



City Of Deerfield Beach

Employee Personnel Rules and Regulations

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**ARTICLE I**  
**AUTHORITY, ADMINISTRATION AND DEFINITIONS**

**1.01 PURPOSE**

It is the purpose of these rules and regulations to satisfy the requirements of Section 4.05 of the City Charter, and which personnel procedures shall be maintained by the City Commission. These rules include provisions for appointment, career development, benefits, removal, discipline and related conditions of employment with the City of Deerfield Beach. These rules shall constitute the administrative guide for accomplishing the desired objectives of the City's personnel program and will outline to employees their respective responsibilities, benefits and privileges.

**1.02 CITY COMMISSION**

The City Commission has established the authority for the preparation and administration of these rules in Section 4.03 of the City Charter, which describes the powers and duties of the City Manager. The City Commission shall approve the adoption of all rules and amendments to these rules by resolution, except that the City Manager may unilaterally amend these rules if any portion thereof is invalidated, found unlawful or unenforceable by a court of competent jurisdiction or conflicts with state or federal law. In such a case, the amendatory authority shall be limited to address the conflict.

**1.03 AUTHORITY**

These rules and regulations shall govern all employees of the City, including all probationary, part-time, seasonal, temporary and government grant employees as determined by the City Manager and as outlined specifically by these rules. Volunteer workers are also obligated to abide by the various rules and regulations expressed herein.

- a. With the specific exclusion of positions established by the City Charter, offices, positions and rates of compensation shall be created and authorized by the City Manager with the approval of the City Commission.
- b. General responsibility and authority for the administration of municipal personnel practices shall be vested in the City Manager with the specific exclusion of matters and appointments reserved to the Commission as set out by the City Charter.
- c. The City has the sole discretion to modify, amend or rescind any part of these rules and regulations or any other City-issued policy at any time, with or without notice. None of the provisions should be interpreted as creating a contractual relationship or giving any employee the right to be retained as an employee or to receive any benefits.

- d. If any conflict arises between these rules and regulations and those established by the Charter and the respective ordinances, the Charter and the respective ordinances shall prevail.
- e. If any conflict arises between these rules and regulations and those established by a collective bargaining agreement covering any City employees, the applicable provision(s) of the collective bargaining agreement shall prevail.

#### 1.04 DEFINITIONS

*NOTE:* The masculine pronoun is used here and elsewhere in these rules and regulations in its generic sense to include both males and females and is in no sense intended to discriminate against or give preference to either gender.

Administrative Leave - A relief from any and all duties with pay by the City Manager.

Anniversary Date – The recurring month and day of an employee’s hire

Annual Review Date – The first day following the end of an employee’s probationary period, which is used as the start of the measurement period for annual evaluation purposes.

Bullying – Repeated behavior occurring in the course of work that impairs the ability of an employee to perform work duties, or is reasonably perceived as being so severe or objectively offensive so as to have that effect.

Classification – A group of budgeted positions sufficiently similar as to duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill and such other characteristics that the same title, the same tests and the same range of compensation may be equitably applied to each.

Classification (Job) Description – The written description of the essential characteristics of the classification and the factors and conditions that separate it from other classifications. The description is written in terms of duties, responsibilities, illustrative examples of work and the qualifications needed to perform the work.

Classification (Job) Title – The name listed in the Classification plan which most closely describes the nature of the work performed by an employee and shall be used on all personnel records and actions.

Compensatory Leave - Time off from work for non-exempt employees earned in lieu of monetary payment for time worked in excess of forty (40) hours in a workweek. Compensatory (“Comp”) time is earned at the rate of one and one-half hours for each overtime hour worked.

Continuous Service – Means employment which is uninterrupted, except for authorized leaves of absence, suspension or separation due to reduction in work force. Authorized paid leave shall be included as a part of continuous service.

Demotion – The action either voluntary or involuntary which changes the employee's classification title with the result that he is placed in a classification which has a lower pay range.

Director of Human Resources and Risk Management- An employee appointed by the City Manager as the personnel director and charged with administering the City's personnel procedures and rules.

Eligibility List – An employment list, promotional list or reemployment list.

Emergency Appointment – An employee appointed during an emergency which makes it impossible to fill a position by normal procedures. The appointment shall only be during the period of emergency.

Examination - The process of testing, evaluating or investigating the fitness and qualification of applicants and employees for positions.

Exempt Employee - Employees who are paid on a salary basis and do not qualify for overtime pay based on their job duties under the provisions of the Fair Labor Standards Act.

Good Standing - An employee leaves the City in "good standing" if he/she is laid off, resigns with the requisite notice, retires, or is dismissed/discharged without the City setting forth provable reasons for the action.

Incumbent – The permanent employee occupying a position.

Lateral Transfer – Reassignment of an employee to a different department, division, or class without changing his Pay Grade or annual review date.

Layoff – A reduction in the number of employees due to a change in or lack of work, funds or other causes not pertaining to employee performance.

Light Duty – A form of less physically or mentally demanding job duties available to eligible employees injured on the job for the purpose providing alternative work in the event they cannot perform some or all of their essential functions due to temporary physical or mental limitations. Light duty is temporary, only available on an as needed basis and limited to employees who have not reached Maximum Medical Improvement (MMI).

Merit Advancement – An increase within a pay range based on an employee's job performance and his/her evaluation.

Non-Exempt Employee – An employee who is not exempt from the FLSA and who must be paid at a rate of one and one-half (1.5) times their regular rate of pay for all hours worked in excess of forty (40) hours in a workweek.

Overtime - The time worked in excess of forty (40) hours per week by non-exempt employees. For purposes of calculating overtime, time worked includes holiday leave hours, conference leave, emergency pay and vacation/annual leave hours. All other leave hours are not considered time worked.



Part-Time Employment – Employment in a position that requires the employee to work fewer than 30 hours in a regular work week.

Pay Grade – The number assigned to a particular pay range.

Pay Plan – A document setting forth the various pay grades and their ranges. This consists of a salary schedule showing pay grades and ranges

Pay Rate – Base hourly earnings of an employee.

Performance Evaluation – A periodic report relative to the conduct and job productivity of probationary and permanent employees written by the appropriate supervisor.

Permanent Employee – A regular, full-time employee who has passed the probationary period.

Probationary Employee – All regular, new employees and newly promoted employees must serve a six-month probationary period from the effective date of their appointment or promotion. Probationary employees do not have predetermination meeting rights that permanent employees have.

Probationary Period - A time period in which a department evaluates an employee's performance and ability in order to decide whether the employee should be retained or dismissed.

Promotion – The act of advancing an employee to a higher pay grade and job classification based on favorable work performance and qualifications for the classification title.

Reclassification – The act of changing the Pay Grade of a classification based on the permanent assignment of additional duties.

Full-time Employee – A person hired to fill a budgeted position of thirty hours or more and who is eligible to receive all City benefits.

Part-time Employee – A person hired to fill a budgeted position fewer than thirty hours.

Resignation – Act of voluntarily withdrawing from City employment.

Seniority - Regular full-time employee shall have City Seniority based on the employee's first day of current continuous full-time employment with City. City Seniority shall be used for computing annual leave accrual and retirement benefits. Classification and Department seniority shall be based on the employee's first day in their classification and the department, respectively.

Suspension – A penalty of leave without pay for an employee for a disciplinary purpose.

Temporary Employee – A person hired for a special project/work of a transitory or seasonal nature or such other purpose as approved by the City Manager for a limited duration. Such an employee does not receive all City benefits, except for those mandated by law.

Termination – The act of discharging an employee from employment by the City for inefficiency, poor work performance, disciplinary matters or other related actions. Termination, discharge or dismissal may be used interchangeably to signify the same personnel action.

Unpaid Administrative Leave - A relief from any and all duties without pay by the City Manager. An employee may use accrued annual leave or compensatory time in lieu of taking unpaid leave.

Violence/Violent Behavior – Act(s) that a reasonable person would believe are intimidating or instilling fear in others.

Workday – When the City is open for business and does not normally include Saturdays, Sundays, or City-observed holidays. For employees who work a non-traditional schedule, workday or working days may have an alternative meaning.

Workweek - The time period used to measure eligibility for overtime. The workweek commences at 12:00 A.M. Saturday and ends at 11:59 P.M. Friday.

#### 1.05 ADMINISTRATION

- a. The City Manager has overall responsibility for the administration of these rules and regulations. The Department of Human Resources shall be responsible for the administration of these rules and regulations under the direction of the City Manager. The City Manager (or the City Manager’s designee) is responsible for clarification and interpretation of any of the policies and procedures herein. The City Manager may, at any time, develop procedural rules and other personnel policies. Based on the circumstances, the City Manager may waive the requirements of policy or procedure.
- b. The Department of Financial Services, under the City Manager’s direction, shall establish the accounting policies and procedures in order to provide accurate payroll calculations and to provide controls, such as time cards, payroll certifications, etc., necessary to meet fiscal and auditing compliance standards in relation to personnel pay and benefit programs.
- c. Department Directors are responsible for certifying all forms of pay, leave, attendance and absence of their respective employees. In addition, Department Directors are responsible for carrying out the fair administration of these rules and regulations in their respective departments.
- d. The Department of Human Resources shall adopt, amend and rescind standard operating procedures necessary for the administration of personnel matters which regulations shall not conflict with the City Charter or these rules and regulations.
- e. Questions that arise on the interpretation of these rules and regulations shall be determined by the City Manager as long as the interpretation does not conflict with the City Charter or stated policies of the City Commission.

- f. Department Directors may have internal rules, regulations, policies and procedures that expand on these rules and regulations as long as they do not conflict with the Charter, the City Code, this document and the standard operating procedures otherwise adopted to administer this document. These internal departmental policies shall become an extension of these personnel rules and regulations and shall be as binding as this document for the purposes of the administration of personnel rules and disciplinary procedures. In the event there is a conflict between departmental policies and those herein, the procedures herein shall prevail.
- g. In addition to the rules and procedures herein, the City Manager may promulgate additional administrative policies herein, and such policies shall be deemed to be incorporated herein as appendices when issued and distributed by the City Manager or designee.
- h. Maintenance of Personnel Files:
  - 1) The following categories of documents comprise an employee's personnel file:
    - Prehire/New Hire Documentation
    - Employee Acknowledgement Forms
    - Payroll/Compensation
    - Personnel Action Reports
    - Correspondence
    - Worker's Compensation records
    - Training records
    - Job related medical examinations
    - Employee Benefits Enrollment
    - Performance/Discipline Records
    - Records required of City departments to be kept on-site by regulatory or funding agencies
    - Other related materials as detailed in record management procedures

Documents deemed exempt and/or confidential shall not be subject to public disclosure, except as mandated by law.

## 1.06 MANAGEMENT RIGHTS

- a. The City reserves all rights, powers and authority customarily exercised by management, except as otherwise specifically delegated or modified by express provisions of applicable laws, regulations, collective bargaining agreements, and provisions of these rules and regulations. The City has the authority to determine and direct policies and methods of providing its services and unilaterally set the standards for same, without any interference in the management and conduct of the City's business on the part of any employee or labor organization.

b. These rights are not all-inclusive, but are examples of matters or rights, which belong to and are inherent to the City's management:

- 1) To determine the size and composition of its workforce;
- 2) To determine the purpose of each of its constituent departments and divisions;
- 3) To exercise control and discretion over the organization and efficiency of the operation of the City;
- 4) To set standards for services to be offered to the public;
- 5) To manage and direct the employees of the City, and to determine the number of employees to be employed by the City;
- 6) To hire, rehire, retire, examine, classify, reclassify, promote, demote, evaluate, train, transfer, assign, schedule, and retain employees in positions with the City;
- 7) To suspend, demote, discharge, or take other disciplinary action against employees;
- 8) To increase, reduce, change, modify, or alter the composition and size of the work force, including the right to relieve employees from duties because of the lack of work, funds, or other legitimate reasons;
- 9) To discontinue, transfer, or assign all or any part of its operations; to analyze workloads, job assignments, methods of operation and efficiency from time to time and to make changes based on said studies;
- 10) To determine location, methods, means, and personnel, by which operations are to be conducted, including the right to contract and subcontract existing and future work;
- 11) To determine the number and type of equipment, vehicles, machinery, materials, products and supplies to be used, operated or distributed;
- 12) To establish, change, or modify the number, types, and grades of positions or employees assigned to an organization, unit, department, or project; and
- 13) To establish, change, or modify duties, tasks, responsibilities, or requirements within job descriptions in the interest of efficiency, economy, technological change, or operating requirements. The City's failure to exercise any function or right hereby reserved to it, retained by it, or enumerated herein, or its exercising any function or right in a particular way, shall not be deemed a waiver of its rights or exercise of such function or right, nor preclude the City from exercising the same in some other way

not in conflict with the express provisions of any individual employment agreement or collective bargaining agreement.

## 1.07 GENERAL PROVISIONS

- a. Ethical Guidelines: All employees must avoid any conflict between their personal interests and those of the City. No employee should have, or appear to have, personal interests or relationships that conflict with the employee's faithful performance of their official duties or conflict with the best interests of the City. An exhaustive list of such situations is not possible, but employees should generally avoid:
- 1) using property owned by the City for personal benefit, convenience, profit or for any purpose except for official job-related functions or as otherwise permitted by departmental policy or the City Manager;
  - 2) soliciting or accepting anything of value, including a gift, loan, reward, promise of future employment, favor, or service from organizations, business concerns, or individuals with whom the employee has official city business relationships. These limitations are not intended to prohibit the acceptance of items of negligible value which are distributed generally, nor to prohibit employees from accepting social courtesies which promote good public relations, nor to prohibit employees from obtaining loans from regular lending institutions. It is particularly important that employees that engage in enforcement guard against relationships which might be construed as evidence of favoritism, coercion, unfair advantage, or collusion;
  - 3) having an interest, financial or otherwise, direct or indirect, or engaging in any business or activity or incurring any obligation that is in substantial conflict with the proper discharge of duties;
  - 4) realizing personal gain by conduct inconsistent with proper discharge of duties;
  - 5) use of the City's logo or any other symbol for non-official City business without approval of the City Manager;
  - 6) being employed (including as a consultant) or serving on the board of any organization which does, or is seeking to do, business with the City;
  - 7) making decisions such as referring City business to, approving City charges, selecting or authorizing City work for any entities or individuals providing services to the City if the employee is employed by those entities or individuals;
  - 8) using information for personal benefit gained by virtue of City employment that is not generally known to the public;

Employees should confer with their Department Directors or their designee if they are unclear as to what activities are prohibited. City employees are governed by the standards of conduct and code of ethics set forth in Florida Statutes, the City's Ethics Policy and Procedures Guide and the City's Procurement Code. Copies of the applicable policy, local laws and statutes are available in the Department of Human Resources. The applicable policy, laws and statutes include, but are not limited to:

- City Ethics Policy and Procedures Guide
- Chapter 112, Part III, Florida Statutes: Code of Ethics for Public Officers and Employees;
- Section 104.31, Florida Statutes, Political Activities of State, County, and Municipal Officers and Employees;
- Chapter 112, Florida Statutes: Public Officers and Employees;
- Article VIII of the City Charter;
- Section 2-511 of the City Code related to CDBG, HOME and SHIP funds administration; and
- Section 38-128, Ethics in procurement

- b. Outside Employment: All full-time employees are discouraged but not restricted from engaging in other employment during their off-duty hours. However, City employment shall be considered the primary employment for full-time employees and no City employee (full-time or part time) may engage in outside employment which would interfere or cause a conflict of interest with the City job. Equipment, facilities, vehicles or property of the City shall not be used by employees for any reason other than City business. Notice of Outside Employment shall be given and approved by the Department Director and City Manager, and a copy filed with the Department of Human Resources. Directors, managerial staff and equivalent personnel shall request permission for outside employment from the City Manager.
- c. Nepotism Restrictions: No person may be appointed, employed, promoted or advanced to a position in the City over which a relative exercises direct supervision. Exceptions to this policy may be approved only by the express prior approval of the City Manager. Such approval will be given only upon submission of a satisfactory analysis as to the unique qualifications of a relative for the position in question.

If a prohibited relationship among relatives is established after employment (e.g., two employees marry), the City may require that the employees choose which one of them transfers. In the event that no such transfer is possible, or if such a transfer is not accepted by the City or the employees, and if neither employee will resign, the City may terminate the employment of one of the relative-employees. In that circumstance, it shall be within the sole discretion of the City to determine which employee to terminate.

For purposes of nepotism, “relative” as used herein means an individual who is related by blood, marriage or adoption as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother or half-sister.

- d. Fraternization Restriction: Though the City respects the rights of its employees to conduct their personal lives as they wish, workplace romantic relationships can create a conflict of interest (actual or perceived) or adversely affect work performance and employee morale, create concerns of favoritism, and potentially result in claims of harassment. The City therefore prohibits employees who have a romantic relationship to supervise (directly or indirectly) the other or to work in a position that has an audit or investigation function over the other.

If a romantic relationship develops between a supervisor/manager and an employee, the supervisor/manager shall promptly disclose the existence of the relationship to the City’s Human Resources Director. The employee may make the disclosure as well, but the obligation of doing so rests with the supervisor/manager. The City will take action so that the employee will no longer be in a reporting relationship (direct or indirect) with the supervisor/manager. To do so, the City may require that the employees propose which one of them will transfer positions or departments.

In the event that no such transfer is possible, or if such a transfer is not accepted by the City or the employees, and if neither employee will resign, the City may terminate the employment of one of the employees. In that circumstance, it shall be within the sole discretion of the City to determine which employee to terminate.

For purposes of this section, a “romantic relationship” includes dating, sexual relationships, domestic partnerships, and employees who share the same household as a couple.

- e. Equal Opportunity and Non-Discrimination: There shall be no discrimination exercised based on race/ethnicity, color, sex, age, national origin, religion, sexual orientation, military status, genetic information, political opinions or affiliations or disability with respect to the recruiting and examination of applicants, or in any personnel transactions affecting employees; including training, promotion and disciplinary actions. The Department of Human Resources shall see that information about job opportunities is readily available to all people and a continuing program shall be conducted to make the equal employment policies known to all potential employees.
- f. Anti-Retaliation: Anyone who engages in retaliation against an employee who has, in good faith, reported a violation or suspected violation of the laws or the City’s policies outlined herein which are based on those laws, whether or not one agrees with the facts reported, is subject to disciplinary action up to, and including,

termination. Should any employee experience a situation they believe to be retaliatory in nature, he/she should report the matter immediately to Human Resources or the City Manager

- g. Remote Work: The City Manager, in his sole discretion, may authorize a temporary or long term remote working arrangement for employees, subject to the terms and conditions of a formalized policy.
- h. Compliance with Pubic Records Law: The Public Records Act, codified in Chapter 119, Florida Statutes, entitles any individual access to City public records. Public records are defined in Section 119.011(12), Fla. Stat. as follows:

“Public records” means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

Florida courts have interpreted public records to include any materials made or received by the City in connection with official City business and used to perpetuate, communicate or formalize knowledge of some type. Examples of materials include papers, electronic files, photographs, videos, text messages, and audio. If these materials are made or received by City employees, have a connection to City business, and were intended to communicate or formalize knowledge, any person may inspect or receive a copy of these materials, unless there is a specific statutory exemption providing otherwise.

Employee Obligations: An employee who receives a verbal or written request for public records directly from a requestor shall forward the request to the City Clerk’s Office and comply with the City’s Public Records Requests Policy and Procedure 3.05

City employees are required to store public records in their control in a manner such that they can be accessed. This may include the creation of a filing system (physical and digital). As such, **City employees must not destroy public records unless it is done so in accordance with applicable law, including the State’s applicable record retention schedule.**

Exemptions: Certain information has been deemed exempt from public inspection or otherwise confidential pursuant to Florida law. Employees who believe the responsive records they compile may contain information that is exempt or confidential shall notify the Clerk’s Office prior to or at the time of providing the public records to the Clerk’s Office for a response.

Violations: Florida law provides that a “knowing” violation of the Public Records Act is a criminal offense. All other violations are noncriminal, but punishable by fines. A



violation of this policy may subject employees to discipline up to and including termination.

- i. Prohibited items on City Property: The following items are prohibited on City property (including parking areas and in City vehicles): all types of firearms (see “NOTE” below), dangerous chemicals, explosives (including blasting caps), chains, brass knuckles, or other items carried or used for the purpose of injuring or intimidating others.

*NOTE:* Nothing in this policy is intended to prohibit an employee from possessing any legally owned firearm if the firearm is locked inside a private motor vehicle in a parking lot and when the employee is lawfully in such areas. In addition, the City will not terminate or otherwise discriminate against an employee who exhibits a firearm on the City’s premises for a lawful defensive purpose.

- j. Notice of Privacy Practices: The City respects the privacy of personal information and understands the importance of keeping this information confidential and secure. The City protects the confidentiality of the personal information we receive pursuant to applicable Federal and State laws. Our practices apply to current and former employees and complies with the “Protected Health Information” (PHI) HIPAA disclosure requirements. The term “Protected Health Information” (PHI) includes all individually identifiable health information transmitted or maintained by the Plan, regardless of form (oral, written, electronic). Non-authorized disclosure of PHI will be subject to disciplinary action up to and including dismissal. The City is committed to maintaining compliance with HIPAA regulations and all related provisions of federal and state law, as it may be amended from time to time, shall apply.

The City of Deerfield Beach’s Group Health Plan is required by law to take reasonable steps to ensure the privacy of the personally identifiable health information of employees, retirees, and dependents covered by the City’s group health plan, and to provide information about:

- a. the Plan’s uses and disclosures of Protected Health Information (PHI);
- b. privacy rights with respect to PHI;
- c. the Plan’s duties with respect to PHI;
- d. the right to file a complaint with the Plan and the Secretary of the U.S. Department of Health and Human Services; and
- e. the person or office to contact for further information about the Plan’s privacy practices.

**ARTICLE II**  
**PAY AND CLASSIFICATION PLAN**

**2.01 PAY AND CLASSIFICATION PLAN ADMINISTRATION**

The City Manager shall be responsible for, but may delegate, the administration of the Pay and Classification Plans to the Director of Human Resources and Risk Management. This includes, but is not limited to, the processing of salary advancements and promotions, determination of proper salary rates within existing ordinances and budgetary provisions and a periodic review of the Plans to insure the City's salary rates are competitive with comparable positions in other municipalities and agencies. This review shall use appropriate procedures deemed proper by the City Manager.

In the interest of efficient and responsive management, the City Manager may approve individual reclassifications and salary adjustments during the budget year if the following conditions are met:

- a. The reclassification or salary adjustment is within the budget allocation of the salary accounts affected.
- b. The adjustment is to correct an inequity in job duties versus pay rate or improves the organizational efficiency of the particular budget unit.
- c. The action is not otherwise under the purview of the City Commission relative to the budget process.

These conditions must be certified as existing before the reclassification or salary adjustment is made.

The City Manager or designee shall implement the necessary standard operating procedures to insure proper administration of the Pay and Classification Plans. Questions of interpretation of the standard operating procedures shall rest finally with the City Manager. The standard operating procedures and their interpretation shall not conflict with these Personnel Rules and Regulations, collective bargaining agreements or any existing City ordinances.

The purpose of the Pay and Classification Plans is to provide an orderly inventory and appraisal of positions so that the following ends may be attained:

- a. Equality of pay on the basis of substantially similar duties and responsibilities.
- b. Proper pay differences between positions which differ materially in duties and responsibilities.
- c. Improved recruiting through appropriate definitions of positions and the establishment of reasonable standards of fitness for entrance to or promotion within the service.

- d. Orderly control of personnel changes affecting employees, such as transfers, promotions, demotions, leave of absence and other personnel status changes.

## 2.02 THE CLASSIFICATION PLAN

- a. Content and Use: The Classification Plan shall group positions into classes on the basis of approximately equal difficulty and responsibility which require the same general qualifications and can be equitably compensated within the same range of pay. The Classification Plan and the resulting job classifications listed will be used as a basis for promotion, determining qualifications, developing employee training programs, uniform terminology of jobs and preparation of examinations.
- b. Job Classifications Interpreted: The job classifications or specifications for the various classes of positions in the City shall have the following force and effect:
  - 1) They are descriptive and explanatory and are not restrictive. The use of a particular expression or illustration as to duties, qualifications or attributes shall not be held to exclude others not mentioned if such others are similar in substance.
  - 2) In determining the classification or allocation of a given position, the specifications shall be considered as a whole. Consideration shall be given to the general duties, specific examples, responsibilities, desirable entrance qualifications and relationship to other classes as according to an inclusive picture of the employment the class is intended to embrace.
  - 3) The statement of duties is not intended to prescribe what specific duties shall attach to a given position nor to limit the discretion of the department director to modify or alter detailed tasks involved in the duties of any position. When a substantial change in duties is made, except for a temporary period or by the addition of duties which are incidental to the main employment, such changes shall be reported to the Department of Human Resources. The fact that the actual tasks performed do not appear in the specifications shall not imply that the position is necessarily excluded from the class, provided that the tasks constituting the main work are duly covered.

Similarly, examples cited as statements of typical duties and qualifications required shall not be construed as finally determining whether a position shall be included within the classification.

- c. Implementation: All positions shall be included among the classification divisions in the classification plan and periodic reviews of all classes shall be made.
- d. Position Audit Procedure: The Department of Human Resources shall be responsible for initiating position audits of any positions at any time. In addition, if a Department Director has facts which indicate that a position or positions in

the department or division are improperly allocated or classified, the supervisor may request the Department of Human Resources to review the classification of the position. Final determination on questions of allocation shall be made by the City Manager upon recommendation from the Department of Human Resources within the budget constraints of that department. The Department of Human Resources may propose new or revised classes of work as well as the abolition of existing or obsolete classes. Position information will be gained through job analysis of the position with the employee(s) occupying the position, the supervisor of the position and by the Department of Human Resources.

### 2.03 THE PAY PLANS

- a. Content and Use: The Pay Plans shall provide the basis for compensation for employees. They consist of salary schedules showing pay grades and the assignment of each job classification to a grade in the salary schedule.
- b. Salary Adjustments: Salary increases and decreases within the established range shall be dependent upon recommendation of the Department Director and the Director of Human Resources and Risk Management with approval of the City Manager. The City Manager must approve all salary increases. No salary increases shall be granted above the maximum rate fixed for the classification concerned and no decreases shall be below the minimum rate fixed to the classification concerned.
  - 1) Promotion Salary Rate: In any case where an employee is promoted to a higher grade, and job classification, the starting rate shall be a minimum of 5% over the salary received prior to the promotion or an amount not to exceed the maximum of the pay grade for which the employee is promoted in accordance with the Pay Plan grades. The recommendation of the Department Director (if applicable) and approval of the City Manager will be required if the amount exceeds the 5% minimum increase. A promotion does change an employee's annual review date for pay purposes, which is six (6) months following a promotional probationary period.
  - 2) Demotion Salary Rate: In any case where a bargaining unit employee is demoted to a lower pay grade and job classification, the demoted employee's salary shall be based on the pay grade of the new position, but equivalent to the same percentile for which the employee is in the current pay grade. (e.g., an employee being paid at the 30th percentile in pay grade E12 is demoted to an E10 position. In such case, the employee will be paid at the 30th percentile for pay grade. For demotions into a non-bargaining unit position, the demoted employee's rate of pay shall be determined by the applicable Department Director and the Department of Human Resources.
  - 3) Reclassification or Reallocation Upward: An employee whose position is reclassified to a higher classification or pay grade may receive a minimum of 5% over the salary received prior to the reclassification provided that

such salary increase is in the best interests of the City as determined by the City Manager. The recommendation of the Department Director (if applicable) and approval of the City Manager will be required if the amount exceeds the 5% minimum increase. A reclassification upward does not change an employee's annual review date for pay purposes.

- 4) Reclassification or Reallocation Downward: An employee whose position is reclassified to a lower classification and pay grade shall be permitted to continue at the present rate of pay and receive merit increases to the maximum of the lower grade. A reclassification does not change an employee's annual review date for pay purposes.
- 5) Merit Advancement: In any case where an employee receives at least a satisfactory performance evaluation based on their job performance, their salary may be increased within the pay range in accordance with the City's Pay and Classification Plan standard operating procedures. Larger merit increases may be provided to an employee who receives an above satisfactory performance evaluation. Merit increases will not be provided to employees who receive a below satisfactory performance evaluation, but will instead be required to participate in a Performance Improvement Plan.
- 6) Probationary Adjustment: full-time employees who successfully complete the initial orientation period from date-of-hire may be eligible for an adjustment based on performance.
- 7) Salary Adjustment: an employee's salary may be increased or decreased for other valid business-related reasons upon the recommendation of the Department Director and the Director of Human Resources and Risk Management with approval of the City Manager, provided the resulting salary is within the established range.

c. Longevity Allowances:

- 1) Longevity Schedule pre-July 15, 2010: The following longevity allowances shall be awarded to regular, full-time employees hired prior to July 15, 2010 who were eligible for a longevity allowance as of that date. Longevity allowances shall be awarded in the following manner as long as the stipulations stated above have been complied with:

After completion of 5 years' continuous service - 2% of annual salary.  
After completion of 10 years' continuous service - 4% of annual salary.  
After completion of 15 years' continuous service - 6% of annual salary.  
After completion of 20 years' continuous service - 8% of annual salary.  
After completion of 25 years' continuous service -10% of annual salary (minimum of \$1,000).

These longevity allowances shall be paid to the employee by adding same to the regular paycheck of the employee.

2) Longevity Freeze: Longevity allowances provided for in Section 1 above shall be frozen effective with the first day of the first full pay period beginning after July 15, 2010, which date shall be known as the "freeze date." Regular, full-time employees not receiving a longevity allowance pursuant to Section 1 above as of the "freeze date" shall not receive a longevity allowance pursuant to Section 1 above, but only pursuant to Section 3 *below*. Employees receiving a longevity allowance pursuant to Section 1 above as of the "freeze date" shall continue to receive the same longevity allowance until such time as the longevity allowance to which the employee would be entitled under Section 3 below exceeds the employee's longevity allowance under Section 1 above. Effective with the first full pay period beginning on or after the date on which the employee's entitlement to longevity benefits under Section 3 below exceeds the employee's longevity allowance under Section 1 above, the employee shall begin to receive the longevity allowance provided for in Section 3 *below*.

3) Longevity Schedule post 7/15/10: The City longevity plan for all regular, full-time employees hired on or after July 15, 2010, shall be as follows:

- After completion of 10 years of service - \$1,200 annually.
- After completion of 15 years of service - \$1,800 annually.
- After completion of 20 years of service – \$2,400 annually.
- After completion of 25 years of service - \$3,000 annually.

These longevity allowances shall be paid by the City by adding same to the regular weekly or biweekly pay of the employee.

d. Acting or Temporary Assignments: All acting or temporary assignments involving duties and responsibilities of a different classification or different pay grade than the employee's regular classification shall be approved by the City Manager before becoming effective. An employee who is temporarily assigned the duties and responsibilities of a classification shall be compensated at a rate commensurate with the additional responsibilities assumed after serving at least two weeks in the temporary assignment. However, any employee assigned to temporarily fill a vacancy (i.e. an unfilled position) shall receive an increase in pay on the first day. For non-bargaining unit employees, the amount of the temporary adjustment may be independently established by the City Manager.

In no case shall the temporary adjustment be less than 5%. At the conclusion of the assignment, the employee's pay shall revert to the authorized rate established for the regular classification. Any such temporary increase granted shall not affect the employee's eligibility for normal merit advancements on the annual review date.

- e. Pay Period, Hours of Work and Overtime: All pay will be based on the existing work week in accordance with the Fair Labor Standards Act. The City Manager shall establish the business hours of all departments, and the work days of employees shall be governed by departmental rules and regulations implementing such business hours.

Employee pay represents the full amount of earnings each pay period, minus the appropriate required federal deductions, such as federal withholding (income tax), social security, and Medicare taxes. The City deposits this deducted amount with the U.S. Treasury for credit on employee income tax calculations at the end of the year. Employees are responsible for completing a W-4 form properly and updating it when necessary. The City will provide Form W-2 showing total earnings for the year and the amount of taxes that have been withheld. Employees eligible to carry City benefits will have payments for these items deducted from their pay based on the completed benefit enrollment form.

Overtime pay may be given only for authorized or directed overtime subject to budget limitations and approval of the Department Director or their designee. The choice of whether to grant overtime payments or compensatory time rests solely with management and depends on the most efficient and economical delivery of services. Authorized and approved overtime shall be at the rate of one- and one-half times the employee's regular wage rate. An employee eligible for overtime may be granted compensatory time off, in lieu of overtime payments, at the rate of one and half hours off work for each hour of overtime. This policy in no way restricts Department Directors or their designee for rescheduling work hours prior to overtime being necessary in order to meet additional workloads. Compensatory time shall be capped at eighty (80) hours. Compensatory time shall be cashed out in advance of any change in an employee's hourly rate of pay, or upon an employee's separation from service.

Paid Holiday hours, Vacation/Annual Leave and Conference Leave hours shall be added to actual hours worked to determine hours worked for the purpose of calculating overtime. All other hours taken as leave with or without pay shall not be counted as hours worked.

The Pay and Classification Plans shall indicate classifications which are not eligible for overtime pay (i.e., exempt employees). Employees in such classifications are expected to work the necessary number of hours to complete their job assignments and provide competent supervision and may adjust their schedules with permission of the appropriate Department Director (or their designee) or the City Manager depending on the "management" level of the employee.

- f. Budget Limitations: All actions concerned with the payment of salaries in accordance with these Personnel Rules and Regulations are to be governed and limited by the availability of budgeted funds. The City Manager shall be authorized to limit the filling of vacancies in order to reduce expenditures when necessary.

- g. Rest and Meal Periods for Non-Exempt Employees: The City provides non-exempt full-time employees with an unpaid meal period, and provides some non-exempt part-time employees with an unpaid meal period. Non-exempt employees are not permitted to perform work during their meal period.

Rest periods are paid breaks. The City permits non-exempt employees to take reasonable rest periods during the workday as permitted by the employee's work duties and as approved by the department. Employees are expected to be punctual in starting and ending their breaks and may be subject to corrective action.

- h. Nursing Breaks: Breastfeeding mothers are provided a reasonable break time to express breast milk for her nursing child for up to one (1) year after the child's birth based on the following:

1. Milk Expression Breaks:

- i. Employees will be granted a reasonable break time during work hours to express breast milk.
- ii. For employees who are granted regular rest periods, they may use these breaks for milk expression.
- iii. Employees may use the time allotted for their lunch break to express milk or request that the time allotted for their lunch break be "flexed." Alternatively, employees may make up the missed time as negotiated with their immediate supervisor.

2. Private Room to Express Milk:

- Employees will have access to a private room to express milk.
- Employees with their own office may express milk there upon supervisor approval.
- Nursing rooms will be equipped with adequate privacy safeguards (e.g., window shades, door locks) and electrical outlets.
- The nursing room will be conveniently located near a functional sink for washing breast pump equipment, to the extent practicable.
- Employees must clean the area where expressing milk occurs using anti-bacterial wipes for the next user.

3. Milk Storage

- Employees may be allowed to store expressed milk in the City's refrigerator(s) used by employees, provided the milk is stored in a personal cooler/storage container.



- Expressed milk left in a common refrigerator must be conspicuously labelled.

#### 4. Communication

- Employees must provide notice to their supervisor of the need to express breast milk if outside of their normal break/lunch time.
- Employees must inform supervisors of their needs so that appropriate accommodations can be made to satisfy the needs of the employee and the City.

#### i. Exempt Employee Salary and Prohibitions

- 1) Employees classified as exempt employees will receive a salary which is intended to compensate them for all hours they may work. This salary will be established at the time of hire or when the employee becomes classified as exempt. The salary will be a predetermined amount that will not be subject to deductions for variations in the quantity or quality of the work the exempt employee performs.
- 2) Subject to exceptions listed below, an exempt employee must receive the full salary for any workweek in which the employee performs any work, regardless of the number of days or hours worked. Exempt employees do not need to be paid for any workweek in which they perform no work.
- 3) Exceptions: unless state law requires otherwise, an exempt employee's salary can be reduced for the following reasons:
  - Full-day absences for personal reasons;
  - Full-day absences for sickness or disability;
  - Full-day disciplinary suspensions for infractions of the Manual;
  - FMLA absences;
  - To offset amounts received as payment for jury and witness fees or military pay;
  - The first or last week of employment in the event the employee works less than a full week; or,
  - Any full workweek in which the employee does not perform any work.

However, an exempt employee's leave bank may be deducted when such employee is absent for reasons justifying the use of accrued vacation or sick leave in accordance with

these rules and regulations.

- 4) In the event of abuse of the City's leave policy, which shall be defined as regularly reporting to work after the start of the workday or leaving prior to the end of business, employees shall be disciplined as set forth in Article IX.
- 5) If an employee believes that an improper deduction has been made to their salary, the employee should immediately report this information to their direct supervisor. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, the employee will be reimbursed for any improper deduction made.

j. Pay Rate for New Hires

- 1) In order to successfully recruit the most qualified applicant for employment, the City may recognize comparable experience in determining starting pay, provided the amount does not exceed the maximum pay range for the position.
- 2) Starting pay for employees shall be determined by the Department Director or their designee's discretion or City Manager's discretion in the case of Department Directors, except as may be set forth in collective bargaining agreements.

**ARTICLE III**  
**APPLICATIONS AND EXAMINATIONS**

**3.01 POSITION AND EXAMINATION ANNOUNCEMENTS**

Position and examination announcements shall be publicized and, when applicable, by advertisement in appropriate publications and, finally, by posting such announcements in public places. Announcements shall specify the classification title, salary range, the time, place and manner of making application, basic qualifications, including those required for admission to the written and/or oral tests and any other pertinent information. When determined to be operationally necessary and efficient, non-bargaining unit positions will be posted for a period to be determined by the requesting Department, in consultation with the Department of Human Resources. Any requests to fill a position without posting must be approved by the Director of Human Resources and Risk Management, with final approval by the City Manager. Notwithstanding any provision to the contrary, a non-bargaining unit position may be filled in any manner the City Manager deems suitable, provided the decision is merit-based and the applicant is qualified.

**3.02 FILING OF APPLICATIONS**

All applicants for appointment or promotion shall file a written or online application and, when required, on a form prescribed by the Department of Human Resources. Any application not completely filled out may be rejected by the Department of Human Resources.

The applicable Department, in consultation with the Department of Human Resources (if needed), shall initially screen all applications to qualify/disqualify and sort applications by level of qualifications. A recruitment panel established and approved by the Department of Human Resources interviews and rates applicants for vacant positions. If, after the completion of the interview and evaluation process, the applicable decision-maker determines that none of the applicants are sufficiently qualified for the position, the position may be filled in any suitable alternative manner as approved by the City Manager.

A background check shall be conducted for all selected external applicants and City employees, which may include but is not limited to verification of employment history, education, certification and professional license verification; requesting a Motor Vehicle Report and reviewing criminal history. The City's background check guidelines for those with a criminal history will be followed as set forth in the City's Standard Operating Procedure – Background Check Guidelines (Criminal History). After interviewing and selecting an applicant, the offer letter will be sent to the applicant stating that the offer is conditioned upon the applicant successfully completing pre-employment screening.

**3.03 REJECTION OF APPLICATION**

The City may reject an application, for failure to meet minimum qualifications as stated on the job posting, failure to complete the application form or for other cause, as soon as possible after such application is filed and checked. Whenever an application is rejected, the applicant shall have an opportunity to show why the application should not be rejected

upon written request. Falsification or omission of requested information on the application and/or any supporting documents may result in disqualification or termination (if discovered post-hire). Applicants who falsify or omit information will also be disqualified from applying for other City positions for a one (1) year period.

### 3.04 GENERAL PROVISIONS

- a. Veteran's Preference: Preference in hiring, promotional opportunities and layoff retention shall be given to veterans in accordance with the provisions of Chapter 295, Florida Statutes. If the selection process is based on a numerically based formula, veteran preference eligible employees who passed the initial screening shall receive an augmented score. If the selection process is not based on a numerical based formula, special consideration shall be given in accordance with law.

Employees must submit current documentation substantiating Veterans' Preference status to receive a preference. A DD-214 or comparable document which serves as a certificate of release or discharge claim must be furnished.

- b. Medical Examinations: All applicants for positions in the City may be required to undergo a medical examination to determine mental and physical fitness to perform the duties of the classification for which appointment has been offered. All applicants who fail to pass their initial physical examination shall be declared ineligible for hire.

During their period of employment, employees may be required to undergo periodic medical examinations to determine their physical and mental capacity to perform the work required of their position. Such exams shall be at the expense of the City and performed by a doctor designated by the City. Employees who fail to pass periodic physical examinations due to deficiencies which interfere with their ability to perform their assigned duties shall be subject to review by the City. Refusal to be examined by a City authorized physician when so directed by a Department Director or their designee shall be cause for disciplinary action.

- c. Age Requirements: Except for special employment programs, no person under eighteen (18) years of age shall be employed in any regular, full-time position. The requirement stated above is subject to change only when in conflict with state and federal laws governing age discrimination.
- d. Immigration Control and I-9: Each new employee must provide documentation to verify both identity and authorization to work in the United States and to complete the I-9 form. If an employee cannot provide these required documents, they may be either dismissed or suspended until the required documents are produced. Both the employee and the City representative will sign the I-9 form certifying that the documents are valid. Information may be shared with the Social Security Administration and the Department of Homeland Security from each new employee's Form I-9 to confirm work authorization.

**ARTICLE IV**  
**ELIGIBILITY, CERTIFICATION, APPOINTMENTS AND PROBATION**

**4.01 ELIGIBILITY AND CERTIFICATION**

Whenever a budgeted vacancy is to be filled other than by transfer, demotion or promotion, the Department Director shall make a request to the Department of Human Resources on the form and in the manner prescribed.

The Department of Human Resources will review and verify the requisition form, as well as the position's minimum requirements.

**4.02 PROBATION**

The probationary period shall be regarded as an integral part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment and training for a new employee and for rejecting any employee whose performance or conduct is not satisfactory. It shall be incumbent upon Department Directors or their designee to screen employees during the probationary period to insure only those employees performing satisfactorily become permanent, regular employees.

The probationary period is six (6) continuous months for all employees. The City Manager may extend the probationary period for up to six (6) additional months under limited circumstances. During this period, employees shall be subject to demotion, dismissal, suspension, or other disciplinary action without prior notice or the filing of specific charges.

A probationary period shall be used in connection with promotions in the same manner as a probationary period is used for original entrance appointments. The promotional probationary period shall be for the same purpose, cover the same period of time and be governed by the same rules as the entrance probationary period.

All positions filled as a result of a promotion shall be filled subject to the promoted employee's ability to pass the promotional probationary period.

Appointment to permanent status is not automatic upon the expiration of the probationary period. In order to obtain an appointment to permanent status, the new employee must have received a completed satisfactory performance evaluation. Accordingly, prior to the expiration of an employee's probationary period, the Department Director or their designee shall notify the Director of Human Resources and Risk Management in writing whether or not the employee has performed satisfactorily during the probationary period and recommend the appropriate action to be taken.

**4.03 OATH OF OFFICE**

All employees shall subscribe to an oath of office as a condition of employment.

**ARTICLE V**  
**PROMOTIONS, TRANSFERS AND DEMOTIONS**

**5.01 PROMOTIONS**

The movement of an employee involving the change from a position in one classification to a position in another classification for which the maximum rate of compensation is higher, shall be considered a promotion and shall only be made as a result of tests, evaluation of job qualifications, background screenings or other standards showing the employee is qualified for the higher classification. All promotions shall be approved by the City Manager.

**5.02 LATERAL TRANSFERS**

Lateral transfers, which do not include a change in classification or title or change to an employee's pay rate or annual review date may be accomplished in two methods:

- a. Within Same Budget Account: A Department Director, with the approval of the Department of Human Resources, may transfer an employee from one position to another with the same title in the same budget account.
- b. Between Budget Accounts or Departments: A transfer between budget accounts or between departments shall have approval of the City Manager and the Department Directors concerned. Requests for such transfers shall show how the employee(s) concerned meet the qualification requirements of the class to which the transfer is proposed and shall be in the budget allocation of the salary accounts affected.
- c. In no case shall a transfer infringe on the contractual rights of other bargaining unit employees unless otherwise approved by the applicable bargaining agent.

**5.03 DEMOTIONS**

The movement of an employee from one classification to another classification for which the maximum rate of compensation is lower shall be considered a demotion.

- a. Involuntary Demotion: A Department Director, with the approval of the City Manager, may demote an employee whose ability to perform his/her duties falls below accepted standards for the position or for disciplinary purposes. A demotion shall be limited to placement in a vacant position, provided such decision does not infringe on the employment rights of other employees (e.g., the vacant position is also a promotional opportunity for a bargaining unit employee). No employee shall be demoted to a position for which he does not possess the minimum qualifications.
- b. Voluntary Demotion: An employee, with the approval of the Department Director and the City Manager, may voluntarily request a demotion to a job classification for which the employee is qualified. Such demotion may be granted provided a vacancy exists in the requested job classification. A

voluntary demotion shall not take effect earlier than ten (10) working days from the request.

**ARTICLE VI**  
**SEPARATIONS**

**6.01 RESIGNATIONS**

Any employee wishing to leave the City in good standing shall file with the Department Director at least fourteen (14) calendar days before leaving, a written or verbal resignation stating the date and time the resignation shall become effective and the reason for leaving. Failure to comply with these procedures may be the cause for separation not in good standing, forfeiture of accrued leave payout and denying the person future employment with the City. Department Directors or their designee shall forward all resignations immediately to the Department of Human Resources. The Department Director, with the approval of the Department of Human Resources, may exempt an employee from giving the required notice, if, in the Department Director's judgment, circumstances warrant such exemption. Failure to give notice may result in a notation in the employee's personnel file that the separation was not in good standing.

**6.02 REDUCTION IN FORCE OR LAY-OFFS**

The City shall have the right to vacate, abolish or discontinue a particular position(s) in its sole discretion.

Procedures for lay-offs for all departments shall be governed by the following rules of procedure (except that bargaining unit members shall be governed by the collective bargaining agreement):

- a. After study, the City Manager may decide whether only the employees of the affected department concerned shall be considered in making such a lay-off or whether, and to what extent, the City as a whole shall be considered.
- b. Employees shall be laid off in the following order: (1) Probationary employees and (2) Permanent employees.
- c. Notifications of lay-off shall indicate the date such lay-off becomes effective and such notification shall precede that date by at least fourteen (14) calendar days for full-time, non-probationary employees.

Permanent employees shall be laid off on the basis of the following order:

- 1) Length of service in a class, which is the amount of time the employee has been in the classification he/she occupies at the time of the reduction-in-force. In the event of a tie in classification, then subsection (2) below shall control.
- 2) Length of service with the City, which is the amount of time the employee has continuous service with the City since the employee's last date of hire.



For layoffs involving non-bargaining unit Classifications, other legitimate factors may be used.

- a. When a permanent employee is scheduled for lay-off, the employee may be offered a transfer or reallocated downward as long as the employee in question is fully qualified for the position and the offer does not violate the rights of other employees.
- b. Employees who are veteran preference-eligible, as determined by Florida Statutes, shall receive a retention preference.

### 6.03 TERMINATIONS (DISCHARGE)

- a. The City may terminate an employee's employment for poor work attitude, for a disciplinary purpose or other valid reason (outlined in Article IX), and Department Directors shall be responsible for providing adequate documentation of the causes. In unusual circumstances, the City Manager may authorize severance pay for a resignation or termination, provided the employee executes a release.
- b. Steps for Suspension (of ten (10) days or more), Demotion or Discharge of Non-Probationary Employee:
  - 1) Prior to action, Department Director informs employee of recommendation and reason for action in writing. The written statement shall include:
    - Rule violations forming the basis for this recommendation;
    - Facts related to the rule violation;
    - Notification to the employee that he/she has five (5) working days within which to submit his/her written response to charges and/or meet with the City Manager;
    - Notification to the employee that he/she shall be given an opportunity for a Predetermination Meeting before the City Manager; and
    - At such meeting, the employee may present any evidence or facts relative to the circumstances of his/her termination. The employee shall not have the opportunity to grieve or appeal the action taken in the Predetermination Meeting.
  - 2) If the employee does not request such hearing within five working days, the employee's rights to protest the disciplinary action shall be considered waived.

#### 6.04 RETIREMENT

Eligible retired employees, at the time of their retirement from the City, are eligible to continue health insurance benefits, subject to payment of any applicable premiums.

Eligibility for retiree health insurance will be effective upon the first day of the next month following termination of City employment for any employee who is at least age 55, with at least ten (10) years of service.

Retired employees under the age of 65 will pay the subsidized active employee rate for individual (i.e., single) coverage. However, the cost of any dependent coverage will be unsubsidized, which will require the retiree to pay the full cost for enrolled dependents. Upon becoming eligible for Medicare, Medicaid, or TEFRA, the City will discontinue any and all subsidized health coverage for retirees.

*NOTE:* alternative subsidization rates for retiree health insurance may apply to bargaining unit members therefore applicable collective bargaining agreement shall prevail.

Retiree health insurance will also be offered to any employee who has worked full-time for the City for at least ten (10) years and is collecting long-term disability payments from a City pension plan or through a City owned insurance policy but is not eligible to retire and collect retirement income. Retiree health insurance will discontinue if said individual is no longer in long-term disability status and is not yet eligible to retire and collect retirement income.

Should a premium payment be more than sixty (60) days in arrears, the retiree's group coverage will be automatically terminated by the City.

#### 6.05 REEMPLOYMENT OF RETIRED EMPLOYEE

Retired employees who left the City in good standing are eligible to be rehired for a vacant position for which they are qualified.

Retired employees who are rehired will not be required to serve an initial orientation period if they return to the City to the same position within one (1) year of their retirement.

Retired employees who are rehired within one (1) year of retirement shall be reinstated for the purpose of retirement benefits. Rehired retirees shall otherwise be treated as new hires, except that on limited occasions the City Manager may approve reinstating a retiree's accrual rate or pay rate as of the date of their retirement to incentivize their return due to exigent business needs.

For the purpose of this section, retirement is as defined in section 6.04.

#### 6.06 REEMPLOYMENT OF FORMER EMPLOYEE

Employees who separated from City employment in good standing (but not considered retirees) are eligible for rehire and may be granted a hiring preference. Rehired former employees will otherwise be treated as new hires. Employees who did not separate in good standing will not be eligible for rehire unless a special exemption is granted by Human Resources, with approval of the City Manager.

#### 6.07 ABANDONMENT OF POSITION

After unauthorized absences from work for a consecutive period of three (3) days or three (3) assigned shifts, this constitutes a voluntary resignation.

#### 6.08 DEATH

Separation from City employment is effective upon an employee's death. All compensation and benefits due to the employee at the time of his/her death will be paid to the employee's beneficiary, surviving spouse, or the estate, as determined by law or by executed forms in the employee's personnel file.

#### 6.09 EXIT INTERVIEWS

Upon separation from the City, the employee's Department Director or their designee may conduct a preliminary exit interview and shall accept all City property previously assigned to the employee. The purpose of the "exit interview" is to provide the Department Directors, the City Manager and the Department of Human Resources with information as to why and in what areas an employee may be dissatisfied with the job. This information can be used to improve the City's personnel system. Each employee who resigns from the City may complete an "exit interview" form.

#### 6.10 RETURN OF PROPERTY

At the time of separation and prior to receiving a final paycheck, an employee must return all records, books, uniforms, keys, tools, passwords and other City property. Employees are prohibited from deleting any files or otherwise destroying public records. Any monies owed to the City due to an employee's failure to return City property may be offset against the employee's final paycheck or may be collected through civil action or criminal charges.

#### 6.11 WAGE WITHHOLDING AUTHORIZATION

Newly hired employee will be required to sign payroll wage withholding authorization forms, which indicate that, in the event their employment is terminated, either voluntarily or involuntarily, prior to the full repayment of any outstanding monies are owed (e.g., restitution, wage overpayment), the City may withhold the remaining amount owed from the final pay, except to the extent prohibited by federal or state minimum wage law.

**ARTICLE VII**  
**LEAVE BENEFITS**

**7.01 GENERAL PROVISIONS**

Permanent employees shall be eligible to receive leave benefits as detailed herein. Those employees in a part-time or temporary status shall be eligible only for those benefits required by federal and/or state law or contracts or those benefits approved by the City Manager. All records of leave benefits shall be kept by the Department of Financial Services and shall be the official record.

Under exigent circumstances (e.g., emergencies, inadequate staffing), Department Directors have the authority to rescind previously approved leave requests. In such cases, advance notice shall be provided to the extent practicable.

**7.02 SICK LEAVE**

a. Definition: Sick leave with pay up to the amount accumulated by an employee may be granted for the following purposes, subject to the approval of the Department Director, their designee or City Manager in the cases of Department Directors:

- 1) Personal injury, or illness not connected with work or exposure to a contagious disease which would endanger others.
- 2) Medical, dental, optical, psychological, psychiatric or chiropractic examination or treatment.
- 3) Pregnancy and maternity leave.
- 4) Qualifying Family and Medical Leave Act (FMLA) absences

b. Computation

Sick leave with pay shall be credited at the rate of eight (8) hours or one (1) working day for each month of completed service.

- 1) Sick leave may be accumulated to a maximum of 1500 hours.
- 2) The employee has two (2) choices as to how he/she uses his/her credited sick leave. They are as follows:

Choice 1 – Bank all unused sick leave each year until 1500 hours maximum is reached.

Choice 2 – Bank six days of unused sick leave each year and take cash payment for the balance.

<b>Sick Leave Chart</b>				
	Choice 1		Choice 2	
<u>Earn (Hours)</u>	<u>Use (Hours)</u>	<u>Bank (Hours)</u>	<u>Bank (Hours)</u>	<u>Pay (Hours)</u>
96	0	96	48	48
96	8	88	48	40
96	16	80	48	32
96	24	72	48	24
96	32	64	48	16
96	40	56	48	8
96	48	48	48	0
96	56	40	40	0
96	64	32	32	0
96	72	24	24	0
96	80	16	16	0
96	88	8	8	0
96	96	0	0	0

c. Guidelines

Payments for unused sick leave as set forth in the foregoing shall be made no later than December 14.

- 1) Upon resignation, retirement, early retirement, or death, with ten years or more of regular, full-time service, employees (or their beneficiaries, in case of death) shall receive compensation at their then regular pay rate for one-half of their accrued sick leave except for accrual in the “reserve bank.” To receive this benefit, employees must leave City employment in good standing.
- 2) Employees with less than ten years of employment will not be eligible for the pay-out of accrued sick leave, except if laid-off. Laid-off employees will be eligible for pay-out with or without ten years of service.
- 3) Accumulated sick leave shall be credited once a month and sick leave shall not be paid in advance of being earned.
- 4) Accumulated annual leave may be used as sick leave after all accumulated sick leave has been exhausted.
- 5) In addition to the provisions for banking of unused sick leave to a maximum accumulation of 1500 hours as herein before provided, there is hereby established a “reserve bank.” Whenever any employee exceeds his/her 1500 hours maximum sick leave accumulation, then such employee may bank any excess unused sick leave in the

“reserve bank.” The accumulated days placed in this “reserve bank” may be used by the employee only when all other accumulated sick time has been used as sick leave for actual illness. There shall be no payment to employees for any days remaining in the “reserve bank” upon termination of employment for any reason.

d. Administration of Sick Leave

- 1) Records of sick leave shall be kept by the Department Directors and the Department of Financial Services.
- 2) An employee shall notify the immediate supervisor of absence from work because of illness or other reasons as outlined in departmental rules and regulations. Failure to notify the immediate supervisor shall forfeit any claim for sick pay.
- 3) Sufficient cause exists for dismissal if the employee does not notify the immediate supervisor or Department Director by the third (3<sup>rd</sup>) day of absence.
- 4) Sick leave may be charged in one-quarter (1/4) hour increments as used by the employee.

Medical, dental and optical appointments may be charged in one-quarter (1/4) hour increments as approved by the Department Director or their designee. The Department Director shall encourage all these types of “scheduled” sick leave to be made on off-duty time whenever possible. No sick leave shall be charged, however, for medical examinations required by the City.

- 5) An employee exhibiting “excessive absenteeism” or “pattern absenteeism” in the opinion of the Department Director and/or the Department of Human Resources may be required to submit medical evidence after one day’s absence. It is understood that excessive absenteeism constitutes just cause for discipline.
- 6) Sick leave with pay is provided so that economic security will be available to the employee. Sick leave shall not be considered a right which an employee may use as his/her discretion, but rather as a privilege which shall only be allowed in cases described in Section 7.02, a., subject to Department Director or their designee’s approval and the employee’s accumulation.

7.03 ANNUAL LEAVE

- a. Definition: Annual leave may be granted for the following purposes subject to the approval of the Department Director or their designee and Department of Human Resources or City Manager in the case of Department Directors:

- 1) Vacation Leave
- 2) Absence for transaction of personal business which cannot be conducted during off-duty hours
- 3) Religious holidays other than those designated by these rules as holidays
- 4) For uncovered portion of sick leave, once such leave has been exhausted through illness
- 5) Any absences from work not covered by other types of leave established.

b. Computation:

- 1) It is the intent of the City that employees take their accumulated annual leave following the annual period in which it was earned. No more than a maximum of two (2) years of annual leave (maximum determined by length of service) shall be carried over into subsequent anniversary periods.
- 2) Annual leave shall be accrued and taken on an annual basis in accordance with the following schedule:

<b>Years of Service</b>	<b>Leave Accumulated Annually Hours</b>	<b>Maximum Accrual</b>
less than 1 year	8 hours per month	
after 1 year through 4 years	96 hours per year	192
after 5 years through 9 years	112 hours per year	224
after 10 years through 14 years	136 hours per year	272
after 15 years	176 hours per year	352

- 3) Annual leave shall be accumulated on pro-rated monthly basis at the end of the last pay period of each month and can be taken as accrued subject to Department Director or their designee's discretion or City Manager's discretion in the case of Department Directors.
- 4) Annual leave shall not be approved for any employee who has not earned the requested number of work days.
- 5) Employees, or their designated beneficiaries, shall receive full payment for all accrued annual leave at the employee's current pay rate upon separation from the City.

c. Administration of Annual Leave:

- 1) Records of annual leave shall be kept by Department Directors or their designee and the Department of Financial Services.
- 2) Requests for annual leave for Department Directors and for employees shall be submitted to and approved by the Department Director or their designee, except that the City Manager shall approve leave requests for Department Directors.
- 3) Department Directors shall make provisions annually for earned leave of employees, and shall attempt to meet the leave requests of the employees with due consideration to the needs and scheduling requirements of the City and seniority. The Department Director's determination of schedule of annual leave shall be final.
- 4) Holidays which occur during an annual leave period shall not be charged as annual leave.
- 5) Annual leave may be charged in one-quarter (1/4) hour increments as used by the employee.

7.04 HOLIDAY LEAVE

The following twelve (12) days shall be the days observed by all City employees as holidays and the one (1) personal leave day shall be taken at the employee's discretion with permission of the Department Director or their designee (once each calendar year):

New Year's Day	Labor Day
Martin Luther King Jr. Day	Veteran's Day
President's Day	Thanksgiving Day
Memorial Day	Day Following Thanksgiving Day
Juneteenth	Christmas
Independence Day	Day preceding or following Christmas Day as designated by the City Manager

- a. Holidays falling on a Saturday shall be observed the preceding Friday. Holidays falling on a Sunday shall be observed the following Monday.
- b. The Department Director or their designee may authorize one (1) day's loss of pay for an employee absent the day before or the day after a holiday, in the event the absence was unauthorized.
- c. If it becomes necessary for an employee to work on a holiday, the employee shall be paid at two and one half times the employee's regular pay rate or rescheduled paid holiday at the discretion of the Department Director or their designee. In the event an employee works on a holiday, overtime is calculated on the actual hours worked, not on the total time paid.



## 7.05 WORKER'S COMPENSATION

Employees are eligible for worker's compensation under Florida law after suffering a compensable illness or injury. However, indemnity (wage loss) benefits are not paid until after the first seven (7) calendar days of a job-connected illness or injury. If the illness or injury prevents the employee from returning to work for the City for more than seven calendar days, then beginning the eighth (8th) calendar day, the employee receives an amount equivalent to 66-2/3% of the average gross weekly salary, with a cap set according to Florida law. The City voluntarily contributes a supplementary amount that, when combined with this statutory amount, gives the employee 100% of his/her pay after taxes.

An employee who sustains an on-the-job injury or sickness directly related to employment shall be entitled to the currently applicable Worker's Compensation benefits under Florida Statute Chapter 440. This includes medical attention, time loss and wage loss as defined in Chapter 440. Any negligence on the part of an employee shall instead cause use of sick leave accumulations or use of other forms of compensation and time. Failure to use appropriate safety equipment or where there is drug involvement, either of which may have been the cause of an accident, results in at least a 25% reduction in occupational disability payments (wages lost) by statute.

The rate of pay utilized in computation for benefits is the amount per hour paid to the employee at the time of the accident. Since the system is mandated by statute, it is a self-regulating, self-executing program not requiring employee or employer consent.

The City's supplementary payment will continue for a period of six (6) months or until the employee reaches maximum medical improvement (MMI) as determined by the authorized medical physician, whichever occurs first. During the course of the illness, the employee's condition and status shall be constantly reviewed by the Department of Human Resources/Risk Management and the medical practitioners handling the case. The City Manager, Risk Manager, and Department Director may review the case at any time for alternative or more serious action.

The employee is required to do all of the following:

- a. The employee shall immediately notify his/her Department Supervisor of any injury and in all cases at least within twenty-four (24) hours of their occurrence by completing City injury forms. An executed copy of the DWC-1 must be forwarded to the Department of Human Resources within two business days of the care.
- b. The employee shall completely cooperate with medical direction, advice and any physical therapy recommended; which is made available from the medical panel of providers. All authorized physical and occupational therapy sessions will be scheduled during the employee's non-duty time, if the employee is otherwise able to work, to the extent possible.

- c. The employee shall apply for any pension benefits (local, state or federal) to which he is entitled that may result in a substitution of payments normally made by the City.
- d. If the worker's compensation physician clears an employee for "light duty," placement in such status shall be at the sole discretion of the City based on operational needs. In the event an employee is assigned to light-duty, a refusal to accept such an assignment will result in termination.

#### 7.06 FUNERAL LEAVE

The Department Director or their designee may grant funeral leave with pay not to exceed forty (40) hours per incident, with a maximum of two (2) incidents in any one calendar year to any full-time employee who has rendered satisfactory service with the City. Part-time employees will be granted funeral leave without pay for the same duration and number of incidents. This leave may be granted in the event of a death in the employee's immediate family.

For purposes of this section, the employee's immediate family shall be defined as the employee's spouse, son, daughter, father, mother, foster parent, step parent, grandparents, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, grandchild or any relative living in the same household.

If requested, the employee shall be required to provide the Department Director or their designee with proof of death in family as defined before compensation is approved. Funeral leave shall not be charged to annual leave or sick leave. Extensions of the above stipulated time may be granted by the Department Director. The employee's personal leave (vacation or sick) must be used for an approved extension.

#### 7.07 MILITARY LEAVE

In accordance with state law, any employee who presents official orders requiring attendance for a period of training who is a commissioned reserve officer or reserve enlisted personnel in the United States military or naval service or a member of the National Guard is entitled to military leave of absence with pay for a period not to exceed 240 working hours annually. Further, any employee who is a servicemember in the National Guard or a reserve component of the Armed Forces of the United States shall be granted leave of absence to perform active military service, the first 30 days of any such leave of absence to be with full pay. Extended periods of military leave shall be governed by state and/or federal law.

#### 7.08 CIVIL LEAVE

An employee shall be given reasonable time off without loss of pay when subpoenaed or summoned for jury duty or to appear before a public body or commission in connection with the employee's job duties. Upon receipt of a subpoena, all employees shall immediately provide a copy of the entire subpoena to the Human Resources Department, who will provide it to the City Attorney. The City Attorney will review the subpoena and

contact the employee involved and advise them of the required response. No response to the subpoena should be made until the City Attorney has reviewed the subpoena and advised the employee accordingly. This procedure applies to all subpoenas received by an employee concerning a legal matter involving the City. Failure to comply with this section will result in disciplinary action. Leave for court attendance when the employee is engaged in personal litigation shall be charged to annual leave.

Employees, while in attendance at jury duty shall only be compensated for time in attendance which coincides with normal scheduled work periods(s); however, if employees are required to attend a proceeding in connection with their job duties shall be compensated for all such time in attendance. Employees working other than during normal business hours may have their schedule changed at the City's discretion to coincide with the judicial proceeding's hours of attendance during the Civil Leave period. If excused and/or released from jury duty or by the public body or commission, the employee shall report for his/her regular employment. Compensation for jury duty is contingent upon the provision of proof of jury service, which must be supplied by the applicable court.

An employee who is released from work to vote shall return directly to work if any time remains during the regular work day.

#### 7.09 CONFERENCE LEAVE

A Department Director or their designee may grant conference leave with pay, together with necessary and reasonable travel expenses, in order that employees may attend conferences, schools, seminars and similar events designed to improve efficiency and job knowledge considered to be in the best interest of the City. Conference leave will be treated as hours worked unless all of the following conditions apply: the attendance is outside the employee's shift; the attendance is voluntary; the training is not directly related to the employee's job; and the employee does not perform productive work while attending the conference. The City Manager or Department Director (or their designee) must approve all such leave.

#### 7.10 EMERGENCY LEAVE (CITY FACILITY CLOSURE)

In the event an emergency is declared by the Mayor, City Manager, or his/her designee, within the City of Deerfield Beach, the Emergency Operations Center is in Full Activation and City Hall is closed, regular, non-emergency personnel may not be required to report to work until after the City Manager, or his/her designee, has declared the emergency over. Employees will receive emergency pay (i.e., normal pay for their regular work schedule) in accordance with the Emergency Pay policy.

#### 7.11 LEAVE OF ABSENCE WITHOUT PAY

Special Leave: The Department Director or their designee may authorize leave without pay to a permanent employee up to thirty (30) days for reasons which do not affect the City operations. The City Manager may authorize special leave without pay beyond this time, but not exceeding three (3) months for any reason deemed to be in the best interest

of the City, except a non-service injury or illness may be extended to six (6) months after accumulated sick leave and annual leave have expired, if it does not create a hardship on the departmental workload. Special Leave may exceed six (6) months if required by law. Leave of absence without pay may not be used until all annual leave has been exhausted.

No seniority or other benefits shall be lost because of leaves of absence up to thirty (30) days. For leaves of absence over thirty (30) days, an employee cannot accumulate any benefits during that time, except in unusual cases as determined by the City Manager. However, the employee may continue to receive City-paid benefits for a permitted leave of absence at the employee's expense. If the employee fails to make timely payment for such benefits, the City may terminate those benefits. An employee shall return from an extended special leave (over 30 days) to the same salary grade previously held.

Medical Leave of Absence: The Department Director or their designee may authorize a medical leave of absence due to the onset, continuation, or reoccurrence of an employee's own serious health condition. The medical leave of absence is supplemental to any leave required under FMLA, though it may be required under other laws (e.g. ADA). The medical leave of absence is generally limited to six (6) months unless otherwise extended by law. Requests for a medical leave must be made if the employee is not eligible for FMLA leave.

Domestic Violence: An employee who has worked for the City for three (3) months or longer may take up to three (3) days of unpaid leave to seek an injunction for protection against domestic, dating or sexual violence; obtain service from a victim services organization; make their home secure or find a new home; or to seek legal assistance related to domestic violence. The employee may use accrued leave in lieu of unpaid leave. Requests for leave shall be made to the Department of Human Resources.

Long Term Disability: Employees who have applied for Long Term Disability (LTD) for a non job-related illness or injury may be placed on Leave of Absence until an initial LTD eligibility determination has been made.

Unauthorized Absence: An absence of an employee from duty or active status, including any absences for a single day or part of a day, that is not authorized by a specific grant of leave under these rules and regulations shall be deemed an unauthorized absence from duty. Any such absences shall be without pay and may be subject to disciplinary action.

## 7.12 FAMILY AND MEDICAL LEAVE ACT

In compliance with the Family and Medical Leave Act of 1993, family and medical leave is available to employees who have been employed by the City for one year and have worked at least 1250 hours immediately preceding the commencement of leave requested. A third-party administrator (TPA) performs many of the City's administrative duties associated with FMLA. Therefore, employees are required to cooperate with, and abide by the directives made by, the TPA.

An employee who does not meet the eligibility criteria for FMLA leave may be eligible for leave under other leave policies (e.g. medical leave of absence).

An eligible employee may take up to a total of 12 workweeks of unpaid FMLA leave during a 12-month period for one or more of the following:

- a. The birth of a son or daughter, and to care for the employee's newborn child;
- b. The placement with the employee of a son or daughter for adoption or foster care;
- c. To care for an employee's immediate family member (i.e., the spouse, child, parent of the employee), if such person has a serious health condition;
- d. When a serious health condition makes the employee unable to perform the functions of his/her job; and
- e. Because of any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is a servicemember on covered active duty (or has been notified of an impending call or order to covered active duty).

An eligible employee is entitled to 12 workweeks of FMLA leave in a rolling 12-month period for one or a combination of the FMLA circumstances listed above, measured backward from the date an employee uses any leave under this policy. Each time an employee takes FMLA leave, the remaining FMLA leave entitlement would be any balance of the 12 workweeks which has not been used during the immediately preceding 12 months. For example, if an employee takes eight (8) weeks of FMLA qualifying leave during a rolling 12-month period, an additional four (4) weeks of FMLA leave could be taken during the same 12-month period.

Military Caregiver Leave: An eligible employee may take unpaid leave for up to a total of 26 workweeks in a "single 12-month period" to care for a covered servicemember with a serious injury or illness, if the employee is the spouse, son, daughter, parent, or next of kin of the servicemember. This single 12-month period is measured backward from the date of the employee's first use of FMLA leave to care for a covered servicemember and ends 12 months after that date. This leave is applied on a per covered servicemember, per injury basis, except that no more than 26 workweeks of leave may be taken within any single 12-month period.

During the single 12-month period, the employee is entitled to a combined total of 26 workweeks of leave for the employee's leave to care for a covered servicemember and leave for any other FMLA qualifying reason, as listed above. Leave for any other FMLA qualifying reason is limited to 12 workweeks, even if the employee takes less than 14 workweeks of leave to care for the covered servicemember.

Restrictions on FMLA Leave: Birth, Adoption or Foster Care Placement. An employee may not take FMLA leave for the birth, adoption, or foster care of a child if 12 months

have passed since the birth, adoption, or placement of the child. An employee may not take FMLA leave on an intermittent or reduced schedule basis for the birth, adoption or foster placement of a healthy child without prior written approval of the City.

Spouses Working for the City: A husband and wife who both work for the City of Deerfield Beach and who are both eligible for FMLA leave may be limited to: (a) *a combined total of 12 workweeks of leave during any 12-month period* if the leave is taken for the birth, adoption or foster care placement of a son or daughter, or to care for the employee's parent with a serious health condition, or (b) *a combined total of 26 workweeks of leave during any single 12-month period* for leave taken to care for a covered servicemember with a serious illness or injury and any other FMLA qualifying reason.

However, A husband and wife may each take 12 weeks of FMLA leave if they are needed to care for their newborn, adopted or foster child who has a serious health condition, provided that the husband and wife have not previously exhausted their FMLA entitlements during the applicable 12-month FMLA leave period.

Employee Notice for FMLA Leave: When an employee provides notice of the need for leave, the employee must provide sufficient information for the City to determine whether the leave qualifies as FMLA leave. If the employee fails to do so, the City may deny the leave. Calling in "sick" without providing more information will not be considered sufficient notice to trigger FMLA leave. If the employee has previously taken FMLA leave and the employee seeks another FMLA leave for the same FMLA-qualifying reason, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave. Likewise, if the employee has been previously approved for FMLA leave for more than one qualifying reason, the employee's notice must specify which FMLA-qualifying reason supports the employee's current request for leave.

Foreseeable Leave: An employee must provide at least 30 days' advance written notice before FMLA leave or other leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or of a family member, or the planned medical treatment for a serious injury or illness of a covered servicemember. When planning medical treatment, the employee must consult with the City and make a reasonable effort to schedule the treatment so as not to unduly disrupt the City's operations, subject to the approval of the health care provider. The employee must also advise their supervisor and the TPA as soon as practicable (e.g., on the same day or next business day) if the dates of a scheduled leave change or were initially unknown.

Unforeseeable Leave and Leave for a Qualifying Exigency: When an employee's request for FMLA leave is not foreseeable or is due to a qualifying exigency (regardless of how far in advance such leave is foreseeable), the employee must provide notice (verbal or written) to his/her Department Director (or their designee) and the TPA as soon as is practicable under the facts and circumstances of the particular case.

If the employee does not comply with the notice and procedural requirements listed above, and no unusual circumstances justify the failure to comply, FMLA-protected leave

may be delayed or denied depending on the facts of the particular case. An employee must respond to any inquiry by the City as to the reason(s) for providing less than thirty (30) days' notice for foreseeable leave.

Notice of Eligibility and Rights and Responsibilities: When an employee requests FMLA leave, or when the City acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the City will notify the employee of his/her eligibility to take FMLA leave and his/her rights and responsibilities for taking FMLA leave. An employee has an obligation to respond to the City's questions designed to determine whether an absence is potentially FMLA-qualifying. Failure to comply with this requirement may result in the denial of FMLA leave.

Certification Requirements: When requesting leave based on a serious health condition of an employee or covered family member, the employee must provide a certification of a health care provider that includes all information required by the FMLA. (The certification forms are available from the Department of Human Resources) Alternatively, the employee may provide an executed authorization or release allowing the City to communicate directly with the health care provider.

If the medical certification is incomplete or insufficient, the City will specify the deficiencies in the certification and the employee will have a reasonable opportunity to provide the information necessary to make the certification complete and sufficient. The City may directly contact the health care provider for purposes of clarification and authentication of the medical certification after the employee has the opportunity to cure any deficiencies. This contact will be made by the Department of Human Resources, a health care professional, or a management official, but not the employee's direct supervisor. In compliance with HIPAA Medical Privacy Rules which apply to the health care provider, the City will obtain the employee's permission to clarify individually identifiable health information directly with the health care provider. If the employee does not provide the City with such authorization, and does not otherwise clarify the certification, the City may deny the taking of FMLA leave.

Additional Medical Opinions: If the City has reason to doubt the validity of a medical certification, it may require an employee to obtain a second opinion from a health care provider designated by the City. If this second opinion differs from that provided by the employee's physician, the City may require the opinion of a third health care provider, designated jointly by the City and the employee. The third opinion shall be final and binding. Upon request, the City will provide the employee with a copy of the additional opinion(s).

Pending the receipt of the additional opinion, the employee will be considered as provisionally entitled to FMLA. If the additional opinion does not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave and may be treated as another type of leave under the City's established leave policies.

Annual Medical Certification and Recertification: If the employee's need for leave due to the employee's own serious health condition or the serious health condition of the

employee's covered family member lasts beyond a single year, the City may require that the employee provide a new medical certification in each subsequent leave year. The City may also request recertification of such leave during the leave in accordance with the applicable FMLA requirements. The employee has the same obligation to participate in the annual certification and recertification process as in the initial certification process.

Certification for Leave Taken because of a Qualifying Exigency: When requesting leave for a qualifying exigency, the employee must provide a certification that includes all the information requested by the FMLA and a copy of the covered military member's active duty orders or other documentation of a call to active duty status and dates of service. The City may verify the basis for the qualifying exigency in accordance with the FMLA.

Certification for Leave Taken to Care for a Covered Servicemember (Military Caregiver Leave): When requesting leave to care for a covered servicemember with a serious injury or illness, an employee must provide a certification completed by an authorized health care provider of the covered servicemember that includes all the information required by the FMLA, or alternatively, a copy of any "invitational travel orders" (ITOs), or "invitational travel authorizations" (ITAs) issued by the military to any family member (regardless of whether the employee is named). An ITO or ITA is sufficient certification for the duration of time specified in the ITO or ITA and if the employee needs leave beyond the time specified in the ITO/ITA, the employee must complete a certification form to cover the remainder of the leave period. The City may also require the employee to provide confirmation of a covered family relationship to the seriously injured or ill servicemember. It is the employee's responsibility to provide the City with complete and sufficient certification and failure to do so may result in the denial of FMLA leave.

Consequences of Not Providing the Certification or Curing Deficiencies: If an employee does not submit a certification or does not cure the deficiencies in a certification, the leave is not a FMLA-qualifying leave. If the absences do not qualify as leave under the City's other leave policies, the absences ordinarily will be treated as unexcused absences and may result in corrective action up to and including termination of employment.

Designation of FMLA Leave: When the City has enough information to determine whether the employee's requested leave qualifies as FMLA, it will provide written notice to the employee as to whether the leave will be designated and counted as FMLA leave. Where appropriate, the City may retroactively designate leave as FMLA leave upon notice to the employee or upon agreement with the employee

Intermittent or Reduced Schedule Leave: An employee may take FMLA leave on an intermittent or a reduced schedule if medically necessary (and such medical need can best be accommodated through an intermittent or reduced leave schedule) because of the employee's or family member's serious health condition, or to care for a covered servicemember with a serious injury or illness. Leave due to a qualifying exigency may also be taken on an intermittent or reduced leave schedule basis.

If an employee needs intermittent or reduced schedule leave for planned medical treatment for the employee, covered family member or covered servicemember, the



employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the City's operations. In this situation, the City reserves the right to transfer the employee temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of FMLA leave. The alternative position will have equivalent pay and benefits as the previous position, but may not have equivalent duties.

FMLA leave shall be calculated in ¼ hour (15 minute) increments when taken on an intermittent basis. The employee's FMLA entitlement is reduced by the amount of leave taken during the applicable period. The employee is responsible for tracking and reporting time taken and notifying supervisor and the TPA of his/her individual intermittent leave time taken. Failure to accurately record intermittent leave time, or recording non-FMLA absences as intermittent FMLA leave, may result in corrective action, up to and including termination from employment.

Reporting (Call in) to the City While on Leave: An employee on FMLA leave or any other type of leave for medical or health reasons may be required to report on a periodic basis regarding his/her status and intention to return to work. If circumstances change and the employee needs either more or less leave, the City requires that the employee provide the City (TPA) with reasonable notice (i.e., within two (2) business days) of the changed circumstances, where foreseeable. The Department of Human Resources will inform the employee how often the employee must report to the City while on leave.

Relationship between FMLA Leave and Paid Leave Time: The City requires that the employee use his/her accrued paid leave time during FMLA leave. After the employee exhausts his/her paid leave time, the remainder of the employee's FMLA leave will be unpaid with the exception of any temporary disability benefits under the Florida Workers' Compensation Law or short-term disability benefits.

Workers' Compensation Injury: If the employee is injured on the job and the injury qualifies as a serious health condition under the FMLA, the City requires that the time off for the injury be counted against the employee's FMLA leave entitlement. The City and the employee may agree to have the employee's unused, accrued paid leave time to supplement the employee's temporary disability benefits under the Florida Workers' Compensation Law where those benefits only provide replacement income for a portion of an employee's regular pay or salary. The employee is not required to use any paid leave time while receiving temporary disability benefits.

*NOTE:* If an employee receives supplemental pay from the City during any portion of his/her FMLA leave for a workplace injury (see Policy No. 7.3 Workers' Compensation Leave of Absence), the employee may not use paid leave time to supplement the employee's temporary disability benefits under the Florida Workers' Compensation Law.

Short Term Disability: If the employee has enrolled in the City's voluntary short-term disability plan for a serious health condition, the City requires that the time off taken under the disability plan be counted against the employee's FMLA leave entitlement. The City and the employee may agree to have unused, accrued paid leave time supplement the

employee's short-term disability benefits where the benefits only provide replacement income for a portion of an employee's regular pay or salary. The employee is not required to use any paid leave time while receiving benefits under the City's short-term disability plan and the employee is not required to apply for short-term disability benefits to take FMLA leave.

Accrual of Paid Leave Time While on FMLA Leave: The employee will not accrue paid leave time while on FMLA leave for more than thirty (30) consecutive days, though it will resume upon return to active employment. The taking of FMLA leave will not result in the loss of any paid leave time that the employee accrued prior to the date on which FMLA leave started except to the extent such paid leave time is used during FMLA leave.

Benefits While on FMLA Leave: The City will continue to pay its portion of the employee's group health and dental insurance premiums while the employee is on FMLA leave. The employee is responsible for making arrangements with the City's Human Resources and Finance Departments to pay the employee portion of group health and dental insurance premiums and the costs of any other elected insurance coverage in an amount equal to the amount the employee would have paid via payroll deduction, no later than the first day of the month. If FMLA leave is taken with paid leave time or with supplemental pay from the City, the premiums will be deducted from the employee's paycheck during FMLA leave as a regular payroll deduction. Failure to make timely payments will result in discontinuation of coverage. If the employee does not return to work after his/her FMLA leave, the employee's group health plan coverage will end and the employee will receive a separate notice that provides details about COBRA coverage.

In the event a qualifying event occurs while an employee is on FMLA, it is the employee's responsibility to add the individual(s) to the City's group health plan in a timely manner if such coverage is desired.

Return to Work: To return to work from a FMLA leave for his/her own serious health condition, the employee is required to provide a fitness for duty certification from the employee's health care provider on or before the day the employee returns to work. The fitness for duty certification must address the employee's ability to perform the essential functions of his/her position as listed in the job description. If the employee is released to return to work with any medical restrictions, the fitness for duty certification should specify those medical restrictions and the expected duration of the restrictions. If those restrictions render the employee unable to perform the essential functions of the position, the employee may not return to work but shall remain on FMLA leave. Accommodations shall not be made for employees in such cases unless otherwise required by law (see section 8.07(J)).

The employee must pay any costs associated with the completion of the fitness for duty certification (including the costs of the applicable health care provider) and the employee is not entitled to be paid for the time or travel costs spent to obtain the certification.

If the employee fails to provide a timely fitness for duty certification, the City may delay the employee's restoration to employment until the completed fitness for duty certification

is provided. If the employee does not produce the certification, the employee may be terminated from employment.

An employee who fails to return to work within one (1) day after the expiration of his/her approved FMLA leave will be treated as a voluntary resignation, absent a request and authorization for an extension of leave or an accommodation under the Americans With Disabilities Act (ADA). Any such request must be submitted in writing to the Department of Human Resources at least two (2) weeks prior to the expiration date of the employee's approved FMLA leave of absence, or as soon as reasonably practicable after determining the basis for the extension request. The effective date of an employee's voluntary resignation will be the day following the expiration of his/her FMLA leave.

Reinstatement: When the employee timely returns from FMLA leave, he/she will be restored to the position held when FMLA leave started, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if he/she had been continuously employed during FMLA leave.

Key Employee Exception: Salaried eligible employees (who are among the highest paid 10 percent of the employees employed by the City within 75 miles of the facility at which the employees are employed) will not be guaranteed restoration to the position held at the start of the FMLA leave or to an equivalent position on the return to work from FMLA leave if restoration would create a substantial and grievous economic injury to the City's operations and if the City notifies the employee in accordance with the FMLA.

Transfer Eligibility: The employee may be required to transfer temporarily to an alternate position with equivalent pay and benefits that better accommodates periods of recurring leave than the employee's regular position. An employee is not permitted to apply for a transfer during his/her FMLA leave unless mutually agreed by the employee, the employee's Department Director, and the City Manager.

Outside Employment During FMLA Leave: An employee on FMLA leave may not work at another job during the duration of the leave when such outside employment is inconsistent with the FMLA leave approved by the City. An employee on leave must notify his/her Department Director and the Department of Human Resources if he/she is employed in another position with an outside employer. Failure to disclose this information may lead to corrective action.

#### Definitions

The City adopts the definitions of the FMLA, as amended. This policy lists some of the commonly used definitions.

Serious health condition: An illness, injury, impairment, or physical or mental condition that involves one of the following:

**Inpatient Care:** An overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care. "Incapacity," for purposes of the FMLA means inability

to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery there from.

**Absence Plus Treatment:** A period of incapacity of more than three consecutive, full calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves: (a) Treatment two (2) or more times within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or (b) Treatment by a health care provider on at least one (1) occasion which results in a regimen of continuing treatment under the supervision of the health care provider. For purposes of the FMLA, "treatment by a health care provider" means an in-person visit to a health care provider, and the initial (or only) treatment visit must take place within seven (7) days of the first day of incapacity.

**Pregnancy:** Any period of incapacity due to pregnancy, or for prenatal care.

**Chronic Conditions Requiring Treatments:** A chronic condition which: (a) requires periodic visits at least twice a year for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider; (b) continues over an extended period of time (including recurring episodes of a single underlying condition); and (c) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

**Permanent/Long-term Conditions Requiring Supervision:** A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's disease, a severe stroke, or the terminal stages of a disease.

**Multiple Treatments (Non-Chronic Conditions):** Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for: (a) restorative surgery after an accident or other injury; or (b) a condition that would likely result in a period of incapacity of more than three (3) consecutive full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

**Son or Daughter:** a biological, adoptive, foster or stepchild, a legal ward, or a child of a person standing in loco parentis by providing day-to-day care and financial support, where the child is under age eighteen (18), or age eighteen (18) or older and incapable of self-care because of a physical or mental disability. For military family leave, a son or daughter may be of any age.

Parent: a biological, adoptive, step or foster parent, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter (as defined above). This term does not include the employee's parents "in law."

Intermittent Leave: leave taken in separate blocks of time due to a single qualifying reason rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. A "reduced leave" schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday.

Continuous Leave: is FMLA leave taken consecutively over one period of time in the twelve (12) month rolling period (measured backward).

Qualifying Exigency: includes leave for one or more of the following arising out of the fact that the spouse, son, daughter, or parent of the employee is a servicemember on covered active duty (or has been notified of an impending call or order to covered active duty):

Short-notice deployment (up to seven (7) calendar days).

Attending certain military events and related activities, such as official ceremonies or programs related to the servicemember's active duty status or to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations or the American Red Cross that are relative to the servicemember's active duty status;

Certain childcare and related school activities such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, or attending certain meetings at a school or a daycare facility if they are necessary due to circumstances arising from the active duty or call to active duty or the covered family member;

Making or updating financial and legal arrangements to address a covered military member's absence while on active duty or call to active duty status or to act as the covered military member's representative before a federal, state or local agency for the purposes of obtaining or arranging or appealing military service benefits while the covered military member is on active duty or a call to active duty status;

Attending counseling provided by someone other than a health care provider for oneself, for the covered military member, or for the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member.

Taking up to five (5) days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during the period of deployment.

Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of ninety (90) days following the termination of the covered

military member's active duty status, and addressing issues arising from the death of a covered military member.

Any other event that the City and the employee agree is a qualifying exigency.

Covered Active Duty: (i) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and (ii) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

Covered Servicemember: (i) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (ii) a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

### 7.13 UNPAID ADMINISTRATIVE LEAVE

Any employee who cannot perform the essential functions of their position or charged with a felony may be placed on an unpaid leave until they can demonstrate job fitness or until such charge is dismissed by the prosecuting authority or until a decision settling the case is rendered. Employees are required to inform the Department Head of an indictment, information or charge involving a felony within 24 hours.

An employee who is placed on unpaid administrative leave pursuant to this section shall be afforded an opportunity to meet with the City Manager, or his/her designee, to discuss the circumstances of the arrest, indictment or information. The purpose of the meeting is to allow the employee to tell his/her side of the story so that the City Manager may, in his/her sole and exclusive discretion, determine the appropriate course of action, which may include, but is not limited to: continuing the leave without pay; converting the unpaid leave to one with pay pending further inquiry; reinstating the employee with back pay; and/or any other administrative/disciplinary action.

Notwithstanding any limitations on the length of leave set forth elsewhere, unpaid leave under this Section may continue until the employee can demonstrate job fitness or through the resolution of the criminal proceedings related to the arrest, indictment or issuance of an information, or until such time as an administrative determination is rendered. Any extensions of time or continuances of any administrative proceedings (including the preliminary meeting with the City Manager) related to unpaid leave that is attributable to, or caused by, the employee shall be deemed a waiver of any claim for back pay or other benefits lost as a result of that extension of time or continuance.

An acquittal or dismissal of the criminal charges related to the arrest, indictment or issuance of information (if any such action occurs prior to the conclusion of any administrative action or inquiry) shall not automatically entitle the employee to reinstatement or any other relief. Instead, upon the conclusion of the criminal proceedings, the City may conduct (i.e. commence or continue as appropriate) an administrative investigation or inquiry and, if appropriate, impose disciplinary action up to and including termination. The resolution of the criminal charges may be used as a factor in any administrative determination. For purposes of this rule, the fact that adjudication is withheld or any criminal proceeding which terminates upon the employee's plea of nolo contendere shall not prevent the City from conducting its own administrative investigation and taking appropriate disciplinary action.

#### 7.14 NON-BARGAINING UNIT EMPLOYEES

In an effort to maintain a competitive advantage with comparable agencies, the City Manager, in his sole discretion, may authorize the receipt of leave benefits referenced in this Article at differing accrual rates and payout amounts, or in the alternative, the granting of supplemental leave benefits. The provision of such benefits will require written authorization from the City Manager by the applicable Department Director and, in the case of the City Manager, consultation with Human Resources.

**ARTICLE VIII**  
**EMPLOYEE RELATIONS AND BENEFITS**

**8.01 GENERAL PROVISIONS**

Permanent employees shall be eligible to receive the benefits outlined herein. Those employees in a provisional, emergency, part-time or temporary status which places them in an exempt situation shall be eligible for only those benefits required by federal and/or state law or contracts or those benefits approved by the City Manager.

All records of benefits shall be kept by the Department of Human Resources and Department of Financial Services and shall be the official record.

**8.02 INSURANCE**

A group health insurance plan is in effect for regular, full-time employees. All eligible newly-hired employees can participate on the first day of the month following-thirty days of continuous employment. Life insurance coverage is also made available to regular, full-time employees. Upon becoming eligible to participate in these plans, employees will receive summary plan descriptions (SPDs) describing the benefits in greater detail.

The City may offer an incentive for employees to opt out of enrolling in City health insurance coverage, provided proof of health insurance coverage elsewhere is submitted. Employees who opt out will be paid an amount equivalent to 50% of the City's monthly cost for individual health insurance coverage. The opt out incentive is subject to change or discontinuation, at the discretion of the City Manager, but will be preceded by appropriate notice.

Upon retirement, eligible employees may continue to participate in the health plan as a retiree. The details related to retiree health coverage are in section 6.04 herein. each plan year.

**8.03 RETIREMENT PLAN**

Retirement plans have been established for permanent City employees. Detailed provisions shall appear in separate information booklets.

**8.04 EMPLOYEE PERFORMANCE EVALUATIONS**

The Department of Human Resources, in cooperation with Department Directors, may establish and administer a system of rating the work performance of all employees. The Employee Performance Evaluation shall be designed to permit the evaluation of the employee's performance and attitude as accurately and as fairly as possible. The rating shall be set forth on the performance evaluation forms provided by the Department of Human Resources; these forms may be changed periodically to reflect changes in job duties or to more accurately rate employee performance.

Besides evaluating employee performance and attitude, the Employee Performance Evaluation may also be considered in determining merit salary increases and decreases and as a basis for training, demotion, transfer, dismissal, promotion or other personnel



status changes. In the event the City administers a system of rating the work performance of employees, each employee shall be evaluated at least once each fiscal year, and more frequently if the Department Director determines it to be necessary.

Performance evaluation reports will normally be completed annually for each employee based on their annual review date. The immediate supervisor shall complete a performance evaluation form approved by the City Manager. The supervisor shall meet with the employee to review and discuss the evaluation and shall provide the employee the opportunity to comment and ask questions. At the conclusion of the meeting, the employee shall be given the opportunity to write any comments in the space provided and to sign the form. The employee's signature signifies that the evaluation has been discussed with him, and does not necessarily indicate that the employee agrees with the evaluation.

Special performance reports may be required as called for in other sections of this Manual (i.e., probationary period, annual performance evaluation, a special performance evaluation). The annual review date is the employee's original hire date. Immediate supervisors have the primary responsibility for conducting employee evaluations. Employees who performed their duties under more than one supervisor during the rating period should be evaluated by the supervisor for whom the employee worked during the majority of the rating period. The supervisor preparing the evaluation should consult any other supervisor for whom the employee worked during the rating period in order to determine the most appropriate rating for one or all categories outlined in the performance evaluation. Each supervisor should sign the evaluation form.

The performance evaluation will rate each employee's performance of the duties of his/her position and the objectives and performance standards developed by the employee and supervisor, as well as competency in defined categories set in the performance evaluation.

## 8.05 EDUCATIONAL INCENTIVES/BENEFITS AND CERTIFICATION

### Educational Reimbursement

All full-time employees are eligible to receive educational reimbursement for undergraduate and graduate coursework according to the criteria outlined in the Educational Reimbursement standard operating procedure. The Tuition Reimbursement Program pertains to training and educational courses taken voluntarily by the employee. Course or training that the employee is required to attend by the City will not be funded through this program. This program is not meant to replace existing funding mechanisms for departmental certifications and trainings that are already being subsidized by the City.

### Certification Incentive

All regular full-time employees required by the City to attend any training and/or health and safety program shall be compensated at their regular rate of pay for the length of time they are required to attend such program and pay for the training. The City will

make a reasonable effort to give equal opportunity for training to all regular full-time employees in a job classification in the same division.

Regular full-time employees who obtain one or more certifications or licenses preferred or required in the job description for his or her position may be eligible to receive monetary payment in accordance with departmental policy.

Employees must obtain approval in advance from their Department Director to ensure that any course, license or training will qualify for certification pay. Any certification pay that results in a percentage increase of base pay shall not result in exceeding the maximum pay range for the position. In such case, the employee will receive the amount in a lump sum. The loss of any underlying certification(s) may result in the rescission of the previously approved pay increase, at the discretion of the City Manager.

#### 8.06 GRIEVANCE PROCEDURE

- a. Policy: It shall be the policy of the City of Deerfield Beach to provide a procedure for the presentation and mutual adjustment of points of disagreement which may arise between employees and their supervisors, and to assure employees that their problems and complaints will be considered fairly, honestly, and without reprisal.
- b. Purpose: The primary purpose of the grievance procedure is to determine WHAT is right rather than WHO is right. Open discussion between employees and supervisors will lead to a better understanding of the practices, policies and procedures which affect employment. It will also serve to identify and help eliminate conditions which may, or conceivably have, cause misunderstandings and grievances. The purpose is defeated if a spirit of conflict enters into the consideration of a grievance. Supervisors and employees alike must realize and recognize the true purpose of a grievance procedure if such procedure is to have value in promoting the provision of premium City service.
- c. Definition of a Grievance: A grievance is a complaint or a dispute between an employee and City regarding the interpretation, application or violation of the express terms of this manual, but exclude disciplinary action arising from the suspension, demotion or dismissal of an individual holding an exempt position (see Section 1.06) or a non-bargaining unit employee because said persons are only provided a pre-disciplinary review. Grievances related to discipline are only applicable to bargaining unit employees and, in such cases, are governed by the applicable collective bargaining agreement. Complaints of discrimination fall under the complaint process detailed in Section 8.07, below.
- d. Procedure for Presentation of a Grievance: The employee shall first take his/her grievance to his/her immediate supervisor who shall review the problem, make a decision and advise the employee of his/her decision within five (5) working days. It is neither necessary nor desirable that the grievance be presented in writing at this point. Supervisors are encouraged to consult with their Department Directors

or any individual who may be able to offer assistance and/or information relative to the grievance.

If the grievance is not resolved to the employee's satisfaction by the supervisor, or if a decision is not made within the time specified, the employee may submit his/her grievance to his/her Department Director. The Department Director or their designee shall investigate the grievance and make a decision within five (5) working days.

If the grievance is not resolved to the employee's satisfaction by the Department Director, or if a decision is not made within the time specified, the employee may take his/her problem to the Department of Human Resources. It shall be incumbent on the Department of Human Resources to thoroughly investigate the grievance and to render a fair and impartial decision within seven (7) working days.

If the grievance is not resolved to the employee's satisfaction by the Department of Human Resources, or if a decision is not made within the time specified, the employee may request a review of his/her case by the City Manager. All such requests must be made in writing. Such request must be filed by the employee within five (5) working days after receipt of the Department of Human Resources decision.

The City Manager shall render the final decision within five (5) working days. It shall be the duty of the City Manager to judge each case fairly and impartially, solely on the merits of the evidence presented.

#### 8.07 CITY POLICY ON NON-DISCRIMINATION

The City of Deerfield Beach, Florida, is committed to the concept of equal employment opportunity as a fundamental element of the City's personnel system. To affirm this commitment, it is the policy of the City of Deerfield Beach to:

- a. Prohibit discrimination in employment, employee development or employment advancement because of religious or political opinions or affiliations, race, color, national origin, sex, age, physical handicap or other non-merit factors (except where such factor is a bona fide occupational qualification or required by state and/or federal law).
- b. Insure equal employment opportunity for all persons based solely on their qualification when seeking employment and on the basis of their merit and fitness when employed.
- c. Any employee of the City or any applicant for employment with the City shall have the right to address their concerns either verbally or in writing to the City Manager or the employee's department Director whenever he/she has reason to believe that the intent of this policy has been violated.

- d. Any report of discrimination shall be promptly forwarded to the City Manager for investigation. The City Manager (or the City Manager's designee) shall be responsible for the investigation of the report in accordance with this policy.
- e. If the employee reports the incident(s) in writing, the report shall be deemed confidential in accordance with the law. If the employee orally reports the incident, the City shall summarize the provided statement in a report unless the employee opts to provide their own written summary. The following information should be included in the report: the date(s) of the incident(s), identity of the person taking the action, identity of any witnesses and details about the incident(s). The City may request an employee who submitted a complaint to attend an in-person meeting to provide additional details and information concerning the incident(s).
- f. Any job applicant who has questions regarding this policy or believes that he/she has not been treated in accordance with this policy should contact the Department of Human Resources.
- g. The City will investigate reports of discrimination promptly and take prompt remedial action based on the circumstances to address any violation of this policy, including corrective action against any employee, which may include a warning, suspension or termination from employment. An employee who feels that his/her complaint was not appropriately addressed or that he/she is still being subject to discriminatory conduct should immediately notify the City Manager.
- h. The City prohibits and will not tolerate retaliation against employees who in good faith bring discriminatory conduct to the City's attention. There will be no retaliation for reporting discrimination or for cooperating in the City's investigation of the report. An employee responsible for retaliatory conduct will be subject to corrective action, up to and including termination from employment. If an employee believes that he/she is being retaliated against in violation of this policy, the employee is encouraged to report the retaliation by using the same procedures discussed above for reporting discrimination.
- i. The Director of Human Resources and Risk Management shall serve as the City's EEO Officer. The EEO Officer shall report directly to the City Manager and is charged with implementing the City's EEO Policy, including receiving discrimination complaints, conducting investigations, as well as ensuring the City's compliance with federal and state laws. The EEO Officer will also: 1) ensure that designated employees are adequately trained in EEO laws 2) supervise the EEO-related activities of investigators; and 3) ensure that EEO policies are prominently posted or otherwise provided to employees in accordance with the law. The EEO Officer can be reached at the City's Human Resources Department, 150 NE 2<sup>nd</sup> Avenue, Deerfield Beach, FL 33441 and 954-480-4255.

## Americans With Disabilities (ADA)

The City is committed to complying with all applicable provisions of the Americans with Disabilities Act (the "ADA"). It is the City's policy not to discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of an individual's disability. Consistent with this policy of non-discrimination, the City will provide reasonable accommodations to a qualified individual with a disability, as defined in the ADA, who has made the City aware of his/her disability, if it is not obvious, provided such accommodation does not constitute an undue hardship to the City.

Any employee with a disability who believes that he/she needs a reasonable accommodation to perform the essential functions of the job should contact the Director of Human Resources and Risk Management. Any employee who feels that he/she has not been treated in accordance with this policy should contact the Department Director, Director of Human Resources and Risk Management, Assistant City Manager or City Manager. The City prohibits and will not tolerate retaliation against any employee who requests a reasonable accommodation or makes a good faith complaint under this policy.

Where an employee or applicant has requested a reasonable accommodation consistent with this Manual or law and is denied, a complaint may be made pursuant to the Complaint Procedure, outlined in Section 8.07. The employee or applicant has the option to proceed directly to Step 3 of the process, whereupon the City Manager (or the City Manager's designee) shall meet with the employee or applicant, the Director of Human Resources and Risk Management and any pertinent employees to evaluate the eligibility or reasonableness of the request.

If the employee cannot perform the essential functions of their current position due to permanent restrictions from a disability, and if a reasonable accommodation cannot be made which would allow the employee to perform the essential functions, the Department of Human Resources shall search all position openings for which the employee may be qualified. If the employee is qualified for any open position, which is a lateral or lower position, the employee shall be offered that position if it does not violate any seniority rights of other employees. If the vacancy is a higher position, the employee must apply and may be required to compete through the normal City application process.

If the disability was due to an injury compensable under worker's compensation and no vacant position is available when the employee reaches maximum medical improvement the employee may be terminated or subject to other employment action.

The City is also committed to not discriminating against any person who is related to or associated with a person with a disability. This policy is neither exhaustive nor exclusive. The City will take all other actions necessary, to ensure equal opportunity for persons with disabilities in accordance with the applicable provisions of the ADA and all other applicable federal, state, and local laws.

Any employee or job applicant who has questions regarding this policy or believes that he/she has been discriminated against based on a disability may notify the City Manager.

All such inquiries or complaints will be treated as confidential, and will only be disclosed on a need-to-know basis to the extent permitted by law.

### Religious Accommodation

The City will take action to provide reasonable accommodations for religious observances, beliefs and practices, unless it creates an undue hardship. Reasonable accommodation may include modification of schedules, relaxation of dress code policies or religious expression.

Where an employee or applicant has requested a religious accommodation consistent with this Manual or law and is denied, a complaint may be made whereupon the City Manager (or the City Manager's designee) shall meet with the employee or applicant and any pertinent employees to evaluate the eligibility or reasonableness of the request. A decision will be issued in writing within seven (7) business days, to the extent practical.

### Sexual Harassment

Sexual harassment is a form of employee misconduct which undermines the integrity of the employment relationship. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment is a prohibited practice.

Specifically, sexual harassment is deliberate or repeated, unsolicited verbal comments, gestures, pictures or written material, or physical contact of a sexual nature which are unwelcome. This includes:

Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or of creating an intimidating, hostile or offensive work environment.

The City of Deerfield Beach is dedicated to a strong policy against discrimination based upon sex. Sexual harassment is unacceptable conduct and will not be condoned. It is imperative that all employees be assured a work atmosphere free from sexual harassment. Violations of this policy will be cause for disciplinary action.

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is offensive both objectively and subjectively, that fails to respect the rights of others, that lowers morale, and that interferes with work effectiveness.

Any acts of sexual harassment should be reported using the procedure for reporting discriminatory conduct as detailed in this subsection.

## Complaint Procedure

Any City employee who feels that he/she has been discriminated against should bring the complaint to the attention of the supervisory personnel according to the procedure set forth below. Those employees covered by collective bargaining agreements have the option to use the grievance procedure provided for in the bargaining agreement. However, only one forum may be utilized for any particular matter. Any complainant has a legal right to file a complaint with the United States Equal Employment Opportunity Commission. It is felt, however, that the best interests of both the complainant and the City will be served if such complaint can be settled at the lowest level possible within the City government itself.

No disciplinary action will be taken against any employee who files a complaint and follows an appropriate grievance procedure.

All written complaints, evidence and record of disposition will be retained in the Department of Human Resources.

Any applicant for a position with the City who feels that he/she has been discriminated against because of race, color, religious or political affiliation, sex, national origin, age, or physical handicap may direct a complaint to the Director of Human Resources and Risk Management. The complaint must be in writing and filed within thirty (30) calendar days of the alleged incident of discrimination. The Department of Human Resources shall resolve the complaint within a reasonable time, and will provide a copy of the findings to the complainant.

City employees who choose to present a complaint shall follow the following procedure:

- a. The employee shall notify his/her immediate supervisor, either orally or in writing, within three (3) working days after the incident causing the complaint. The supervisor shall attempt to resolve the problem and inform the employee of steps taken within three (3) working days after receiving the complaint.
- b. If the employee is unsatisfied with the supervisor's resolution, he/she should notify the Department Director in writing within three (3) working days after the supervisor's deadline in Step A. The Department Director shall attempt to resolve the problem and will inform the employee of the steps taken within (3) working days after receiving the complaint.
- c. If the employee is still not satisfied, he/she may take the complaint to the Director of Human Resources and Risk Management. The complaint must be submitted in writing. The Director of Human Resources and Risk Management will attempt to resolve the complaint within twenty (20) working days after receipt and shall notify the complainant of the decision reached.
- d. If the employee is not satisfied with the decision of the Director of Human Resources and Risk Management, he/she can request to have the complaint reviewed by the City Manager within three (3) working days.

## 8.08 CITY POLICY ON BULLYING AND HARASSMENT

Some acts or remarks may violate this Manual even if they are not so severe that they violate federal or state discrimination laws. Because the City is committed to providing an emotionally stable and safe workplace, it discourages verbal confrontations between employees due to an employee's reasonable belief that he/she was subjected to bullying behavior.

Bullying or Harassing conduct includes repeated behavior occurring in the course of work that impairs the ability of an employee to perform work duties or is reasonably perceived as being so severe and/or objectively offensive so as to have that effect. This includes, but is not necessarily limited to acts that are reasonably perceived as being humiliating, dehumanizing, hostile, intimidating, or physically aggressive. These acts may be identified by the following behavior directed at an employee or group of employees:

- a. Yelling, screaming and/or using a very aggressive tone
- b. Use of derogatory remarks, insults and epithets
- c. Publicly displaying offensive material
- d. Ignoring, isolating or segregating an employee
- e. sabotaging or undermining work performance
- f. Making or publishing any false or malicious statement, which is not directly related to the employee's responsibilities and is intended to, or is likely to (regardless of intent), negatively impact the professional standing, emotional well-being, or reputation of the person or persons being discussed

**The legitimate and reasonable exercise of management rights should not be construed to constitute bullying or harassment. These actions may include:**

- a. Evaluating an employee's work performance. Though the information may be troubling and critical, conveying said information does not constitute bullying or harassment
- b. issuing directives about work duties
- c. Making justifiable decisions related to recruitment, selection and other employment opportunities
- d. Enforcing implemented workplace policies or collective bargaining provisions, if applicable
- e. Addressing allegations of misconduct and imposing disciplinary actions, where appropriate



Any acts of bullying should be reported to the Department Director or Director of Human Resources and Risk Management. An informal review will be conducted to determine whether the action(s) complained of, if true, meet the definition of non-discriminatory bullying/harassment as defined herein. If the allegations meet the definition, the matter will be formally investigated by the Department of Human Resources to determine whether sufficient evidence substantiates said allegations. If the allegations do not meet the threshold, the complainant will be informed thereof and the matter closed without a formal investigation. Complaints will be handled in a timely and confidential manner, to the extent allowable by law.

An employee who has been harassed on the job may use the complaint procedure or may report the incident directly to the Director of Human Resources and Risk Management.

#### 8.09 CITY POLICY ON WORKPLACE VIOLENCE

Workplace violence will not be tolerated in the workplace. With respect to the seriousness of this problem, the City has adopted a “zero tolerance” for incidents of workplace violence.

Workplace violence includes, but is not limited to physical attacks, threatening violent behavior and property damage. Listed below are some examples of workplace violence, their definitions, and the City’s position:

- a. Physical Attacks – unwanted or hostile physical contact with another person, (i.e. beatings, stabbing, suicides, near suicides, shootings, rapes, etc.).
- b. Property Damage – damage to property, which includes property owned by the City.
- c. Deadly Weapons – Use or brandishing of firearms, such as handguns, rifles, shotguns, explosive devices. Other objects or tools such as knives and other cutting utensils, bows and arrows, bats, brass knuckles, mace, pepper spray, tear gas, or tools such as axes, screwdrivers, hammers, may be considered deadly weapons when used in a violent, threatening, aggressive or offensive manner.

Management Commitment: Violence in the workplace shall not be tolerated, and every effort shall be made to prevent violent incidents from occurring. This shall be accomplished by implementing a Workplace Violence Prevention Program/Policy that provides training and holds managers, supervisors, and employees accountable for their actions. All employees, and especially Department Director/Directors, managers, supervisors, law enforcement personnel, and employee organization representatives are obligated to act individually and collectively to prevent, defuse, or mitigate actual or threatened violent behavior at work. The City is committed to full cooperation with law enforcement agencies to support criminal prosecution of any employee within or outside this organization who commits violent or threatening acts against the City. A copy of the City’s policy on Workplace Violence Prevention will be distributed to all employees at

mandatory training seminars and, in the case of newly-hired employees, they will be given specific instructions during orientation.

Responsibilities: The Director of Human Resources and Risk Management is designated as the City's Critical Incident Coordinator. The Coordinator is responsible for the coordination of the response to acts or threats of violence under this policy. The Coordinator may assemble Department Directors, managers, supervisors and other employees as deemed appropriate to constitute a Critical Incident Response Team. The Team may include a representative from the Department of Human Resources, law enforcement agencies, Department Directors and others as selected by the Coordinator. The Coordinator is expected to assemble the Team, take action to manage the incident, and implement the City's Workplace Violence Prevention Policy. The Coordinator shall arrange the appropriate meetings, provide communication resources, reporting, record-keeping and training. As such, with all the above in place, the Team is enabled to assume its role in the response to violent incidents in the workplace efficiently and effectively.

Responsibilities of Critical Incident Coordinator: Receive reports of workplace violence incidents from Department Directors, managers, supervisors and employees. Immediately provide a briefing on the incident report to the City Manager. Make sure that records are maintained of the reported incident(s) of workplace violence. Make certain, insofar as possible, that employees do not experience retaliation for reporting incidents of workplace violence.

Advise employees who seek assistance regarding violent behavior and make appropriate referrals. Directly refer an employee who does not seek assistance. For example, employees may be referred to the Employee Assistance Program (EAP) or a medical professional.

Perform investigations and provide written recommendations to the City Manager, City Attorney, Department Directors, outside attorney(s), and other Management representatives.

Protect the confidentiality of workplace violence incidents as best as possible.

Responsibilities of Department Directors, Managers, and Supervisors: Have a professional responsibility to be held to a higher standard in setting positive examples to maintain a workplace free from violence or the threat of violence by their own behavior and demeanor at work.

Report workplace violence incidents immediately to one of the following: Department Director, Deputy or Assistant Department Director, manager, supervisor or any Department of Human Resources Management representative.

Document workplace violence incidents and report them to the appropriate staff.

Make certain, insofar as possible, that employees do not experience retaliation for reporting incidents of workplace violence.

Comply with all City and City Department procedures/guidelines relative to workplace violence prevention.

Training: The Department of Human Resources shall seek to provide training that will bring awareness and convey the ramifications of workplace violence acts, and communicate clearly the City's position on workplace violence prevention.

Assist with the developing, implementing, and delivering workplace violence prevention training for all City employees. Training on workplace violence will focus on avoiding and preventing workplace violence related incidents. The training shall be of sufficient length to address key areas as listed below.

- a. City policies and procedures regarding workplace violence
- b. Risk factors that cause or contribute to assaults
- c. Abusive language, behavior, body language
- d. Recognition of escalating behavior
- e. Recognition of warning signs/situations that may lead to assaults
- f. Multicultural diversity/sensitivity
- g. Dealing with hostile people
- h. Crisis Intervention techniques
- i. Coordination of appropriate assistance with affected parties, such as victims, employees, or law enforcement personnel
- j. Assessment of an employee's fitness for duty through medical professionals

Incident Reporting: Any employee who becomes aware of an incident of violent behavior, whether the incident is committed by another employee or an external individual such as a customer, vendor or citizen must report it to the Department Director/Director or appropriate Management representative.

In the cases of critical incidents in which serious threats or injury occurs with internal or external customers, call 911 immediately to obtain emergency responders such as Police and Fire Rescue personnel.

Protection from Retaliation: Employees who are aware of a workplace violence incident, threat of violence, or an incident that is about to take place, have an obligation to report that information to a supervisor, manager, or Department Director.

Any employee who acts in good faith in reporting threats or acts of violence under this policy will not be subjected to harassment or retaliation as a result of such a report. Any retaliation or harassment must be reported immediately to the Department

Director/Director and/or to the Director of Human Resources and Risk Management. An investigation will be conducted and completed in a prompt manner. Immediate action will be taken.

Ban on Deadly Weapons: To ensure that the City maintains a workplace safe and free of violence for all employees, the use of deadly weapons on City property is prohibited. Further, employees are prohibited from possessing such weapons on City property, except as authorized under Florida law. This policy applies to all City employees as well as visitors and customers on City property. Deadly weapons include, but are not limited to, firearms, explosives and knives. The term “possession” is defined to mean in lockers or toolboxes, in an employee’s personal possession, or anywhere else on City property, unless such possession is authorized under Florida law. City employees who carry a concealed firearm, or other weapon, for a lawful purpose within the interior of their private vehicle, must have the weapon securely encased or otherwise not readily accessible for immediate use. Employees have a responsibility to notify their immediate supervisor about their weapon. Employees who violate this policy will be subject to disciplinary action up to and including immediate dismissal.

The City can request the cooperation of an employee to conduct a search of personal property such as packages, briefcases, purses and similar containers as well as private vehicles parked on City property if there are reasonable grounds and a credible witness(es) who believe that an employee may be in violation of this policy. Employees who are unwilling to have personal property searched must immediately remove said property from City premises if ordered to do so. Refusal to comply with an order to remove personal property from City premises may result in disciplinary action.

City supervisory and managerial staff have a right to enter or search City property with or without prior notice. City property includes desks, lockers (even with privately owned locks), office equipment such as copiers, fax machines, computers, telephones, and E-mail. As a consequence, any area is subject to monitoring and/or search. Any misuse of City property in connection with an act or threat of violence may be used in support of disciplinary action or criminal prosecution even following a first offense.

Restraining Orders and Injunctions: Cases of City employees involved in personal disputes with internal or external individuals at times can escalate to the point where the issuance of injunctions, restraining orders, and other Court Orders are sought.

In order to maintain the safest possible work environment, employees should include their work locations upon the issuance of any restricting Court Order. Employees are encouraged to inform the Director of Human Resources and Risk Management as well as their supervisors immediately in these cases and provide a copy of the Order to the Department of Human Resources. Even in the case where an employee has not yet secured a Court Order, but has reason to fear for his/her personal safety, reporting of these concerns to the supervisor, manager, Department Director/Director, or the Director of Human Resources and Risk Management is of great importance.

Coping with Workplace Violence Incidents / Additional Guidelines: The best method to cope with workplace violence is to avoid situations where violence is likely to occur. That is, with the expectation that all employees will conduct themselves in a professional, courteous and respectful manner at all times.

Department Directors, managers, and supervisors faced with a potentially violent situation should not allow a verbal altercation to escalate into a more serious situation.

When confronted with a violent situation between two (2) employees, an attempt should be made to separate the two people unless the manager or supervisor feels that other individuals would be endangered by such action.

If a violent or volatile situation occurs, call "9-1-1" immediately and thereafter, contact the Critical Incident Coordinator and the Department Director involved.

Once the immediate situation is controlled, the Critical Incident Coordinator, in cooperation with the Department Director, law enforcement, and others as needed, will conduct an investigation into the incident. The investigation shall include interviews with all parties involved and any witnesses, as well as obtaining written statements. Employees who are involved in such an investigation are required to cooperate.

The Department Director or his/her designee may order that the parties leave the work site immediately, with or without paid leave, depending on the circumstances and pending completion of the investigation. The Department Director shall contact the Critical Incident Coordinator for guidance on the appropriate method for such immediate action.

Employees involved in a workplace violence situation are entitled to be represented by an authorized bargaining agent or counsel of their choosing during the interviews or meetings. The Critical Incident Coordinator will also provide Department Director with advice in cases where this policy has been violated and the employee is subject to possible disciplinary action.

Should an employee become the victim of an incident of workplace violence, the Critical Incident Coordinator or other authorized City Management representatives may offer the services of the EAP or other medical professionals to assist in coping with any effects of the incident.

In cases where employees violate this policy and it is determined in the investigation that the employee did, in fact, commit a violent act, he/she may be formally referred to the EAP or a medical professional by the Critical Incident Coordinator or other authorized City Management representatives. The purpose of the EAP or medical professional referral is to determine the employee's psychological fitness for duty to perform his/her City job responsibilities. A return to work evaluation and release will be required through a medical professional. Unless mitigating circumstances exist, failure by the employee to keep any appointment with the EAP or the medical professional could result in disciplinary action up to and including termination.

Post Incident Response: Post incident response involves taking care of injured and/or affected employees and providing treatment for victims and employees who may be traumatized by involvement or by witnessing a violent incident. Department Directors, managers and supervisors are responsible for ensuring that the injured employees receive prompt medical attention if needed. Counseling shall be made available to victimized employees through the EAP or medical professionals as is deemed appropriate.

#### 8.10 CITY POLICY ON PROPERTY LOSS/DAMAGE

City employees who have use of, supervise the use of, or have control over City property are expected to exercise care and follow all operating instructions, safety standards and guidelines. This responsibility may be personal in nature insofar as employees are issued or assigned property for his/her use. Alternatively, this responsibility may be supervisory in nature in which the employee is responsible in establishing and enforcing certain measures to ensure proper preservation and use of all property.

Employees must notify their supervisor if any equipment, machines or tools appear to be damaged, defective or in need of repair. Prompt reporting of loss(es), damage(s), defect(s), and the need for repairs could prevent deterioration of equipment and possible injury to employees or others.

When the supervisor is informed of the issue, a prompt investigation shall occur and an investigatory report promulgated. The report shall include a complete description of the missing or damaged property and the estimated extent of loss, the time and circumstances under which the loss was discovered, the name(s) of the person(s) who discovered the loss, the known or suspected cause or circumstances involving the loss, name(s) of witness(es) to the loss, name(s) of person(s) known or suspected to be involved in the loss, and any other relevant information concerning the loss.

The report shall be submitted to the Department of Human Resources. Upon receipt of the report, the Department of Human Resources shall recommend the fixing of or relief from personal liability for the loss.

Employees shall be disciplined or required to reimburse the City for lost or damaged city property if it is determined that the employee, without justification or mitigation, violated pertinent established rules or policies, the observance of which would have prevented the loss or damage. This would include improper, careless, negligent, destructive, unsafe or unauthorized use and/or operation of City property.

The City will notify the employee of its intent to either discipline or seek reimbursement. If any employee is held liable for reimbursement for loss or damage under this section, he/she will be held liable for the value of the property or the insured value of the package, whichever is least. Reimbursement schedules shall be reasonable and fair, based upon the circumstances of each situation.

### 8.11 USE OF CITY VEHICLES (INCLUDING TAKE-HOME VEHICLES)

Take-home vehicles must be used for official business only. Assignment and use of a take-home vehicle shall be considered a privilege and not an automatic fringe benefit or employment right. Availability and needs of the department take precedence when issuing take-home vehicles.

The Department Director shall have the authority to assign, deny, suspend or remove any employee from the take-home vehicle program. The City Manager reserves the management right to establish, change, modify, reduce, suspend, discontinue or eliminate the take-home car program or any portion thereof.

Employees shall obey all traffic laws while operating a City vehicle and are responsible for citations they receive if they violate the traffic laws of this State. Employees for whom driving is a job requirement must report all licensure loss issues, including suspensions, revocations and restrictions within 24 hours of such events.

### 8.12 FRINGE BENEFITS

In an effort to recruit the most qualified applicants and retain high performing employees, the City Manager, in his sole discretion, may offer certain fringe benefits specific to non-bargaining unit employees. The City may also offer fringe benefits to all employees. The aforementioned benefits may include, but are not limited to, City-provided electronic equipment, cell phone allowances, transportation allowances, eligibility for achievement awards and certification incentive increases, qualified retirement plans, educational assistance, employee discounts, gratis entry to City-operated facilities, life and disability insurance, lodging expenses, meals, purchase or reimbursement of safety equipment and clothing/shoes, dependent care assistance and other working condition benefits. The offer of such benefits shall be detailed in an offer letter, employment agreement, internal policy or in any other formal documentation.

### 8.13 DRESS CODE AND APPEARANCE

Employees are expected to report to work well groomed, clean, and dressed according to the requirements of the position. Some employees may be required to wear uniforms or safety equipment and clothing. Employees are encouraged to maintain their personal appearance consistent with these rules as well as any rules and policies which may be established for this purpose by individual City departments.

An employee shall consult the immediate supervisor regarding acceptable dress for the workplace.

An employee deemed to not wear acceptable attire may be asked or directed on their own time to change into appropriate attire. Violations may also be subject to progressive discipline in accordance with City policy and procedures.

If management determines that attire is out of place, the immediate supervisor may ask or direct an employee leave the workplace until the employee has appropriate attire. The time away from the workplace for this purpose may be unpaid.

#### 8.14 CITY POLICY ON POLITICAL ACTIVITIES

Any employee who wants to run for City elected office must take a leave of absence without pay or resign. Employees may use accrued leave in lieu of taking a leave of absence without pay. The leave of absence or resignation must be effective by the formal candidate qualification date.

Employees participating in a political campaign may not wear a City uniform or apparel with a City logo. Use of City vehicles, equipment or other property while campaigning is strictly prohibited.

City employees shall not campaign, wear or display any campaign material while on duty, and not display campaign material on or from his/her vehicle while on City property or business. Bumper stickers on an employee's personal vehicle is permissible.

#### 8.15 SMOKE FREE WORKPLACE POLICY

The City provides a smoke and tobacco free environment and, therefore prohibits smoking in all City owned or leased buildings, including offices, hallways, waiting rooms, restrooms, break rooms or in front of City owned buildings. There are designated areas where smoking is permitted on City property. The City does not provide "smoke breaks" so all employees who choose to smoke in the designated areas must do so in their regularly scheduled breaks or meal periods. Smoking, as referenced herein, is defined as the act of inhaling, exhaling, burning, carrying or possessing any lighted cigarette, electronic cigarette, cigar, pipe, smokeless pouch, any other form of loose-leaf smokeless tobacco, pipe tobacco, chewing tobacco, snuff or other smoke producing products or products intended to simulate smoking. Smoking is also prohibited in any vehicle owned, leased, or rented by the City or where prohibited by law. Employees will make every effort to minimize the act of smoking when they are actively engaged in dealing with the public.

#### 8.16 WHISTLEBLOWER POLICY

The City encourages employees to report the following:

- Any violation, or suspected violation, of law committed by a City employee, volunteer, official, or organization with which the City is doing business if such violation creates a serious and specific danger to the public's health, safety, or welfare.
- any improper use of public office, waste of funds, or any other abuse or neglect of duty on the part of the City, any City employee or official or board member.

Examples of such activities include employees soliciting bribes in order to resolve code violations; falsifying City records to approve permits in exchange for payment; continually



failing to competitively procure a service, even though the service was available from multiple sources; spending City funds to rent space even though sufficient space owned by the city already exists; and failing to maintain adequate internal controls such that unauthorized and/or inappropriate financial transactions cannot be detected.

An employee with knowledge of such actions or activities must report such information to a supervisor, Department Director, Human Resources representative, Assistant City Manager, the City Manager or the City Attorney. Any of the aforementioned employees receiving such information shall forward it to the City Manager, his designee or any applicable authority within 24 hours. The City will provide the appropriate mechanisms to permit employees to confidentially and/or anonymously report such actions or activities.

A confidential investigation will thereafter be initiated on the authority of the City Manager in accordance with Section 112.3187, Florida Statutes. Retaliation against an employee who reports any violation, suspected violation, improper use of office, waste of funds or any abuse is prohibited. Nevertheless, disciplinary action may be taken against an employee who knowingly makes a false or malicious report.

The City will maintain accurate records of reported or suspected fraud and report evidence obtained by an investigation to the appropriate authorities.

To the extent allowable by law, in its ongoing efforts to protect the reputation of persons suspected but not determined to have committed fraud, the City's records shall conspicuously detail "unfounded" or "non-sustained" investigative findings and conclusions.

**ARTICLE IX**  
**DISCIPLINARY ACTION**

**9.01 GENERAL PROVISIONS**

It is the intent of the Personnel Rules and Regulations that effective supervision and employee relations will avoid most matters which necessitate disciplinary action. Department Directors, their authorized representatives and the City Manager shall be charged with the responsibility of enforcing and maintaining proper standards of discipline and personal conduct among their employees and are vested with discretionary authority to practice the methods of discipline that will provide the City and the employee the most effective working relationship.

As stated in Section 1.05, f. of these rules and regulations, internal departmental rules and regulations are incorporated by reference, and made a part of these rules of discipline as long as they do not conflict with these rules. In addition, other infractions mentioned in other sections of these rules are incorporated by reference.

In recognition of the fact that each instance and case differs in many respects from somewhat similar situations, the City retains the right to treat each occurrence on an individual basis and without creating a precedent for other cases which may arise in the future. The City retains the right to suspend any disciplinary action which it may take, during good behavior for a specified term, at its exclusive discretion. The following acts of conduct are not to be construed as all-inclusive and shall be expanded upon for other violations that conflict with the intent of these rules and regulations. In determining the method of discipline, consideration shall be given to the severity of the offense, the cost involved, the employee's record of discipline, the length and quality of service and other pertinent items of information.

**9.02 TYPES OF DISCIPLINE**

Department Directors and supervisors should use a progressive type of discipline depending on the severity of the offense that uses any or all of the following remedial measures:

- a. Verbally calling the attention of an employee to any unsatisfactory conduct of performance of duties.
- b. Personal reprimand of the employee either verbally or in writing. Employees may receive a copy of all disciplinary measures taken involving written communication.
- c. Suspension of an employee without pay subject to the review and approval of the City Manager.
- d. Demotion of an employee to a lower step in the same classification or to a position in a lower classification subject to the review and approval of the City Manager.

- e. Termination or discharge of employees' subject to the review and approval of the City Manager.

### 9.03 GROUNDS FOR DISCIPLINARY ACTION OR SEPARATION

The following acts or situations of employees shall be deemed sufficient cause for disciplinary action or separation from City service:

- a. Being charged with or convicted of a felony (with right of City to suspend employee without pay until charges have been tried in a court of law).
- b. Violations of safety rules and practices.
- c. Violations of any lawful and reasonable regulation or order, or failed to obey any lawful or reasonable direction made and given by a superior.
- d. Use of intoxicants or drugs while on duty or during meal or other breaks or being under their influence while on duty or while wearing a City-furnished uniform whether on or off duty; also, refusal to take any tests to determine their use.
- e. Contraction of some mental or physical ailment or defect which incapacitates him/her for usefulness in the present job.
- f. Concerted curtailment or restriction of production or interference with work in or about the City's property, including, but not limited to, instigating, leading or participating in any walkout, strike, sit-down, slowdown or refusal to return to work at the scheduled time for the scheduled shift.
- g. Being found guilty of acts which amount to insubordination or of a disgraceful conduct.
- h. Discourteous or offensive conduct or language toward the public, toward City officials or toward other employees.
- i. Misappropriation, misuse or unauthorized use of City time, equipment, tools, funds, machines, etc.
- j. Falsification or significant omissions of personal or City records verbally or in writing, including employment applications, accident records, work records, purchase orders, time sheets or any other report or record.
- k. Incompetence, inefficiency or repeated neglect of assigned duties.
- l. Incompetence, negligence, or inefficiency to such an extent that the employee's performance evaluations fall below a reasonable standard.
- m. Use or threatened use of political influence in securing promotion, leave of absence, transfer or change of class, pay, or character of work.

- n. Habitual tardiness or absence from duty, including abusing leave benefits.
- o. Unauthorized absence from duty.
- p. Violation of the State of Florida Ethics Law.
- q. That the employee is antagonistic in his/her attitude toward supervisory or fellow employees, criticizing orders or rules issued and policies adopted by his/her superiors or so conducts himself as to interfere with the proper coordination of the employees of the City to the detriment of efficient public service.
- r. Violation of internal departmental rules and regulations that have been posted or that the employee has received a copy of.
- s. Vending or soliciting or collecting contributions for any purpose whatsoever at any time on City premises unless authorized by the Department Director or City Manager.
- t. Making or publishing of false, vicious or malicious statements concerning any employee, supervisor, the City, or its operation.
- u. Suspension or revocation of valid driver's license required for job performance.
- v. Operating any City vehicle or equipment without a valid Florida driver's license and/or certification or with wrong endorsements required by law for that vehicle.
- w. Loss of certification/licensure required by the City or other governmental entity to perform the essential functions of the position for which the employee is assigned.
- x. Consistent misuse of City property or consistent neglect with respect to City property may be the basis for suspension or termination, pursuant to the Risk Manual.
- y. Quitting work, wasting time, loitering, or leaving assigned work area during working hours without permission.
- z. Taking more than the allotted time for meals or break periods.
- aa. Engaging in gambling, lottery, or any other game of chance at City work stations at any time.
- bb. Failing to report to a supervisor or department Director a request for information or receipt of a subpoena for a matter relating to City business.
- cc. Knowingly reporting for work with a serious communicable disease.

- dd. Discussing with members of the City Commission matters relating to an employee's employment status.
- ee. Disclosing protected health information of employees or individuals which violates privacy state or federal privacy laws.
- ff. Unauthorized use, possession or display of firearms, explosives or weapons on City property.
- gg. Theft of or removal without proper authorization of any City property or property of any employee or other person.
- hh. Unauthorized absence from work for a consecutive period of three (3) days or three (3) assigned shifts. (i.e., abandonment of position).
- ii. Unauthorized absence by Emergency Support personnel during a declared emergency.
- jj. Sleeping or hiding during duty hours.
- kk. Failure to work special hours or special shifts, after being scheduled according to overtime, callback or on-call duty policies.
- ll. Knowingly making false statements during an administrative investigation or hearing, and/or refusing to cooperate.
- mm. Failing to report a personal injury or accident in which the employee was involved while on the job.
- nn. Immoral, unlawful, or improper conduct, or indecency, either on or off-duty, which would tend to affect the employee's relationship to the job, fellow workers, reputation, or goodwill in the community.

#### 9.04 PRE-DETERMINATION MEETING

- a. When a suspension without pay, demotion or termination of employment is being recommended to the City Manager, the employee will be offered a predetermination meeting before the City Manager so that the employee can provide additional information before the decision is made final.
- b. The employee may offer any evidence, oral or written statement, including third party statements, all of which will be taken into consideration when determining the level of discipline.
- c. A predetermination meeting shall be scheduled no earlier than 24 hours from the time the employee is notified of the charges.

- d. Employees may contest the discipline being contemplated, choose not to contest the discipline being contemplated or waive the ability to have a predetermination meeting.
- e. The employee will be paid pending the ultimate decision, except if any delay in scheduling the predetermination meeting is attributable to him/her. In the case of such delay, the employee will be placed on unpaid administrative leave though may use accrued annual leave.

9.05 FINAL DISCIPLINARY ACTION

- a. Non-bargaining employees have no right to grieve or appeal a disciplinary action after a predetermination meeting is held.
- b. Employees covered by a collective bargaining agreement may appeal a disciplinary action taken by the City through the grievance procedure outlined in the applicable collective bargaining agreement under the grievance procedure article.

**ARTICLE X**  
**ELECTRONIC SYSTEMS**

**10.01 USE OF CITY COMPUTER SYSTEMS**

The City of Deerfield Beach's computer systems, internet, email, voicemail and City-issued cell phones are property of the City. It is the policy of the City of Deerfield Beach that use of its computer systems (including desktop and laptop computers, network and software, computer aided dispatch (CAD)), internet, email, voicemail and City-issued cell phones (including smart phones and personal digital assistants (PDA)) and iPads/tablet computers is limited solely to appropriate business use. Employees are not allowed to use the City's computer or voicemail systems or City-issued cell phones or iPads/tablet computers for their personal benefit or to store personal information on City computer systems.

Employees are strictly forbidden from installing software on any computer or other device connected to the City's network or computer systems without the express written permission of the CIO. Failure to obtain appropriate approval shall result in corrective action, up to and including termination from employment. The intentional introduction of a computer virus, Trojan horse, or other malicious code is strictly prohibited and will result in termination from employment.

This policy reaffirms that City employees have no reasonable expectation of privacy with respect to any computer hardware, software, electronic mail, text or instant message, voicemail or other computer or electronic means of communication or storage, whether or not employees have private access or an entry code into the computer or voicemail system, or City-issued cell phone or iPad/tablet computer. Information found on the aforementioned materials, irrespective of whether they directly relate to the City business, may nevertheless be subject to public disclosure. Employees have no right to privacy in any matter, whether personal or business-related, stored in, created, received or sent through the City's email, internet, computer or voicemail systems or City-issued cell phones and iPads/tablet computers. The City reserves the right to monitor the use of its voicemail and computer systems and City-issued cell phones and iPads/tablet computers, including but not limited to e-mail, internet use, website history, call and text message history and history of materials, data and files downloaded or uploaded. The City also reserves the right to retrieve and read any text or other message composed, sent, or received using the City's email or computer systems or City-issued cell phones and iPads/tablet computers. Monitoring and retrieval may occur at any time without prior notice.

Employees using the internet are prohibited from transmitting any material or using the internet in violation of any federal or state law. This includes but is not limited to copyright infringement, engaging in discrimination or harassment, or the communication of unlawful materials. The City's internet facilities and computing resources must not be used knowingly to violate the laws and regulations of the United States or any other nation, or the laws and regulations of any state, city, province or other local jurisdiction. Use of any City resources, including, but not limited to, the computer systems, email, internet or City-

issued cell phones and iPads/tablet computers, for illegal activity is grounds for immediate termination from employment.

If an employee defeats or attempts to defeat security restrictions on the City's systems and applications, such actions will result in immediate termination from employment.

The City recognizes that brief and occasional personal use of e-mail and the internet is acceptable as long as it is: (1) not excessive or inappropriate, (2) is restricted to non-working time (i.e., during break time or meal periods), (3) does not violate any of the prohibitions listed in this Employee Manual, (4) not in support of a personal business venture, (5) has no video, graphic, picture, or massive attachments, (6) not a chain letter or transmission of unsolicited commercial mail ("spam"), (7) does not violate the law, and (8) does not interfere with the City's business operations or cause congestion, disruption, or impairment of the City's networks or systems. The City reserves the exclusive right to determine whether any personal email use is inappropriate, excessive and/or violates this policy.

Employees are expected to exercise professionalism in all business communications including those in electronic and voice format.

#### 10.02 COMPUTER SYSTEM PROHIBITIONS

The City's Harassment-Free Workplace policy also applies to an employee's use of the City's computer system, internet, email, voicemail and City-issued cell phones and iPads/tablet computers. The City expressly prohibits the following:

- a. Discourteous communication to or about other persons, the City or other organizations.
- b. Sending, receiving, printing, or posting offensive or harassing statements or language including remarks of others based on their race, national origin, sex, sexual orientation, age, disability, religious or political beliefs.
- c. Sending or soliciting sexually oriented messages or images including accessing any adult (pornographic) websites.
- d. Issuing or forwarding chain mail and other frivolous messages.
- e. Accessing gambling or hate group websites.
- f. The circulating of jokes, comics or non-job-related computer graphics.
- g. Personal/private employee blogging or personal/private use of such social media websites including, but not limited to, Facebook, Twitter, You Tube, and LinkedIn.



- h. Soliciting donations, including charitable campaigns, except as specifically authorized or part of official City-sponsored events, i.e., blood drives, United Way, etc.
- i. Dissemination or printing of copyrighted materials, including articles and software, in violation of copyright laws.
- j. Sending, receiving, printing, posting, or otherwise disseminating proprietary data, City logos or other confidential information of the City of Deerfield Beach in violation of any policy or proprietary agreements.

Disciplinary action for violation of this policy may include, but is not limited to, termination, suspension, or transfer of the offending employee. In cases involving less serious violations, disciplinary action may consist of warning or reprimand. Remedial action may also include counseling, changes in work assignments, limiting of computing system access, limiting of cellular phone access or other measures designed to prevent future misconduct. The measure of discipline will correspond to the gravity of the offense as weighed by its potential effect on the City and fellow employees.

When utilizing e-mail, etiquette is important. The strategies for effective e-mail communication are as follows:

- a. whenever possible, avoid communicating through e-mail on a sensitive subject that should be addressed in person;
- b. communicate confidential information in another form other than e-mail.
- c. check for accuracy and use correct grammar, spelling and punctuation;
- d. read all messages and respond regularly;
- e. avoid the use of typing a message in all capital letters;
- f. be careful not to use the 'Reply All' function when not intended, for e.g., system-wide distribution;
- g. ensure that messages are deleted or saved; the server should not be used to permanently store messages.

### 10.03 INTERACTION WITH MEDIA

The only individuals who are authorized to speak on behalf of the City of Deerfield Beach are elected City officials, the City Manager, Department Directors and the Public Affairs and Marketing (PAM) office. Department directors and elected officials can refer to the City PAM office at any time. There are employees who are considered subject matter experts and who may assist the news media in developing their stories with the approval and notification of the PAM Office. This measure is to assure that complete and accurate information is included in news reports. Any staff who is contacted by a member of the

media should refer the individual to the PAM Office as soon as possible so that the City may respond to the media in a timely manner. The City endeavors to provide reliable information to the public and the media. Providing incorrect or incomplete information to the media has a negative impact on the public, as well as the credibility of the City.

The PAM office is the City's key media contact for answering questions and providing information. When a reporter directly contacts city staff, they should promptly notify the PAM office with the reporter's name, news affiliation and a brief description of the information requested and provided. This is important to assure a coordinated and complete response and to provide the media with accurate and consistent updates.

During emergency situations, including hurricanes and wildfire threats, this media policy is superseded by the City's Comprehensive Emergency Management Plan. The plan is available from Emergency Management. During emergency activation, news media access to the Emergency Operations Center is restricted.

Any social media internet website or any electronic page maintained by the City which permits, encourages, or links to e-mail capabilities, shall contain the following disclaimer:

"Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead contact this office by phone or in writing." (Provides for an appropriate phone number and address).

The City shall retain, on a daily basis, each social media page and website page which is posted by the City. It is the intent that each days' social media and website page shall be preserved as a public record in compliance with the general records schedule GS1-SL for state and local government agencies.

#### 10.04 PERSONAL USE OF SOCIAL MEDIA

The City does not in any way prohibit individuals that work for the City from creating, obtaining or using personal social network accounts. Nevertheless, an employee's entitlement to use social media is not without limits. Inappropriate online communication that includes discriminatory remarks, harassment, and threats of violence or similar inappropriate or unlawful conduct will not be tolerated and is prohibited.

Though employees may interact with other employees or individuals who work on behalf of the City, communication cannot be viewed as malicious, obscene, threatening, intimidating, harassing or bullying. Examples of such conduct might include communication meant to intentionally harm someone's reputation or conduct that could contribute to a hostile work environment on the basis of race, color, sex, religion, national origin, age, disability, genetic information, or any other status protected by law or City policy.

Furthermore, employees are prohibited from doing the following using personal social network accounts:

- a. Using City computers to access social media without prior written authorization from their supervisor;
- b. Using personal electronic devices to access social media during working hours without prior authorization from their supervisor;
- c. Engaging in political activity or private business interests during working hours;
- d. Suggesting either directly or indirectly that the City endorses a commercial product or service, unless approved by the City Manager;
- e. Displaying City logos, uniforms or any similar identifying symbols without prior written authorization from the City Manager;
- f. Posting, transmitting, discussing or otherwise disseminating information to which they acquired by virtue of their employment;
- g. Speaking on behalf of the City unless they have prior written authorization from the City Manager; and,
- h. Posting, transmitting, discussing or disseminating confidential or proprietary information.

Any employee who is aware of an online posting on a social media page by a City employee that violates any provisions of this policy shall notify his/her supervisor immediately.

An employee in the PAM office will serve as the lead staff person for official City social media platforms. The PAM will serve as the point of contact and administrator for creating accounts, posting information and responding to comments, ensuring compliance with the social media policy, and regularly updating the social media websites. PAM also oversees the homepage of the city's website and monitors the site's overall content. This office will work in conjunction with other city department designees who will assist with providing content to any/all social media sites and/or the city website.

Any request for use of City social media platforms by personnel shall be made through the PAM. The PAM, along with the City Manager, will review requests and assist the requester in selecting the appropriate platform and developing appropriate uses for social media.

The PAM reserves the right to edit or remove content if the social media site allows for comments to be posted by the public, and those comments contain profane language/content, discriminatory content, sexual content, business solicitation, trademark or copyright violations, political campaign information, illegal content, among other criteria. The City's social media pages are not intended to be public forum, but platforms to provide information directly related to the promotion of City events and the detailing of City services.

The City understands that employees may engage in social media and social networking during non-work time.

Employees are responsible for what they post online. Employees who engage in social networking on the Internet should be mindful that their postings, even if done off premises and while off-duty, could have an adverse effect on the City's legitimate business interests. For example, the information posted could be non-public information regarding an on-going law enforcement investigation, or information exempt from disclosure under Florida's public record law.

Employees are not permitted to use social media or social networking during working time or on any City-supplied computer, electronic resource or other device, unless specifically authorized by the City to do so as part of an employee's position. Employees are cautioned that they should have no expectation of privacy while using the internet. The City reserves the right to monitor comments or discussions about the City, its employees, residents, and elected officials posted on the internet by employees or anyone else.

The City encourages employees to resolve personal complaints about work by speaking directly with co-workers, supervisors, managers, Department Directors or the Department of Human Resources rather than by posting those complaints in a blog or a social networking site. If an employee, nonetheless, decides to post personal complaints or criticism concerning the City, its officers or employees, employees are prohibited from doing so in a way that is defamatory, obscene, slanderous or unlawful.

The City requests and strongly urges employees to report any violations or possible or perceived violations to supervisors, managers, or to the Director of Human Resources and Risk Management. The City investigates and responds to all reports of violations of the social networking policy and other related policies. Violation of the City's social networking policy will result in disciplinary action up to and including immediate termination. Discipline or termination will be determined based on the nature and factors of any blog or social networking post. Bloggers can be held personally liable for commentary that is considered defamatory, obscene, proprietary or libelous by any offended part, not just the City.

If an employee needs clarification on any aspect of this policy, he/she should contact the Department of Human Resources. Failure to comply with this policy may result in corrective action, up to and including immediate termination from employment.

*NOTE:* Nothing in this policy is intended to prohibit or discourage employees from engaging in speech as citizens on matters of public concern, or to prohibit or discourage employees from engaging in any protected activities under the Public Employee Relations Act (F.S. Chapter 447, Part II), including discussing their wages, benefits, hours or working conditions.

## 10.05 TELEPHONE CALLS AND CELL PHONE USAGE:

The City recognizes that cellular telephones can be very valuable in times of emergency and can enhance the operational effectiveness and efficiency of staff while away from the office. However, excessive use of cellular telephone devices during working hours can be distracting and interfere with employee productivity. As such, during working hours, employees are expected to limit personal calls as much as possible and instead make and take personal calls during non-working hours (e.g., during break and lunch periods), except in those exigent circumstances that demand immediate personal use. Employees are similarly expected to limit texting during working hours so that it does not become a distraction while performing their job duties. Department Directors or their designee are expected to monitor the activities of their employees to ensure that they are not distracted by telephone calls, texting or other activities associated with or accessible via cellular telephones, including the use of social media.

During working hours, employees should not utilize their cellular telephones to: access the Internet for non-work-related purposes; violate any of the City's Internet or email policies; visit or utilize social media; play games; watch movies or other televised programming; or engage in any activity prohibited by City policy, including, but not limited to gambling or accessing or distributing pornographic or discriminatory material.

Employees should be aware that the record of telephone calls made on their telephones may constitute public records if those calls concern official City business pursuant to the Florida Public Records Act, which defines public records as: "...documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics or means of transmission, made or received pursuant to law or ordinance in connection with the transaction of official business by any agency." If a public records request is submitted for an employee's phone records, the employee should assist the City in identifying calls that were made in connection with official City business so that those records may be produced in response to the request.

While operating a City vehicle and/or during the performance of City business (regardless of whether or not an employee is driving a City vehicle), employees are required to exercise caution since the use of cellular telephones while driving presents a potential safety hazard. Making or answering telephone calls with a hands-free headset, Bluetooth device, or voice activated features is strongly encouraged for those employees permitted to use a cell phone while driving. In order to promote safety and minimize liability, the following activities are prohibited while operating a City vehicle or any vehicle during the performance of City business:

- a. Sending or reading text messages, instant messages, PIN messages or the like;
- b. Sending or reading email messages;
- c. Accessing the Internet;
- d. Using or accessing any telephone applications or "Apps";

- e. Playing games;
- f. Taking pictures or making video recordings;
- g. Recording voice notes or messages;

The foregoing list is not meant to be exhaustive, but is a mere representation of popular cellular telephone functions which are prohibited by the City while employees are operating a City vehicle and/or during the performance of City business (regardless of whether or not the employee is driving a City vehicle).

Department Directors and managers are expected to serve as role models for their subordinates to ensure compliance with the provisions of this policy and should routinely remind employees of their obligation to comply with this policy.

**ARTICLE XI**  
**Drug-Free Workplace Program**

**11.01 OBJECTIVE**

The City's Drug-Free Workplace Program and Policy is intended to comply with Florida Workers' Compensation Drug-Free Workplace Program, sections 440.101-44.102, Florida Statutes, and the rules adopted by the Agency for Health Care Administration.

The City will test, at its own expense, job applicants for illegal drug or alcohol use as outlined in this Policy. A positive drug test can lead to withdrawal of an offer of employment for job applicants. In addition, the City will test, at its own expense, *any* current employee for illegal drug or alcohol use if a reasonable suspicion exists that the employee is in violation of this Policy, post-accident or injury, pursuant to a fitness-for duty examination, and as a follow-up procedure to any drug or alcohol treatment program. The City may also conduct random drug testing as well as testing required by federal law for employees who operate commercial motor vehicles. All drug testing will conform to the requirements of this Policy and to applicable state and federal law.

**11.02 DEFINITIONS:**

Drug test or test: Any chemical, biological or physical instrument analysis administered for the purpose of determining the presence or absence of alcohol, a drug or its metabolites, or other illegal substances.

Illegal Drug: includes any drug (a) which is not legally obtainable under either federal law or applicable state law; (b) which may be legally obtainable but has not been legally obtained; (c) which is being used in a manner or for a purpose other than as prescribed.

Legal Drug: includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used solely for the purpose for which they were prescribed or manufactured. For purposes of this definition and the City's Drug-free Workplace Program, drugs that are legally obtained under state law but are illegal under federal law are not considered Legal Drugs.

Mandatory-testing position: a job assignment that requires the employee to carry a firearm, work closely with an employee who carries a firearm, perform life threatening procedures, work with heavy or dangerous machinery, work as a safety inspector, work with children, work with detainees in the correctional system, work with confidential information or documents pertaining to criminal investigations, work with controlled substances, a job assignment that requires an employee security background check, or a job assignment in which a momentary lapse in attention could result in injury or death to another person.

**11.03 EMPLOYEE TESTING (SITUATIONAL TESTING TYPES):**

Reasonable Suspicion Testing: Employees will be required to submit to drug and/or alcohol testing at a laboratory chosen by the City if there is reasonable suspicion of

substance abuse. Circumstances that could be indicators of a substance abuse problem and considered reasonable suspicion are:

- a. Direct observation of alcohol or drug abuse during work hours or on City premises.
- b. Apparent physical symptoms of being under the influence of a drug or alcohol.
- c. Significant deterioration of work performance that is not attributable to other factors.
- d. Abnormal conduct or erratic behavior while at work.
- e. A report of drug use, provided by a reliable and credible source.
- f. Evidence that an individual has tampered with a drug test during his/her employment;
- g. Information that an employee has caused, contributed to, or been involved in an accident or injury while at work; or
- h. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working.

If, in the opinion of a supervisor, manager or Department Director, reasonable suspicion exists to believe that any employee may be abusing or under the influence of illegal drugs or alcohol, the supervisor, manager or Department Director must promptly notify the Department of Human Resources and submit in writing the circumstances leading to the conclusion that reasonable suspicion testing is justified. The Department of Human Resources, in conjunction with the applicable employee's management, will make the determination on whether to request the employee to submit to a drug test.

Upon request, a copy of any documentation concerning the basis for the reasonable suspicion testing will be provided to the employee. Documentation regarding the conclusion that reasonable suspicion testing is justified and any related conversations between management and the Department of Human Resources shall be kept confidential to the extent possible.

**Employees must submit to drug testing under the following conditions:**

Fitness for Duty: An employee may be required to submit to a drug test as part of routinely scheduled employee fitness-for-duty medical examination.

Post-Accident or Injury: All employees are subject to drug and/or alcohol testing after a work-related vehicular accident, after an accident or injury involving a City-owned vehicle, and after an accident or injury which causes injury to the employee or to any other person or damage to any property. The accident may involve a moving or non-moving vehicle.



Employees who are off duty and are involved in a vehicular accident or injury involving a City owned vehicle shall immediately submit to drug and/or alcohol screening.

If, because of the accident, an employee is unable to submit to drug testing immediately, the employee will authorize the release of any medical reports or documentation regarding the presence of illegal drugs or alcohol in the employee's body at the time of the accident to the Medical Review Officer. Refusal to agree to this release will result in termination of the employee.

Random Drug Testing: The City may conduct random drug testing of all employees occupying mandatory-testing and special-risk positions.

Follow-Up Drug Testing: As a condition of continued employment, all employees who were referred to the Employee Assistance Program or who enrolled in a drug or alcohol abuse program shall take follow-up drug and/or alcohol tests on a random, periodic basis for at least two (2) years after the referral or enrollment. This testing is only applicable to those employees who report their abuse prior to being asked to take a test. The City reserves the right to waive follow-up testing in the event an employee voluntarily submits to an Employee Assistance Program or drug or alcohol abuse program.

Failure to submit to the required drug test is grounds for discharge from employment.

#### 11.04 DRUG AND ALCOHOL TESTING OF COMMERCIAL MOTOR VEHICLE DRIVERS

In addition to the policies and procedures set forth above, any City employees connected with the operation of commercial motor vehicles who are subject to drug and alcohol testing as required by the Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. App. §§ 2714-2717 (1993), and by all applicable procedures and regulations promulgated by the Department of Transportation and the Federal Highway Administration, as well as any additional policy adopted by the City pursuant to those federal laws and regulations. In cases where the requirements of both federal and state drug and alcohol laws and regulations and/or the City's Drug-Free Workplace Policy may be applicable, the requirements of federal drug and alcohol laws and regulations will control if a conflict arises between federal law and regulations and the requirements of state law or the City's Drug-Free Workplace Policy.

#### 11.05 POSITIVE DRUG TEST RESULTS

Any employee or job applicant who receives a positive confirmed drug test result may contest or explain the results to the Medical Review Officer within five (5) working days after written notification of the positive test results. If an employee's or job applicant's explanation or challenge is unsatisfactory to the Medical Review Officer, the Medical Review Officer shall report a positive test result back to the City. The employee or job

applicant may contest the drug test pursuant to Florida law or to rules adopted by the Agency for Health Care Administration.

#### 11.06 LOSS OF WORKERS' COMPENSATION BENEFITS

If an employee is injured in the scope of his/her employment and drug tests or other medical evidence indicates the presence of illegal drugs or alcohol in the employee's body at the time of the accident, the employee may be required to forfeit any medical or other benefits available under the Florida Workers' Compensation Statute (section 440.101 (2), Florida Statutes). This penalty is in addition to any other penalties that might apply either under this policy or under applicable law.

#### 11.07 CONFIDENTIALITY STATEMENT

All information, interview, reports, statements, memoranda and drug-free test results through the City's drug testing program will not be made part of any personnel records and will be treated as confidential to the extent required by law, except as consented to by the employee or applicant, or if placed at issue by the employee in any legal, administrative or other proceeding to determine compensability of a workers' compensation claim.

#### 11.08 USE OF PRESCRIPTION AND NON-PRESCRIPTION MEDICATIONS

All employees or applicants may consult with the testing laboratory or the Medical Review Officer for technical information regarding the effects of prescription and non-prescription medications on drug testing.

Each tested individual shall report, on a confidential basis to the Medical Review Officer, the use of prescription or non-prescription medications both before and after being tested.

A form will be provided to each individual to list such medications. This form should only be filled out at the collection facility, not at the City. Additionally, such medications may be disclosed orally to the Medical Review Officer after being tested, if contacted by the Medical Review Officer.

The individual must not disclose such medications or provide the form requesting such information to any City employee.

The City has provided at the end of this Policy a list of the most common medications by brand, common and, if applicable, chemical name, which may alter or affect a drug test.

An employee shall disclose to the Department of Human Resources any prescribed medication(s) that may impact their ability to safely perform the essential functions of their position.

## 11.09 CONSEQUENCES OF REFUSING A DRUG TEST OR TREATMENT

Refusal To Cooperate – Job Applicants: Any person receiving a conditional offer of employment who refuses to submit to drug and alcohol testing, or who provides a false sample, or alters, adulterates, taints, tampers, or otherwise interferes with drug testing collection, samples, or analysis is immediately disqualified from employment by the City.

Refusal To Cooperate – Employees: Any employee who refuses to submit to drug and alcohol testing when required will be terminated from employment. Any employee who provides a false sample, or alters, adulterates, taints, tampers, or otherwise interferes with drug testing collection, samples, or analysis, will be immediately terminated from employment.

Definition of Refusal to Submit to Testing: Any person or employee will be considered to have refused to submit to testing if the person or employee:

- a. Did not appear at the testing site, within a reasonable time, after being directed to do so.
- b. Did not provide a specimen or provided an inadequate specimen, as required by this policy, the on-site specimen collector or applicable state and/or federal regulations.
- c. Left the testing site before the completion of the test
- d. Refuse to cooperate with any part of the testing process.

Refusal To Accept Treatment Or Failure To Rehabilitate: Any employee who rejects a treatment program offered through the Employee Assistance Program, or who leaves a treatment program prior to being properly discharged by the program will be immediately terminated from employment with the City. This sanction applies regardless of whether the City referred the employee to the treatment program or Employee Assistance Program or whether the employee voluntarily sought treatment.

Participation in Employee Assistance or Rehabilitation Program: The City wishes to make every effort to rehabilitate its employees who may be experiencing drug or alcohol problems. To this end, the City will not retaliate in any manner against an employee who is referred to an Employee Assistance Program (EAP) or treatment program, or who voluntarily refers him or herself to the Employee Assistance Program or submits to treatment in a drug or alcohol abuse program. Use of the Employee Assistance Program is the employee's full financial responsibility.

## 11.10 DUTY TO NOTIFY LABORATORY OF LEGAL ACTION CONCERNING TEST RESULTS

It is each applicant's or employee's responsibility to notify the City and the Drug Testing laboratory of any administrative or civil action brought pursuant to section 440.101, Florida Statutes.

Employees and applicants should review any applicable collective bargaining agreements or contracts for additional information on their rights. Florida employees may have a right to appeal to Florida's Public Employees Relations Commission or applicable court for violations of Florida's Drug-Free Workplace Program.

#### 11.11 DRUG TESTING INFORMATION

*The City may test for one or more of the following drugs*

<i>Drugs</i>	<i>Trade or Common Names</i>
ALCOHOL:	Liquor, Booze, Spirits
NARCOTICS:	
Opium	Dover's Powder, Paregoric, Parepectolin
Morphine	Morphine, Pectoral Syrup
Codeine	Tylenol with Codeine, Empirin Compound with Codeine, Robitussin A-C
Heroin	Diacetylmorphine, Horse, Smack
Meperidine (Pethidine)	Dilaudid, 6-Acetylmorphine
Hydrocodone/Hydromorphone	Demerol, Mepergan
Oxycodone/Oxymorphone	
Methadone	Dolophine, Methadone, Methadose
Other Narcotics	Darvon, Fentanyl, LAAM, Leritine, Lomotil, Numorphan, Percodan, Talwin, Tussionex
DEPRESSANTS:	
Barbiturates	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate
Benzodiazepines	Ativan, Azene, Clonopin, Dalmane, Diazepam, Halcion, Librium, Paxipam, Restoril, Serax, Transene, Valium, Verstran, Xanax
Chloral Hydrate	Noctec, Somnos
Glutethimide	Doriden
Methaqualone	Quaalude
Other Depressants	Equanil, Miltown, Noludar, Placidyl, Valmid
STIMULANTS:	
Cocaine	Coke, Flake, Snow, Crack
Amphetamines	Binehetamine, Desoxyn, Dexedrine

Methylphenidate	Ritalin
Phenmetrazine	Preludin
Other Stimulants	Adipex, Bacarate, Cylert Didrex, Lonamin, Plegine, Pre- Sate, Sanorex, Tenuate, Tepanil, Voranil

**HALLUCINOGENS:**

Amphetamine Variants	2, 5-DMA, PMA, STP, MDA, MDMA, TMA, DOM, DOB
LSD	Acid, Microdot
Mescaline and Peyote	Mese, Buttons, Cactus
Phencyclidine	PCP, Angel Dust, Hog
Phencyclidine Analogs	PCE, PCPy, TCP
Other Hallucinogens	Bufotenine, Ibogaine, DMT, DET, Psilocybin, Psilocyn

**CANNABIS:**

Hashish	Hash
Hashish Oil	Hash Oil
Marijuana	Pot, Acapulco Gold, Grass, Reefer, Sinsemilla, Thai Sticks
Tetrahydrocannabinol	THC
The metabolite of any of the substances listed above.	

There shall be two tests conducted by the City. If the first test is negative, there shall be no second test, unless the City has reason to believe there was some irregularity in the administration or analysis of the first test. The second (confirmatory) test shall be a gas chromatography/mass spectrometry (GC/MS test) or such other equivalent or more accurate scientifically accepted test, at the City's option. It shall be this second, confirmatory test, which shall be the determinant for the City as to whether the employee or applicant was under the influence of alcohol or drugs and which shall trigger disciplinary action against employees and a determination not to hire job applicants.

A sample shall be collected with due regard to the privacy of the individual providing the sample, and in a manner reasonably calculated to prevent substitution or contamination of the sample.

Specimen collection shall be documented and the documentation procedures shall include:

- a. Labeling specimen containers to preclude erroneous identification;
- b. A form for the employee or applicant to provide any information he/she considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical

information. Such form shall provide notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. The providing of information shall not preclude the administration of the drug test, but shall be taken into account in interpreting any positive confirmed results; and

c. A consent form.

Specimen collection, storage, and transportation to the testing site shall be performed in a manner which will reasonably preclude specimen contamination or adulteration.

A specimen for a drug test may be taken by any person authorized to do so by Florida Statutes Chapter 440.102.

Specimens shall be sufficient for two drug tests as determined by the Department of Health and Rehabilitative Services.

Every specimen that produces a positive confirmed result shall be preserved by the licensed laboratory that conducts the confirmation test for a period of at least 210 days after the results of the positive confirmation test are mailed or otherwise delivered to the employer. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or applicant shall have the responsibility to notify the laboratory and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 180 day period after written notification of a positive test result, the employee or job applicant who has provided the specimen shall be permitted to have a portion of the specimen retested, at the employee's or applicant's expense at another laboratory licensed and approved by the Department of Health and Rehabilitative Services, chosen by the employee or applicant, provided that the employee or applicant shall provide notice to the City of his/her desire to undertake such a test within five working days of receipt of the results of a positive confirmatory test or notice from the City that the applicant or employee's timely explanation was unsatisfactory whichever occurs later. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory which performed the test for the employer shall be responsible for the transfer of the portion of the specimen to be retested, and for the integrity of the chain of custody during such transfer.

Within five working days after receipt of a positive confirmatory test result from the testing laboratory, the City shall inform an employee or job applicant in writing of such positive test result, shall provide a copy of the test result and shall provide a statement of the consequences of such result and the options available to the employee or job applicant.

Within five working days after receiving notice of a positive confirmatory test result, the employee or job applicant may submit information in writing to the employer explaining or contesting the test results, and why the results do not constitute a violation of the employer's policy.

If the City deems the explanation or challenge to be unsatisfactory, it shall provide a written explanation as to why the employee's or job applicant's explanation is

unsatisfactory. Such documentation shall be kept confidential as provided by law and shall be retained for at least one year.

The City shall employ chain-of-custody procedures as established by the Department of Health and Rehabilitative Services.

An applicant whose second test confirms the original positive test result may, at the applicant's expense, have a third test (being a gas chromatography/mass spectrometry (GC/MS test) conducted on the original sample at a laboratory approved by the City.

The City shall pay the costs of the initial and the first confirmation test; the employee or job applicant shall pay for any test which he/she requests. Payment shall be made by the employee upon requesting the test.

Should an applicant or employee fail to request a third test, after a positive confirmatory test by the City, within five days after receiving the notice of positive results from the City or notice of the City's determination that the applicant or employee's timely explanation was unsatisfactory, whichever occurs later, the employee or applicant shall waive any claims to a position lost as a result of the positive confirmatory test. A job applicant shall, in no event, be entitled to a position applied for and filled during any review of positive tests or other challenge.

Upon detecting a false positive error, the City shall notify the laboratory and the Florida Department of Health and Rehabilitative Services of any such error.

The laboratory shall not disclose any information relative to the health or mental condition of the tested employee except as provided by law. The City shall not request or receive from the testing facility any information concerning the personal health, habit, or condition of the employee (other than the drug test results) including, but not limited to, the presence of HIV antibodies in an injured employee's body fluids.

#### 11.12 OVER THE COUNTER AND PRESCRIPTION DRUGS WHICH COULD ALTER OR AFFECT THE OUTCOME OF A DRUG TEST

A list of some of the common medications by brand name or common name, and if applicable, chemical name, which may alter or affect a drug test, are listed below. Due to the large number of brand names and the marketing of new products, this list is not all-inclusive. Employees and job applicants should review this list prior to submitting to a drug test.

Alcohol: All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof).

Amphetamines: Obetrol, Biphedamine, Desoxyn, Dexedrine, Didrex

Cannabinoids: Marinol (Dronabinol, THC)

Cocaine: Cocaine HCl topical solution (Roxanne)

Phencyclidine: Not legal by prescription

Methaqualone: Not legal by prescription

Opiates: Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guaiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), MS Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-Organidin, etc.

Barbiturates: Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butabital, Phrenilin, Triad, etc.

Benzodiazepines: Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax.

Methadone: Dolophine, Methadose

Propoxyphene: Darvocet, Darvon N, Dolene, etc.

**Brand Name**

**Generic Name**

Anusol Suppos	Hemorrhoidal Inserts
Anusol Suppos HC	Hemorrhoidal Inserts HC
Aristocort Cr. Oint./Kenalog	Triamcinolone
Atarax	Hydroxyzine HCL
Bactrim/Septa	Trimethoprim, Sulfamethoxazole
Benadryl	Diphenhydramine
Betadine Oint./Efodine	Povidone Iodine Oint.
Betalin-S	Thiamine
Cardizem	Diltiazem
Calan/Isoptin	Verapamil
Colace	Docusate Sodium
Compazine	Prochlorperazine
Decadron/Hexadrol	Dexamethasone
Demerol	Meperidine
Diabeta/Micronase	Glyburide
Dramamine	Dimenhydrinate
Dulcolax	Bisacodyl
Ecotrinq	Enteric Coated Aspirin
Elavil/Endep	Amitriptyline
Erythrocin	Erythromycin Stearate
Esidrix/Hydrodiuril	Hydrochlorothiazide
Isoptin/Calan	Verapamil
Isordil	Isosorbide Dinitrate
Kayexalate	Polystyrens Sulfonate Sodium
Kenalog cr/oint./Aristocort	Triamcinolone
K-lor	Potassium Chloride 20meg Powder
Larotid	Amoxicillin
Lasix	Furosemide
Lomotil	Diphenoxylate, Atropine
Micronase/Diabeta	Glyburide
Motrin/Rufen	Ibuprofen
M.S.	Morphine Sulfate
Mycolog/Mytrex	Nystatin, Neomycin, Gramicidin, Triamcinolone
Mycostatin/Nilstat	Nystatin



Nilstat/Mycostatin	Nystatin
Nipride	Nitroprusside
Noctec	Chloral Hydrate
Normodyne-Trandate	Labetalol Hydrochloride
Norpramine/Pertrofane	Desipramine
Parafon Forte	Chlorzoxazone, Acetaminophen
Pen VK/V-Cillin K	Penicillin VK
Peri-Colace	Docusate Sodium, Casanthranol
Persantine	Dipyridamole
Pertrofana/Norpramine	Desipramine
Phenergan	Promethazine
Pitocin	Oxytocin
Polycillin	Ampicillin
Procardia	Nifedipine
Pronestyl	Procainamide
Prostaphlin	Oxacillin
Proventil/Vantolin	Albuterol
Pyridium	Phenazopyridine
Robaxin	Methocarbamol
Robinul	Glycopyrrolate
Rufin/Motrin	Ibuprofen
Sepra/Bactrim	Trimethoprim/Sulfamethoxazole
Solu-Medrol	Methylprednisolone
Soma	Carisoprodol
Sumycin	Tetracycline
Surfak	Docusate Calcium 240 mg.
Tambocor	Flecainide
Therogran	Therapeutic Multivitamin
Theragran-M	Therapeutic Multivitamin with Minerals
Theragran Hematinic	Therapeutic Hematinic Vitamin
Thorazine	Chlorpromazine
Tonocard	Tocainida Hydrochloride
Urscholina/Duvold	Bethanechol
Valium	Diazepam
Vibramycin	Doxycycline
Vistarll Injection	Hydroxyzine HCl
Vistarll Capsules	Hydroxyzine Pamoate

### 11.13 REHABILITATION PROCEDURES FOR MANDATORY-TESTING AND SPECIAL-RISK POSITIONS

An employee in a mandatory-testing position who enters a voluntary substance abuse rehabilitation program shall be assigned to a position other than a mandatory-testing position, or if such a position is not available, shall be placed on a leave of absence while the employee is participating in the program. The employee shall be required to use his/her accrued paid leave time (vacation and sick time or compensatory time) during any approved leave.

The Employee Assistance Program can give information as to other local alcohol and drug rehabilitation programs. However, to be exempt from such disciplinary action the employee must seek counseling and rehabilitation and notify the City of such counseling prior to being asked to take a drug test.

An employee in a special-risk position shall be discharged for the first positive confirmed test result if the drug confirmed is an illicit drug under Section 893.03, Florida Statutes. A special-risk employee who is participating in a substance abuse program shall not be allowed to continue to work in a mandatory-testing or special-risk position, but (if available) may be assigned to a position other than a mandatory-testing position or placed on leave while the employee is participating in the program. The employee may be eligible for a leave of absence while participating in the program. The employee shall be required to use his/her accrued paid leave time (vacation and sick time or compensatory time) during any approved leave.

#### 11.14 REPORT OF DRUG CONVICTIONS

Employees in positions which require driving a City vehicle or personal vehicle on City business shall notify the Director of Human Resources and Risk Management of any alcohol or drug related arrest (e.g., including but not limited to Driving While Under the Influence) on the next workday.

Employees are also required to notify the Director of Human Resources and Risk Management of the outcome of all criminal drug statute or alcohol related criminal charges no later than five days after any change in status, including the notification of a conviction, a plea of guilty, an adjudication of guilt, a plea of nolo contendere, an adjudication withheld, an acquittal or a dismissal of the charges. A failure to report a drug or alcohol conviction to the City within the applicable time periods will result in immediate termination of the employee, unless good cause exists for the employee's failure to report the conviction to the City.

The City shall take appropriate action with respect to an employee who is charged or convicted of a violation of a criminal drug statute or alcohol related offense, which action may include transfer to a non-safety sensitive or non-special risk position and/or corrective action, up to and including termination from employment.

#### 11.15 EMPLOYEE RESPONSIBILITIES

An employee who voluntarily, or as a condition of continued employment, enters a drug or alcohol treatment and/or rehabilitation program must participate and complete recommended treatment. Any employee who enters a drug or alcohol treatment and/or rehabilitation program shall be responsible for payment for the treatment and/or program to the extent not covered by medical insurance provided by the City. If the employee fails to comply with the treatment and/or the program, the employee shall be terminated.