City of Asheville Staff Report

City Council Meeting Date: August 25, 2026

Staff Resources: Emily Provance, Human Resources Director; Cydney Joyner, Senior Assistant City Attorney

Action Requested: Adoption of an Ordinance amending Chapter 2, Article IV, Division 3 of the City of Asheville Code of Ordinances relating to Grievance Procedures

Background:

- The Asheville City Code of Ordinances prescribes the grievance procedure available to City employees wishing to present an individual or group complaint for consideration by City administration.
- The current Ordinance does not align with NC Statute Section 8(b); therefore, updates are needed to ensure that the City is in compliance.
- The updated Ordinance will provide City employees with a delineated process by which their employment complaints may be considered promptly, fairly and without reprisal.

Vendor Outreach: n/a

Council Vision 2036 Focus Area(s):

- Connected and Engaged Community

Council Priority Recovery Area(s):

- People

Committee(s): 7/23/26 Agenda Briefing - for information only

Fiscal Impact: n/a

Suggested Motion:

- Motion to adopt the ordinance repealing Chapter 2, Article IV, Division 3 of the City of Asheville Code of Ordinances in its entirety and replacing it with the proposed ordinance updating employee grievance procedures.

Attachment(s):

- Ordinance
- Red-lined Ordinance

City of Asheville Ordinance Number _____

Ordinance Description

Ordinance amending Chapter 2, Article IV, Division 3 of the Code of Ordinances of the City of Asheville relating to Grievance Procedures

Ordinance Details

Whereas, the City has the authority, pursuant to Section 160A-164 of the North Carolina General Statutes to adopt and provide for personnel rules; and

Whereas, the City Council of the City of Asheville has the authority pursuant to Article II of the City Charter to adopt changes to its General Ordinances; and

Whereas, Chapter 2, Article IV, Division 3 of the City Code of Ordinances governs the City's employee grievance procedures, which provide employees with a procedure by which their complaints can be considered promptly, fairly and without reprisal; encourage employees to express themselves about the conditions of work which affect them as employees; promote a better understanding of policies, practices, and procedures which affect employees; an increase the confidence that employees have that personnel decisions are in accordance with established, fair, and uniform policies and procedures; and

Whereas, the amendments to Chapter 2, Article IV, Division 3 are intended to clarify and expedite the grievance process and ensure consistency with other sections of the City's Charter, Personnel Policy, state law, and Civil Service Board substantive rules;

Now, therefore, be it ordained by the City Council of the City of Asheville that:

Section 1

Chapter 2, Article IV, Division 3 of the Code of Ordinances of the City of Asheville is repealed in its entirety, and replaced with the following new Ordinance:

DIVISION 3. GRIEVANCE PROCEDURE

Sec. 2-226. Policy.

(a) It is the policy of the city that all employees be treated fairly and equitably in all respects. Employees who feel they have not been so treated have a right to present an individual or group grievance to appropriate management officials for prompt consideration and equitable decision.

(b) When more than one grievance is filed regarding the same subject matter, the department director, assistant city manager or city manager charged with the responsibility of making a determination in the grievance procedure shall determine whether to hear such

grievances jointly or separately. The determination regarding whether to proceed with the grievances jointly or separately may be based upon that person's determination of the most efficient manner in which to handle the grievances. If the department director, assistant city manager or city manager determines that the rights of an employee who has filed a grievance would be prejudiced by a joint hearing, that employee's grievance shall be heard separately.

(c) Before presenting their complaints, employees who file a group grievance shall select no more than six employee representatives from among those filing the grievance. The department director, assistant city manager or city manager charged with the responsibility of making a determination in the grievance procedure shall hear such a grievance through the group representatives; however, nothing in this section shall prohibit them from hearing the grievance with the entire group of grievants.

(d) It is the intent of this section that employees and their representatives be unimpeded and free from restraint, coercion, discrimination or reprisal in exercising this right of appeal. The filing of a grievance by any employee will not be construed as reflecting unfavorably on their good standing, performance, loyalty or desirability for continued service with the city. Any employee may discuss any matter with their supervisor, other levels of supervision and the Human Resources department without invoking the formal grievance procedure outlined in this division.

(e) Any employee, or group of employees, who presents a grievance as described herein shall be permitted to the assistance of third party representation during any grievance hearing by an attorney, duly licensed in the State of North Carolina, as well as a single “support person.” A support person is defined as an active or retired City of Asheville employee that can assist the grieving employee or group of employees by providing moral support. The support person may provide support only, and cannot speak on behalf of the grieving employee or employees during the hearing. Notwithstanding the foregoing, the city manager is authorized to establish additional parameters for the grievance hearing process in order to promote efficiency, fairness, and legality.

(f) The city manager may delegate their responsibilities under the grievance procedure to an assistant city manager, as deemed necessary.

(Code 1965, § 19A-1; Ord. No. 1731, § 1, 12-20-88; Ord. No. 1864, § 19A-1, 9-18-90; Ord. No. 4910, § 2, 11-9-21;Ord. No. 5194, § 1, 1-27-26)

Sec. 2-227. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Grievance means a complaint or dispute of an employee relating to their employment. Issues for which grievances may be filed include the following:

(1) Unfair interpretation or application of policies governing personnel practices;

(2) Unfair or inappropriate disciplinary actions resulting in discharge, suspension, reduction in rank, or an involuntary transfer;

(3) Unfair or inappropriate denial of a promotion or raise in pay to which an employee would be entitled;

(4) Acts of reprisal as the result of utilizing the grievance procedure; or

(5) Failure of the City to respond to an employee's complaint of discrimination or harassment made pursuant to City policies.

No other issue shall be considered a grievance for the purposes of this Division.

(Ord. No. 1864, § 19A-2, 9-18-90; Ord. No. 4910, § 2, 11-9-21)
Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 2-228. Purposes.

The purposes of the grievance procedure include but are not limited to the following:

(1) Providing employees with a procedure by which their complaints can be considered promptly, fairly and without reprisal.

(2) Encouraging employees to express themselves about the conditions of work which affect them as employees.

(3) Promoting a better understanding of policies, practices and procedures which affect employees.

(4) Increasing the confidence that employees have that personnel decisions are in accordance with established, fair and uniform policies and procedures.

(Ord. No. 1864, § 19A-3, 9-18-90; Ord. No. 4910, § 2, 11-9-21)

Sec. 2-229. Procedures.

The steps enumerated in this section shall be followed in all employee grievances. All formal grievances must be submitted in writing. Prior to the first formal step of the grievance procedure, an employee and their supervisor(s) are encouraged to discuss the problem and seek to resolve it informally. This meeting should be scheduled by the employee within 10 calendar days of the incident or action giving rise to the problem.

(1) *Step 1.* If an informal meeting does not resolve the problem, the employee may file a written grievance with their department director within 15 calendar days of the incident or action giving rise to the complaint. The department director shall within five (5) calendar

days hold a meeting with the employee for the purpose of discussing the grievance fully. The department director will render a written decision within five (5) calendar days of the meeting. If the grievance directly involves or concerns the Department Director, the written grievance in this step should be filed with and heard by an Assistant City Manager.

(2) *Step 2*. If the employee is not satisfied with the step 1 decision, the employee may file a written appeal with the city manager within five (5) calendar days following receipt of the step 1 decision. Within ten (10) calendar days of receipt of such request, the city manager shall hear matters pertinent to the grievance. In so doing, the manager may appoint a grievance committee to assist them in resolving the grievance. The role of such a committee shall be advisory and not binding on the city manager. Within five (5) calendar days of such hearing, the decision of the city manager shall be reduced to writing and transmitted to the aggrieved employee. The decision shall also be distributed to the aggrieved employee's department director and the Human Resources department. With the exception of the cases outlined in Step 3 below, the decision of the city manager is final.

(3) *Step 3*. If an employee who is a member of the classified service of the City and has been discharged, suspended, reduced in rank, transferred against their will or denied any promotion or raise in pay to which they would be entitled is not satisfied with the step 2 decision, the employee may appeal their grievance to the civil service board. Such appeal shall be filed with the city clerk within ten (10) calendar days following receipt of the step 2 decision. The city clerk shall set the matter for hearing before the civil service board at a date not less than five (5) and no more than fifteen (15) calendar days from the clerk's receipt of such notice. If timely appealed and within the jurisdiction of the civil service board, the board shall hear the grievance to determine whether or not the action complained of is justified.The civil service board shall render its decision in writing within 10 days after the conclusion of the hearing. If the board determines that the act or omission complained of is not justified, the board shall order the city to rescind whatever action the board has found to be unjustified and may order the city to take such steps as are necessary for a just conclusion of the matter before the board. Except for the time for filing the initial request for hearing with the board, the board may extend the time for taking action under this section for cause or by agreement of the parties to the proceeding.

(4) *Step 4*. Within 10 days of receipt of notice of the decision of the civil service board in Step 3, either party, the City or employee, may appeal to the Superior Court Division of the General Court of Justice for Buncombe County for a trial de novo. Such appeal shall be filed with the clerk of the superior court of Buncombe County.

Sec. 2-230. Departmental predisciplinary conference.

(a) *Purpose*. A departmental predisciplinary conference shall be afforded any permanent employee whose conduct or performance may result in their involuntary demotion, suspension without pay for more than fourteen (14) calendar days or dismissal from the city service. At such

a conference, the employee shall be given the opportunity to respond to the alleged inappropriate conduct or unsatisfactory performance, and the information received from the employee shall be used by the department director in determining whether or not there are reasonable grounds to support the action of suspension, demotion or dismissal.

(b) *Procedure*. The employee shall be given a minimum of 48 hours' notice of the date, time, location and subject matter of the predisciplinary conference. The notice shall be written and acknowledged as received by the employee or by their department director or division head in cases where the employee refuses to acknowledge receipt. The predisciplinary conference shall be attended by and limited to the following:

(1) The employee;

(2) The supervisor of the employee;

(3) The department director; and

(4) A representative from the Human Resources department when requested by the employee or department director.

Such Human Resources representative shall be the director of Human Resources or their designee. In addition, either party may be represented by counsel. The conference shall be administrative in nature, and full opportunity will be afforded the employee to respond to the issues. At the conclusion of the conference, the employee will be advised as to when a decision will be made regarding the actions, if any, to be taken in the matter. The department director shall deliver a written decision to the employee within ten (10) calendar days.

(c) *Failure to appear*. If the employee is duly notified and fails to appear for the predisciplinary conference, they shall forfeit the right to such a conference.

Section 2

If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3

All ordinances or parts of ordinances in conflict are hereby repealed to the extent of such conflict.

Section 4

This ordinance will become effective upon adoption.

Read, approved, and adopted this 25th day of August, 2026.

_____
Esther E. Manheimer, Mayor

_____
Brad Branham, City Attorney

_____
Magdalen Burleson, City Clerk

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DIVISION 3. GRIEVANCE PROCEDURE

Sec. 2-226. Policy.

(a) It is the policy of the city that all employees be treated fairly and equitably in all respects. Employees who feel they have not been so treated have a right to present an individual or group grievance to appropriate management officials for prompt consideration and equitable decision. ~~Employees may orally or in writing, formally or informally, present complaints to their supervisors, starting with their immediate supervisor and proceeding through supervisory channels to their department director head and the city manager.~~

(b) When more than one grievance is filed regarding the same subject matter, ~~each person in a supervisory position, from~~ the ~~immediate supervisor~~ department director, assistant city manager ~~to~~ or ~~the~~ city manager~~, who is~~ charged with the responsibility of making a determination in the grievance procedure shall determine whether to hear such grievances jointly or separately. The determination regarding whether to proceed with the grievances jointly or separately may be based upon that person's determination of the most efficient manner in which to handle the grievances. If the ~~supervisor~~ department director, assistant city manager or city manager ~~shall~~ determines that the rights of an employee who has filed a grievance would be prejudiced by a joint hearing, that employee's grievance shall be heard separately.

(c) Before presenting their complaints ~~to their supervisors~~, employees who file a group grievance shall select no more than six employee representatives from among those filing the grievance. ~~Each person in a supervisory position, from the immediate supervisor to the~~ The department director, assistant city manager or city manager~~, who is~~ charged with the responsibility of making a determination in the grievance procedure shall hear such a grievance through the group representatives; however, nothing in this section shall prohibit ~~a supervisor~~ them from hearing the grievance with the entire group of grievants.

(d) It is the intent of this section that employees and their representatives be unimpeded and free from restraint, coercion, discrimination or reprisal in exercising this right of appeal. The filing of a grievance by any employee will not be construed as reflecting unfavorably on ~~his or her~~ their good standing, performance, loyalty or desirability for continued service with the city. Any employee may discuss any matter

with ~~his~~ their supervisor, other levels of supervision and the ~~personnel~~ Human Resources department without invoking the formal grievance procedure outlined in this division.

(e) Any employee, or group of employees, who presents a grievance as described herein shall be permitted to the assistance of third party representation during any grievance hearing by an attorney, duly licensed in the State of North Carolina, as well as a single "support person." A support person is defined as an active or retired City of Asheville employee that can assist the grieving employee or group of employees by providing moral support. The support person may provide support only, and cannot speak on behalf of the grieving employee or employees during the hearing. Notwithstanding the foregoing, the city manager is authorized to establish additional parameters for the grievance hearing process in order to promote efficiency, fairness, and legality.

(f) The city manager may delegate their responsibilities under the grievance procedure to an assistant city manager, as deemed necessary.

(Code 1965, § 19A-1; Ord. No. 1731, § 1, 12-20-88; Ord. No. 1864, § 19A-1, 9-18-90; Ord. No. 4910, § 2, 11-9-21;Ord. No. 5194, § 1, 1-27-26)

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The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Grievance means a complaint or dispute of an employee relating to ~~his~~ their employment. ~~Examples of problems~~ Issues for which grievances may be filed include ~~but are not limited to~~ the following:

(1) Unfair interpretation or application of policies governing personnel practices;
(2) Unfair or inappropriate disciplinary actions resulting in discharge, suspension, reduction in rank, or an involuntary transfer;
(3) Unfair or inappropriate denial of a promotion or raise in pay to which an employee would be entitled;
~~(3) Unsafe physical facilities, surroundings, materials or equipment;~~
~~(4) Unfair or discriminatory disciplinary or supervisory practices;~~
~~(5) Unjust treatment by fellow workers;~~
~~(6) Unreasonable work requirements;~~

~~(7) Sexual or racial harassment;~~
~~(8) Safety or health matters;~~
(4 ~~9~~) Acts of reprisal as the result of utilizing the grievance procedure; or
~~(10) Any other grievance related to conditions of employment.~~
(5) Failure of the City to respond to an employee's complaint of discrimination or harassment made pursuant to City policies.

No other issue shall be considered a grievance for the purposes of this Division.

(Ord. No. 1864, § 19A-2, 9-18-90; Ord. No. 4910, § 2, 11-9-21)
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The purposes of the grievance procedure include but are not limited to the following:

(1) Providing employees with a procedure by which their complaints can be considered promptly, fairly and without reprisal.

(2) Encouraging employees to express themselves about the conditions of work which affect them as employees.

(3) Promoting a better understanding of policies, practices and procedures which affect employees.

(4) Increasing the confidence that employees have that personnel decisions are in accordance with established, fair and uniform policies and procedures.

(Ord. No. 1864, § 19A-3, 9-18-90; Ord. No. 4910, § 2, 11-9-21)

Sec. 2-229. Procedures.

The steps enumerated in this section shall be followed in all employee grievances. All formal grievances must be submitted in writing. ~~, either in letter or memo form or using a city grievance form, dated and signed. Upon receipt of a written grievance, the supervisor shall immediately forward a copy of it and any subsequent decisions regarding the matter to the grievant's department head and personnel director. However, if an employee feels that he has been subject to sexual or racial harassment by his supervisor, the employee may refer the matter directly to the employee's department head or the personnel director.~~ Prior to the first formal step of the grievance procedure, an employee and their ~~his~~ supervisor(s) are encouraged to discuss the problem and seek to resolve it informally. This meeting should be scheduled by the employee within ~~15~~ 10 calendar days of the incident or action giving rise to the problem.

~~(1) *Step 1.* If an informal meeting does not resolve the problem, the employee may file a written grievance within ten calendar days of the initial discussion; provided, however, if an informal discussion of the grievance has not taken place, an employee shall file his written grievance within 15 calendar days of the incident or action giving rise to the complaint. Ongoing conditions are not subject to this deadline. The supervisor shall respond, in writing, within ten calendar days of receipt of the written grievance. In some cases, the supervisor may feel that a second meeting would be constructive. If so, the supervisor may schedule a meeting with the employee within seven calendar days after receiving the written grievance, fairly investigate the matter and render a written decision on the grievance within seven calendar days of the meeting. If an employee has filed a grievance with a supervisor who lacks authority to resolve it, the supervisor shall immediately forward the grievance to the employee's department head or other appropriate supervisor to ensure that the grievance is acted on in a timely manner.~~

~~(2) *Step 2.* If the employee is not satisfied with the step 1 decision, the employee may file an appeal with his division head within seven calendar days following receipt of the step 1 decision. The division head shall respond, in writing, within ten calendar days of the receipt of the written grievance. In some cases, the division head may feel that a second meeting would be constructive. If so, the division head may schedule a meeting with the employee within seven calendar days after receiving the written grievance, fairly investigate the matter and render a written decision on the grievance within seven calendar days of the meeting. If an employee has filed a grievance with a division head who lacks authority to resolve it, the division head shall immediately forward the grievance to the employee's department head to ensure that the grievance is acted on in a timely manner.~~

~~(3)~~ (1) *Step ~~3~~ 1.* ~~If the employee is not satisfied with the step 2 decision, the employee may file an appeal with his department head within seven calendar days following receipt of the step 2 decision.~~ If an informal meeting does not resolve the problem, the employee may file a written grievance with their department director within 15 calendar days of the incident or action giving rise to the complaint. The department ~~head~~ director shall within five (5) ~~ten~~ calendar days hold a meeting with the employee for the purpose of discussing the grievance fully. The department ~~head~~ director will render a written decision within ~~ten~~ five (5) calendar days of the meeting. If the grievance directly involves or concerns the Department Director, the written grievance in this step should be filed with and heard by an Assistant City Manager.

~~(4)~~ (2) *Step 2 ~~4~~*. If the employee is not satisfied with the step 1 ~~3~~ decision, the employee may file a written appeal with the city manager within five (5) ~~seven~~

calendar days following receipt of the step 1 ~~3~~ decision. Within ten (10) ~~15~~ calendar days of receipt of such request, the city manager shall hear matters pertinent to the grievance. In so doing, the manager may appoint a grievance committee to assist them ~~him~~ in resolving the grievance. The role of such a committee shall be advisory and not binding on the city manager. Within five (5) ~~30~~ calendar days of such hearing, the decision of the city manager shall be reduced to writing and transmitted to the aggrieved employee ~~by hand delivery or certified mail, return receipt requested~~. The decision shall also be distributed to the aggrieved employee's department ~~head~~ director and the ~~personnel~~ Human Resources department. ~~In cases where the employee has been discharged, suspended, reduced in rank, transferred against his will or denied any promotion or raise in pay to which he or she would be entitled to, the decision of the city manager may be appealed to the civil service board as specified in step 5.~~ With the exception of the cases outlined in Step 3 below, ~~In all other cases,~~ the decision of the city manager is final.

~~(5)~~ (3) *Step 3 ~~5~~*. If ~~the~~ an employee who is a member of the classified service of the City and has been discharged, suspended, reduced in rank, transferred against their will or denied any promotion or raise in pay to which they would be entitled is not satisfied with the step 2 ~~4~~ decision, the employee may appeal ~~his~~ their grievance to the civil service board. Such appeal shall be filed with the city clerk within ten (10) calendar days following receipt of the step 2 4 decision. The city clerk shall set the matter for hearing before the civil service board at a date not less than five (5) and no more than fifteen (15) calendar days from the clerk's receipt of such notice. If timely appealed and within the jurisdiction of the civil service board, the ~~civil service~~ board shall ~~only~~ hear the grievance ~~of a city employee who has been no discharged, suspended, reduced in rank, transferred against his will or denied any promotion or raise in pay to which he would be entitled~~ to determine whether or not the action complained of is justified.The civil service board shall render its decision in writing within 10 days after the conclusion of the hearing. If the board determines that the act or omission complained of is not justified, the board shall order the city to rescind whatever action the board has found to be unjustified and may order the city to take such steps as are necessary for a just conclusion of the matter before the board. Except for the time for filing the initial request for hearing with the board, the board may extend the time for taking action under this section for cause or by agreement of the parties to the proceeding.

~~(6)~~ (4) *Step ~~4~~ ~~6~~*. Within 10 days of receipt of notice of the decision of the civil service board in Step 3, either party, the City or employee, may appeal to the Superior Court Division of the General Court of Justice for Buncombe County ~~If the employee is not satisfied with the step 5 decision, the employee may appeal his grievance to the county superior court~~ for a trial de novo. Such appeal shall be filed with the clerk of superior court of Buncombe County ~~within ten days of the receipt of the board's decision~~.

Sec. 2-230. Departmental predisciplinary conference.

(a) *Purpose*. A departmental predisciplinary conference shall be afforded any ~~full-time~~ permanent employee whose conduct or performance may result in ~~his~~ their involuntary demotion, suspension without pay for more than fourteen (14) calendar days or dismissal from the city service. At such a conference, the employee shall be given the opportunity to respond to the alleged inappropriate conduct or unsatisfactory performance, and the information received from the employee shall be used by the department ~~head~~ director in determining whether or not there are reasonable grounds to support the action of suspension, demotion or dismissal.

(b) *Procedure*. The employee shall be given a minimum of 48 hours' notice of the date, time, location and subject matter of the predisciplinary conference. The notice shall be written and acknowledged as received by the employee or by their ~~his~~ department director or division head in cases where the employee refuses to acknowledge receipt. The predisciplinary conference shall be attended by and limited to the following:

(1) The employee;
(2) The supervisor of the employee;
(3) The department ~~head~~ director; and
(4) A representative from the ~~personnel~~ Human Resources department when requested by the employee or department ~~head~~ director.

Such ~~personnel~~ Human Resources representative shall be the director of ~~personnel~~ Human Resources or ~~his~~ their designee. In addition, either party may be represented by counsel. The conference shall be administrative in nature, and full opportunity will be afforded the employee to respond to the issues. At the conclusion of the conference, the employee will be advised as to when a decision will be made regarding the actions, if any, to be taken in the matter. The department ~~head~~ director shall deliver a written decision to the employee within ten (10) calendar days.

(c) *Failure to appear*. If the employee is duly notified and fails to appear for the predisciplinary conference, they ~~he~~ shall forfeit the right to such a conference.

~~(d) *Procedure for appeal to city manager*. Any permanent employee who is suspended without pay for more than ten consecutive work shifts, demoted or dismissed pursuant to this article shall have the right to appeal directly to the city manager under the grievance procedure. Such an appeal shall be requested in writing within 12 calendar days of the departmental action being appealed. All provisions of the grievance procedure regarding appeal to the city manager and the civil service board shall be applicable.~~