YOUR OPPORTUNITY TO RESPOND – You are entitled to present reasons, along with information and documentation, to refute the proposed dismissal at the meeting. The meeting with the Appointing Authority or designee is not an adversarial hearing. If you are accompanied by a representative, the representative’s role is limited to consulting and advising you directly. The representative will be permitted to ask you to clarify your statement and/or present a statement on your behalf.

If you do not wish to be present at the meeting, you may respond in writing and present any supporting information and documentation. This written response must be received by the Appointing Authority or designee prior to or at the scheduled meeting for consideration.

Failure to appear at the meeting or submit a written response will constitute a waiver of the opportunity to respond.

Date Served	How Served	By whom

I, _____ received a copy of this notice.
Employee Signature

Appointing Authority or designee signature

Date

If you are dismissed, you may appeal pursuant to the Town Grievance policy.



Notice of Decision

Employee Name	Department / Division	Date

After review and consideration of all information provided at the pre-disciplinary review meeting and/or submitted in writing on _____ and the information set forth in "Exhibit A", the decision is as follows:

- Discipline will be issued as proposed in the Notice of Intent effective _____.
- Other _____.

GRIEVANCE RIGHTS:

Disciplinary action may be appealed pursuant to the Town Grievance Policy. The Grievance must be submitted in writing within ten (10) working days from the date of receiving the decision.

Date Served	How Served	By whom

I, _____ received a copy of this notice.
Employee Signature

Appointing Authority or designee signature

Date