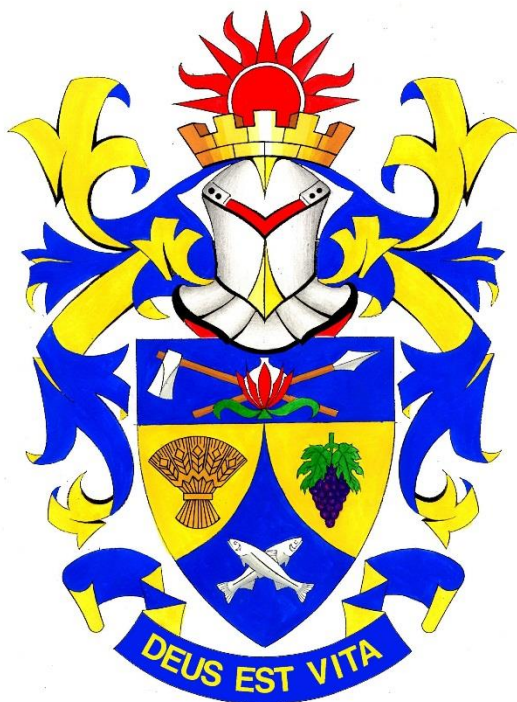


BERGRIVIER MUNICIPALITY



DISCIPLINARY POLICY AND PROCEDURE

DATE APPROVED : 13 AUGUST 2024

COMMITTEE : MAYORAL COMMITTEE

VERSION	DATE CREATED	STATUS	WRITER	CHANGES
1.0	12/09/2022	Draft	AW Rheeder	New
1.1	28/10/2022	Draft	AW Rheeder	Comments
1.2	06/08/2024	Draft	AW Rheeder	Corporate Services Committee
1.3	13/08/2024	Approved (BK019/08/2024)	AW Rheeder	Mayoral Committee

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1. PURPOSE

The purpose of this policy is to ensure that issues relating to discipline in the workplace are managed in an effective and consistent manner as prescribed in the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), section 55 and the Disciplinary Procedure Collective Agreement. The application of the legislation, the Collective Agreement, and way discipline is required to be handled is regarded as a condition of service. This policy spells out the role clarification and procedures to implement effective and consistent discipline in the workplace. By so doing all parties will have clear understanding of appropriate disciplinary action that is required.

2. OBJECTIVES OF THE POLICY

- 2.1 To ensure that discipline is handled promptly, progressively, consistently and fairly.
- 2.2 To ensure that all supervisors retain responsibility for the management of discipline of the employees directly accountable to them.
- 2.3 To ensure that discipline is applied consistently and fairly.
- 2.4 To ensure that discipline is managed in a progressive manner (educative, corrective and punitive discipline).
- 2.5 To ensure that all staff have access to this policy and gain a practical awareness of all aspects of the policy relating to both employer and employee.

3. DEFINITIONS

In this policy, unless the context otherwise indicates –

<i>“Abscondment”</i>	refers to an employee who has absented him/herself for a period longer than ten (10) days without notification to the Employer;
<i>“Days”</i>	shall be a reference to working days
<i>“Director”</i>	means an employee of the Municipality who, in terms of a Council’s resolution or an Act, is directly responsible to the Municipal Manager for the administration of a directorate of the Municipality, or is acting in such capacity;
<i>“Dismissal”</i>	means that the employment relationship is terminated by the employer based on valid and fair reasons as stipulated by applicable legislation;

<i>“Employee” (as per clause 200A (1) of the Labour Relations Act, 1995)</i>	means a person who works for, or renders a service to the Municipality regardless of the form of her/his employment contract, and in respect of which any factor enumerated in section 200A (1) of the Labour Relations Act applies;
<i>“Employer”</i>	means Bergrivier Municipality, a local government established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended;
<i>“Incapacity”</i>	means illness or injury where an employee is unable to carry out or perform his/her contracted obligations due to the inherent inability on the part of the employee. Incapacity is distinguished from misconduct and discipline in that “fault’ or blame” is not alleged incapacity.
<i>“Line Manager”</i>	means the person with direct authority and/or responsibility over subordinates in their respective departments, divisions and sections;
<i>“Municipality”</i>	means Bergrivier Municipality, a municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended;
<i>“Municipal Manager”</i>	means the person appointed as such in terms of Section 54(A) of the Local Government: Municipal Systems Act (Act 32 of 2000) and includes a person acting in his/her stead
<i>“Resignation”</i>	refers to a situation where the employee terminates the employment relationship with written notice and completion of the prescribed notice period and applicable documentation
<i>“Misconduct”</i>	means when an employee contravened a rule or standard regulating conduct in, or of relevance to, the workplace;
<i>“SALGBC”</i>	South African Local Government Bargaining Council
<i>“Supervisor”</i>	means a staff member with staff within his/her span of control, for whom s/he is directly responsible and to whom such staff member(s) are directly accountable;
<i>“Workplace”</i>	refers to the place of work as contemplated in the Labour Relations Act, 1995 (Act No. 66 of 1995).

4. LEGAL FRAMEWORK

This policy and its application must be in accordance with the following legislative prescripts:

- 4.1 Labour Relations Act, 1995 (Act No. 66 of 1995) as amended.
- 4.2 Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended.
- 4.3 Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) as amended.
- 4.4 All relevant Collective Agreements made in the SALGBC.
- 4.5 Local Government: Municipal Staff Regulations and Guidelines for Implementation of Regulations (Regulation 890 & 891 of 20 September 2021).

5. SCOPE OF APPLICATION

This policy shall apply to all employees of Bergrivier Municipality. Disciplinary action against the Municipal Manager and Directors appointed as senior managers directly accountable to the Municipal Manager, in terms of sections 54A and 56 of the Municipal Systems Act 32 of 2000, as amended, shall be excluded from all the terms of this policy and be dealt with in terms of the relevant legislation.

6. RESPONSIBILITIES

The following principles will guide the application of this policy:

- 6.1 Discipline is the responsibility of line management at all levels (as per the approved delegations) and as such they are responsible to treat all their subordinates in a fair and unbiased manner.
- 6.2 The Disciplinary Policy and Procedure will be made available to all staff and managers within the organization as a once-off after approval thereof by Mayoral Committee and on an ongoing basis included in the induction pack of all new employees.
- 6.3 The disciplinary policy will be strictly applied under all relevant circumstances.
- 6.4 As per the LRA “discipline” is not a mechanistic, punitive process. It involves a progressive approach to deal with the disciplinary issue at hand, and this involves three (3) distinct approaches. Depending on the nature of the transgression and where possible and appropriate, educative action will be taken in the first instance.

Failure to comply will lead by progression to corrective action, and thereafter punitive disciplinary action will be taken when previous action has not resulted in the correct and rectified behaviour.

7. PRINCIPLES

7.1 Employer's obligations

- 7.1.1 Maintain fair, just and consistent discipline.
- 7.1.2 Ensure that all employees are made aware of the standards of acceptable behaviour expected of them.
- 7.1.3 Monitor the performance and service of all staff under their control on an ongoing basis to ensure the implementation of the Municipality's vision, values, strategic goals, key performance indicators, all stipulations in the job description of the employee and all other fair instructions given by the line manager.

7.2 Employee's obligations

- 7.2.1 Comply with the various rules and procedures of the employer.
- 7.2.2 Carry out all reasonable instructions given to them.
- 7.2.3 Comply with all relevant legislation.
- 7.2.4 Behave in an orderly and lawful manner.
- 7.2.5 Treat the employer's property with care and respect and not use such property for your own benefit.
- 7.2.6 Treat all other persons and their property with respect.
- 7.2.7 Not to victimize or intimidate any other employees or members of the public.
- 7.2.8 Make themselves available for work in terms of the rules set by the employer and regulated by the Basic Conditions of Employment Act.
- 7.2.9 Perform their duties to the standards required by the employer.
- 7.2.10 Not to take part in any form of illegal industrial action or to incite or encourage other employees to participate in such actions.

7.3 General

- 7.3.1 The employer is entitled to suspend an employee on full pay or utilise him/her temporarily in another capacity, pending an investigation into any alleged breach of the disciplinary code.
- 7.3.2 Verbal warnings are administered in the normal course of duties by an employee's immediate supervisor and such warnings will be recorded on the employee's personal file.
- 7.3.3 Warnings to employees are cumulative only if the warnings issued are for the same type of offence and if it is still valid.
- 7.3.4 If an employee is not dismissed or warned for a transgression of the disciplinary code, it will not be regarded as a precedent.
- 7.3.5 An employee must submit himself/herself to a breath test and/ or a blood test by a qualified medical doctor of the employer's choice.
- 7.3.6 Employees may requires having their property and/or persons searched on entering or leaving the employer's premises.

7.4 Corrective action

- 7.4.1 Training is a corrective action and is used where it was established that an employee had erred in ignorance.
- 7.4.2 The employer can take any preventative steps needed to correct unacceptable behaviour.
- 7.4.3 Counselling is a corrective action.
- 7.4.4 According to the circumstances either corrective or punitive action may be taken.

7.5 Rights

7.5.1 Employee's rights

- 7.5.1.1 To be given warning of any charge against him/her.
- 7.5.1.2 To be advised of the charge in writing.
- 7.5.1.3 To be given time to prepare his/her defense.
- 7.5.1.4 To respond to allegations against him/her either in person or in writing.
- 7.5.1.5 To be present at all disciplinary processes against him/her.

- 7.5.1.6 To be represented at all disciplinary processes by a fellow employee or representative of a recognized union.
- 7.5.1.7 To cross-examine any person giving evidence and to ask questions about any evidence produced.
- 7.5.1.8 To call witnesses to testify on his/her behalf.
- 7.5.1.9 To an interpreter agreed upon by the parties.
- 7.5.1.10 To appeal the decision and sanction of the disciplinary hearing in line with the Disciplinary Procedure Collective Agreement.

7.5.2 Employer's rights

- 7.5.2.1 To set the standards of performance and behavior expected from employees.
- 7.5.2.2 To take the appropriate action where an employee's behaviour or performance is unacceptable or unsatisfactory.
- 7.5.2.3 To present evidence of misconduct or unacceptable behaviour during disciplinary processes.
- 7.5.2.4 Cross-examination of any witness presented by the accused employee in disciplinary processes.

8. DISCIPLINARY PROCEDURE

8.1 Alleged misconduct and investigation

Note: Before any punitive discipline action can be taken, it is critically important that an investigation be undertaken to establish "what happened" and "what to do" in respect of this.

- 8.1.1 An allegation of misconduct against an employee shall be brought before the Municipal Manager or his/her authorized representative for consideration and decision.
- 8.1.2 In order to establish "what happened" the immediate supervisor and/or a duly appointed representative must investigate the transgression very thoroughly, depending on the seriousness of the offence. In order to do this, the following activities may be required:
 - 8.1.2.1 Collect all evidence
 - 8.1.2.2 Interview witnesses
 - 8.1.2.3 Interview the accused and/ or representatives

8.1.2.4 Liaise with the Human Resources Officer: Labour Relations & Employee Wellness to establish how similar cases were handled in the past.

8.1.3 The supervisor investigating the case is required to present a motivation with the necessary supporting documents (evidence, affidavits, interviews with witnesses / accused and/or representatives) for pursuing a disciplinary enquiry to the Human Resources Officer: Labour Relations & Employee Wellness.

8.1.4 The Labour Relations & Employee Wellness Officer will prepare a report regarding the case and must, based on the evidence and witness statements received, determine the following:

8.1.4.1 Informal hearing

In the event of any act of misconduct by an employee that appears less serious, warranting a sanction less than a final warning, a formal disciplinary hearing would not be required. The employee shall be given an opportunity to make either verbal or written representations, either personally or through his/her representative, prior to a determination being made. Proper records shall be kept of the afore-mentioned proceedings.

8.1.4.2 Formal hearing

In the event of misconduct that appears sufficiently serious to warrant a sanction more serious than a written warning, a Disciplinary Tribunal will be established to handle the enquiry.

8.1.5 In the case of an informal hearing, the Labour Relations & Employee Wellness Officer will submit the report to the relevant Director for approval.

8.1.6 In the case of a formal hearing, the Labour Relations & Employee Wellness Officer will submit the report to the Municipal Manager for approval.

8.2 Informal hearing

8.2.1 The Labour Relations & Employee Wellness Officer will inform the relevant supervisor/line manager of the informal hearing and will provide the relevant documents to the supervisor/line manager for the informal hearing to be held.

8.2.2 The supervisor/line manager will send a notice in advance to the accused employee of the precise charge or charges he/she are required to answer at the hearing. The charge should be formulated in precise and simple terms using language that the employee can reasonably understand.

8.2.2 The informal hearing shall concern only the issues for which the employee has received notice.

- 8.2.3 The supervisor/line manager will conduct the informal hearing and the employee has the right to be represented by a recognised trade union representative or fellow employee.
- 8.2.4 The employer and the employee have the right to call any witnesses and shall be given the opportunity to present evidence and question any witnesses.
- 8.2.5 After the hearing, the supervisor/line manager must make a finding of fact after having considered and analysed the evidence and complete the warning form.
- 8.2.6 The supervisor/line manager must communicate the finding by furnishing the employee with written notification and hand the original form to the employee.
- 8.2.7 A copy of the warning form, notice of intended disciplinary warning and minutes of the meeting must be supplied to the Labour Relations Section for record purposes and a copy must be placed on the employee's personal file.

8.3 Formal hearing

In dealing with more serious or repeated cases of breach of discipline, a supervisor may initiate:

- 8.3.1 A formal disciplinary hearing.
- 8.3.2 A formal disciplinary hearing which will be conducted by a presiding officer appointed by the Municipal Manager who will decide on the appropriate penalty.
- 8.3.3 A formal disciplinary hearing shall be conducted according to the provisions of the SALGBC Disciplinary Procedure Collective Agreement.

9. SANCTIONS FOR MISCONDUCT

The following sanction may be applied, bearing in mind that discipline is a progressive process i.e. educative, corrective and final punitive action (formal disciplinary measures from warnings to dismissal). However, the "punishment" must fit and be appropriate, and certain behaviour (such as fraud, theft) can lead to immediate dismissal. In other circumstances and where there is repeated misconduct or poor performance, the action taken will become progressively more severe, from a written warning to a final written warning, to suspension, and ultimately to dismissal.

9.1 Verbal Warning

This is given as part of educative and corrective discipline and is used to reprimand an employee. It is written down and is placed on the employee's file, specifying why it was received. It is valid for 3 months from the date of the award. No disciplinary enquiry is required and this forms part of day-to-day management.

9.2 Written Warning

This warning is placed on the employee's personal file and is valid for a period of 6 months from the date of award. This is regarded at the beginning of punitive discipline and is more serious than a verbal warning.

9.3 Final Written Warning

This warning is placed on the employee's personal file and is valid for a period of 12 months from the date awarded. A move from written to final written warning will be automatic for repeated same or similar offences for which a written warning was already received, and which is still applicable for the time stated. Similarly, the move from a suspension (without pay) to dismissal will occur where repeated offence for the same or similar offences has occurred.

9.4 Suspension without Pay

In this instance the sanction is awarded for a maximum period of ten (10) days. This suspension will run concurrently with any other current award (e.g. final written warning) and is awarded due to the serious nature of the offence or due to the repetitive nature of the offence. In the event of a suspension of more than five (5) days, the suspension without pay shall spread over three (3) monthly pay periods.

9.5 Dismissal

A dismissal is appropriate as a first-time offence for the following (but not limited to) aspects of misconduct:

- 9.5.1 Intimidation, fighting and/ or assault;
- 9.5.2 Theft, unauthorised possession of/or malicious damage to council property;
- 9.5.3 Being under the influence of alcohol or intoxicating drugs while on duty such that performance is seriously impaired or diminished;
- 9.5.4 The consumption of alcohol or intoxicating drugs whilst on duty, if the nature of work is such that this presents a danger to the safety of the employee or that of others;
- 9.5.5 Any act of gross dishonesty;

- 9.5.6 Any act of gross negligence;
- 9.5.7 Gross insubordination;
- 9.5.8 Wrongful disclosure of privileged information;
- 9.5.9 Any act of bribery or corruption; and
- 9.5.10 Any act of misconduct which would be regarded as cause for dismissal.

10. SALGBC DISCIPLINARY CODE COLLECTIVE AGREEMENT QUICK REFERENCE GUIDE

The Quick Reference Guide (**Annexure A**) consists of a table that has been divided into the following five (5) columns.

- 10.1 **Clause:** The clause contains the reference to the corresponding clause in the collective agreement
- 10.2 **What:** Explains the action that must take place
- 10.3 **Who:** Explains who must take the action
- 10.4 **When:** Explains the time references referred to in the collective agreement.
- 10.5 **Notes:** Contains explanatory notes.

11. EFFECTIVE DATE

The Policy will become effective upon approval thereof by the Council of Bergrivier Municipality.

ANNEXURE A

QUICK REFERENCE GUIDE FOR THE IMPLEMENTATION OF THE SALGBC DISCIPLINARY CODE COLLECTIVE AGREEMENT

DISCIPLINARY PROCEDURE				
Clause	What	Who	When	Notes
7.1	Accusation of misconduct is brought to attention of MM or his/her authorised representative in writing.	Person who witnessed the misconduct or who became aware of the incident.	Within a reasonable period ¹	The accusation must be in writing.
7.1	Investigate the accusation of misconduct.	MM or his/her authorised representative	Within a reasonable period	MM or his/her authorised representative does not have any discretion as to whether to investigate a written allegation of misconduct. If the municipal manager or his/her authorised representative received a written accusation of misconduct, he/she must investigate it.
7.3	Decide whether a prima facie ² case exists.	MM or his/her authorised representative	Within a reasonable period after the investigation has been completed	
19	The employer may, with the consent of the employee, request the Bargaining Council, an accredited agency or the Commission for Conciliation, Mediation and Arbitration to conduct arbitration into allegations about the conduct or capacity of an employee.	MM or his/her authorised representative	As soon as possible	1. Section 188A of the LRA determines the procedure for such an application. 2. Section 138 ³ is applicable to the proceedings.

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1. In *Union of Pretoria Municipal Workers and Isaac Mpho Marema v Stadsraad van Pretoria* (1992) 3 (12) SALLR 11 (IC) the Industrial Court inter alia laid down the following principle: -
"A disciplinary enquiry would ordinarily not be held promptly unless it commenced within days, or, at the outside, a few weeks after the commission of the alleged misconduct"
 2. "Prima facie" literally means "on the face of it".
 3. Section 138 of the LRA contains the general provisions applicable to arbitration under the auspices of the CCMA.

DISCIPLINARY PROCEDURE				
Clause	What	Who	When	Notes
7.5 & 7.6	Determine the seriousness of the alleged misconduct.	MM or his/her authorised representative	As soon as possible	If the possible sanction will be: <ul style="list-style-type: none"> • An oral or written warning refers to informal hearing⁴. suspension without pay, demotion or dismissal, refer to a formal disciplinary hearing.
7.4	Disciplinary hearing shall commence as soon as reasonably possible, but not later than 3 months from the date of the Municipal Manager or his/her authorised representative's decision to institute disciplinary proceedings.			
7.6.1	If a formal disciplinary hearing, consider whether it will be appropriate to appoint a suitably qualified person employed by the municipality to act as Presiding Officer ⁵ .	MM or his/her authorised representative	As soon as possible	If this is not possible or desirable, any other suitably qualified ⁶ external person, from outside its employ, may be appointed.
7.6.1	Appoint Presiding Officer ⁵ .	MM or his/her authorised representative	As soon as possible	It will be prudent to make the appointment in writing.

4. In an informal hearing the accused employee enjoys the same rights as she/he would have had before a disciplinary tribunal.

5. Preferably one level or two above the employee's position.

6. Suitably qualified person means a person sufficiently competent to preside over a Disciplinary Hearing.

DISCIPLINARY PROCEDURE				
Clause	What	Who	When	Notes
7.7	If a formal disciplinary hearing, consider whether it will be appropriate to appoint an employee to act as Employer Representative ⁷ .	MM or his/her authorised representative	As soon as possible	If this is not possible or desirable, appoint any other suitably qualified ⁸ external person, from outside its employ, excluding a legal practitioner, to serve as Employer representative.
7.7	Appoint Employer Representative ⁷ .	MM or his/her authorised representative	As soon as possible	It will be prudent to make the appointment in writing.
7.7.4	Employer and Employee not entitled to be represented by a legal practitioner in disciplinary proceedings, unless both parties agree in writing to allow legal representation or receive application by any party.	Presiding Officer	As soon as possible	Presiding Officer must determine application having regard to the factors in clause 7.7.4 of the Disciplinary Code.
7.8	Formulate the charges against the employee and issues the employee with a charge sheet	Employer Representative	Within 5 days of the appointment of the Employer Representative ⁹	See clauses 7.9.1 – 7.9.5 regarding the details that must be contained in the charge sheet.
7.11	Determine date of the DT in conjunction with the Presiding Officer	Employer Representative	The disciplinary hearing shall commence within a reasonable time from the date of service of the Notice of Disciplinary Hearing, but not earlier than 7 days and not later than 15 days ⁹ from the date of service.	The calculation of the period will include the day on which the charge sheet was presented to the accused and inclusive of the last day. Saturdays, Sundays and public holidays will be excluded.
7.12	Either party can request to have the formal disciplinary hearing/informal hearing postponed to a later date.	Employer Representative or Accused (or his/her representative)		Agreement must exist.

7. Preferably one level or two above the employee's position.

8. Suitably qualified person means a person sufficiently competent to serve as Employer representative and perform the function of prosecution.

9. In clause 3 of the Disciplinary Code days are defined as working days.

DISCIPLINARY PROCEDURE				
Clause	What	Who	When	Notes
7.12	If no agreement can be obtained to postpone the hearing, apply to the Presiding Officer for an amendment of the period.	Employer Representative or Accused (or his/her representative)	As soon as possible	Presiding Officer shall consider the submissions by the parties and determine a new date for the disciplinary hearing.
8.3	Determine the procedure at the hearing.	Presiding Officer	At the start of the hearing	Subject to the following: <ul style="list-style-type: none"> • the rule of natural justice is observed in the conduct of the proceedings; • the hearing is adversarial in nature and character; and • the Presiding Officer must exercise care, proceed diligently and act impartially.
13	The recording of the proceedings of the disciplinary hearing.	Labour Relations Officer		The mechanical recording must be kept in safe keeping by the employer and provided to the employee on request thereof.
14.1	The proceedings may be conducted in absentia.	Presiding Officer	45 minutes has elapsed from the time set for the start of the hearing	Only if evidence can be provided that the charge sheet was properly delivered and that no good cause exist why the accused is not present.
14.2	Where employer representative is not able to attend the hearing, must inform the employee or his/her representative and the Presiding Officer.	Employer representative		
8.2.5	During the conduct of the hearing the employee may make application for the recusal of the Presiding Officer.	Accused	At the start of the proceedings	Such a request must contain the reasons why such a request is brought.
8.1.1	Onus to start rests with the Employer Representative and the burden to prove every allegation(s) on a balance of probability	Employer Representative	During disciplinary hearing	

DISCIPLINARY PROCEDURE				
Clause	What	Who	When	Notes
8.1.2	Rights and obligations of the Employer Representative.	Employer Representative	During disciplinary hearing	See clauses 8.1.2 - 8.1.5.
15.1	The employee may appoint a representative of choice who may be a fellow employee, shop steward or union official.	Accused	Before the start of the proceedings	This right must be communicated to the accused in the charge sheet. The accused will therefore not be able to use the non-availability of his/her representative as a reason for postponement.
8.2	Rights of the accused	Accused and his/her representative	During disciplinary hearing	See clauses 8.2.1 - 8.2.5.
8.3	Powers of the Presiding Officer during the proceedings	Presiding Officer	During disciplinary hearing	See clauses 8.3.1 – 8.3.11.
8.4	The Presiding Officer informs the employee in writing, of the findings of fact, sanction imposed and the reasons therefore.	Presiding Officer	Within 10 days of the last day of the disciplinary hearing	Note that the determination must be provided to the Municipal Manager or his/her representative (not the Employer Representative) and to the employee or his/her representative.
11.1	The employee may resign at any time from receiving the charge sheet and until or before the Presiding Officer comes to a finding.	Employee	Before the Presiding Officer comes to a finding.	Provided that the employee consents in writing to the deduction of any money owed by him/her to the municipality from any monies payable to him/her by the employer.
11.2	If the employee's resignation, retirement or termination of employment meets the requirements set out in clause 11.1, the disciplinary hearing shall not proceed.	Municipal Manager or authorised representative		
8.5	Determination of the Presiding Officer is final and binding on the employer.			The employer therefore cannot appeal against the decision of the Presiding Officer.
8.6	Employees may not be re-charged at a subsequent disciplinary hearing for the same alleged misconduct.			Unless for circumstances permitted in law.

SUMMARY PROCEDURE				
Clause	What	Who	When	Notes
9.1	Employer and employee may agree, in writing, to adopt the Summary Procedure to hear the case at the disciplinary hearing.	1. Presiding Officer 2. Accused or his/her representative	Before the start of the proceedings	There must be consensus
9.1.1	Presiding Officer confirm whether or not the matter is ready for adjudication.	Presiding Officer		
9.1.2	Ascertain and record in writing the facts on which the parties agree and those which are in dispute.	Presiding Officer	During the first meeting	
9.1.3	Receive from the parties such documents or copies thereof as they consider relevant to the determination of the issues	Presiding Officer	On a date as determined by the Presiding Officer	
9.1.4	Respond to evidence or submissions, orally or in writing, sworn or un-sworn at joint meetings with the parties	Employer Representative and Accused or his/her representative	On a date as determined by the Presiding Officer	
9.1.5	Deliver a determination, in writing, within ten (10) days of the last day of the hearing or submission of the last document to the Presiding Officer, if there was no hearing to the MM or his/her authorised representative and the accused or his/her representative.	Presiding Officer	Within ten (10) days of the last day of the hearing or submission of the last document to the Presiding Officer	The determination must contain the reasons for the decision.

PLEA AGREEMENTS				
Clause	What	Who	When	Notes
10.1	Employee wishes to plead guilty, may enter into a plea agreement on a sanction to be imposed.	1. Employee or his/her representative 2. Employer representative	Before the start of the proceedings or during the disciplinary hearing, but before the Presiding Officer comes to a finding.	
10.2	Plea agreement must be in writing and signed by the employer or representative and employee or his/her representative.	1. Employee or his/her representative 2. Employer representative	Before the start of the proceedings or during the disciplinary hearing, but before the Presiding Officer comes to a finding.	Subject to approval by the Presiding Officer.
10.3	Consider and approve a plea agreement having considered all the relevant circumstances.	Presiding Officer		1. If the agreement is approved, a sanction will be imposed on the the employee in accordance with the plea agreement. 2. In absence of such approval, the disciplinary hearing shall proceed as if the employee has pleaded not guilty.

DEALING WITH ABSCONDMENT				
Clause	What	Who	When	Notes
12.1	Employee who has absented himself/herself for a period longer than 10 days without notification to the employer, shall be deemed to have absconded from duty.	Employee	Longer than 10 days without notification.	
12.2	Attempts shall be made to establish the whereabouts of the employee and the employee shall be informed of his/her alleged abscondment and the consequences thereof.	Employer	After 10 days without notification.	<ol style="list-style-type: none"> 1. Employee shall be informed in writing by letter. 2. If the employee cannot be located or has not responded to communication, the employer shall proceed with the disciplinary hearing in his/her absence.
12.3	If the steps in clauses 12.1& 12.2 have already been taken, employee shall be afforded opportunity to make verbal or written representations as to why he/she should be reinstated.	Employee or his/her representative.	After employee reports for duty.	Verbal or written representations must be made to the Municipal Manager or his/her authorised representative.
12.4	After considering the employee's representation, either reinstate him/her or confirm the dismissal.	Municipal Manager or his/her authorised representative	Within 5 days after representation has been made.	The decision of the Municipal Manager or his/her authorised representative must be communicated to the employee in writing.
12.5	Should the dismissal be confirmed, the employee may appeal the decision utilizing the appeal process set out in clause 17.	Employee		

SUSPENSION PROCEDURE				
Clause	What	Who	When	Notes
16.1	The employer decides to suspend the employee or utilise him/her temporarily in another capacity pending an investigation into alleged misconduct.	Municipal Manager or authorised representative.		<ol style="list-style-type: none"> Suspension if there is reasonable cause to believe that the employee at the workplace may: <ul style="list-style-type: none"> jeopardise any investigation into alleged misconduct; or interfere with potential witnesses; or commit further act of misconduct. Period of suspension may not exceed 3 months.
16.2	Inform the employee in writing of the MM's intention to suspend	MM or his/her authorised representative	As soon as possible	Afford employee at least 48 hours to make representations as to why he/she should not be suspended.
16.3	May in the notice of intention to suspend, also require the employee to vacate the premises with immediate effect.	MM or his/her authorised representative		<ol style="list-style-type: none"> If there is reasonable cause to believe that the employee's continued presence at the workplace: <ul style="list-style-type: none"> poses a danger to the well-being or safety of any person or municipal property; or be detrimental to stability in the municipality; or demonstrates the potential to damage or tamper with evidence. Afford employee at least 48 hours to make representations as to why he/she should not be suspended.

SUSPENSION PROCEDURE				
Clause	What	Who	When	Notes
16.2	Conduct suspension enquiry	MM or his/her authorised representative		
16.2	Deliver a determination, in writing to the employee and his/her representative within 5 days as to whether the employee shall be suspended.	MM or his/her authorised representative	Within 5 days of the last day of the hearing	<ol style="list-style-type: none"> 1. After consideration of the representations. 2. The determination must contain the reasons for the decision.
16.4	Suspend or utilization of the employee in another capacity shall be for a fixed period that may not exceed a period of three (3) months.	MM or his/her authorised representative		<ol style="list-style-type: none"> 1. Three (3) months' suspension or utilization in another capacity will be from the date that the Municipal Manager or his/her authorised representative is satisfied that there is a prima facie case that an act of misconduct has been committed. 2. Where circumstances prohibit the conclusion of the disciplinary proceedings within the afore-stated timeframes, such suspension or utilization in another capacity can be extended for a further 3 months. 3. Suspension will take place with full remuneration.

APPEAL PROCEDURE				
Clause	What	Who	When	Notes
17.1	The employee may lodge an appeal, against the outcome of the disciplinary finding and/or sanction on the prescribed appeal form.	Employee	Within 7 days of receiving written notification of the disciplinary finding and sanction.	The grounds of appeal must be clearly set out.
17.6	Appeals will be heard by a management level above that of the Presiding Officer.			In the case of final written warnings.
17.6	Appeals will be heard by a higher level of management who does not exercise direct management control over the affected employee.			In the case of dismissals and suspensions without pay.
17.7	Either party may request that an impartial arbitrator hear the appeal.	1. MM or his/her authorised representative 2. Employee		1. There must however be agreement between the parties to use an impartial arbitrator 2. Arbitrator must be appointed from a panel of arbitrators existing in the relevant division of the SALGBC.
17.9 & 17.13	Appeal shall not entail the rehearing of the matter afresh and the Presiding Officer determines the procedure.	Presiding Officer		1. Appeal is limited to the grounds of appeal submitted with amendments thereto. 2. Procedure to be used must be determined before the start of the proceedings.

APPEAL PROCEDURE				
Clause	What	Who	When	Notes
17.10	The Presiding Officer of the Disciplinary Appeal Tribunal shall have the power: <ul style="list-style-type: none"> • to confirm or set aside any decision, determination or finding and • to confirm, set aside or reduce any sanction imposed. 	Presiding Officer		
17.4	The Presiding Officer must fix the date for the Disciplinary Appeal Hearing that must take place not earlier than 5 days and not later than 10 days from the date that the notice of appeal was lodged and inform the parties of the date, time and venue of the enquiry.	Presiding Officer	Within 10 days from the date that the notice of appeal was lodged	
17.5	Appeal may be postponed	Presiding Officer		Only the Presiding officer may postpone the appeal hearing after consultation with the parties.
17.11	Each party must submit a statement of case to the Presiding Officer and to each other.	Employer Representative and Accused or his representative	At least 2 days prior to the hearing	<ol style="list-style-type: none"> 1. No further pleadings shall be exchanged unless otherwise agreed. 2. See clause 17.12 regarding the contents statement of case
17.14	Disciplinary Appeal Hearing shall consider whether the finding and/or sanction imposed was fair and correct.	Presiding Officer		Presiding Officer shall be entitled to make an order in line with sub-clause 17.10.

APPEAL PROCEDURE				
Clause	What	Who	When	Notes
17.14	The Presiding Officer informs the appellant in writing, of the determination as well as the reasons therefore.	Presiding Officer		
17.15	Determination of the Presiding Officer is final and binding on the employer.			The Municipal Manager or any governing structure cannot alter the determination of the Presiding Officer.