



222 Main Ave West, Frazee, MN 56544 | Office: 218-334-4991 | Website: www.frazeecity.com

EMPLOYEE / CITIZEN COMPLAINT POLICY AND PROCEDURE FORM

Enacted: March 03, 2005

I. Purpose/Policy

Any person who believes that an employee of the City of Frazee has acted improperly may bring a complaint to the City's attention pursuant to the following procedure.

II. Definitions

For the purpose of this procedure, the terms set forth below are defined as follows:

1. **Employed** means any full-time, part-time, volunteer, or department head employed by the City of Frazee.
2. **Council** means the Council of the City of Frazee as a whole and each council member whether elected or appointed.
3. **Complainant** means a person who files a written complaint alleging misconduct by an employee.
4. **Complaint** means a statement which is made in writing which alleges misconduct.
5. **Exonerated** means a fair preponderance of the evidence established either than:
 - a. The act, or acts, complained of did not occur,
 - b. The act(s) *which* provided the basis for the complaint occurred, however, the investigation reveals that such act(s) were justified, lawful, or proper.
6. **Not Sustained** means the investigation failed to disclose sufficient evidence to prove or disprove the allegations made in the complaint.
7. **Sustained** means a fair procedure of the evidence obtained in the investigation established that the accused person's actions constituted misconduct.
8. **Formal Statement** means the questioning of an employee in the course of obtaining a recorded, stenographic, or signed statement to be used as evidence in disciplinary proceedings against the employee.
9. **Respondent** means any employee full-time, part-time, volunteer, or temporary against whom a complaint has been filed.
10. **Misconduct** means:
 - a. A violation of any department policy and procedure governing conduct of employees.
 - b. The conviction of a criminal offense.
 - c. Abuse of authority.
 - d. Conduct which violates a person's civic rights.
 - e. Intimidation or retribution toward a complainant or witness involved in any complaint proceeding.
11. **Policies and Procedures** means the administrative rules adopted by the City of Frazee regulating the conduct of employees.



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III. Procedure for Initiating Complaint

1. Anyone who has personal knowledge of facts and wishes to file a formal complaint must do so in writing on forms provided by the City of Frazee. Forms are available at City Hall.
2. All complaints must be personally signed and notarized.
3. Upon receiving a written complaint, the Mayor or City Administrator shall sign the document, give or mail a copy to the complainant, and forward the complaint to the personnel committee of the City Council. If the personnel committee determines that the complaint could, if true, constitute misconduct, the personnel committee shall forward the complaint to the appropriate investigator. Complaints filed against employees other than the Chief of Police or City Administrator shall be investigated by the Chief of Police or his or her designate. Complaints against the Chief of Police or City Administrator shall be investigated by an independent, licensed investigator not associated with the City of Frazee but appointed by the mayor for the purpose of investigating the complaint.

IV. Procedure for Investigation of the Complaint

1. Upon receipt of the complaint the investigator shall review the allegations and make an initial determination as to whether the facts alleged could, if true, constitute misconduct under this policy. If the investigator determines that the facts alleged could not constitute such misconduct even if true, further investigation is not required, the complaint will be dismissed, and the complainant shall be notified of the determination. If the investigator determines that the facts alleged could, if true, constitute misconduct under this policy, the investigator shall commence a formal investigation to gather evidence regarding the allegations. The investigator may request a formal statement from the respondent.
2. Upon completion of the investigation the investigator shall notify the respondent of the investigation and provide the respondent with a copy of the complaint unless the investigator determines that such notification and disclosure will impede an ongoing criminal investigation.
3. If the investigator determines that the evidence provides probable cause to believe that the allegations are true, the following shall occur:
 - a. If the conduct alleged constitutes a criminal violation the information gathered in the investigation shall be forwarded to the appropriate prosecuting authorities. The City of Frazee shall take no further action under this policy until disposition of any resulting criminal charges.
 - b. If the conduct alleged does not constitute a criminal violation, but does constitute misconduct, all facts and findings shall be forwarded to the City Council for review. The respondent shall be afforded all due process rights, including the right to Counsel at the respondent's own expense both at the hearing and during any questioning of the respondent. The complainant may also be represented by Counsel at the complainant's own expense.



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4. At the hearing the investigator shall testify regarding the evidence gathered in the investigation. Any other witnesses with relevant evidence may also testify. The respondent may call witnesses to testify. The City Council, with the advice and Counsel of the City Attorney, shall hear and determine the evidence and shall, by a majority vote including the mayor, make a determination.

V. Disposition

1. If the determination of the investigator is either “Exonerated” or “Not Sustained” the investigator shall immediately notify the complainant and the respondent of this decision which is not subject to appeal.
2. If the If the determination of the investigator is “Sustained” the City Council, or its designate, shall issue findings of fact including a summary of the misconduct and any statutes, rules, policies, regulations or procedures violated. The complainant and the respondent shall be furnished a copy of the findings of fact.
3. If the determination of the investigator is “Sustained” the City Council shall determine appropriate remedial or disciplinary action. All remedial or disciplinary action imposed shall be consistent with all rules, laws or contracts governing the respondent’s employment. The City Council shall give written reasons explaining the remedial or disciplinary action imposed.

VI. Maintenance and Disclosure of Data

1. Maintenance and Disclosure of Data collected, created, or received by the City of Frazee in connection with this policy shall be in accord with all applicable Federal Data Privacy Laws and the Minnesota Data Practices Act.

VII. Rescission of Previous Department Citizen Complaint Policy

1. Any and all citizen complaint policies of the City of Frazee or any of its departments in effect prior to the adoption of this resolution are hereby rescinded.



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EMPLOYEE / CITIZEN COMPLAINT FORM

Date of Complaint: _____

Complainant's Printed Name: _____ Phone: _____

Complainant's Address: _____ Date of Alleged Misconduct: _____

Respondents Name: _____ Department: _____

Summary of Allegations: _____

Name and Address of Witness: _____

Signature of Witness: _____ Date: _____

Signature of Complainant: _____ Date: _____

STATE OF MINNESOTA
COUNTY OF BECKER

On this _____ day of _____, before me, a Notary Public, within and for said County, personally
appeared _____ to me known to be the person described as Complainant.

Notary Public Signature: _____

Title: _____

(Stamp)

My commission expires: _____

Date filed in City Administrator's office: _____

Office Use Only

Directed to: _____

Date: _____