

CITY OF HOMER
HOMER, ALASKA

City Manager/
Personnel Director

RESOLUTION 24-076

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
AMENDING CITY OF HOMER PERSONNEL REGULATIONS,
CHAPTER 10, DISCIPLINE – CAUSES AND ACTIONS AND CHAPTER
11, COMMUNICATION, GRIEVANCE AND APPEAL PROCEDURE, TO
DELEGATE AUTHORITY FOR PERSONNEL APPEALS TO THE STATE
OF ALASKA OFFICE OF ADMINISTRATIVE HEARINGS.

WHEREAS, Pursuant to Homer City Code Section 2.28.010, the City personnel regulations shall be adopted by Council resolution and administered by the City Manager; and

WHEREAS, Pursuant to City of Homer Personnel Regulation 1.6, Revisions and Amendments, the City Manager may recommend revisions to the Personnel Regulations at any time with the revisions effective upon the approval of the City Council.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby amends Homer City Regulations, Personnel Regulation 11.4, Grievance Procedure Steps, as follows:

11.4.4 Step 4. If the grievance is not settled in Step 2 and the aggrieved employee(s) elects not to utilize the grievance committee process of Step 3, the matter may be appealed in writing to the City Manager Office of Administrative Hearings within five working days of the date the employee receives the Department Director's written decision. The aggrieved employee(s) should submit a written request for a hearing ~~with the City Manager~~ to the Personnel Director, who will then submit a request for a hearing with the Office of Administrative Hearings. The aggrieved employee(s) should attach copies of all information pertaining to the grievance to the request. ~~The City Manager will schedule a hearing within ten working days of receiving the request. At the hearing the employee(s) will state the reasons for the grievance. The Department Director shall have an opportunity to present their position. Witnesses may be called to testify by either party, however witnesses cannot be compelled to testify or appear. The hearing shall be closed to the public. The City Manager shall reply to the grievance in writing within seven working days of meeting with the grievant(s). Copies of the written decision shall be given to the grievant(s), the Department Director and the Personnel Director.~~

11.4.5 Step 5. If not satisfied with the City Manager's Office of Administrative Hearings decision the aggrieved employee(s) may request arbitration pursuant to the procedures outlined in Section 11.5 appeal the decision of the Office of Administrative Hearings to Superior Court within 30 days after notice of the Office of Administrative

Hearings decision is given to the employee in accordance with Part 600 of the Alaska Rules of Appellate Procedure. The appeal is heard solely on the administrative record.

BE IT FURTHER RESOLVED that Homer Personnel Regulations are amended by deleting Section 11.5, Arbitration Procedures, in its entirety, as follows:

~~11.5— Arbitration Procedures. An employee may request arbitration of any unresolved grievances after completion of Step 3 or Step 4. The procedures for arbitration are as follows:~~

~~11.5.1 The employee(s) shall send a written request for arbitration to the Personnel Director explaining the specific unresolved grievance and referring to any provisions of the Personnel Regulations or any other law applicable to the grievance. The request shall be submitted to the Personnel Director within five working days of the City Manager's decision.—~~

~~11.5.2 Within five working days of receipt of a request for arbitration, the Personnel Director shall forward the request, together with the appropriate administrative fee, to the American Arbitration Association (AAA) for the initiation of arbitration proceedings. AAA proceedings shall be conducted by an arbitrator located in the State of Alaska unless, despite reasonable efforts by both parties, a qualified arbitrator located in the State of Alaska cannot be found. In lieu of submission to AAA, the grievant and the City Manager shall may agree to submit the matter to an arbitrator(s) to be selected by mutual agreement.~~

~~11.5.3 The arbitration shall be held at City Hall unless space is unavailable in which case the arbitrator shall select another location in the City. The aggrieved employee(s), the affected Department Director, City Manager and Personnel Director shall be entitled to be present at the arbitration. The aggrieved employee(s) and the City Manager may each have, as an assistant, one person to be in attendance at the arbitration. Either or both parties may be represented by an attorney in lieu of the assistant. The arbitration shall be closed to the public unless the aggrieved employee(s) requests the arbitration to be open to the public.~~

~~11.5.4 The arbitration shall be conducted by the arbitrator in whatever manner will most expeditiously permit full presentation of the evidence and argument of the parties. Witnesses may be called to testify by any party; however, witnesses cannot be compelled to testify or appear.~~

~~11.5.5 The arbitration shall be conducted under the AAA Employment Arbitration Procedures unless a different rule or procedure is set forth in the City Code or the Personnel Regulations. In the case of any inconsistency, the City Code and the Personnel Regulations, in that order of priority, shall prevail over the AAA Employment Arbitration Procedures. The Personnel Director shall make copies of the Employment Arbitration Procedures available to any City employee upon request.~~

11.5.6 Post hearing briefs shall be submitted by the parties only if ordered by the arbitrator.

11.5.7 The arbitrator shall have no authority to amend, modify, nullify, or ignore provisions of law, ordinances, or Personnel Regulations. The arbitrator shall consider and decide only the specific issue(s) submitted and has no authority to decide issues not submitted.

11.5.8 The arbitrator's award shall include a summary of the arbitrators' findings and conclusions. All expenses of the arbitration, not including attorney's fees and expenses for witnesses, shall be paid by the City. If the City is the prevailing party, then each employee who is a party to the grievance shall reimburse the City \$600.00 of expenses of the arbitration, which include AAA administrative and arbitrators' fees, travel and other expenses but no more than the total actual cost of the arbitration fees. Payment is due from the employee within 30 days of the grievance decision from the arbitrator. Each party shall bear its own attorney's fees and the expenses of producing witnesses called on its behalf.

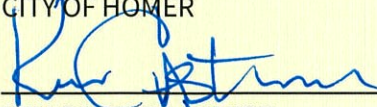
11.5.9 Copies of the arbitration decision shall be personally delivered or mailed to the parties directly affected by the arbitration, the Personnel Director and the City Manager. The Personnel Director shall provide informational copies to the City Council. The arbitration decision shall be a public record.

BE IT FURTHER RESOLVED that Personnel Regulation 10.8, Appeal of Disciplinary Action is amended as follows:

10.8 Administrative Appeal of Disciplinary Action. Any appeals of personnel actions taken under Section 10.6 of these Regulations involving suspensions without pay, demotions, or dismissals shall be submitted to arbitration under Section 11.5 of these Regulations **the Office of Administrative Hearings**. The appeal shall be initiated by filing **submitting** a written request for arbitration **a hearing with to** the Personnel Director within five working days of the City Manager's decision, **who will then submit a request for a hearing with the Office of Administrative Hearings**. The appeal shall contain the information **specific points on appeal** required by Section 11.5.1 of these Regulations **referring to any provisions of the Personnel Regulations or any other law applicable to the appeal**. Filing a request for arbitration **an appeal** shall not suspend the effect of the City Manager's decision. **If not satisfied with the Office of Administrative Hearings decision the aggrieved employee(s) may appeal the decision of the Office of Administrative Hearings to Superior court within 30 days after notice of the Office of Administrative Hearings decision is given to the employee in accordance with Part 600 of the Alaska Rules of Appellate Procedure. The appeal is heard solely off the administrative record.**

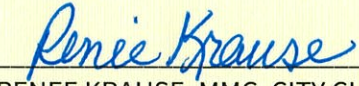
PASSED AND ADOPTED by the Homer City Council this 12th day of August, 2024.

CITY OF HOMER



KEN CASTNER, MAYOR

ATTEST:



RENEE KRAUSE, MMC, CITY CLERK

Fiscal note: N/A

