

CHAPTER 3A-04. PERSONNEL

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3A-04-010. Personnel Director.

The City Manager is hereby designated as the Personnel Director. As Personnel Director, the City Manager shall implement and maintain the provisions of this Chapter and perform other duties as required by ordinance, resolution or policy of the City Council.

3A-04-020. Personnel Policies and Procedures.

The City may establish and adopt personnel policies and procedures consistent with the ordinances, laws, and regulations of the City, State and federal government for the administration, organization, operation, and conduct of its personnel.

3A-04-030. Equal Opportunity Employer.

Fruit Heights City is an "Equal Opportunity Employer" and it is the policy of the City to comply with Federal and State equal employment opportunity laws and guidelines. It is the policy of the City to avoid discrimination in the hiring, employment, promotion or other employment practices with respect to its employees on the basis of race, color, religion, sex, national origin, political affiliation, age, pregnancy, childbirth or pregnancy-related condition, disability, genetic information, or status as a veteran, in accordance with applicable Federal and State laws.

3A-04-040. Employee Appeals.

(a) Covered Employees. Except as provided in Section 3A-04-045, each employee of the City shall hold employment without limitation of time, being subject to discharge, suspension of over two days without pay, or involuntary transfer to a position with less remuneration only as provided herein.

(b) Appeal of Final Decision. If an employee other than an employee excluded under Section 3A-04-045, is discharged, suspended without pay for more than two days, or involuntarily transferred from one position to another with less remuneration for any disciplinary reason, the employee may appeal the final decision to discharge, suspend without pay, or involuntarily transfer, to the Employee Appeal Board set forth in Section 3A-04-050 in accordance with and subject to the procedures set forth *Utah Code Ann.* §10-3-1106, as amended.

3A-04-045. Exclusions.

Section 3A-04-040 does not apply to any officers, employees or positions described herein, which positions are deemed at-will and subject to termination with or without cause and without appeal rights pursuant to *Utah Code Ann.* §10-3-1105, as amended.

(a) Designated Positions. Section 3-04-040 does not apply to a person who holds a position or equivalent position described as follows:

- (1) a police chief
- (2) a deputy or assistant police chief;

- (3) a fire chief;
- (4) a deputy or assistant fire chief;
- (5) a head of a municipal department or division;
- (6) a superintendent;
- (7) a probationary or introductory employee;
- (8) a part-time employee;
- (9) seasonal, temporary or limited employees;
- (10) a person who works in the office of an elected official; or
- (11) a secretarial or administrative assistant support position that is specifically designated as a position to assist an elected official or the head or deputy head of a municipal department

(b) Appointed Officers. Section 3-04-040 does not apply to any person appointed to a position under Part 9, Appointed Officials and Their Duties, including, but not limited to, the City Manager, City Recorder, City Treasurer, City Engineer, City Attorney, Police Chief, and Fire Chief.

(c) Layoffs and Reorganizations. Section 3-04-040 does not apply to any employee who is discharged or involuntarily transferred to a position with less remuneration if the discharge or involuntary transfer is the result of a layoff, reduction in force, reorganization, or other non-disciplinary action.

(d) Statutory Exclusion. Section 3-04-040 does not apply to any officer, employee, or position that is excluded under and in accordance with the provisions of *Utah Code Ann.* §10-3-1105(2), as amended.

3A-04-050. Employee Appeal Board.

(a) Created. There is hereby created an Employee Appeal Board as required by *Utah Code Ann.* §10-3A-1106, as amended, to hear appeals of employees covered under Section 3A-04-040 who have been discharged, suspended for more than two days without pay, or involuntarily transferred to a position with less remuneration.

(b) Members. The governing body of the City shall constitute and serve as the Employee Appeal Board.

(c) Limitation on Members. No person may sit on the Employee Appeal Board who also sat in on a pre-disciplinary hearing of the appealing employee or who otherwise has a conflict of interest in the matter.

3A-04-060. Appeal Procedures.

(a) Procedures. Appeal hearings shall be filed and conducted in accordance with and subject to the time frames and procedures set forth *Utah Code Ann.* §10-3A-1106, as amended, and applicable provisions of this Section.

(b) Rules of Procedure and Evidence. Appeal hearings shall be conducted with appropriate formality and decorum, so that the due process rights of the appellant are protected. The Utah rules of evidence and Utah rules of civil procedure should serve as guidelines, but need not be strictly followed or applied. Rules of evidence regarding foundation and hearsay need not be strictly applied; however, the Employee Appeal Board may determine how much weight to give to such evidence.

(c) Standard of Review. The Employee Appeal Board shall presume the action of the City or its officers which is the subject of the appeal is valid and uphold such action unless it is shown that such action was an abuse of discretion or was otherwise contrary to law. The burden of proof shall at all times remain with the employee making the appeal. It shall take an affirmative vote of three (3) board members to overturn the action which is the subject of the appeal.

(d) Appeal to Court. Any final action or order of the Employee Appeal Board may be reviewed by the Court of Appeals by filing with that court a petition for review in accordance with *Utah Code Ann.* § 10-3A-1106, as amended.

3A-04-070. Volunteers.

(a) Defined. "Volunteer" means any person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the City.

(b) Status. All volunteers of the City shall be subject to the provisions of the Volunteer Government Workers Act, as set forth in *Utah Code Ann.* §67-20-1, *et seq.*, as amended. A volunteer may not donate any service to the City unless and until the volunteer services are approved by the City Manager.

(c) Government Employee. Except as provided in *Utah Code Ann.* §67-20-3, as amended, regarding volunteer safety officers, an approved volunteer is considered a government employee for purposes of:

(1) receiving workers= compensation medical benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under Title 34A, Chapter 2, Workers= Compensation Act, and Chapter 3, Utah Occupational Disease Act, for any injury sustained while engaged in the performance of any authorized service for the City;

(2) the operation of motor vehicles or equipment if the volunteer is properly licensed and authorized to do so; and

(3) liability protection and indemnification normally afforded paid government employees.

(d) Expenses. Volunteers may receive reimbursement for transportation, meals, travel expenses, lodging, uniforms, and supplies, in the discretion of and when authorized and approved by the City.