

RESOLUTION NUMBER 12-45

**A RESOLUTION OF THE DRAPER CITY COUNCIL AMENDING SECTION
5030 – CORRECTIVE ACTION OF THE PERSONNEL POLICIES AND
PROCEDURES MANUAL**

WHEREAS, The City Council from time to time reviews, amends and adopts personnel policies and procedures to assist in the efficient utilization of scarce City resources and the fair and uniform application of requirements regarding City operations and City employees; and

WHEREAS, the City Council has reviewed Section 5030 and has determined a need to amend the Corrective Action Policy; and

WHEREAS, the City Council finds the amendment of this policy is in the best interest of Draper City and the employees of Draper City.

NOW, THEREFORE, be it resolved by the City Council of Draper City, State of Utah as follows:

Section 1. Amendment. The Draper City Council hereby amends and adopts Section 5030 of the Personnel Policies and Procedures Manual to read as attached hereto as Exhibit "A."

Section 2. Severability. If any section, part or provision of this Resolution is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts and provisions of this Resolution shall be severable.

Section 3. Effective Date. This resolution shall become effective immediately upon passage by the City Council.

PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, THIS 13th DAY OF NOVEMBER, 2012.



DRAPER CITY

BY: *Danell F. Smith*
Draper City Mayor

ATTEST:

Tracy Brown
Draper City Recorder

EXHIBIT "A"

Section 5030 - CORRECTIVE ACTION - PERFORMANCE IMPROVEMENT

General Policy Statement:

The City of Draper's own best interest lies in ensuring fair treatment of all employees and in making certain that corrective actions are prompt, uniform, and impartial. The major purpose of any corrective action is to correct the problem and prevent recurrence. The City may use corrective action at its discretion as determined necessary.

Policy:

1. Corrective Action. Corrective action may include any of the following:

- A) Verbal corrective counseling.
- B) Written corrective counseling.
- C) Corrective probation.
- D) Suspension with or without pay.
- E) Non-voluntary demotion.
- F) Non-voluntary termination of employment.

The seriousness of the offense will determine the corrective action taken at the discretion of the City. In most situations verbal corrective counseling and written corrective counseling will have occurred before other more serious corrective actions.

2. Written Detail. Corrective actions, except for verbal corrective counseling and suspension with pay shall be written and include:

- A) The date of the incident(s).
- B) The specific rule(s) violated and performance and/or conduct concerns.
- C) If applicable, reference to previous corrective actions.
- D) A statement indicating the specific performance improvements expected and a time limit within which the improvements must be made. This is not required for non-voluntary termination of employment.
- E) Signature of immediate supervisor and Department Head, including the date signed.
- F) A place for the employee to sign and acknowledge receipt of the corrective action. If the employee refuses to acknowledge receipt of the corrective action by signing the corrective action document, a witness can sign and date the document stating the employee received a copy.

3. Corrective Action Procedures. Before any corrective action more serious than verbal corrective counseling occurs, the employee's immediate supervisor and/or Department Head shall investigate the allegations of misconduct. If an employee is facing potential corrective action more serious than verbal corrective counseling, the employee has the right to request another individual accompany them to investigatory meetings to serve as a witness. Scheduled investigatory meetings are not subject to delay or rescheduling due to the unavailability of the individual selected by the employee to serve as a witness.

4. Immediate Removal. If an employee's conduct results in a situation which requires immediate removal of the employee from the work area, the employee may be placed on suspension with pay pending investigation. During a suspension with pay, the City must be able to contact the employee at any time during working hours. The employee shall promptly report to work when requested. An employee should not be in a suspension with pay status longer than necessary to efficiently conduct the investigation and consider the appropriate corrective action, if any, to be administered.

5. Consultation. Before issuing a written corrective action and/or corrective probation, the supervisor shall discuss the issues with their Department Head and the Department Head shall consult with the Human Resources Director. Corrective actions that may result in non-voluntary demotion, non-voluntary termination of employment or suspension with or without pay shall be discussed by the Department Head with the Human Resources Director, City Attorney and the City Manager.

6. **Pre-Disciplinary Action Hearing.** A pre-disciplinary action hearing with the employee, their Department Head and others as determined appropriate by the Department Head shall be held for impending non-voluntary demotions, non-voluntary termination of employment and suspensions without pay for greater than two days. The purpose of the pre-disciplinary action hearing is to provide the employee with notice and an opportunity to respond to the alleged violations and proposed corrective action. The employee's Department Head shall provide the employee with written notice of the date and time of the pre-disciplinary action hearing and information regarding the proposed disciplinary action. If desired by the employee, a representative of the employee's choice may attend the pre-disciplinary action hearing. The employee's Department Head shall be provided the name of the employee's representative at least one working day prior to the hearing date. Scheduled pre-disciplinary action hearings are not subject to delay or rescheduling due to the unavailability of the representative of the employee's choice to attend the hearing.
7. **Results of Pre-Disciplinary Hearing.** After the pre-disciplinary action hearing, the Department Head shall provide the employee with written notice of the City's decision, which has been reviewed by the City Attorney and the Human Resources Director. The written notice of the City's decision shall be approved and signed by the City Manager and the Department Head stating the corrective action to be taken, if any, and the employee's right to appeal the same.
8. **Serious Behavior Problems.** The City recognizes there are certain types of employee problems that are serious enough to justify either a suspension or, in extreme situations, non-voluntary termination of employment, without first issuing lesser corrective action. While it is impossible to list every type of behavior that may be deemed a serious offense, the following examples may result in immediate suspension or termination of employment:
 - A) Theft.
 - B) Any act of sufficient magnitude to impact the ability of the City to conduct its business, cause disruption of work, or cause gross discredit to the organization.
 - C) Unauthorized removal, falsification, or alteration of City records.
 - D) Physical violence against another person.
 - E) Willfully or intentionally falsifying a time sheet.
 - F) The sale, purchase, use, possession, or reporting to work under the influence of intoxicants, non-prescribed narcotics, hallucinogenic drugs, marijuana, or other non-prescribed controlled substances while on City property or during work hours.
 - G) A confirmed positive drug test without a medically sufficient explanation. Failure to submit to or adulterating a drug test sample is the same as a positive drug test.
 - H) Bringing pornography onto City property or viewing pornography while on City property, or with City equipment.
 - I) Willful destruction of property.
 - J) Willful misuse of City property or funds.
 - K) Gross misconduct.
 - L) Failure to report an injury or accident.
 - M) Conviction of a crime relevant to the employee's position.
 - N) Acts of unlawful discrimination, intimidation or sexual harassment.
 - O) Insubordination or failure to follow a lawful order.
9. **Review of Corrective Action during Performance Appraisal.** All corrective actions taken during the past year should be discussed during an employee's annual performance appraisal session. The supervisor and employee should review progress toward correcting behavior and performance problems. Specific recommendations for further actions, if needed, should be included in the written goals and timetable.
10. **Documentation in Employee's Personnel File.** No corrective action will be placed in an employee's official personnel file in the Human Resource Department by a Department Head without the Department Head first reviewing the document with the Human Resources Director and the employee being informed of the action and allowed to comment on the action in writing. Documentation of corrective action may not be removed from an employee's official personnel file.
11. **Appeals of Corrective Action.** If a full-time employee to which Sections 10-3-1105 and 10-3-1106 Utah Code Annotated, as amended applies is non-voluntarily terminated, suspended without pay for more than two days, or non-voluntarily demoted the employee shall have the right to appeal to the City's Appeal Board. An employee must file a written appeal with the City

Recorder within ten days after final disposition of the City's corrective action. The Appeal Board shall conduct its business in accordance with Utah Code Annotated 10-3-1105 and 10-3-1106, as amended and the provisions of the City Code relating to the Appeal Board.

An employee may appeal a suspension without pay for two days or less, or a suspension with pay that require the employee to use annual leave or earned compensatory time to the City Manager by filing a written appeal within ten days after final disposition with the City Recorder. The written appeal shall clearly state the employee's reasons for the appeal and the desired results. The City Manager shall decide the appeal within 30 days after filing. The City Manager's decision shall be final.