



Your City of Indian Harbour Beach ***Personnel Policies Manual*** will provide you with valuable information regarding your employment with the City of Indian Harbour Beach.

The City of Indian Harbour Beach Personnel Policies Manual sets forth policies, procedures, and principles established by the City of Indian Harbour Beach and supersedes any prior policies of the City. These rules and regulations shall govern all employment and personnel-related matters of the City, unless preempted by Federal, State, City Charter, Code of Ordinances, or a provision of a Collective Bargaining Agreement. This Personnel Policies Manual is not intended to be comprehensive or to address all the possible applications of, or exceptions to, the general policies and procedures described and may be modified or discontinued from time to time. As a best management practice, the City will strive to update and inform employees of changes to these policies as they occur.

The purpose of this manual is to familiarize each employee with the various policies, procedures, rules and regulations of the City. It shall serve as a guideline to acquaint employees with the practices, conditions of employment, and benefits of employment with the City. There may be instances where the City has adopted a specific policy regarding a very specific subject matter which may be applicable to employees but are not specifically detailed in the Policy. As an employee of the City of Indian Harbour Beach, it is your responsibility to read, understand, and keep current of the City's policies and procedures. You are also responsible for requesting clarification from your Department Director or the City Clerk/Human Resources if needed. Each employee will be required to sign a statement to this effect.

A proper and efficient personnel system is an indispensable and necessary prerequisite to the administration of the business affairs of the City. Further, we strive for a fair, equitable and uniform system of public employment in order to attract the excellent caliber of professional public servants which this City demands and deserves.

The City hopes that your time with us is long, happy, and productive. However, neither this Manual nor any other City of Indian Harbour Beach document confers any right, either expressed or implied, to remain in the City's employ. Nor does it guarantee any fixed terms or conditions of employment. In addition, it does not constitute a contract of employment for any specified period of time, nor does it in any way alter the "at will" nature of employment with the City of Indian Harbour Beach. Violations of any City of Indian Harbour Beach policies or procedures may result in disciplinary action, up to and including termination of employment.

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# Section 1: General Provisions

## 1.1 Introduction

### Purpose

The purpose of this Personnel Policies Manual is to provide a general guide for the administration and management of the City of Indian Harbour Beach personnel. These policies, procedures, and principles shall apply to and govern all employees and volunteers of the City of Indian Harbour Beach, except where noted or as governed by a collective bargaining agreement.

### Intent

It is the intent and will of the City Council of the City of Indian Harbour Beach that these policies assure fair treatment of all the City employees in all aspects of personnel administration. These policies shall be carried out without regard to an employee's race, color, religion, sex, pregnancy, national origin, age, handicap, gender, or marital status and with proper regard for an employee's privacy and rights as a citizen.

All provisions contained in this manual shall apply to and govern matters pertaining to employment, employee relations, personnel practices and human resources within the City of Indian Harbour Beach to ensure a mutually beneficial and professional relationship between the City and each employee.

- A. In addition, provisions contained in this manual shall apply to and govern the work and conduct of City employees.
- B. Ensure employees understand the expectation of professional conduct and that bullying, harassment or discrimination in any form is unacceptable and will not be tolerated.
- C. As the City strives for excellence in local government, information (i.e., education, benefit and performance improvement) will be provided to employees.

## 1.2 Employment Rights and Guidelines

- A. Neither these policies nor any other document published or promulgated by the City of Indian Harbour Beach, including the Charter, creates or establishes a contract of employment between the City and the employee.
- B. Employees are entitled to due process and the City shall utilize a progressive disciplinary plan. The only exceptions to this are:
  - i. Probationary employees.
  - ii. Volunteers.

- iii. Employees governed by a collective bargaining agreement will follow the process outlined therein.
- iv. Written employment contracts for the City Manager position is approved by the City Council and signed by the Mayor and are contracts between the City and an individual. Any other employment agreements may be approved and executed by the City Manager.

### **1.3 Employees have the right to end the employment relationship at any time, for any reason, with or without cause. Appointing Authority**

In conformance with the City Charter, the City Council has the authority to appoint and terminate the position of the City Manager.

- A. All positions in the City are established and maintained through a personnel budget each fiscal year. The establishment of new or additional positions can be authorized by the City Council subject to adequate justification of need and availability of funds.
- B. In accordance with the Charter, the City Manager shall have exclusive responsibility for the personnel administration of municipal affairs including the authority to employ, appoint and remove all Department Directors and other City employees, as well as setting the rates of compensation.

### **1.4 Administration**

The rules and regulations contained in this manual shall serve as the guidelines for all employment and personnel related matters of the City, unless superseded by the provisions of the City Charter or a Collective Bargaining Agreement. The policies and provisions contained in this manual supersede any prior personnel policies and are subject to change at any time without notice.

- A. The City Manager shall be responsible for the administration and direction of the City's Departments and personnel program including the use of outside sources for administering these policies.
- B. Human Resources shall supervise the administration of the City personnel policies.
- C. Human Resources is responsible for the custody and use of personnel records, to interpret the rules and regulations, and implement changes necessary for the effective administration of the City's employees.
- D. Human Resources renders assistance in the fields of personnel management, benefits, employee relations, salary administration, Equal Employment Opportunity and Affirmative Action, recruitment and

## Section 1: General Provisions

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selection, training and employee development in an honest, fair, and efficient manner.

E. Personnel records are generally open for inspection in accordance with Florida's Government in the Sunshine Law.

- i. Pursuant to section 119.07 of the Sunshine Law, portions of certain employee records including home address, telephone numbers, photographs, and specific family information are exempt from public release. This provision applies to active or former law enforcement officers, firefighters, current or former Code Enforcement Official, current or former Building Official, and current or former Human Resources personnel.
- ii. If there is any question related to releasability of information, the office of the City Clerk should be contacted.

F. With the exception of appointments reserved to the Council by Charter and Statute, general authority and responsibility for the City's personnel administration is vested in the City Manager.

G. Final authority in personnel matters is reserved for the City Manager with regard to all matters and subjects covered by these policies. The City Manager may delegate his authority to Human Resources or the Department Director(s).

H. Department Directors shall be responsible for the proper and effective administration of these personnel policies within their respective departments. Routine matters pertaining to enforcement may be delegated.

I. A Department Director shall have the right to request, in writing, a variance from these policies when individual circumstances so justify. This request shall be submitted to the City Manager. All variances require the approval of the City Manager, in writing, prior to implementation.

### 1.5 Changes and Amendments to Personnel Policies

A. Except as may be prohibited by law, or superseded by a Collective Bargaining Agreement, the City Manager reserves the right to amend, modify, change, or delete any policies including the Employee Pay and Classification Plan, Employment Requirements, Personnel and Administrative Policies, Grievance Procedures, and Departmental Standard Operating Procedures (SOP).

- i. Changes, excluding Departmental SOPs, shall be presented to City Council for approval. Departmental SOPs shall be presented to the City Manager for approval.
- ii. When specific paragraphs or portions of the Personnel Policies Manual are changed, Human Resources will provide an updated Personnel Policies Manual to all employees who will execute an

## Section 1: General Provisions

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acknowledgement form of receipt of the new document. Employees may elect to receive their updated document in either electronic, paper, or both formats. Additionally, the document will be posted on the City's website.

### B. Departmental Standard Operating Procedures

Department Directors, with City Manager approval, may develop Standard Operating Procedures (SOP) in order to establish department-specific personnel management guidelines not covered by this manual. These SOPs shall not be developed for general personnel issues outside the scope of the individual department.

- i. The provisions of any SOP may deviate from the guidelines provided in this manual when approved by the City Manager, or his designee, but in no instance shall make less restrictive a policy contained in this manual or the City Charter.
- ii. Department policies and procedures will be in writing and approved by the City Manager or designee for conformance to the Personnel Policies Manual.
- iii. Department operating policies and procedures serve as supplements to these policies. In the event any SOP is found to be in conflict with this manual, except as provided for in a Collective Bargaining Agreement, the policies, procedures, and principles contained herein shall prevail. The City Manager shall have final authority on any conflict.

## 1.6 Personnel Records

The official Employee Personnel Files are maintained by the City Clerk who serves as the City's Human Resources Manager. All original documents shall be submitted to the City Clerk and any copies kept at the department level shall be stamped "Duplicate Copy".

## Section 2: Definition of Terms

**Abandonment of Position** – The unauthorized or unexcused absence of an employee for three (3) consecutive workdays or more, or failure to return to duty after an approved leave of absence or following suspension.

**Abuse** – Behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operation practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.

**Active Pay Status** – Authorized paid leaves, holiday, or time worked.

**Administrative Leave** – Paid or unpaid leave, implemented by a Department Director, and approved by the City Manager, governed by policy.

**Anniversary Date** – The date an employee begins employment and the same date on subsequent years. This is also the date from which vacation, and length of service awards are computed.

**Applicant** – Individual who has completed and submitted an application for employment with the City.

**Appeal** – An application for review of a disciplinary action submitted or instituted by an employee.

**Appointment** – The placement (employment) of a person in a position either on a regular (budgeted, authorized vacant position without time limitations, or special restrictions) or temporary basis.

**Break in Service** – An absence from the service of the City occurring between the termination date and subsequent reemployment date, which causes the loss of service credit.

**City Vehicle** – Any vehicle owned, rented, or leased by the City of Indian Harbour Beach.

**Civilian or General Employees** – Employees who are not in a sworn law enforcement or fire service position.

**Compensation** – The standard rates of pay which have been established for the respective classes of work, as set forth in the compensation plan.

**Complaint** – A claim by an employee in which they believe that they have been/are being treated unfairly or work conditions are substandard as a result of policies and procedures not being properly followed or enforced.

**Continuous Service** – Service credit which determines eligibility for employee benefits (vacations, etc.). Breaks in service for approved leaves of absence without pay in excess of thirty (30) days but less than six (6) months (excluding

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## Section 2: Definitions of Terms

military leave and recall) will be bridged to adjust the anniversary date of hire and classification date for a true continuous service date.

**Corrective Action Plan** – A formal written agreement between a supervisor and an employee who has received a written reprimand listing how the supervisor will work with the employee to improve performance and expectation of the employee.

**De minimis** – Inconsequential, lacking significance or so minor as to merit disregard.

**Demotion** – The assignment of an employee from a position in one pay grade to a position in another pay grade having a lower maximum salary rate made for employees at the discretion of the Department Director, or as provided for in a collective bargaining agreement.

**Department** – A major functional unit of the City government.

**Department Director** – An exempt employee who is appointed and reports directly to the City Manager and is responsible for specific operations within the City. The current Department Directors include: Building Official, City Clerk, Comptroller, Fire Chief, Chief Information Officer, Police Chief, Public Works Director, and Recreation Director.

**Disciplinary Appeal** – a request for review of a disciplinary action, dismissal, demotion, suspension, reduction in pay, or position reclassification.

**Discrimination Grievance** – a grievance based upon discrimination or harassment on the basis of race, color, religion, sex, pregnancy, national origin, age, handicap, gender, or marital status.

**Dismissal** – Separation from City employment for cause.

**Domestic Partner** – The individual who lives in the same household and shares the common resources of life in a close, personal, intimate relationship with a City employee if under Florida law the individual would not be prevented from marrying the employee. A domestic partner may be of the same or opposite gender as the employee.

**Domestic Violence** – Includes any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

**Driver** – An authorized employee or volunteer who operates City owned, rented, or leased equipment or vehicles.

**Drug** – Including but not limited to alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; an amphetamine; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a

## Section 2: Definitions of Terms

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barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; any substance listed in Section 3.3.7, or a metabolite of any substances.

**Drug Test** – Any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of a drug or its metabolites.

**Employee** – Any individual working in the service of the City of Indian Harbour Beach in an official, paid capacity or who is on unpaid leave of absence.

For purposes of this manual, the term employee when used for establishing guidelines, may also apply to elected officials, committee or board members, volunteers, and contractors.

**Employee Assistance Program (EAP)** – An employee benefit program that assists employees with personal problems and/or work-related problems that may impact their job performance, health, mental, and emotional well-being.

**Employee Pay and Classification Plan** – The official listing of authorized job titles with corresponding pay minimum, mid-point, and maximum pay rates. The job titles are sorted in a comparable worth manner.

**Exempt Employee** – An employee in an executive, administrative or professional position as defined by the Fair Labor Standards Act.

**Fiscal Year** – A twelve-month period beginning October 1 and ending September 30 of the following year.

**Foster Care** – As defined by the regulations implementing the Family and Medical Leave Act of 1993.

**Fraud** – Obtaining something of value through willful misrepresentation, including, but not limited to, intentional omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft, or an entity's assets, bribery, or the use of one's position for personal enrichment through the deliberate misuse or misapplication of an organization's resources.

**Full-Time Employee** – The employment status which indicates that an employee is regularly budgeted and scheduled to work 30 hours or more per week.

**General Employees** – See definition of Civilian Employees.

**Grievance** – A complaint, view or opinion pertaining to employment conditions, to relationships between employees and supervisors, or to relationships with another employee.

**Health Care Provider** – As defined by the regulations implementing the Family and Medical Leave Act of 1993.

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## Section 2: Definitions of Terms

**Hours of Work** – the number of hours an employee is scheduled to work in any 24-hour period.

**Human Resources** – Responsibilities of Human Resources are performed by the City Clerk or designee.

**Immediate Family** – Includes the employee's: parents (biological, adoptive, or persons in loco parentis to employee when employee was a child); spouse (husband, wife, or domestic partner); child (biological, adopted, foster, stepchild, legal ward, or a child for whom the employee is a person standing in loco parentis); sisters, brothers; grandparents; grandchildren; parents, grandparents and siblings of an employee's spouse; and any relative living in the same household with an employee.

**Immediate Supervisor** – An individual responsible for directing another employee's daily activities.

**In Loco Parentis** – As defined by the regulations implementing the Family and Medical Leave Act of 1993.

**Insubordination** – The unwillingness on the part of an employee to submit to the authority vested in supervisors, Department Directors, or the City Manager as outlined in the Personnel Policies Manual.

**Layoff** – Reduction of the number of employees due to the lack of work, funds or other causes, or the elimination of a position by the City for reasons beyond the control of an employee and not reflecting discredit to the employee.

**Leadership Team** – The City Manager, all Department Directors, and any other employee designated by the City Manager.

**Leave** – Approved type of absence from work as provided by these policies, may be either paid or unpaid.

**May** – Shall be interpreted as permissive, and being with choice on the part of the City or employee.

**Progression Increase** – Increase established in the pay plan which may be granted to an employee based on job performance, as may be provided for in an adopted budget.

**Military Leave** – An absence from the service of the City for service in the Armed or Reserve Forces of the United States.

**Month** – One calendar month.

**Non-Exempt Employee** – An employment status, established in the Fair Labor Standards Act, which indicates that an employee is paid on an hourly basis and is eligible for overtime compensation as provided in these policies.

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## Section 2: Definitions of Terms

**Overtime** – Hours worked in excess of forty (40) worked hours in a work week for general employees as described in the Fair Labor Standards Act and regulations, or as provided for in an applicable collective bargaining agreement.

**Overtime Pay** – The premium compensation paid at time and one-half for the work performed in excess of forty worked hours in a normal work week, as defined in the Fair Labor Standards Act and as provided herein. Overtime Pay for Sworn Law Enforcement personnel are for hours worked in excess of 84 hours in a work period as per the Collective Bargaining Agreement. Only actual "worked" hours and holidays will be counted in determining the normal work week for the purposes of computing overtime, unless provided for in a Collective Bargaining Agreement. Sick Leave, Personal Leave, Vacation Leave, Compensation Time, Military Leave, Jury Duty Leave, Bereavement Leave and all other paid and unpaid leave do not count as time worked unless specifically provided for within this document.

**Part-Time Employee** – Regularly budgeted to work less than 30 hours per week and provides no benefits or entitlements, unless otherwise provided for in an employment agreement for that position.

**Paycheck (a.k.a. pay stub)** – The City utilizes a Payroll Advice form to provide information to the employees regarding their bi-weekly direct deposit and related pay information.

**Pay Grade** – Numbers within the Employee Pay and Classification Plan that denote the relative comparative worth of a job title compared to other job titles.

**Pay Range** – The salary range assigned to a particular job title sometimes expressed as a pay range number.

**Performance Evaluation** – The process of assessing, in an objective and fair manner, an individual's past performance and present capabilities against established performance standards and objectives for the purpose of improving organizational effectiveness and developing individual potential.

**Position** – A group of defined duties and responsibilities assigned or delegated by an appointing authority, requiring full-time or part-time employment.

**Position Reclassification** – A change in classification of an individual's position based on a change in duties and responsibilities.

**Prescription or Nonprescription Medication** – A drug or medication obtained pursuant to a prescription as defined by Florida Statute Section 893.02 or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

**Probationary Employee** – An employee serving a probationary period prior to final appointment in that position.

**Probationary Period** – A working trial period of six months (unless period is

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**stated differently in a Collective Bargaining Agreement) following initial employment or reemployment into a regular budgeted position, during which an employee is required to demonstrate the ability to perform duties of the assigned position.**

**Promotion** – The assignment of an employee from a position in one pay grade to a position in another pay grade having a higher maximum salary rate.

**Reclassification** – An action which results from a noticeable change in work assignments of any employee's position. In this type of action, the classification title and the pay range of such new title is then used.

**Reemployment Date** – The date of re-entry into a paid position in the service of the City following termination of previous employment or an extended unpaid leave.

**Regular Employee** – Any employee who is assigned to a budgeted position and has successfully completed their probationary period with the City as indicated on an Employee Performance Evaluation.

**Represented Employee** – An employee whose position and terms and conditions of employment are governed by a collective bargaining agreement.

**Resignation** – Act of voluntarily leaving City employment.

**Retirement** – When an employee meets the conditions set forth in the appropriate Retirement Plan regulations and is currently eligible to receive all benefits earned under the Plan.

**Seasonal Employee** – A person employed by the City for a season (usually less than 12 weeks per year) and normally scheduled for less than 30 hours per week. Seasonal employees are not eligible for insurance benefits or any type of paid leave. Retirement benefits are controlled by the position's retirement plan.

**Serious Health Condition (Family and Medical Leave Act of 1993)** – An illness, injury or impairment, or physical or mental condition that involves: (A) in-patient care in a hospital, hospice or residential medical care facility or (B) requires continuing medical treatment by a health care provider.

**Service Credit** – The credit allowed for an employee's length of service when computing certain benefits such as vacation leave, sick leave, and retirement.

**Shall/Will** – These terms are words of command, are imperative, and shall be interpreted as mandatory.

**Suspension** – Relief from work with or without pay to enforce disciplinary action.

**Temporary Employee** – A person employed on a part-time basis (less than 30 hours per week) for a project which requires additional personnel for a specific

## Section 2: Definitions of Terms

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time and in a temporary capacity. The term of such employment is normally for a period of six (6) months or less. Temporary employees are not eligible for insurance benefits or any type of paid leave. Retirement benefits are controlled by the position's retirement plan. If a position exists for more than 6 months in a year, said position becomes an eligible FRS position regardless of the number of people who have held that position.

**Termination or Leave of Absence Dates** – The effective date of termination (voluntary, involuntary, or failure to return from an approved leave of absence) shall be the last day worked or the last day for which pay was received, whichever comes first. The start date of an unpaid leave of absence shall be the date following the last day worked or the last day for which pay was received.

**Transfer** – Action in which the employee moves from one budgeted department position to another department with no resulting title change, or if a title change does take place, there is no change in the pay range.

**Volunteer** – A person who performs hours of service for the city for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered. These services are offered freely and without pressure or coercion, either direct or implied.

Volunteers receive no compensation other than permissible expenses, reasonable benefits as may be offered by the city, or a nominal fee to perform those services for which the individual volunteered.

**Waste** – The act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

**Weapon** – Weapons include, but are not limited to the following: any firearm (including air pistols, air rifles), any switchblade knife or other knife with a blade longer than five and one-half inches in length, explosive materials, toxic agents, or any other weapon or device intended to be used as a tool of violence (e.g., chains, brass knuckles, baseball bats, tire iron).

**Work Day (Shift)** – The number of hours regularly scheduled to be worked in one 24-hour period.

**Work Week** – The number of hours regularly scheduled to be worked during any seven (7) consecutive days, except as provided for in a Collective Bargaining Agreement. The established work week is Saturday through Friday as set forth on the City of Indian Harbour Beach time card for the purpose of overtime computing in accordance with the Fair Labor Standards Act.

## Section 3: Employment Policies

The City of Indian Harbour Beach is an Equal Opportunity Employer (EOE) and is committed to equal opportunity in the areas of recruitment, employment, training, development, transfer, and promotion. As an Equal Opportunity Employer, the City's practices are without regard to race, color, religion, sex, pregnancy, national origin, age, handicap, gender, or marital status, or any other characteristic protected under federal, state, or local law in all personnel and employment actions and in all terms and conditions of employment.

The City Manager, Human Resources, Department Directors, supervisors, and employees are responsible for complying with all employment policies.

### 3.1 Age Requirements

The minimum age requirement for a regular full-time status position is 18 years of age. However, in temporary or seasonal positions the minimum age requirement is 16 years of age. With the approval of the City Manager, employees between the age of 16 years old and 18 years old may work certain positions outside of the requirements of Section B below.

The City adheres to the guidelines for the employment of minors provided by the State of Florida and the Federal Fair Labor Standards Act (FLSA), as amended from time to time, including the following:

- A. May not work during school hours unless the minor: holds a waiver from a public school or Child Labor Compliance; is married; has graduated from an accredited high school or holds an equivalency diploma; has served in the U.S. Armed Forces; or is enrolled in a high school work program.
- B. When school is in session:
  - i. May work up to 30 hours per week.
  - ii. May not work before 6:30 a.m. or later than 11 p.m.
  - iii. May work for no more than 8 hours a day when school is scheduled the following day.
- C. When school is not in session, there are no limitations to hours.
- D. No minor shall work more than 6 consecutive days in any one week.
- E. Minors may work no more than 4 consecutive hours without a 30-minute uninterrupted break.

### **3.2 Code of Ethics**

Ethics is an important component of what we do as a local government and our actions should reflect the highest possible ethical standards and as such the perception of others should be considered in all decision making.

The City of Indian Harbour Beach requires all elected officials, volunteers, and employees to conduct themselves with integrity at all times and must also maintain a high standard of ethical conduct in which their behavior, including the appearance of their behavior, is beyond reproach. They should avoid placing themselves in situations that create, or have the appearance of creating, a conflict of interest with their position as a public servant. City officials and employees are expected to conform to the standards of ethics outlined in Florida Statutes Chapter 112, Part III for Public Officers and Employees.

Elected Officials, Board Members, and Employees must not misuse their public position in a manner which they know or should know will result in a financial benefit or special privilege not shared with similarly situated members of the general public. Financial benefit or gifts include any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of any of those items or anything of value. If it appears that an Elected Official, City employee, or a friend or relative of either the Elected Official or Employee received special treatment from the City as a result of the relationship with the City, such perceptions may indicate the need to evaluate whether a violation of the Code of Ethics exists. See Section 5.2 for additional information.

#### **Required Training**

Officials and employees shall be informed of their ethical responsibilities at the start of their public service, and shall receive updates and training materials on ethics issues throughout the span of their public service.

Each calendar year, unless exempted by law, City employees will receive Ethics training, and will be required to submit a signed acknowledgement or certificate of completion at that time and submit to Human Resources for inclusion in their personnel file.

Employees may contact the City Manager, Department Director, or Human Resources if they have any questions concerning the requirements for fulfilling the Code of Ethics training.

### **3.3 Drug-Free and Alcohol-Free Workplace**

The City of Indian Harbour Beach is committed to providing a safe environment for all employees and the general public. That commitment is jeopardized when any employee illegally uses drugs or alcohol on the job; reports to work under the influence of drugs or alcohol; or illegally possesses, distributes or sells drugs at work or on City property. With the cooperation and assistance of our

employees, this program will provide a safe workplace environment free from the use and/or abuse of drugs and alcohol.

### **Policy**

The City has implemented this policy consistent with the program requirements outlined in Florida § 440.102, Drug-Free Workplace Program, and Rule 49 CFR, Parts 29, 40, 653 and 654, including updates from time to time, and applicable labor agreements of the City.

- A. In accordance with Florida's Drug-Free Workplace Program Requirements, F.S. 440.102 et seq., the City of Indian Harbour Beach prohibits the illegal use, possession, sale, manufacture, or distribution of drugs, alcohol, or other controlled substances on its property (City property includes such areas as parking lots, vehicles, break/lunch rooms, lockers, locker rooms, offices, rest rooms, etc.) or while employees are at work or on duty. For purposes of this policy, alcohol is considered to be a drug.
- B. For the purpose of this policy, an individual is presumed to be under the influence of drugs if a confirmation drug test is positive. The City may put an employee on administrative leave under this policy pending the results of a drug test or investigation.
- C. It is also against City policy for employees to report to work or to work under the influence of drugs. This includes prescription drugs, which induce an unsafe mental or physical state. It is the responsibility of any employee who is taking a prescription drug, which might impair safety, performance, or any motor functions, to advise their Department Director or supervisor before commencing work under such medication.

This policy applies to all volunteers and employees, including but not limited to full-time, part-time, and temporary employees; supervisors; and Department Directors. Please note Section 3.3.4 below addresses medical marijuana.

The City recognizes that alcohol and drug dependency requires medical supervision and treatment if there is to be successful rehabilitation. The City encourages any employee with alcohol or drug dependency to voluntarily seek assistance via a drug or alcohol rehabilitation program. It is the responsibility of each employee to initiate and obtain assistance before any difficulties with drugs or alcohol affects the employee's job performance. However, violation of this policy will not be excused or condoned because an employee has sought assistance from the Employee Assistance Program (EAP) or other type of assistance.

A representative listing of the names, addresses, and telephone numbers of employee assistance programs and drug rehabilitation programs may be obtained from the City Clerk/Human Resources.

### **3.3.1 Violations and Continued Employment**

- A. The following constitute violations to the City of Indian Harbour Beach's Drug-Free and Alcohol-Free Workplace policy. It will be a violation for any employee to:
  - i. Unlawfully manufacture, use, possess, sell, trade, offer for sale, or offer to buy illegal drugs or otherwise engage in the illegal use of drugs on the job or on City property;
  - ii. Report to work under the influence of illegal drugs or alcohol;
  - iii. Abuse prescription drugs;
  - iv. Provide, share, or sell prescription drugs to someone not subject to that prescription;
  - v. Use prescription drugs beyond that which was specifically prescribed;
  - vi. Use prescription drugs for which the employee has no valid prescription.
- B. It is a condition of continued employment for every employee to abide by the City's Drug-Free Workplace Policy.
  - i. The use, sale, or possession of controlled substances off duty is not acceptable and could be a violation of this Policy. Such actions can have an adverse impact on how the public perceives the City of Indian Harbour Beach and its employees.
  - ii. Any violation of the Policy may result in termination of employment.

### **3.3.2 Workplace**

City employees shall not report to work, remain on duty, or be on call for duty while under the influence of drugs or alcohol. It is also the policy of the City of Indian Harbour Beach that employees shall not have their ability to work impaired as a result of the use of alcohol or drugs. All employees are required to comply with this policy. Any employee engaging in such activities will be subject to disciplinary action, up to and including termination.

Employees who are arrested for any alcohol, inhalant, or drug violation, must report the arrest to their Department Director and to Human Resources within forty-eight (48) hours of the arrest.

In the event of a conviction, the employee must notify their Department Director and Human Resources within five (5) days of the conviction. For this purpose, "conviction" includes any finding of guilt or imposition of sentence; it also includes any plea of no contest or nolo contendere to any such charge and/or a court's decision to withhold or defer adjudication on any such charge.

### **3.3.3 Zero Tolerance Policy**

The City adopts a zero tolerance policy regarding drug use. Any violation of this policy may result in an employee's termination from employment with the City. In addition to the Drug Free Work Place Policies of Florida § Chapter 440, the City of Indian Harbour Beach supplements those regulations with these policies pursuant to applicable Florida and federal law.

### **3.3.4 Medical Marijuana**

#### **Purpose**

The purpose of this policy is to address employee use of medical marijuana. The use of the phrase "medical marijuana" herein shall not be deemed to permit the use of any other form of marijuana that is not authorized by controlling law. The use of the phrase "controlling law" herein recognizes that Federal law controls over State law under the Supremacy Clause of the United States Constitution.

#### **Policy**

It is the policy of the City of Indian Harbour Beach to prohibit employee use of medical marijuana as provided for in Florida Statutes Section 381.386 (15).

### **3.3.5 Alcohol and Drug Testing**

The City will strive to maintain a Drug and Alcohol Free work place and conduct alcohol and drug testing in accordance with the provisions of this Policy and the Procedures which implement this Policy.

#### **A. Pre-Employment Drug Testing**

All job postings will require pre-employment testing.

This information will also be provided to applicants during the initial job interview. Applicants will be advised that any job offer is contingent upon negative drug test results.

#### **B. Post-Accident Testing**

For Worker's Compensation and/or if the City believes there is a reasonable suspicion that alcohol or drugs may have been a factor, the City will require an alcohol and drug post-accident test on employees who sustain an on-the-job injury which requires medical treatment, or employees who have an at-fault vehicle accident while operating a City vehicle.

- i. For purposes of this Policy, an accident is any incident involving a City motor vehicle or other heavy equipment which results in a human fatality, an injury which is treated away from the scene, requires the removal by towing of a vehicle involved in the

incident, or requires workers' compensation paperwork to be filed. All post-accident testing will be conducted in accordance with federal regulations and the procedures which implement this Policy.

- ii. An employee who sustains an at-fault vehicle accident or an on-the-job injury and refuses to submit to a drug or alcohol test, or who has a positive confirmation test, may forfeit eligibility for workers' compensation medical and indemnity benefits in addition to disciplinary action which may include termination.
- iii. When reporting the accident on the "Incident Report" form, the employee is required to report any bodily injury, property damage, moving violation, or towing from the accident scene. Employees who are subject to this post-accident testing shall remain readily available for the test or may be deemed to have refused the test and may subject the employee to immediate termination. An employee shall not be prohibited from leaving the scene of the accident for the period of time necessary to obtain assistance or to obtain the necessary emergency medical care.

### C. Random Drug and Alcohol Testing

The City recognizes that random drug testing is important to further the City's goal of a safe work place to protect the public health and safety of employees and the general public.

The City finds that certain City employees occupy positions which are safety sensitive; carry firearms; respond to fire and medical emergencies; operate heavy equipment; repair heavy equipment; drive City vehicles or personal vehicles and transport other employees or persons in said vehicles; operate machinery on public streets and right-of-ways in close proximity to the general public; perform other duties for which a special need exists to maintain a safe and secure workplace and prevent injury to other employees or members of the general public.

- i. The City has carefully evaluated each position and determined which positions are considered safety-sensitive positions, therefore, should be subject to random testing to achieve the goals and purpose identified herein. Positions within the police department are covered under the guidelines of their collective bargaining agreement.
- ii. Safety-sensitive positions include: Public Works employees, Building Official, Code Enforcement Officer, Recreation Department maintenance workers, and any other position which requires the employee to utilize City vehicles and heavy equipment to perform job duties.
- iii. Random testing for drugs may be conducted throughout the year at unannounced times. An employee could be randomly selected for testing more than once each year.

## Section 4: Staffing and Development

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- iv. Employees who are randomly selected for testing will be notified by their Department Director or Human Resources and will be required to report to the specimen collection site immediately. All random testing, including the selection of covered employees for testing, will be conducted pursuant to federal regulations and the procedures which implement this Policy.
- v. Selection for random testing shall be a random generated draw of employee identification numbers as conducted by the Human Resources Manager and the Information Technology Director.

### D. Reasonable Suspicion Testing

Employees who, based on specific observations of a member of management concerning the appearance, behavior, speech or body odor, may be reasonably suspected of using or being under the influence of alcohol or controlled substances shall undergo alcohol and controlled substance testing. The member of management shall present a written statement regarding their specific observation. In the case of controlled substances, the observations may include indications of the chronic and withdrawal effect of controlled substances. All reasonable suspicion testing will be conducted pursuant to federal regulations and the procedures which implement this Policy.

- i. An alcohol test pursuant to reasonable suspicion testing shall occur immediately. If the alcohol testing is done after two (2) hours from the time the observations occurred, the City must document the reasons the test was not promptly administered. An alcohol breath test may be conducted by a member of the City of Indian Harbour Police Department.
- ii. Notwithstanding the absence of a reasonable suspicion alcohol test under this section, no driver shall report for duty or remain on duty under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall the City of Indian Harbour Beach permit the employee to perform or continue to perform work duties, including any safety-sensitive functions, until:
  - a. An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or
  - b. Twenty-four hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has violated the prohibitions in this part concerning the use of alcohol.
- iii. On the basis of circumstances requiring a reasonable suspicion test, an employee will immediately be placed on Administrative Leave until results are received.

### **3.3.6 Testing Procedures**

The drug and/or alcohol testing shall be administered through a medical services company, who will be determined by the City of Indian Harbour Beach.

- A. The selection process shall be restricted to Human Resources.
- B. If the employee selected is not available due to sick leave, vacation leave, or other circumstances where they are not physically at work
- C. Employees MUST RESPOND IMMEDIATELY AND DIRECTLY OR AS SOON AS POSSIBLE to the Collection Site. Failure to report immediately and directly to the test site shall be grounds for discipline up to and including termination. After testing is completed, the employee shall return to work.
- D. All employees will act in a professional manner and follow all directives given by the collection site personnel. The collection site personnel shall immediately notify Human Resources of any employee's refusal to cooperate with the procedures set forth herein.
- E. The testing procedures and safeguards provided in this policy are to ensure the integrity of the City's Random Drug and Alcohol Testing Program and shall be adhered to by all employees. Those employees who are members of a Collective Bargaining Agreement will follow the guidelines as outlined in the agreement.

### **3.3.7 Substances to be tested**

The following is a partial list of drugs (described by brand name, common name, and/or chemical name) for which the City may test. The City may include additional drugs to be tested as they see fit.

- A. Alcohol (booze, drink, distilled spirits, wine, malt beverages, beer, intoxicating liquors, alcoholic beverages, etc.)
- B. Amphetamines (Biphetamine, Desoxyn, Dexedrine)
- C. Cannabinoids (marijuana, hashish, hash, hash oil, pot, joint, roach, spliff, grass, weed, reefer)
- D. Cocaine (coke, blow, nose candy, snow, flake, crack)
- E. Phencyclidine (PCP, angel dust, hog)
- F. Methaqualone
- G. Opiates (opium, dover's powder, paregoric, parepectolin)
- H. Barbiturates (Phenobarbital, Tuinal, Amytal)

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- I. Benzodiazepines (Ativan, Azene, Clonopin, Dalmane, Diazepam, Halcion, Librium, Paxipam, Restoril, Serax, Tranxene, Valium, Vertron, Xanax)
- J. Methadone (Dolophine, Metadose)
- K. Propoxyphene (Darvocet, Darvon N, Dolene)
- L. Metabolites of any substances listed above
- M. Other drugs as listed in Chapter 893.03 in Florida Statutes.

The City recognizes that employees may need to take medications to combat various illnesses and that some common medications may alter or affect a test result. Due to the large number of obscure brand names and the marketing of new products, a list of medications that may alter a drug test is not included. Should an employee be prescribed a medication that may alter a drug test result, they may be asked to submit proof that they were prescribed the specific medicine upon notification of drug testing requirement.

### **3.3.8 Confidentiality**

All information, interviews, reports, statements, memoranda, drug test results, written or otherwise, received or produced as a result of a drug-testing program are confidential and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with Florida's Drug Free Workplace Act or in determining compensability under the workers' compensation or reemployment benefits laws. Any tested employee has the right to request a copy of their testing records.

The City and its agents (including the Third-Party Administrators, laboratories, medical review officers, employee assistance programs, drug rehabilitation programs, etc.) shall not release any information concerning drug test results obtained under this policy without first obtaining a release from the affected individual in accordance with Florida's Drug Free Workplace Act and other applicable laws or regulations.

### **3.3.9 Consequences of Positive Confirmed Test Results**

Any employee receiving a positive confirmed test result will be given a due process investigation and may be subject to termination. Additionally, the employee may lose his or her right to workers' compensation, reemployment compensation benefits, medical, and indemnity benefits.

### **3.3.10 Right to Appeal**

- A. A job applicant or employee who receives a positive confirmed alcohol or drug test result may file an appeal or grievance as per the procedures as explained in Section 11: Grievance Procedure and Disciplinary Appeal.

- B. Any covered employee who is notified of a positive drug test result has the right to request that a confirmation test be conducted. This request must be made within 72 hours after the employee is notified of the positive result. The cost of the test shall be paid by the employee.
- C. A job applicant or employee has the responsibility of notifying the drug-testing laboratory of any administrative or civil action brought pursuant to Florida § Chapter 440. The laboratory will maintain the specimen until the case or administrative appeal is settled.
- D. All employees will have the right to file a grievance regarding disciplinary action imposed by the City as a result of a violation of this policy, if the grievance is permitted to be filed pursuant to the collective bargaining agreement.

### **3.3.11 Consequences of Refusing to Submit to Drug Testing**

Employees who refuse to submit to an alcohol or drug test to be conducted under this policy will be presumed to be positive for the presence of alcohol or a controlled substance for the purpose of all workers' compensation medical and indemnity benefits claims arising from the incidents or accidents leading to said testing.

Under the City's zero tolerance policy, any employee who refuses to submit to a drug test or who has a positive confirmation drug test may be terminated from employment after a due process investigation. Additionally, the employee may lose their right to workers' compensation, reemployment compensation, medical, and indemnity benefits. A job applicant who refuses to submit to drug testing will not be hired.

## **3.4 Employment of the Disabled**

Disabled persons shall be considered for employment, in accordance with the provisions of the Americans with Disabilities Act Amendments Act (ADAAA), in positions where the disability does not interfere with the discharge of essential duties, as defined in the job description. Disability is defined as a condition that substantially limits one or more major life activities (e.g., caring for oneself, performing manual tasks, talking, seeing, hearing, speaking, learning, and working).

If an applicant or an employee can perform the essential job functions, and has a qualified disability, and is not a direct threat to employees or others, the City will make reasonable accommodations as long as the accommodation does not cause the City undue hardship. The individual may contact either the Department Director, or in the case of an applicant, Human Resources to address possible accommodations. The request shall then be evaluated and an appropriate reasonable accommodation (if any) shall be facilitated.

## **3.5 Equal Employment Opportunity Policy**

## Section 4: Staffing and Development

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The City of Indian Harbour Beach is firmly committed to a policy of nondiscrimination in all personnel practices to ensure equal opportunity and equal treatment for recruitment, selection, appointment, promotions, transfers, development, and upward mobility for all individuals. The City's Equal Employment Opportunity Plan (EEOP) can be found in the Administrative Regulations #ADM-HR-001.

- A. The City is committed to investigating and correcting any form of discrimination, and accordingly, employees are required to immediately report suspected discrimination.
- B. Employees who report acts of suspected unlawful discrimination are protected by law from discrimination or retaliation.
- C. Department Directors or supervisors who unlawfully discriminate or retaliate against an employee who has complained of discrimination, or who support another employee's complaint, are subject to disciplinary action, up to and including termination of employment.
- D. All complaints shall be investigated, and the results of the investigation shall be reported to the complaining party.
- E. Investigation of a complaint may include, but is not limited to, interviewing the complaining party as well as other employees and/or customers to obtain sufficient information upon which to make an assessment of the situation.
- F. While the City shall make every effort to be sensitive to privacy issues, in the course of investigation relevant information shall be discussed with appropriate parties on a need-to-know basis.

**Religious Accommodation** – The City shall allow time off to observe religious holidays that are not City observed holidays. Employees requesting religious observance accommodation must notify their supervisor of the requested time off at least two (2) weeks before the date of the planned absence. Employees must use accrued vacation, compensatory leave, or floating/personal holiday for the time taken. Upon a request from an employee, the City will provide reasonable accommodations for other religious practices, such as prayer.

**Employment Discrimination** – Employees or applicants who want to report what they believe is an incident of unlawful employment discrimination must immediately report the matter to Human Resources or the City Manager, even if they have discussed the situation with the individual(s) engaged in the behavior perceived to be discriminatory. Employees or applicants may raise concerns and make reports without fear of reprisal.

Human Resources, or designee, shall conduct a confidential investigation surrounding the circumstances. Failure to report an incident may result in disciplinary action, up to and including termination.

### **3.6 Fraud or Other Illegal Acts**

Florida § 11.45 defines fraud as obtaining something of value through willful misrepresentation, including, but not limited to, intentional misstatements or intentional omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity's assets, bribery, or the use of one's position for personal enrichment through the deliberate misuse or misapplication of an organization's resources.

Fraud may be committed through many different methods, including mail, e-mail, telephone, or the internet. Fraudulent, unethical or dishonest acts include, but are not limited to:

- Forgery or unauthorized alteration of documents or computer records;
- Falsification or misrepresentation of reports to management and external agencies, including time sheets, official travel claims for reimbursement, or other expense reimbursement reports;
- Authorizing or receiving payments for time not worked;
- Inappropriate use of funds, supplies or other assets;
- Impropriety in handling or reporting of money or financial transactions;
- Unauthorized activities that result in a conflict of interest;
- Disclosure of confidential or proprietary information to unauthorized individuals.

G. Any City employee who has reason to believe that there may have been an instance of fraud, or other illegal act in connection with a City program, function or activity shall report it immediately to their Department Director, Human Resources, the Comptroller, the City Manager, or the Mayor as soon as possible. Reports will be investigated as expeditiously as possible. Where investigation confirms that fraud or another illegal act has occurred, appropriate corrective action will be taken. Employees who commit fraud or other illegal acts will be subject to disciplinary action up to and including immediate termination, and will not be eligible for rehire.

H. Employees who report incidents of fraud or illegality or who assist in an investigation shall be protected from retaliation of any sort. However, any employee or Department Director who assists in an investigation but who is found to have participated in the illegal act or fraud being investigated remains subject to discipline. In addition, if it is determined that a report was not made in good faith, or that an employee intentionally provided false information regarding an allegation, disciplinary action may be taken.

- I. Any employee who believes that they are a victim of retaliation for making a report or assisting in an investigation shall report this as soon as possible to the Department Director, Human Resources, or the City Manager.

### **3.7 HIPAA Privacy and Security**

The City of Indian Harbour Beach is committed to fully complying with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). All personnel who have access to protected health information ("PHI") must comply with the requirements of HIPAA.

Only designated staff members perform certain administrative functions in cooperation with Health Plan Administrators and are permitted access to protected health information (PHI). These people include, but are not limited to Human Resources and the Comptroller's Office, to the extent they come into contact with PHI. Staff from the Information Technology Department may be granted access to PHI for the sole purpose of assisting in servicing the electronic versions and transmission of the PHI on the City's network servers. The amount of PHI disclosed must be limited to the minimum amount necessary to perform the relevant task. Assigned staff members may not disclose PHI to employees other than those classified.

Human Resources serves as the contact for individuals who have questions, concerns, or complaints about the privacy or security of their protected health information or their rights under HIPAA with respect to health information.

#### **Permitted Disclosures of PHI**

PHI may be disclosed in the following situations without an individual's authorization, when specific requirements are satisfied. These disclosures presuppose the prior approval of Human Resources, so that it may be determined if the specific applicable requirements and limits on such disclosures are satisfied:

- A. Disclosures to the individual's family and friends where the individual provided written authorization to disclose PHI directly relevant to that person's involvement in the individual's care or payment for care in accordance with 45 C.F.R. 164.510(6).
- B. Disclosures required by law.
- C. Disclosures about victims of abuse, neglect, or domestic violence.
- D. Disclosures for judicial and administrative proceedings.
- E. Disclosures for law enforcement purposes.
- F. Disclosures to avert a serious threat to health or safety.
- G. Disclosures for specialized government functions.

H. Disclosures that relate to workers' compensation programs.

#### **Disclosures of PHI Pursuant to an Authorization**

PHI may be disclosed for any purpose designated by the individual subject of the information, if the individual signs an authorization form that satisfies all of the requirements under HIPAA for a valid authorization. All uses and disclosures made by Human Resources pursuant to a valid authorization must be consistent with the terms and conditions of that authorization. Authorizations may be revoked by delivering written notice to Human Resources, except to the extent that the disclosing party has already relied upon such authorization by releasing PHI.

#### **Complying with the "Minimum Necessary" Standard**

When PHI is used or disclosed, the amount disclosed generally must be limited to the "minimum necessary" to accomplish the purpose of the use or disclosure. The "minimum necessary" standard does not apply to any of the following:

- A. Uses or disclosures made to the individual;
- B. Uses or disclosures made with the individual subject's permission, pursuant to a valid authorization;
- C. Disclosures made to the Department of Health and Human Services;
- D. Uses or disclosures required by law; and
- E. Uses or disclosures required to comply with HIPAA.

All other requests for PHI must be reviewed on an individual basis with Human Resources to ensure that the amount of information requested is the minimum necessary to accomplish the purpose of the disclosure. Human Resources shall have the discretion to issue general guidance (rather than on an individual basis) as to the minimum necessary amount of PHI that should be disclosed in connection with all routine disclosures.

#### **Notification to Participants**

If notification to participants is legally required, Human Resources, or designee, will notify each participant whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, used or disclosed, as soon as possible after the discovery of such breach (but not more than 60 days after the discovery of the breach or, to the extent feasible).

### **3.8 Nepotism**

It is the policy of the City not to hire members of an employee's family in conflict with the provisions of Florida Statute 112.3135 in order to avoid the appearance of or preferential treatment/favoritism that such a relationship may cause.

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In compliance with the Florida Statute, the City's policy is that no employee or elected official may directly or indirectly supervise a relative.

- A. For the purposes of this section, the following definitions apply:
  - i. Public Official or Employee – any officer or employee of the City, specifically excluding members of non-compensated advisory boards of the City.
  - ii. Employee – every person engaged in any employment of the City under any appointment or contract of hire, expressed or implied, oral or written, for remuneration, including without limitation all full-time, part-time, seasonal, regular, and temporary employees.
  - iii. Relative – an individual who is related to a City employee or public official 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, stepchild, stepbrother, stepsister, half-brother, or half-sister, significant other, or a dependent person living in the same household.
- B. If two (2) City employees change their relationship by marriage, adoption or other means, so as to come in conflict with the provisions of this policy, it shall be the policy of the City that neither employee shall be employed, promoted, or transferred into a position where that employee will be supervised, either directly or indirectly, by the other.

If two employees become relatives (as defined in this section) and their positions do not comply with this policy, one must transfer to another position or department if both are to continue working for the City. If the classification does not exist in another position or department, the City will require the resignation of one or both employees within 30 days. The decision regarding which relative will remain employed by the City must be made by the two employees within 30 days. If no decision has been made during this time, both employees may be terminated. Failure to notify the City of any change in status of relatives will result in discipline.
- C. Any relatives currently working in different departments of the City may not be transferred or promoted into a department where either employee will be supervised, either directly or indirectly, by the other.
- D. This nepotism policy shall also apply for non-related individuals living within the same household as the employee.

### 3.9 Safe Work Environment

It is the City of Indian Harbour Beach's policy to provide a safe, secure, civil and respectful work place free from bullying, discrimination, harassment, sexual harassment, workplace violence, and protected status harassment. This policy prohibits the harassment of any City employee because of race, color, religion,

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sex, pregnancy, national origin, age, political affiliation, non-disqualifying handicap, gender, sexual orientation, marital status, or for any other reason.

This policy also prohibits protected status harassment against third party entities with whom, City employees come into contact as a result of their employment. Third parties include, but are not limited to: contractors, their employees and agents; vendors of goods and services to the City, their employees and agents; customers, including applicants for City employment or services; visitors to the City's places of work; and persons performing volunteer service with the City.

### **Purpose**

This policy prohibits conduct that may or may not amount to protected status harassment under the law, as well as conduct that may or may not amount to a statutory violation of county, state, or federal policies, rules, or laws governing standards of conduct of employees. It is the purpose of this policy to stop all forms of protected status harassment before the conduct rises to a level of a violation of law.

This policy is not intended to limit or constrain the employer's right to manage. For example, work assignments, performance reviews, or coaching, work evaluation, and disciplinary measures taken by a Department Director or supervisor, in good faith for valid reasons, do not constitute harassment in the workplace. These supervisory and management actions must remain respectful to the individual. This policy will not, under any circumstance, be used to impede the supervisory relationship, nor is it intended to inhibit normal social interaction in the workplace. Individuals in supervisory relationships or other influential roles are subject to more stringent requirements under this policy due to their status as role models, their access to sensitive information, and their ability to influence others. Therefore, individuals in supervisory relationships shall avoid developing romantic relationships with their subordinates.

This policy delineates some unacceptable behavior but does not modify any other rights or obligations inherently placed on supervisors and Department Directors in the performance of their duties.

### **Expectations**

The City of Indian Harbour Beach expects its employees, vendors, and program participants to conduct themselves appropriately with regard for the rights and welfare of co-workers, Department Directors, and others who may be in the area. It also expects regard of, and respect for, the care of City facilities, operations, and equipment.

- A. Department Directors and supervisors are responsible for enforcing this policy through uniform and consistent employment practices and ensuring that the workplace remains safe and harassment-free. If employees, visitors, or vendors are observed engaging in conduct that may be considered unlawful harassment, the Department Director or

supervisor must immediately address the situation to stop the conduct and prevent a recurrence, whether or not they have direct supervisory responsibility over the party(s) involved.

- B. All City employees, program participants, and vendors are required to:
  - i. Conform to reasonable standards of socially acceptable behavior;
  - ii. Respect the person, property, and rights of others;
  - iii. Obey constituted authority; and
  - iv. Respond to those who hold authority.
- C. The definition of harassment for the purposes of this policy is broader than the definition of illegal harassment and employees may be disciplined for harassing conduct that does not meet the legal definition of harassment but is nonetheless offensive and inappropriate for the workplace.
- D. Normal, courteous, mutually respectful, pleasant, non-coercive interactions between employees that are acceptable to both parties are not considered to be harassment, including sexual harassment. However, even if the people involved are not disturbed by it, others may be.
- E. In order to create a comfortable and safe work environment, the City prohibits offensive behaviors (i.e., bullying, discrimination, harassment, protected status harassment, sexual harassment, and workplace violence) whether physical, written, or spoken.

### **3.9.1 Unacceptable Workplace Actions**

The following is a sample list of actions that may be considered forms of bullying, discrimination, harassment, protected status harassment sexual harassment, and workplace violence. Violations can be verbal, visual or physical.

- A. Creating a work environment that is intimidating, hostile, abusive, or offensive because of unwelcome or unwanted conversations, suggestions, requests, demands, physical contact or attentions, whether sexually oriented or other related to a prohibited form of harassment.
- B. Any derogatory name-calling, insults, teasing, verbal abuse, threats, and ridicule of an individual(s) based on protected status differences, including terms of endearment and questionable compliments.
- C. Social exclusion.
- D. Intimidation.
- E. Stalking.

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- F. Sexual, religious, racial, ethnic, lifestyle, medical, or disability harassment.
- G. Public humiliation.
- H. Creating an environment where a reasonable person may be in fear of harm to themselves or damage to their property.
- I. Unwanted harm towards another person (including other people in the area) in regard to their actual or perceived traits or characteristics by use of sexually degrading words to describe an individual; offensive comments; off-color language or jokes; innuendos; suggestive objects, books, magazines, photographs, cartoons, pictures, and the display of derogatory expressions on apparel.
- J. Any conduct of a sexual nature that may threaten or insinuate either explicitly or implicitly that any employee's submission to or rejection of sexual advances will in any way influence any decision regarding that person's employment, evaluation, wages, advancement, assigned duties, shifts, or any other condition of employment or career development.
- K. Physical harassment such as assault, unwanted touching, blocking normal movement, or interfering with an employee's ability to do their job.
- L. Verbal harassment such as epithets, derogatory comments, slurs, or unwanted advances or invitations.
- M. Retaliation for asserting or alleging an act of bullying or harassment.
- N. Reporting an act of bullying or harassment that is not made in good faith is considered retaliation.
- O. Perpetuations of conduct with the intent to demean, dehumanize, embarrass, or cause emotional or physical harm to another person.

### **3.9.2 Procedures for Reporting Acts of Bullying or Harassment**

Department Directors, designee(s), or Human Resources shall be responsible for receiving complaints of bullying or harassment. Employees, program participants, parents, legal guardians, volunteers, and visitors are encouraged to report any act of bullying or harassment to a Department Director. Such complaints may be made anonymously, in-person, or in writing. However, formal disciplinary action may not be based solely on the basis of an anonymous report. An employee wishing to pursue a complaint of harassment will put it in writing.

- A. Employees who are not supervisors or managers should report incidents they believe are violations of this policy, immediately to their supervisor, Department Director, Human Resources, or the City Manager.

- B. The City Manager, Department Directors, or supervisors who receive a report of protected status harassment shall inform Human Resources who will promptly review the information and determine the appropriate action to be taken.
- C. The City cannot guarantee confidentiality. If an investigation is warranted, the City will make every attempt to keep the information provided and developed during the investigation process confidential. If the City determines an employee has made a complaint in bad faith, or has knowingly provided false information regarding a complaint, disciplinary action may be taken against the employee who provided the false information, up to and including termination of employment.
- D. Employees who want to report what they believe is harassment must immediately report the matter to their supervisor. If an employee believes that a supervisor or Department Director has acted inconsistently with this policy, or is not comfortable bringing a complaint regarding harassment to an immediate supervisor, or if it is believed that the complaint concerning a co-worker has not been handled satisfactorily, the employee must immediately contact Human Resources or the City Manager.
- E. If an employee believes that they are being subjected to any of these forms of harassment, or believes that they are being discriminated against because other employees are receiving favored treatment in exchange, for example, sexual favors, they must bring this to the attention of Human Resources, the City Manager, or designee, in order to guarantee that the situation is resolved. The very nature of harassment makes it virtually impossible to detect unless the person being harassed registers their discontent with the City's representative. Consequently, in order for the City to deal with the problem, the employee must report such offensive conduct or situations to Human Resources or the City Manager. If, however, a supervisor or any other employee observes any form of harassment taking place, they, also, shall immediately bring this to the attention of Human Resources or the City Manager.
- F. State and Federal Employment Discrimination Enforcement Agencies:

A formal complaint concerning sexual harassment can be filed at either of the following public agencies:

- U.S. Equal Employment Opportunity Commission, Washington, D.C.
- Equal Employment Opportunity Commission, Miami District Office, Miami, FL.

### **3.9.3 Investigation of Complaints**

The investigation of a reported violation of this policy begins with the

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Department Director or designee. The Department Director or designee will determine if the violation involves a City employee or employees. If it involves a City employee, the Department Director, or designee, will transfer the investigation to Human Resources or the City Manager. Once transferred to Human Resources or the City Manager, an investigation into the reported facts and surrounding circumstances will be considered to determine whether a violation to this policy occurred. Should the act be determined to be outside the scope of the City of Indian Harbour Beach employment, there may be no action taken by the City.

- A. Investigation of a violation shall be conducted by Human Resources, or their designee, to obtain sufficient information upon which to make an assessment of the situation.
- B. Investigations must include interviews of the victim(s), alleged perpetrator(s), and witnesses. Each individual must be interviewed separately; at no time will the alleged perpetrator and victim be interviewed together.
- C. Results of the investigation shall be reported to appropriate parties as needed.
- D. While the City shall make every effort to be sensitive to privacy issues, in the course of an investigation, the City shall discuss relevant information with appropriate parties as required to obtain needed information.
- E. A record of the complaint and the findings will become a part of the accused employee's file and will be maintained separately from the personnel file.

### **3.9.4 Retaliation**

The City will comply with Florida Statute 112.3187, the Whistleblower Act. This policy prohibits retaliation against any employee who brings complaints of violent or intimidating behavior, or who helps in investigating complaints. Retaliation is against this policy, is against the law, and will not be condoned.

It is understood that any person who elected to utilize this complaint resolution procedure will be treated courteously, and if possible, confidentiality will be maintained.

Adverse action may include, but is not limited to: demotion, discipline, firing, salary reduction, negative evaluation, and change in job assignment or change in shift assignment, such acts as refusing to recommend a qualified employee for a benefit, spreading rumors about the employee, and encouraging hostility from co-workers which escalates the harassment. Employees should report incidents they believe to be retaliatory immediately to Human Resources as soon as possible after they occur.

### **3.9.5 Consequences for Violators of this Policy**

Where the facts and surrounding circumstances yield a conclusion that one has engaged in a violation of this policy, the following consequences are deemed appropriate:

- A. Remedial action shall be determined in accordance with the City of Indian Harbour Beach Policies for City employees.
- B. Consequences may also be imposed upon those who are found to have wrongfully and intentionally accused another of a violation of this policy.
- C. Retaliation against any person who makes a good faith report of a violation of this policy is strictly prohibited. Likewise, retaliation against any person who testifies, assists, or participates in a proceeding or hearing related to a violation of this policy shall not be tolerated.
- D. Employees who engage in or tolerate unlawful harassment are subject to disciplinary action, up to and including termination. Behavior that violates this policy but that does not rise to an “unlawful” level may also subject the employee to disciplinary action, up to and including termination.
- E. No Department Director or supervisor has the authority to suggest to any employee or applicant that the individual’s employment, continued employment, or future advancement shall be affected in any way by the individual’s entering into, or refusing to enter into, any form of personal relationship with the Department Director or supervisor. Such conduct is a direct violation of this policy.
- F. Department Directors and/or supervisors who allow violations to continue or fail to take appropriate corrective action upon becoming aware of a violation may also be subject to discipline for violations of this policy, up to and including termination from employment.
- G. Department Directors have a responsibility to immediately intervene when any employee or member of the public displays conduct that violates this policy. In situations where employee safety is at risk or the security of property is an issue, the Department Director or supervisor, at their discretion and in accordance with City of Indian Harbour Beach’s disciplinary policies and procedures, may engage the assistance of law enforcement to remove the threatening employee or member of the public.

### **3.9.6 Bullying**

Defined as systematically and chronically inflicting physical hurt or psychological distress on one or more people. It is further defined as unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting or dehumanizing gestures that are severe or pervasive enough to

create an intimidating, hostile, or offensive environment; cause discomfort or humiliation; or unreasonably interfere with the individual's work environment or program participation.

Bullying may involve, but is not limited to teasing; social exclusion; threats; intimidation; stalking; physical violence; theft; sexual, religious, racial, ethnic, lifestyle, medical, or disability harassment; public humiliation; damaging or destruction of property; placing someone in reasonable fear of harm to self or property.

### **3.10 Smoke-free, Tobacco-free & Vape-free Workplace**

The purpose of this policy is to protect the public health, comfort, and environment for citizens and employees by creating areas in public places and at public meetings that are reasonably free from tobacco smoke and to comply with the Florida Indoor Clean Air Act, F.S. Chapter 386.201. Furthermore, the purpose of this policy is to minimize the risk of fire, provide a healthy environment, eliminate the effects of passive smoke, and encourage good health habits within all City of Indian Harbour Beach facilities.

Smoking, use of tobacco products, and/or "vaping" (using vapor or e-cigarettes), is prohibited throughout City offices and in City-owned vehicles. Smoking, use of tobacco products, and/or "vaping" is permitted outdoors in designated "smoking / tobacco" areas, and is limited to the employee's meal break or during scheduled rest periods only. Employees are not permitted to smoke, use tobacco products, or vape in any indoor work area at any time, or outside the front door of any facility during work hours, pursuant to the Florida Clean Indoor Air Act and/or other related legislation.

Employees are encouraged to seek smoking cessation assistance for themselves and family members through various programs offered, including the EAP or the employee's health care provider.

Smoking, vaping, or the use of tobacco products are prohibited on Fire Department property as required by F.A.C. 69A-62.024.

## **Section 4: Staffing and Development**

### **4.1 Recruitment and Selection Program**

The employment process is impacted by various federal laws, state laws, and the City's EEOP (ADM-HR-001). For this reason, questions regarding the recruitment and selection process should be referred to Human Resources. Applicants seeking employment should be directed to the City's website.

### **4.2 Applications**

All employment applications shall be retained under the following guidelines:

- A. All solicited applications, resumes, and other documentation for unselected candidates shall be submitted to Human Resources to be retained as per the Records Retention Schedule, as updated from time to time.
- B. All unsolicited applications or resumes shall be retained by Human Resources as per the Records Retention Schedule as updated from time to time, or for a period of six months, whichever is longer. Department Directors may contact Human Resources for applications that may be on file when an opening occurs in their department.

### **4.3 New Hire Paperwork and Processing**

- A. The City, at any time, has the right to withdraw a conditional offer of employment for any reason.
- B. Each prospective employee signs a statement on the Employment Application authorizing verification to include, but not be limited to, employment, education verification, and a criminal background screening.
- C. Falsification of information on the Employment Application is grounds for disciplinary action up to and including termination.
- D. All applicants who have accepted a conditional offer of employment shall be fingerprinted for the purposes of a background check.
- E. The City participates in E-Verify and all applicants selected for hire will be required to furnish documentation for the I-9 and e-verification process.
- F. The City participates in all required employment and citizenship documentation programs required by law.
- G. Additional employment paperwork will be provided by Human Resources as deemed necessary.

### **4.4 Social Security Number**

The Social Security Number is a unique numeric identifier that must be disclosed in order for an agency to perform many of its duties and responsibilities.

- A. Effective October 1, 2007, the Florida Legislature adopted new requirements relating to the collection and dissemination of Social Security numbers by all agencies in Florida. To meet the mandates set forth by Section 119.071(5):
  - i. The City of Indian Harbour Beach collects Social Security numbers from individuals for the following purposes: identification and verification, benefit processing, payroll functions, tax

reporting, state reporting, income reporting, eligibility verification, background checks, and arrest records.

- ii. All public records requests made to any department of the City of Indian Harbour Beach for the dissemination of Social Security numbers shall be forwarded to the City Clerk's Office.
- B. Human Resources and the Comptroller's office will be the only departments requesting an employee's Social Security number unless specifically authorized by law or imperative in the performance of the City's duties and responsibilities.

After the initial request for the social security number on new employee paperwork, employees may leave their social security number off of documents or supply only the last four (4) digits.

- C. For public records requests, Social Security numbers held by the City of Indian Harbour Beach and any other agencies that provides employee benefits are confidential and exempt pursuant to Florida Statutes.

#### **4.5 Drug Testing of Applicants**

- A. All position vacancy announcements will include notice of drug testing of candidates offered employment conditioned upon successful completion of drug/alcohol testing.
- B. All offers of employment are conditional upon successfully passing a drug and/or alcohol test. This applies to all positions of the City, including part-time and temporary positions.

Applicants will be asked to sign a Drug and Alcohol Test Consent form after the conditional employment offer has been made and accepted. Any applicant who refuses to take the drug/alcohol test will not be considered for employment and the conditional employment offer will be withdrawn.

- C. An applicant whose test is confirmed positive will not be considered for employment, will be informed of failure to meet employment standards, and the conditional employment offer will be withdrawn.

#### **4.6 Emergency Appointment**

When an emergency makes it impossible to fill a regular position utilizing normal procedures, the City Manager may approve the appointment of a qualified person to such a position and notify the City Council by email and announce such action publicly at the next regularly scheduled Council meeting of the appointment and estimated duration.

#### **4.7 Corrective Action Plan**

The Corrective Action Plan shall be utilized during the evaluation process and

for disciplinary actions.

The Department Director, Human Resources, and the employee shall meet to outline steps to correct the performance and/or behavior that may be in contradiction to the needs of the department and City.

## **4.8 Employee Position Classifications**

A City employee may be classified as either an exempt or non-exempt employee; a full-time or part-time employee; and a regular, probationary, temporary, or seasonal employee.

Exempt and Non-exempt classifications are defined by the Fair Labor Standards Act (FLSA) for overtime purposes. See Section 7.6 for overtime information.

### **4.8.1 Exempt Employee**

An employee in an executive or administrative position as defined by the Fair Labor Standards Act.

- A. Employees in this category are on an unlimited schedule and are not eligible for overtime pay unless specifically stated elsewhere in these policies.
- B. These employees are guaranteed an established amount of compensation per work week regardless of the quality or quantity of work or the number of hours actually worked.
- C. These employees may keep a record of the hours they work outside of normal hours; however, they are not eligible for payment of these hours.
- D. With prior approval from the City Manager, these employees may occasionally be absent during normal working hours without loss of pay as provided for in Section 5.13.2; however, in such cases the City Manager must be advised of where they can be reached.

### **4.8.2 Full-time Employee**

Full-time positions are budgeted, regularly scheduled to work 30 hours or more per week and eligible for all benefits.

### **4.8.3 Non-Exempt Employee**

An employment status, established in the Fair Labor Standards Act, which indicates that an employee is paid on an hourly basis and is eligible for overtime compensation as provided in these policies.

### **4.8.4 Part-time Employee**

Part-time positions are permanent with intermittent schedules, are scheduled

less than 30 hours per week, receive no fringe benefits, and have no leave benefits unless specifically stated in an employee contract.

Part-time employees are eligible for overtime pay only when they have worked more than forty (40) hours in a scheduled work week or such other hours as necessary to qualify under the Fair Labor Standards Act.

### **4.8.5 Probationary Employee**

Unless otherwise provided for in writing and approved by the City Manager or by a Collective Bargaining Agreement, the probationary period for new employees will be six (6) months.

### **4.8.6 Regular Employee**

Any employee who is assigned to a budgeted position and has successfully completed their probationary period with the City as indicated on an Employee Performance Evaluation.

### **4.8.7 Seasonal Employee**

A person employed by the City for a season (usually less than 12 weeks per year) and normally scheduled for less than 30 hours per week. Seasonal employees are not eligible for insurance benefits or any type of paid leave. Retirement benefits are controlled by the position's retirement plan.

### **4.8.8 Temporary Employee**

A person employed on a part-time basis (less than 30 hours per week) for a project which requires additional personnel for a specific time and in a temporary capacity. The term of such employment is normally for a period of six (6) months or less. Temporary employees are not eligible for insurance benefits or any type of paid leave. Retirement benefits are controlled by the position's retirement plan. If a position exists for more than 6 months in a year, said position becomes an eligible FRS position regardless of the number of people who have held that position.

### **4.8.9 Volunteer**

A person who performs hours of service for the city for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered. These services are offered freely and without pressure or coercion, either direct or implied.

Volunteers receive no compensation other than permissible expenses, reasonable benefits as may be offered by the city, or a nominal fee to perform those services for which the individual volunteered.

No employee of the city may volunteer to perform the same type of services as those for which the individual is employed.

## 4.9 Position Changes

### 4.9.1 Demotion

Demotions occur when the City reassigns an employee from one job classification to another classification with a lower pay grade or a lower role and/or level. An employee reassigned voluntarily or involuntarily, regardless of the reason, may receive a reduction in pay commensurate with the nature of the demotion. The City reserves the right to choose the best method to decrease the incumbent's pay.

- A. An employee shall not be demoted to a position where the minimum qualifications are not met or for which the essential functions are unable to be performed with or without a reasonable accommodation.
- B. A demotion may occur for any of the following reasons:
  - i. An employee fails to satisfactorily meet performance standards established for that position. For situations of severe performance deficiencies, the Department Director, with approval from the City Manager, may take immediate action, up to and including termination.
  - ii. When an employee would otherwise be laid off because the position is being abolished or the position is being reclassified to a lower pay grade, due to lack of work or funds. Such action is to be without prejudice, and the employee involved is eligible to receive preferential consideration relative to reinstatement in former position to the extent available or another for which qualified.
  - iii. An employee received a temporary promotion and the return to work of another employee from authorized leave.
  - iv. An employee received a temporary promotion until the position was permanently filled.
  - v. As a result of disciplinary action.
  - vi. When an employee voluntarily requests a demotion.
- C. Demoted employees shall be subject to a 90-day performance period and may be evaluated again at six months as determined by the Department Director. Failure to meet the performance standards of the new position may result in termination or transfer, at the sole discretion of the City.
- D. Compensation
  - i. When an employee requests to be demoted to a position with a lower pay grade level, or is demoted for disciplinary purposes, performance reasons, or due to a change in job duties compatible with a lower pay range, the rate of pay shall be decreased to equal

the same pay range penetration (i.e. if an employee was being paid at a rate equivalent to 40% through the pay range, the employee's new rate will be set at 40% through the new pay grade). Department Directors may set the demoted employee's pay at a higher penetration point based upon the employee's qualifications and with the written approval of the City Manager.

- ii. If an employee is demoted to a position in a lower pay grade due to circumstances related to a health condition or for purposes of disability accommodation, the rate of pay may or may not be decreased, depending on the circumstances, including labor agreement provisions.
- iii. If after a health related demotion, an employee's wage is above the maximum for the position, the wage will be frozen at that level. No increases, including EXCEL, will be permitted until or unless such employee is promoted to a higher position, or the pay level is adjusted beyond the employee's current pay level.

E. A demoted employee who resigns in good standing and is re-hired within thirty (30) days of resignation, shall be considered reinstated and will not suffer loss associated with a break in service with the exception of group insurance.

#### **4.9.2 Promotion**

A promotion is defined as the movement of an employee from one job classification to another classification with a higher pay grade.

Employment and promotional opportunities will be sent out via email and posted on the City's website by Human Resources. Promotional opportunities shall be posted in department breakrooms or where employees can easily view the postings.

- A. Promoted employees are subject to a six (6) month probationary period. The Department Director should complete a mid-point evaluation and shall complete an evaluation form and submit to Human Resources at the end of the probationary period. Employees who fail to meet the performance standards of the new position may be demoted, transferred, or terminated at the sole discretion of the City.
- B. The City Manager may authorize temporary promotions in unusual cases such as an employee in a key position is on extended leave or a key position must be filled temporarily until a fully qualified applicant can be found. If an employee has continuously held a position on a temporary promotion and is selected for the position, the effective date of promotion for evaluation purposes shall be the date the employee assumed the position on a temporary basis.
- C. When an employee is promoted to a position with a higher maximum salary, the new rate shall be at least the minimum of the new pay grade

or a 5% increase of the employee's current salary, whichever is greater. However, if after a 5% pay rate increase the new pay rate is above the maximum of the new pay grade, the employee will be adjusted to the maximum of the pay grade. Upon written request and justification by a Department Director, the City Manager may authorize a new rate that exceeds these thresholds but not exceed the maximum of the pay range.

- D. The salary of an employee appointed by the City Manager to a Department Director position shall be established by the City Manager commensurate with the responsibilities of the position and is not necessarily governed by the above parameters.
- E. Employees covered by collective bargaining agreements may have different promotional language.

### **4.9.3 Transfers**

An employee may be transferred to another department within the City. Transfers will not change the employee's anniversary date.

- A. All transfers shall be made only with the approval of the Department Directors and City Manager.
- B. Transferred employees shall be subject to a six (6) month probationary period. Said employees shall be evaluated at the mid-point and the end of the probationary period. Employees who fail to meet the performance standards of the new position may be terminated, demoted, or transferred again, at the sole discretion of the City.
- C. If, after a fair trial period, the new employee is found to be unqualified in the new position, the employee may return to the position left, with the approval of the Department Directors, if a vacancy exists. If the former position is filled, every effort will be made to place the employee in a comparable position. If a vacancy does not exist, and if no comparable position is available for which the employee is qualified, the employee will be released.
- D. When an employee is transferred or reclassified laterally, there is no change in pay rate.

### **4.9.4 Elimination of Position**

An employee's position may be eliminated for budgetary reasons and there is no guarantee that the employee will be transferred or hired for any other position within the City.

## **4.10 Training**

In order to meet individual and organizational needs, it is the policy of the City of Indian Harbour Beach to provide training and development opportunities.

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- A. Training is meant to encourage high-quality performance to prepare employees for new or increased responsibilities, skills, and to extend opportunities for individual growth, promotion, development, and self-fulfillment.
- B. Other training opportunities will be made available through Human Resources and Department Directors.
- C. Applicable annual training for those employees that must abide by additional policies including but not limited to credit card training and electronic communications training (texting).
- D. From time to time the City Manager may require additional mandatory training at either the Department or City wide level.

## Section 5: General Employment

### 5.1 Abuse, Neglect & Exploitation Reporting

City employees are mandatory reporters of suspected child abuse, neglect or exploitation, elder abuse, neglect or exploitation, abuse neglect or exploitation of disabled persons. Employees must report suspected abuse to the Florida Abuse Hotline by calling 1-80096ABUSE, by faxing 1-800-914-0004, or by the web reporting option at <http://www.dcf.state.fl.us/abuse/report>.

### 5.2 Acceptance of Gifts

Elected officials and employees are prohibited from using their positions for personal gain and shall not accept any form of gratuity, gift, or offer of a favor that could be considered a violation of the Code of Ethics.

- A. Employees, and members of their immediate household are not permitted to accept gifts from any person or business entity that the employee knows is subject to the City's regulations or has a business relationship with the City; is a lobbyist, or is a principal of a lobbyist having an issue before the City. Gifts include anything that may be considered of economic value including money, travel, service, loans, entertainment, hospitality, items, or promises.
- B. Gifts to an employee's immediate household family members by a City vendor or client are exempt from this policy if the gift was the result of that family member's employment. If the gift could be construed to be to the City employee through the family member's name, the gift should not be accepted.
- C. No individual employee should receive and/or accept a gift from any vendor, client, customer, provider, consultant, etc., for personal use. All gifts (i.e., fruit baskets, food trays, boxes of candy, flowers, etc.) should be placed in a common area easily accessible by employees. This also applies to any gifts received outside of City facilities.
- D. Food consumed at a single setting, such as a hospitality event, is not considered a gift. Accepting a single lunch or dinner from a vendor or client is not encouraged but is allowable.
- E. Tickets to sporting events or recreational opportunities, such as a gift of a round of golf, are considered a gift and should not be accepted from a vendor or client.
- F. Accepting a fee or payment, valued at \$25 or less, for teaching a class or a seminar does not constitute a violation of ethics laws or this policy. Accepting a payment or gift, valued at more, from a vendor or client for speaking before any group is a violation of ethics laws and this policy.

G. Trips and/or training seminars sponsored by vendors with whom we have a contract or franchise and which are intended to optimize the City's contracted services are not a gift and may be accepted with prior approval of the City Manager.

Trips or seminars sponsored by private vendors who are soliciting the City are considered gifts and are a violation of ethics laws and this policy.

H. Gifts do not include de minimis items with little to no value and do not include items offered at training or conferences if included with the cost of such an event; discounts available to all City employees; promotional items sent through the mail; samples; informational books or periodicals; gifts or food between employees; admission to City sponsored employee events (along with associated activities, meals and giveaways); or expenditures made in connection with an event for public purpose and on behalf of the City.

I. Gifts for public use or sponsorships for projects and programs are allowable when solicited or accepted by public employees for public purpose and on behalf of the City, so long as the gift/sponsorship is adequately documented and an acknowledgment is sent to the donor/sponsor describing same. Samples or equipment trials may also be accepted, if for public purpose, so long as the acceptance of such items, along with its intended use is adequately documented.

## **5.3 Accident/Injury Prevention and Reporting**

### **5.3.1 Prevention**

Department Directors, supervisors, and employees should recognize their responsibility for a successful safety program, and will participate in the development, implementation, and improvement of this program. Supervisors must have a continuing concern with all possible safety and operational economies. Inadequate safety training, improper equipment handling, and neglect can increase costs, cause accidents, and reduce productivity.

Employees who become aware or are notified by their doctor of any possible physical limitations, must notify their Department Director and Human Resources within 24 hours of the situation. Failure to notify the Department Director and Human Resources may result in disciplinary action up to and including termination.

### **5.3.2 Reporting**

Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care. Employees who refuse medical treatment following an accident must sign a statement acknowledging their refusal of treatment.

Only doctors authorized by Human Resources or the City's Workers' Compensation insurance carrier will be accepted as treating physicians except under emergency situations. Use of an unauthorized doctor for non-emergency care may result in the employee being liable for payment of the bill.

- A. Employee accidents or injuries, no matter how minor, must be reported IMMEDIATELY to the employee's immediate supervisor or Department Director. The Department Director shall notify Human Resources. Delay in reporting an injury can cause complication of the injury and delayed recovery.
  - i. Immediately or as soon as reasonably possible after all accidents, the City's Worker's Compensation provider should be notified in order to start a claim. This applies even if an employee doesn't feel it is necessary.
  - ii. An Injured Employee Report must be submitted to Human Resources by the injured employee's supervisor within twenty-four (24) hours after the accident or the report of the injury. If the accident occurs over a holiday or weekend, the accident report should then be submitted within twenty-four (24) hours from the time the work period starts after the weekend or holiday. This applies to all accidents and first aid injuries, including injuries resulting from vehicular accidents involving City vehicles. A vehicular accident report will be submitted.
- A. Any accident or injury on City property or streets observed by an employee shall also be reported to the employee's immediate supervisor, Department Director, and Human Resources.
- B. Accidents involving City vehicles shall be reported to: the Indian Harbour Beach Police Department; the employee's Department Director; Human Resources; and if outside of City limits, the Police Department in the jurisdiction of the accident.

If an employee receives a citation as a result of the accident, payment of the ticket/fine shall be the employee's responsibility.

### **5.3.3 On-the-Job Injury Procedures**

If an employee has an injury at work, the following steps shall be taken:

- A. If it is an emergency, call 9-1-1 and administer first aid until emergency medical personnel arrive.
- B. If it is not an emergency, report the injury to your Department Director via your immediate supervisor without delay no matter how minor the injury may appear to be.
- C. After each doctor visit, notify Human Resources of the results of the visit, including your work status. If the doctor has cleared you without limitations, you will be expected to return to work. If your condition

worsens and you feel you are unable to work as the doctor indicated, contact Human Resources.

- D. Inform the Department Director when taking any time off from work due to an on-the-job injury and document properly on timesheet.

## **5.4 Communications and Devices (including Personal Use)**

When using City or personal communications devices, employees are expected to communicate in a professional manner. Use of personal communications devices may distract from job duties and can reduce overall productivity, particularly in departments where service delivery or performance may be directly impacted when used during working hours. Using communications devices (including smart phones, tablets, cell phones, etc.) during working hours should be avoided if doing so could pose a potential risk, reduce individual or overall productivity, and/or interfere with the regular operations of the department. Employees are prohibited from using communications devices while driving a City vehicle or while operating City equipment, unless they are using a hands free device in compliance with applicable laws. Texting and social media use while operating City equipment is prohibited.

### **5.4.1 Electronic Mail (Email)**

E-mail is the electronic transfer of information, typically in the form of electronic messages, memoranda, and attached documents, from a sending party to one or more receiving parties by means of an intermediate telecommunications system. When creating email messages, refrain from using all caps, bold, and/or underline as this has been interpreted by the courts as being “reckless use”.

- A. The City may provide electronic mail services to City employees, council members, or members of advisory boards, committees and task forces (hereinafter referred to as “Users”). These systems are designed to facilitate communication with other employees and the public when such communication is part of a User’s job.
- B. E-mail which is created or received by a user in connection with the transaction of official business of the City may be considered a public record and is subject to inspection and/or copying in accordance with Chapter 119, Florida Statutes, and is subject to applicable state retention laws and regulations, unless expressly exempted by law.
- C. Users must use City e-mail accounts in connection with the transaction of official business of the City. Users are prohibited from using personal e-mail accounts in connection with the transaction of official business of the City.
- D. Any e-mail received by a user in their personal e-mail account in connection with the transaction of official business of the City shall be forwarded to their City e-mail account.

- E. E-mail for City business should not be sent from a personal email account, and employees may not respond to business-related emails if they are sent to a personal account.
- F. Florida Statutes contain numerous specific exemptions to the access and inspection requirements of the Public Records Law.

Users are responsible for ensuring that electronic public records which are exempt from access or inspection by statute are properly safeguarded.
- G. All electronic communications whether transmitted, received or contained in the City's information systems are stored and are the property of the City.
- H. Users shall have no expectation or right of personal privacy of any material created, stored, received, or sent utilizing the City's e-mail system. The City reserves and may exercise the right, at any time and without prior notice or permission, to intercept, monitor, access, search, retrieve, record, copy, inspect, review, block, delete and/or disclose any material created, stored in, received, or sent over the City's e-mail system for the purpose of protecting the system from unauthorized or improper use or criminal activity.
- I. E-mail is for the use of Users in the performance of their jobs. However, it is recognized that occasional communications may occur between Users within the City e-mail system for personal reasons that do not take away from or interfere with their duties. It is recommended that responses unrelated to City business should be through a personal device
- J. It is recognized that de minimis personal communications may take place through the City's e-mail system but should not take away from or interfere with User duties.
- K. The City's e-mail system shall not be used for any unauthorized purpose including but not limited to:
  - i. Sending solicitations including, but not limited to, the sale of goods or services or other commercial activities not in connection with the transaction of official business of the City.
  - ii. Sending copies of documents in violation of copyright laws or licensing agreements.
  - iii. Sending information or material prohibited or restricted by government security laws or regulations.
  - iv. Sending information or material which may reflect unfavorably on the City or adversely affect the City's ability to carry out its mission.

- v. Sending information or material which may be perceived as representing the City's official position on any matter when authority to disseminate such information has not been expressly granted. When an employee sends a personal e-mail, especially if the content of the e-mail could be interpreted as an official agency statement, the employee should use the following disclaimer at the end of the message: "This e-mail contains the thoughts and opinions of (employee name) and does not represent official City of Indian Harbour Beach policy."
- vi. Sending confidential or proprietary information or data to persons not authorized to receive such information, either within or outside the City.
- vii. Sending messages or requesting information or material that is fraudulent, harassing, obscene, offensive, discriminatory, lewd, sexually suggestive, sexually explicit, pornographic, intimidating, defamatory, derogatory, violent or which contains profanity or vulgarity, regardless of intent. Among those which are considered offensive include, but are not limited to, messages containing jokes, slurs, epithets, pictures, caricatures, or other material demonstrating animosity, hatred, disdain or contempt for a person or group of people because of race, color, religion, sex, pregnancy, national origin, age, handicap, gender, marital status, or any other classification protected by law.
- viii. Sending messages or requesting information reflecting or containing chain letters or any illegal activity including, but not limited to gambling.
- ix. Sending or requesting information or material that promotes a religious or political view, cause, position or action.
- x. Requesting or responding to outside personal email that is not in connection with the transaction of official business of the City to include, but not limited to, personal activities, automated email from non-City business entities, shopping, auction, personal pictures, etc. Personal email should be limited and the user should not expect to have personal privacy.

- L. Employees are not responsible for unsolicited offensive e-mails.
- M. The use of e-mail is a privilege, not a right. As such, the privilege may be revoked at any time and for any reason. Abuse of the privilege may result in appropriate disciplinary action.
- N. Electronic records (such as e-mail and computer stored documents) may be public records dependent upon Chapter 119, Florida Statutes, subject to access by the general public as well as the press in the same manner as physical documents. An electronic communication in connection with the transaction of official business of the City may not be deleted or destroyed except in compliance with the records retention schedule in Chapter 119, Florida Statutes. Employees unsure of specific record

retention schedules should contact the City Clerk who is the City's Record Custodian. Unless it falls within one of the specific exemptions described in the public records statute, the e-mail message must be produced for a public record request.

- O. All e-mail and other public records in the City's custody are to be maintained for the required retention period(s). Automatic server backups are done under the City's disaster recovery plan.
- P. Sorting e-mail into appropriate personal folders is a helpful way to manage these records and to ensure that they will be easier to locate if you need to refer back to them. E-mails are to remain in individual "live" accounts for one year in order to maintain functionality and efficiency. The "Deleted Items" folder should be emptied every 7 days at a minimum.
- Q. Archived e-mails will be available for viewing or printing after the one year "live" mailbox limit. Once e-mail has met its retention in accordance with Chapter 119, Florida Statutes, it should be removed. Please refer to Administrative Policy 2-22 for specific information on e-mail and records retention.

#### **5.4.2 Texting**

In order to comply with Public Information Record laws, City employees are discouraged from using text messaging as a means to conduct City business. Acceptable uses of text messaging include limited communication such as "call me please", "the meeting is starting", "I am running late/sick" or "let's have lunch". Anything beyond these types of phrases must be preserved as a public record. This may be accomplished by forwarding to your work email account or other means approved by the City Manager. Business conversations or customer/project related conversations should not take place through text messaging. Employees unsure of how to properly retain text messages should contact their Department Director or the Information Technology Department.

All City files must be stored on City devices. No City-related business files are to be stored outside of City owned or provided equipment.

All text messages that are business related must be kept per Florida Records Laws. All City related texts should be forwarded to a City email address if received on a personal device, even if a stipend is received. Employees are responsible for retaining all public records in accordance with Florida Records Laws if text messages are not forwarded to a City email address.

### **5.5 Computers and IT Equipment**

The City's electronic information and communication systems (the "IT System"), shall include, without limitation, the City's computers and related equipment, telephones, cell phones, pagers, voice mail, scanners, fax machines, portable electronic devices, and the Intranet and Internet.

The purpose of the IT System is to provide service to the citizens, businesses, and customers of the City of Indian Harbour Beach. The IT System allows City employees, contractors, temporary workers, and authorized volunteers (collectively referred to in the Policy as "City employees"), the means to process information, identify resources and communicate efficiently and effectively, and to make the City more accessible and accountable to the people we serve.

The following is a list of policies that shall be followed:

- A. City employees shall use the IT System in a lawful, ethical, and professional manner. The use of the IT System is a privilege enjoyed by City employees that may be withdrawn by the City at any time.
- B. The IT System is the property of the City of Indian Harbour Beach. The City may inspect, monitor, or audit any and all components of the IT System or any information contained therein at any time, for any lawful purpose, without notice to any City employees. Accordingly, City employees should not expect any information contained within the IT System or its use to be private.
- C. Employees shall take all reasonable and necessary efforts to prevent unauthorized persons from accessing the IT System and prevent the introduction or spread of computer viruses. City employees shall not leave IT Systems unattended in a state that allows others to inappropriately access it. Employees shall lock their computer screens or log off when they leave their work areas/desks, unless the device is in a secure location.
- D. The Information Technology Director has implemented a secure password initiative in which they will generate a password change periodically.
  - i. Passwords issued to or used by City employees shall remain confidential. Passwords should never be shared or revealed to anyone besides the authorized user without prior approval from the IT Director or designee.
  - ii. Passwords must not be documented or stored in a manner which can be accessed by others. Sharing your password with others may create a liability to you if anything detrimental happens under your sign on with access to the City network.
- E. Only software which is purchased and/or licensed to the City and installed under the direction of the City's IT Department may be used in the IT System. Installing and using unauthorized software increases the risk of exposure of the City's network to viruses and system/software incompatibilities. City employees are also prohibited from copying software from the IT System as unauthorized copying and use of software is a violation of federal copyright laws.

- F. Only hardware and external computer equipment that is supplied and encrypted, if applicable, by the IT Department of the City may be attached to any computer.
- G. IT Systems are provided to City employees for use in the performance of their official work duties. Occasional and limited “personal” use of the IT System (“de minimis use”) may be allowed provided the access and use:
  - i. Will not interfere with the user’s work performance;
  - ii. Will not interfere with the work performance of any other City employees;
  - iii. Will not have undue impact on the City’s operations or the operation of the IT System;
  - iv. Will not involve gambling, pornography, or any illegal activity;
  - v. Will not violate any other provisions of this Policy, any other City policies, practice, resolution, or ordinance, or any legal requirement;
  - vi. Will not expose the City to unauthorized expense; and
  - vii. Will benefit the City by allowing City employees to remain at the workplace.
- H. The IT System may not be used for illegal activity, for commercial promotion, to run a private business, for other employment or pecuniary gain, or to communicate any material or information of a political, obscene, defamatory or derogatory nature.
- I. Any City employees who discover potential criminal activity involving the use of any IT System shall immediately report the activity to their Department Director. The Department Director shall immediately report the activity to the IT Director, Human Resources, City Manager, and/or the Chief of Police, if appropriate.

## 5.6 Conflict of Interest

Employees are expected to avoid any conflict between personal interests and the interests of the City in dealing with suppliers and all others seeking to do business with the City. The provisions of Florida Statutes 112, Part III establishes the standard for the policy.

The responsibility for exercising care and discretion rests, initially, with the individual. If there is uncertainty about whether a conflict exists or if there are any questions about a potential conflict of interest, the individual shall ask the advice and guidance of their Department Director, Human Resources, or the City Manager.

- A. The following are prohibited:

- i. Transacting business on behalf of the City with any agency in which either the employee or a member of the employee's immediate family has a "material interest" excluding civic, charitable, non-profit, or religious organizations.
- ii. Acceptance of monetary or material compensation to influence any action in the employee's official capacity.
- iii. Using City position to secure a special privilege, benefit, or exemption for the employee or others may require evaluation by the City Manager.
- iv. Holding any employment or contractual relationship with any business entity or agency which is subject to the regulation of or is doing business with the City.
- v. Disclosing or using information not available to the general public for personal gain of any other person or business with the City.

B. Additional guidelines:

- i. Individuals who may be in a position to influence actions and decisions regarding the City's administration shall refrain from relationships which may adversely affect the exercise of their independent judgment in dealing with suppliers.
- ii. An individual having an outside personal economic relationship under the conditions specified above shall file a sworn statement to this effect with the City.
- iii. Individuals soliciting or accepting anything of value to the recipient (greater than \$25) including loans, advances, gifts, gratuities, rewards, favors or entertainment from a supplier, bidder or other party doing business with the City, promise of future employment, etc., is improper.
- iv. No individual shall disclose confidential information gained by reason of their official position, nor shall the individual use such information for personal gain or benefit.
- v. Other provisions as stated in Florida §112.313.

## 5.7 Contact with Elected Officials

As stated in the City Charter, except for the purpose of inquiries and investigations, the City Council and its members shall deal with the City employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its members shall give orders to any such employee, either publicly or privately.

Employees are strongly encouraged to address work-related issues through their chain of command before initiating contact with elected officials of the City of Indian Harbour Beach concerning work-related matters. Nothing in this section shall prohibit employees and City Council Members from having non-work related conversations. Nor are City Council Members prohibited from

speaking to employees to request and receive information concerning City services.

## **5.8 Co-worker Relationships**

Due to the potential for a conflict of interest, sexual harassment, and/or other serious concerns, the City strongly discourages employees from dating or entering into a consensual and/or romantic relationship with other co-workers, members of management, or elected officials. In an effort to avoid such issues from arising, the City prohibits members of management (including, but not limited to supervisors and Department Directors) from dating any subordinate within their department. Such relationships can be disruptive to the work environment, create a conflict or appearance of a conflict of interest, and lead to charges of favoritism, discrimination, and claims of sexual harassment. While the City has no desire to interfere with the private lives of its employees or their off-duty conduct, where such conduct impacts the City and/or the City's work environment in a negative manner, the City reserves the right to take whatever action is appropriate, in its discretion, to protect the City's interests.

The City recognizes that at times, employees may develop relationships that turn into "close friends", "domestic partners" or "significant others" during their employment. If employees become involved in a consensual and/or romantic relationship (except as prohibited amongst supervisors/managers and departmental subordinates) as referenced above, the employees have a mandatory obligation to notify Human Resources.

If employees change their relationship by marriage or other means while working within the same department, both employees may continue their employment in the same respective department, as long as one does not supervise or evaluate the other. If employees within the same department or reporting chain have a relationship, one employee shall request a transfer to another division or department, if such a position is available as determined by the City Manager, or voluntarily separate from employment.

## **5.9 Dress Code, Grooming & Personal Appearance**

All employees are expected to present a positive image of the City through their dress and their behavior and are expected to dress and groom in a neat, clean, and businesslike manner consistent with their position and work location. All employees are expected to practice good hygiene.

Employees are expected at all times to present an image appropriate to the work being performed and in accordance with any applicable safety requirements. Employees who work in an office environment, non-office administrative location, and/or have regular contact with the public are expected to adhere to wardrobe choices consistent with casual business attire, unless otherwise directed by their Department Director. Clothing that works well for the beach, yard work, dance clubs, exercise sessions, and sports contests may not be appropriate for work.

Employees who do not regularly have contact with the public are to be governed by both the requirements of safety and comfort, but should remain as neat and professional as working conditions permit.

If approved by the Department Director, employees may participate in "Casual Fridays" which shall include neat, appropriate, and well-maintained jeans.

Employees who have questions about their attire should consult their supervisor or Department Director.

## **5.10 Employee Debts**

An employee's financial transactions are the employee's personal affair. Voluntary deductions, including, but not limited to, lien assessments, personal bills, alimony/child support deduction submitted by the employee rather than via the Clerk of the Court, etc., for the convenience of employee's personal debts/obligations, are prohibited.

- A. The City will not act as a collection agent, unless required by a court order.
- B. Should complaints concerning an employee's failure to meet financial obligations result in interference with the employee's job performance or occasional loss of time and effort on the part of other City employees, the employee concerned shall be informed. If the situation continues, the employee may be subject to disciplinary action.

## **5.11 Equipment and Facilities**

City equipment and facilities shall not be used by employees for any reason other than City business unless specifically authorized by the City Manager. Nor shall an employee permit the use of equipment or facilities by an unauthorized person. An employee, who has been provided City equipment such as tools, equipment, vehicles, uniforms, etc., is expected to exercise reasonable care in the use and preservation of such equipment. Employees who misuse City equipment may be subject to progressive discipline.

## **5.12 Health and Fitness for Duty**

It shall be the continuing responsibility of each employee to maintain the standards of physical and mental health fitness required for performing their position.

When the physical or mental health condition of an employee constitutes a hazard to persons or property or prevents the employee from effectively performing the assigned duties, the employee may be requested by the Department Director to submit to a health examination.

Employees may also be required to submit to an examination provided through the City's Employee Assistance Program and/or other providers qualified to determine an employee's fitness for duty, when requested by the Department

Director and approved by Human Resources. The employee will be paid for the time required for such examination which shall be conducted at no cost to the employee for the purpose of determining the employee's health conditions relative to City employment.

Correction or treatment of conditions diagnosed during this examination shall be the responsibility of the employee.

A Department Director may require an employee to take periodic special examinations to qualify for continued employment in their classification.

The Department Director will not receive confidential medical information from the examination and will only receive the evaluator's assessment regarding the employee's fitness for duty.

## **5.13 Hours of Work**

Department Directors will establish, with the written approval of the City Manager, and post hours of operations in a location visible to employees and visitors unless the department operates on a 24/7 basis. The City Manager shall establish the hours of operations for City Hall.

Working an alternate schedule (i.e., four ten hour shifts versus five eight hour shifts) is not a right and will only be approved by the employee's Department Director (or City Manager in the case said employee is a Department Director) if there is negligible impact upon services to residents and internal customers.

### **5.13.1 Non-exempt employees**

- A. Non-exempt employees are not permitted to perform work for the City "off the clock" at any time or for any reason.
- B. Non-exempt employees are required to document their start and stop times via the City's timekeeping and attendance system. In order to be ready to work at the start of their shift, the City understands that employees may need to arrive early at their department in order to take care of personal business. For this purpose and under normal circumstances an employee should arrive no more than seven (7) minutes before the start of the scheduled shift or leave not more than eight (8) minutes after the end of the shift. In extenuating circumstances and as budgets permit, an employee, with preauthorization from their Department Director, may work overtime prior to or after their scheduled shift to complete special projects or to participate and work at City sponsored functions.
- C. City employees shall work their scheduled hours each work week unless absence from duty is authorized by the appropriate authority in accordance with these personnel policies. All absences shall be properly recorded and charged to the appropriate leave category.

- D. Flexible work schedules for temporary specialized tasks/projects, may be authorized by Department Directors provided there is no operational impact during normal hours of business at the work site.

### **5.13.2 Exempt Employees**

- A. The City has determined that the Department Director positions, the Police Commander position, and any other positions as determined by the City Manager that meet the FLSA criteria are exempt based on FLSA's executive and administrative job duties tests.
- B. Exempt Employees are not required to clock in and out and shall only enter their hours into the City's timekeeping and attendance system by exception. Exempt employees are required to approve their time sheets at the end of each pay period.

### **5.13.3 Rest Periods and Meal Breaks**

The rest period and meal break guidelines may differ for employees between the ages of 16 and under 18 and employees covered by a Collective Bargaining Agreement.

Florida law states that minors may work no more than four consecutive hours without a 30-minute uninterrupted break (see current Florida Department of Business and Professional Regulations Child Labor Laws poster). This 30-minute break shall be unpaid.

#### **Rest Periods**

Rest periods are not required by law for employees over the age of 18, however, the City allows Department Directors to determine if a rest period is appropriate based on operational needs. If approved by the Department Director, rest periods should not exceed a combined 30 minutes for an 8-hour (or more) scheduled shift and may be combined with a meal break.

#### **Meal Breaks**

Although meal breaks are not required by law, employees who work a full day are encouraged to take a meal break if operational needs allow. If work assignments prevent the employee from taking a scheduled meal break due to extenuating circumstances to meet the needs of the department, the Department Director may authorize a later meal period in the same work shift. Should a later meal period not be available due to operational needs, the employee will be compensated for the additional time worked.

- A. Meal breaks are normally 30 minutes long, unpaid, and shall be free from work-related interruptions. Employees may leave work locations provided they return on time.
- B. Department Directors may grant employees, upon request, up to a 60-minute meal break if the employee does not take rest breaks. Said

extended meal break shall consist of 30 minutes' unpaid time and a maximum 30 minutes' paid time. An extended meal break may not shorten the scheduled hours worked. Administrative employees shall work their scheduled shifts within the normal operating hours of their location, unless otherwise approved by their Department Director. Additionally, Department Directors may extend hours worked to accommodate a longer unpaid meal break, but under no circumstances will an employee receive more than 30 minutes of paid breaks or lunch for a normal work day.

- C. On occasion, meal breaks may be extended beyond 60 minutes if authorized by the Department Director and accrued vacation or compensatory leave time is charged appropriately. Hours worked may be flexed occasionally to accommodate the employee as long as operational needs are met.

Meal periods shall not be saved, accumulated, or carried over in order to extend work breaks, to come to work late or leave work early, or to take an extended meal period on a subsequent day. Employees without regular access to a time clock, must identify all meal breaks on their timesheet in accordance with approved timekeeping procedures.

- D. Meal breaks as detailed above shall take effect on January 2, 2024 to permit employees time to adjust their non-work schedules accordingly.

## **5.14 Identification (ID) Badges**

For reasons of security and safety, all employees, including but not limited to contractors and interns are provided an identification (ID) badge. ID badges shall be issued at time of employment and are used to identify authorized personnel and to provide access to secured areas.

An employee leaving employment with the City of Indian Harbour Beach is required to return any identification badges, keys, and other City property to their Department Director or Human Resources.

- A. All civilian employees shall have their ID badge clearly displayed on their person during working hours.
- B. Each employee hired by the City will be issued a photo identification card.
- C. Employee ID badges are the property of the City of Indian Harbour Beach and will not be defaced or abused in any manner. Name and photograph must be visible. No other items are to be affixed or attached to the ID badge either temporarily or permanently. No lettering, drawing or wording other than what was issued on the ID badge is permitted.
- D. Employees who do not have their ID badge will be required to obtain a temporary ID badge from Human Resources, or designee, and must sign a log stating the receipt and return of said badge each day that temporary

badge is needed. It is the responsibility of the Department Director to ensure that all civilian employees in their department are wearing the required ID badge or obtain a temporary badge if the employee has not done so. Failure to wear an ID badge is subject to disciplinary action.

- E. Persons who are issued photo identification badges are responsible for their safekeeping and badges should be kept in a secure place when not being worn.
- F. Badges will be replaced at the City's expense. Employees who repeatedly lose their badges may be subject to progressive discipline.
- G. Stolen or lost badges must be reported immediately to the supervisor or Human Resources. Failure to report a lost or stolen card is a serious matter and may result in disciplinary action.
- H. Non-badged individuals including but not limited to vendors and volunteers who are working in City government buildings shall be issued a Visitor badge.

## **5.15 Municipal Services Outside of City Limits**

In an effort to provide the best possible public services to the residents and citizens of the City of Indian Harbour Beach, it shall be the policy of this City that no municipal public service work shall be performed by City personnel outside of the corporate limits of the City without prior approval of the Indian Harbour Beach City Manager. Specifically, this section prohibits employees from using City equipment for non-work related activities regardless of location. This policy shall not include law enforcement or fire department personnel performing official duties.

## **5.16 Off Duty / Personal Events Impairing Ability to Perform Assigned Duties**

An employee must report any off-duty event that may impact their ability to perform their assigned duties as soon as practicable to their Department Director. Such events may include, but are not limited to, suspension/revocation of driver's license, personal injury limiting ability to perform tasks, or other limiting factors. Dependent on the individual circumstances the City will evaluate whether the employee is eligible for temporary or permanent reassignment of duties, may be placed on paid or unpaid leave, or terminated.

## **5.17 Outside Employment**

Employment with the City of Indian Harbour Beach is considered an employee's primary employment. Full-time employees are discouraged, but not restricted, from engaging in other employment during their non-work hours. No employee shall engage in outside employment which would interfere with the performance of City duties, would be in conflict with the interests of the City in any way, or would create a potential hazard to safety or potential risk of liability on the part

of the City.

Employees who seek to engage in other employment shall inform their Department Director in writing prior to acceptance of such employment and for final review and approval or denial by the City Manager. Indian Harbour Beach Police Department (IHBPD) personnel will follow IHBPD Standard Operating Procedures for accepting employment during non-duty hours. All written requests for outside employment shall be submitted to Human Resources for inclusion in their personnel file.

- A. The City reserves the right to revoke approval to engage in outside employment based on a determination that a conflict of interest exists, or is not in the best interest of the City or perceived to be in conflict with the City's image.
- B. Other than employees covered by State Statute, any employee engaged in outside employment becomes ineligible for accident benefit payments of Workers' Compensation through the City of Indian Harbour Beach as a result of injury or disability sustained or resulting from such outside employment.
- C. An employee's outside employment may be subject to review by the City Attorney for conformance with City policies and Florida Statute.
- D. Employees who serve as staff support or liaison to a Board or Council, are prohibited from representing their own business or a new employer before that Board or Council for two (2) years following termination from employment with the City.
- E. Outside employment that constitutes a conflict or could potentially be perceived to conflict with the Code of Ethics Policy, state or local ethics laws and ordinances, or that could impact, or potentially impact negatively on the City or its reputation is prohibited.
- F. It is the employee's responsibility to notify in writing the Department Director and Human Resources of any changes in outside employment.
- G. Restrictions to outside employment include the following:
  - i. Employees may not seek outside employment during working hours or use City property in that search at any time.
  - ii. Any outside employment will not interfere or otherwise impair the employee's independent judgment or the employee's performance of public duties for the City.
  - iii. Neither the employee nor any relative who works in a City department may enforce, oversee, or administer any contract or transaction with the outside employer;
  - iv. Neither the employee nor any relative shall participate in determining the requirements or awarding of any contract to the employee's outside employer.

- v. The employee's public job responsibilities and job description will not require the employee to be involved in any contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance with the outside employer.
- vi. The employee is not responsible for, or involved in, purchasing, renting, or leasing any goods, services, or real estate for the City from a business entity in which he or another City employee owns more than five percent interest.
- vii. The employee will not use City equipment, tools, supplies or other resources for an outside employer.
- viii. The employee shall not perform outside employment-related work during scheduled work hours for the City.
- ix. The employee shall not engage in outside employment while on sick leave or when receiving Worker's Compensation.

## **5.18 Personal Business**

The City recognizes that there are occasions when employees must make or receive personal calls or conduct personal business during working hours. These should be kept to a minimum in frequency and duration.

## **5.19 Personal Information – Changes**

All employee information must be kept up to date. Notification must be sent in writing to Human Resources within five (5) working days of any change in status which includes but is not limited to the following:

- Name, Address, Telephone Number, Email address
- Emergency contact and information
- Marital status (for tax withholding and insurance purposes)
- Dependent status (for tax withholding and insurance purposes)
- Beneficiary (for life insurance)
- Direct deposit information

## **5.20 Political Activities**

All City employees are citizens and as such are afforded all the rights and privileges with respect to this nation's democratic process. Those rights and privileges include such activities as attendance at any public forum for personal representation regarding matters of public concern, contributions of funds or efforts in support of the campaign of a candidate for public office, or the display of advertising material in support of a candidate on personal or private property of such employee.

- A. Employees may not engage in any political activities during normal work hours or while wearing City uniforms, ID badges, or on City property. Nor shall any of the City's property, equipment, vehicles or funds be utilized to conduct such activities. This statement does not apply to the following:
  - Voting at an employee's designated polling place on a normal election day.
  - Political activity taking place as a result of rental of a City facility in the ordinary course of business by a third party.
- B. Prohibited political activities include (but are not limited to) the following:
  - Distributing campaign literature on City property, while on work time or in work areas, or using City equipment to transport campaign literature or materials.
  - Use of an employee's official authority or influence for the purpose of interfering with an election, or nomination of office or coercing, or influencing another person's vote, or affecting the result thereof.
  - Directly or indirectly coercing, or attempting to coerce, command or advise any other officer or employee to pay, lend or contribute any part of their salary, or any money or any other thing of value to any party, committee, cause, or person for political purposes.
  - Signing petitions while working or in City facilities.
- C. Employees may become a candidate for an elective political office.
  - i. Any employee who wishes to accept or seek election to an Indian Harbour Beach City office shall resign from City employment upon formal declaration of candidacy.
  - ii. An employee wishing to qualify for any other elective office shall submit written notification to the City Manager who will determine whether a conflict of interest exists.
- D. This policy does not prohibit an employee from suggesting to another employee (in a non-coercive manner) to voluntarily contribute to a fund which is administered by a party, committee, organization, or person for political purposes (so long as these actions are not during working hours or in work areas).
- E. Nothing in this policy shall prohibit employees from expressing their opinion about a candidate or issue, or from participating in any political campaign during their off-duty time in non-work areas.

## 5.21 Release of Information

Information concerning subjects under discussion or consideration often change in content and meaning before becoming an accomplished fact.

Release of such information before final decisions or disposition of the matter often causes misunderstanding and confusion.

It is the intent of the City to insure that all information released is true, accurate, and in compliance with provision of Florida § 112.

### **5.21.1 Contact with Members of the Press**

The media or press may contact employees about a post or matter that relates to City business. It is imperative that one person speaks for the City to deliver an appropriate message and to avoid giving misinformation in response to a media inquiry.

- A. All written media releases, legal advertisements, or notices of official City policy-related information for publication in the press shall require prior approval by the City Manager, or designee, and will be placed by or coordinated with the City Clerk's Office.
- B. Department Directors and the Police Department's designee are authorized to respond to inquiries from the media on issues pertaining to the scope of their authority. For inquiries outside of the Department Director or designee's immediate authority and for all other employees, the response shall be "I am not authorized to speak on behalf of the City, please submit your inquiry to the City Manager's Office". The City Manager should be advised as soon as possible of any media interest in City activities.

### **5.21.2 Personnel Records, Employment Verification & Reference Letters**

The City Clerk (Human Resources) is the custodian of employee personnel records.

- A. All inquiries regarding references, reference checks, and employment verifications shall be referred to Human Resources, or designee, and requests shall be limited to confirmation of position, salary, and dates of employment. The City shall provide no additional information excluding what may be required under the Florida Public Records Act (FPRA).
- B. All other City employees are prohibited from responding to reference and recommendation requests unless required by law. Employees who, contrary to this policy, release employment information on their own authority, do so at the risk of personal legal liability and may be subject to disciplinary action.
- C. All letters of reference will be provided in writing. Copies will be filed in the personnel file of the employee or former employee.

### **5.21.3 Public Records**

The State of Florida has an extensive Public Records law. All departments shall have a designated public records liaison assigned by the Department Director

and approved by the City Manager as a main point of contact. Each year the City Clerk, who is the Official Custodian of Records for the City, shall provide training to the department liaisons on compliance with the Statute.

All public records requests should be directed to the City Clerk.

Departments that fulfill public record requests independent of the City Clerk shall maintain a log of requests and the dates records are provided.

#### **5.21.4 Statements on Legal Matters by City Employees**

Employees are occasionally requested or subpoenaed to make a statement to an attorney or law firm in connection with law suits against the City. This request or subpoena must first be discussed with the appropriate Department Director and then the Attorney representing the City before any oral or written statements are made.

Anyone who does not comply with this rule may be subject to disciplinary action under Section 6.2 of this manual.

#### **5.21.5 Other Requests**

- A. Should an employee receive a request for City information that is outside their normal scope of duty (i.e., Building Department: permits; Police Department: police reports, etc.), the employee response shall be: "You will need to contact the City Clerk with your request for City information".
- B. Should an employee receive a subpoena involving the City, the Department Director must be notified who, in turn, will notify the City Manager.

### **5.22 Safety Guidelines**

The City has elected to adhere to OSHA Standards and regulations and to adopt OSHA as the preferred City's Safety and Health Standard for the workplace.

Compliance with established safety policies and procedures is mandatory for all employees.

#### **A. Department Directors and Supervisors**

It shall be the responsibility of all Department Directors and supervisors to provide leadership and direction for their employees, and to ensure that they have a safe working environment within their respective departments.

Each supervisor shall take an active leadership role in the safety of their department. Supervisors shall consider prevention of accidents/injuries to be their most important job responsibility. Responsibilities shall include:

- i. Treat basic safety and health legislation as a minimum standard rather than a maximum.
- ii. Maintain a safe workplace.
- iii. Provide adequate funds for safety.
- iv. Immediately stopping the operation of equipment or employee work whenever any unsafe acts or practices pose imminent danger to life or health of City employees or the public.
- v. Failure on the part of City employees engaged in these unsafe acts to stop their work shall be cause for disciplinary action.
- vi. Shall take prompt, appropriate action against any employee violating established procedures.
- vii. Direct authority and responsibility for both the safe actions of all employees and the safe performance of City machines, equipment, and operations.
- viii. Promotion of safety awareness and encouragement of proper safety attitudes through personal example.
- ix. Taking the opportunity during inclement weather or when other unfavorable working conditions arise to interrupt normal job assignments and to hold safety related classes.
- x. Investigating the causes of all accidents and injuries, and take corrective action to prevent their recurrence.

## B. Employees

Each employee shall be required to comply with all City safety rules and regulations. Employees shall use proper, safe, and effective personal protective equipment and/or protective devices as provided for personnel, machine, or material. Each employee will, at all times, do their utmost to protect themselves and fellow employees from harm by following safe working practices. Employee shall:

- i. Discuss unsafe working conditions or practices with their supervisor or Department Director.
- ii. Reduce accidents in the work place.
- iii. Notify supervision immediately of any unguarded hazard or unsafe practices.
- iv. Report accidents and/or injuries immediately to supervision.

## 5.23 Social Networking, Social Media & Blogging

A separate Social Media Policy (ADM-IT-003) was adopted on November 14, 2022. All employees who use social media platforms on behalf of the City shall be given a copy of the policy and return an executed acknowledgement form to Human Resource for placement in their employment file.

## **5.24Solicitation and Distribution**

This section shall not be construed to prohibit the distribution of materials or solicitation during an employee's lunch or break or in such areas not specifically devoted to the performance of the employee's official duties.

- A. Employees may leave fundraising and solicitation materials in break rooms and purchase of any items or donations will be totally voluntary by employees.
- B. Employees may not conduct or promote private business for gain during work hours.
- C. Persons not employed by the City are not allowed to solicit employees or distribute literature on City property except as authorized by the City Manager.
- D. Distribution of literature for City sanctioned programs is not restricted by this policy.

## **5.25Telephone Use**

All City employees should follow established standards of courtesy and expediency to accomplish the best possible relations with the public as well as interdepartmentally and to complete City business over the telephone in a professional manner.

## **5.26Vendor Referrals**

The City does not approve or recommend any vendors, suppliers, or providers of goods, services, or other things of value. The policy prevents employees from, in any manner, suggesting or implying that any particular vendor or supplier is approved by the City and prevents employees from, while in any manner acting within the scope of their employment, referring anyone to any particular vendor, provider, or supplier.

## **5.27Weapons**

It is the policy of the City of Indian Harbour Beach that except as specifically provided in Florida § 790.251, employees are prohibited from possessing firearms or other weapons in City buildings or in City vehicles. Exceptions to this shall be granted to employees whose duties require them to carry such an item.

- A. Employees in possession of deadly weapons are subject to disciplinary action up to and including termination.
- B. For the purposes of this policy, a "deadly weapon" shall be defined as an instrument which will cause death or great bodily injury when used in the ordinary and usual manner contemplated by its design and construction.

## Section 6: Employee Standards of Conduct

Making the City a great place to live and work requires that employees maintain proper standards of conduct at all times. Employee actions and behavior directly affect the City's reputation, and employees must be constantly aware of the image they project to the public.

The City has established policies and procedures to guide employee performance. These do not cover all of the work that an employee is required to do, and do not replace the need to use sound judgment and common sense. Employees who fail to maintain proper standards of conduct or exhibit substandard performance may be subject to appropriate corrective action, up to and including termination. The City may utilize a progressive disciplinary plan when possible as long as there is no negative effect on other employees, property, or citizens. However, the City Manager has final say and may deem some situations require immediate termination.

The following partial list of unacceptable behavior has been developed as a guideline of employee standards of conduct for employees to follow while employed by the City.

- Possession, unlawful sale, use, or having in one's system any illegal drugs, including improper use of prescription drugs and alcohol while on duty, in uniform, or while operating a City vehicle.
- Any comments or behavior that could be perceived by a reasonable person as threatening or indicating the possibility of violence. This may include but is not limited to verbal threats or gestures, abusive language, harassment, intimidation, bullying, and physical altercation.
- Falsifying City records of any kind, refusal to cooperate fully with investigations related to City employment, and concealing, misrepresenting, or omitting information during employment screening and processing.
- Theft of any materials, supplies, equipment, or property belonging to the City, an employee of the City, a vendor, or a citizen.
- Careless or negligent acts that cause damage, or could cause damage to City property or the property of an employee, a vendor, or a citizen.
- Sleeping during work hours.
- Offensive or abusive conduct or language toward other employees or to the public.
- Making false accusations against co-workers or supervisors.
- Insubordination, including but not limited to: refusal to perform any lawful and reasonable regulation, order or directive made or given by a direct supervisor or higher authority.

## Section 6: Employee Standards of Conduct

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- Dishonesty, or other conduct, on or off duty which could affect performance or impact negatively on the City or the City's reputation.
- Failure to cooperate fully in any lawful investigation initiated by, or conducted by, the City.
- Unauthorized use of City property, including the City's computer and telecommunication systems.
- Failure to meet required standards of performance.
- Excessive and/or chronic absenteeism or tardiness; excessive and/or chronic absenteeism without proper notification or approval.
- Failure to report medical conditions which may hamper an employee's performance of duties.
- Inability to work effectively and cooperatively with co-workers.
- Failure to be clean and properly dressed in a manner suitable for employee's position and to reflect a favorable image for the City.
- Violations of, or disregard for, established safety measures.

All employees are required to follow City policies, practices and procedures, use sound judgment and common sense, and to ask their Department Director if they need assistance to guide their actions. Any and all violations may be subject to disciplinary action, up to and including termination.

In addition to the provisions in these policies, employees are responsible for complying with any other federal and state laws or regulations or local ordinances governing their conduct. This includes, but is not limited to, the City Charter.

### **6.1 Attendance, Absences & Tardiness**

Regular attendance and punctuality are very important responsibilities of City employees.

Except for scheduled vacation or unavoidable absences, every employee is expected to be present and on time for work. Lateness and absenteeism interfere with departmental and City operations and may result in appropriate disciplinary action up to and including termination of employment.

#### **6.1.1 Attendance**

In order to ensure the City is able to provide the full range of services to our citizens and customers in a timely manner, employees are required to report to work on the days scheduled, at their scheduled start time, and to remain at work until the end of their scheduled workday.

- A. Employees are expected to be at their work place or on official duty during City business hours or be officially excused by their supervisors.

- B. In all cases, employees are required to make contact and speak directly with their supervisor or designee to receive approval for an absence or to provide notice they will be late.
- C. All departments shall maintain attendance records.

#### **6.1.2 Absences from Work**

Absenteeism detracts from the City's desirable level of service and causes an undue burden for those who must fill in for an absent employee.

- A. Failure to obtain prior authorization to be absent from the work area, or to notify supervision of employee absence, may result in disciplinary action.
- B. An employee requesting time-off for vacation, personal leave, compensatory time, floating holiday, leave of absence, or similar absence, must obtain prior approval from the Department Director to assure that departmental operations will not be impacted.
- C. Employees who are absent from duty for a single day, or part of a day, prior to receiving approval to take leave, or who are absent even though leave has been denied, or who are absent without contacting their supervisor regarding that absence will be considered absent without authorization. Any such unauthorized absence may be without pay and may subject the employee to disciplinary action up to and including immediate dismissal.
- D. It is the responsibility of supervision to verify requests for use of sick leave. The Department Director's responsibility in this process includes assuring that the employee has accumulated sufficient sick leave hours to cover the absence.
- E. When an employee must be absent due to illness or circumstances beyond their control, it is the employee's responsibility to notify the Department Director or supervisor prior to the start of the employee's shift, if possible, but not later than thirty (30) minutes after the start of the shift. In the event of an extended, verified illness, the employee's immediate supervisor shall have the authority to modify the requirement for daily employee reporting.
  - i. Employees absent from their work assignment for three (3) or more consecutive workdays (as scheduled) without approval from their Department Director or supervisor are deemed to have abandoned their position (See Section 10.2.1).
  - ii. Chronic and/or excessive absences that negatively impact operations may be subject to disciplinary action; chronic, unscheduled absence may be grounds for termination; two (2) occurrences of unscheduled absence is considered excessive within a six (6) month period. Chronic and/or excessive absence includes situations where employees:

## Section 6: Employee Standards of Conduct

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- a. Could have notified their supervisor of an absence within the designated time as required by their supervisor but failed to do so;
- b. Did not provide adequate notice when scheduling leave;
- c. Exhibit a pattern of absence in conjunction with holidays, vacation days, or scheduled days off;
- d. Exhaust their leave for non-medical reasons, undocumented medical reasons, or reasons not approved and covered under the Family Medical Leave Act (FMLA), especially when the absences have not been previously scheduled and approved by a supervisor.

F. Additional provisions governing absence from work for represented employees are outlined in the respective labor agreements.

### 6.1.3 Tardiness

Employees are tardy when they are not at their appointed workplace and ready to work at the appointed time. Excessive tardiness may be grounds for disciplinary action.

- A. Starting work on time is a requirement of continued employment.
- B. If an employee is going to be late for work, the Department Director or supervisor must be notified prior to the start of the employee's shift, if possible, or as outlined in the appropriate contracts for bargaining unit employees.
- C. Any employee who is going to be late must personally notify, unless incapacitated, his or her supervisor or Department Director at least 30 minutes before their scheduled shift, unless otherwise stated in the guidelines established in accordance with department policy.
- D. Department Directors shall be responsible for the punctual attendance of all employees in their department.

## 6.2 Disciplinary Actions

In accordance with the City Charter, the City Manager shall have the authority to discharge all personnel. However, City management may, at its discretion, apply progressive discipline. The following are guidelines only and may vary at the discretion of City management.

The best performance management measures are those that do not have to be enforced and come from employee self-discipline, good leadership, and fair supervision. When employee performance issues occur, it is the responsibility of Department Directors to administer disciplinary action in a fair and consistent manner. For purposes of fairness and organizational consistency, Department Directors are asked to partner with Human Resources prior to delivery of any

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disciplinary actions. When administering disciplinary actions involving disciplinary probation, suspension, demotion, forfeiture of leave, or termination, a pre-disciplinary hearing shall be conducted; therefore, Department Directors must partner with Human Resources prior to delivery.

The City expects all of its employees to conduct themselves in a manner that is in the best interests of the City, its residents, and all its employees. Employees should know that any work, action, or conduct during work hours which is not in the best interests of the City or violations of any City policy is considered misconduct and may subject an employee to discipline, up to and including termination. Disciplinary actions are noted in the employee's personnel file. Serious misconduct may result in immediate suspension and/or immediate termination.

Disciplinary action is unique to each situation, and requires individual attention. Disciplinary actions may take a variety of forms, including warning (verbal or written), administrative leave, suspension, demotion and/or termination; employees may also be placed on a Corrective Action Plan (CAP). The severity of the discipline and the number of steps in the process will depend on the circumstances of each case as determined at the sole discretion of City management. In appropriate circumstances, an employee may be placed on administrative leave with pay while a review of the facts is conducted.

### **Policy**

City employees are expected to maintain high standards of conduct and to perform their work efficiently and effectively, ever mindful of the public's expectations. Acceptable personal conduct in a workplace involves more than following the letter of the law as employees are expected to act with good judgement and integrity at all times.

Disciplinary actions are means of holding employees accountable for acts of commission or omission which are injurious to the City, to the employer-employee relationship, to the employee-employee association, or to the employee-customer affiliation. The act may be relatively minor or of a serious nature. All employees should be aware that discipline will be administered uniformly and without favoritism.

The City has listed, as a guide and not as a policy, three (3) groups of offenses. These are examples only and do not include all acts for which discipline may be imposed. Similarly, the penalties and sequences of penalties are suggested guidelines only; a single Group I or II offense may justify and require discharge. The sequences of penalties in Groups I and II are not controlling.

Employees engaging in misconduct or unsatisfactory behavior will be disciplined according to the severity of the act. A single infraction may be grounds for dismissal, as well as a series of lesser infractions. It would be impractical to attempt to list each item and each circumstance under which corrective action or termination will be considered; however, Section 6.2.4 contains the most often violated rules of conduct. A Department Director may

## Section 6: Employee Standards of Conduct

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recommend, to the City Manager, the dismissal of any employee for any misconduct, whether or not the offense is included in this policy.

Management must give serious consideration to prior discipline of a same or similar nature and follow the principles of progressive discipline when taking appropriate disciplinary action.

### **6.2.1 Progressive Discipline Administration**

In implementing the disciplinary procedure outlined below, a Department Director should consider such factors as the type and severity of the offense, the employee's work record, and any mitigating circumstances surrounding the offense. All employees have the right to appeal any disciplinary action through the disciplinary hearing process outlined in this section.

Disciplinary action may include, but is not limited to, the following: a verbal reprimand, written reprimand, suspension without pay, forfeiture of leave, demotion, and separation. There is no guarantee that one form of disciplinary action will necessarily precede another.

- A. Counseling – An informal corrective action that is not subject to the grievance procedure. Counseling will be given in private to identify any violations and recommend solutions for needed improvement.
- B. Verbal Reprimands – A formal corrective action in which the supervisor verbally reminds or cautions the employee regarding behavior or work performance and counsels the employee on how to improve.

A written record of such action shall be made, including employee signature, and forwarded, through the Department Director to Human Resources and placed in the personnel file of the affected employee.

It should be noted that counseling may have preceded the verbal reprimand and should be included in the written record.

- C. Written Reprimand – A formal corrective action used by the supervisor when the verbal reprimand has not resulted in a satisfactory change in conduct or when verbal reprimand is deemed insufficient for the offense.

Department Directors must give written reprimands which shall be shown to, explained to, and signed by the affected employee(s) and thereafter placed in the personnel file of the affected personnel. A Written Reprimand should include the following information:

- i. If applicable, a reference to recent verbal reprimand or similar violations.
- ii. The specific charge of misconduct with reference to the City or Department SOP.
- iii. A warning regarding management's course of action if violations occur in the future.

## Section 6: Employee Standards of Conduct

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- iv. How the supervisor will work with the employee to develop and implement a corrective action plan.
- v. The Department Director's signature.
- vi. The employee's signature and date which acknowledges the session and receipt of the reprimand. The employee's signature does not imply agreement and refusal to sign should be noted and witnessed.

The following levels of discipline require a pre-disciplinary hearing conducted by Human Resources or designee. In the event the Department Director, or designee, recommends to Human Resources that, due to circumstances, immediate action is necessary for public interest or safety, the employee may be placed on administrative leave.

- A. Disciplinary Probation – An employee may be placed on disciplinary probation for a stated period of time in order to allow the employee to show improvement on the problem(s) specified at the time of probation.

The disciplinary probation period will be initiated by a written document signed by the Department Director, Human Resources, and the employee.

- B. Suspension – A disciplinary action when a written reprimand has not resulted in a satisfactory change in the employee's conduct or when written warning is deemed insufficient for the offense.

Suspension may be with or without pay in accordance with the Fair Labor Standards Act. Suspensions for exempt employees for violations other than offenses related to **serious** safety violations, will be with pay, unless suspension is for an entire work week which may then be unpaid.

If the employee is restored to the City's service, full pay for the entire period of suspension will be paid including COLA increase, if applicable, and leave accruals will be credited upon reinstatement.

- i. Disciplinary Suspension

A Department Director may suspend a non-exempt employee without pay for a period from one to fifteen workdays. A Department Director may suspend an exempt employee for an entire work week or multiples thereof. No disciplinary suspension or combination of suspensions shall exceed fifteen work days, or three work weeks in twelve consecutive months. However, suspensions greater than three (3) days will require a due process hearing for both non-exempt and exempt employees. An employee who is suspended shall be given written notice of the reasons for the action, and a copy shall be forwarded immediately to Human Resources to be made a part of the employee's personal history record. Following completion of the suspension period, the employee will be automatically reinstated.

### ii. Other Suspension

During investigation, hearing, or trial of an employee on any civil cause or criminal charge, an employee may be suspended upon recommendation by the Department Director and approval of the City Manager for the duration of the proceedings when the suspension would be in the best interest of the City. The suspension shall terminate within ten days after completion of the case for which the employee was suspended by resignation or dismissal of the employee, or by reinstatement of the employee with full recovery of all pay, or other appropriate action as determined by the City Manager.

### iii. Violation of Safety Rules

The limitations set forth in subsections (a) and (b) do not apply if the reason for the suspension is a violation of a safety rule of major significance.

### iv. Felony or Misdemeanor Arrest

An employee may be suspended without pay indefinitely if the employee has been arrested for a felony or for a misdemeanor involving moral turpitude.

C. Demotion or Forfeiture of Leave – While these are not a part of the progressive discipline process, demotion or forfeiture of leave may be used as an alternative to other forms of discipline.

D. Dismissal – Dismissal normally occurs only when other disciplinary action has failed to achieve the needed results. Prior to dismissal, the Department Director should ensure that the employee has been properly counseled in writing concerning any deficiencies in behavior, given sufficient time to correct these deficiencies, and informed that failure to correct them may result in termination.

The City Manager has final say and may deem some situations require immediate termination.

### **6.2.2 Pre-disciplinary Hearing**

A Pre-Disciplinary Hearing may be waived by the employee. If an employee waives the right to a Pre-Disciplinary Hearing, the Department Director will notify the employee in writing of the disciplinary action to be taken in accordance with discharge procedures.

Employees who fail to appear or reschedule their pre-disciplinary hearing forfeit their right to the hearing.

A. Before completing or processing disciplinary action that requires a Pre-Disciplinary Hearing, the Department Director or designee shall recommend such action to Human Resources who will conduct the Pre-Disciplinary Hearing as provided in this section.

## Section 6: Employee Standards of Conduct

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- i. The recommendation should contain the following information if applicable:
  - a. Documentation of previous disciplinary actions.
  - b. Specific charge of misconduct with reference to a violation of City Policy, Departmental SOP, or a supervisory order.
  - c. Department Director's recommended course of action if a violation occurs in the future.
  - d. Any pertinent information regarding the proposed disciplinary action and a list of possible witnesses.
  - e. A recommendation of a date for the pre-disciplinary hearing.
  - f. The Department Director's, or designee's, signature.
  - g. The employee's signature and date which acknowledges receipt of the document. The employee's signature does not imply agreement and failure to sign should be noted and witnessed.
- ii. Prior to the hearing, the employee may provide a list of possible witnesses to Human Resources.
- iii. At the Pre-Disciplinary Hearing, Human Resources shall provide information regarding the proposed disciplinary action and the employee's rights to grieve or appeal.  
At the hearing, the employee will be provided the opportunity to introduce into the record any statements they may wish.
- iv. After review of all pertinent information and the conclusion of the Pre-Disciplinary Hearing, final approval or denial of the disciplinary action shall be at the discretion of Human Resources.

B. Line-of-Duty suspensions for Police Officers shall be in accordance with Police Department Standard Operating Procedures.

### **6.2.3 Name Clearing Hearing**

In appropriate situations, employees may use the Disciplinary Appeal Procedure Hearing or the City's established Grievance Procedure as a name clearing hearing.

At such hearing, the employee will be provided the opportunity to introduce into the record any statements they may wish.

### **6.2.4 Sample Offenses**

This list is intended to be a guide only, and in no way limits the authority of a Department Director or City Manager to discipline for misconduct or infractions of City policies in a manner deemed by them to be appropriate.

#### **Group I: Offenses Normally Resulting in an Oral or Written Reprimand for First**

**Offense**

- A. Absenteeism or abuse of sick leave.
- B. Tardiness, leaving work early, or taking more time than allowed for meal or rest periods.
- C. Failure to perform assigned duties properly or in a timely manner.
- D. Performing other work during working hours not related to City business.
- E. Performing work related duties without clocking in and without Department Director authorization for overtime payment.
- F. Failure to notify supervisor of absences or absence without authorized leave.
- G. Failure to "call in" when sick or within required time limit as specified by department or applicable bargaining agreement. Lack of a telephone in employee's home does not relieve employee of responsibility of notification.
- H. Failure to follow documentation practices, procedures, or protocol.
- I. Horseplay, malicious mischief, or distracting the attention of other employees.
- J. Where operations are continuous, leaving a post at the end of a scheduled shift before relieved by the incoming shift.
- K. Mistakes due to carelessness.
- L. Disregard of common accepted safety practices.
- M. Improper use of City equipment.
- N. Failure to maintain cleanliness of common areas.
- O. Display of temper or courtesy to citizens and/or fellow employees.
- P. Poor performance or inefficiency in the performance of one or more job duties.
- Q. Failure to report an accident or personal injury in which the employee was involved while on the job.
- R. Failure to complete required annual training to include, but not limited to: Ethics and Sexual Harassment.
- S. Abuse of sick leave as it accumulates; pattern of sick leave abuse; inability to provide requested medical verification; repeated failure to provide proper notification of absence.

## Section 6: Employee Standards of Conduct

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- T. Neglecting to comply with requirements set forth in departmental rules and standards of conduct.
- U. Violation of Smoke Free Policy.
- V. Failure to notify Human Resources of a consensual and/or romantic relationship between co-workers. For supervisors/Department Directors please see Group III P. offenses.
- W. Failure to enforce City policies.

### **Group II: Offenses in Suspension without Pay for First Offense**

- A. A repeat violation of a Group I Offense within a twenty-four (24) month period.
- B. Insubordination, including intentional refusal to carry out a directive, or belligerent attitude towards supervision.
- C. Sleeping on the job.
- D. Making non-violent threats; intimidating or tormenting co-workers; or using abusive language and/or obscene gestures directed toward another employee or any member of the public.
- E. Gambling at any time while on City property.
- F. Careless use of City equipment or other assets resulting in damage or loss.
- G. Making or publishing false, vicious, or malicious statements concerning any employee, the City, or its operation beyond the boundaries of free speech.
- H. Violation of the City's Information Technology Systems policy.
- I. Acceptance of fee, gift, or other items in return for a favor.
- J. Participating in union organizing or political activity, including circulation or posting of petitions/literature, during work hours.
- K. Giving false information or refusing to answer questions in an Administrative Hearing.
- L. Provoking or instigating a fight on City property.
- M. Violating rules or practices which affect the safety of City personnel, equipment, tools, or property.
- N. Failure to report a request for information or receipt of a subpoena from an attorney for a matter relating to City business.

## Section 6: Employee Standards of Conduct

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- O. Knowingly harboring a serious communicable disease which may endanger other employees.
- P. Falsification of timekeeping and attendance records and travel vouchers.
- Q. Loss of driving privileges, professional certification, or other license required to perform job duties.
- R. Theft of property from fellow employee or City.

### **Group III: Offenses Normally Resulting in Termination for First Offense**

- A. A second violation of a Group II Offense within a twenty-four (24) month period.
- B. Abuse, willful damage, vandalism, or theft of City property or the property of any other person.
- C. Falsification of City records such as, but not limited to, purchase orders or accident reports.
- D. Unauthorized possession of a weapon on City property or fighting on City property.
- E. The intentional use or attempted use of influence for personal gain in violation of the provisions of Section 5.2 of this manual.
- F. A violation of the City's Drug-Free and Alcohol-Free Workplace Policy.
- G. A violation of the Safe Work Environment or Equal Employment Opportunity (Discrimination) policies.
- H. Arrest for a felony, or a misdemeanor of the first degree as defined by Florida statutes.
- I. Abandonment of the position [missing three (3) successive work days without notifying Department Director].
- J. Falsification of claims to obtain workers' compensation or related accident benefits or any other benefit programs.
- K. Misappropriation of City funds or unauthorized/improper use or sale of City property, vehicles, and/or equipment for personal use or personal gain or for any other reason.
- L. Making a false representation in order to obtain the social security number of another individual.
- M. An intentional act to defeat or breach a City security system.
- N. Willful failure to follow established safety guidelines when such failure could result in injury to the employee, co-worker, or other persons.

## Section 6: Employee Standards of Conduct

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- O. Acts and/or threats of violence, stalking, threatening behavior and/or intimidating or harassing behavior, which occur in the workplace and/or that are work-related or relevant to the employee's job.
- P. Violation of the Co-worker Relationship policy by a supervisor/Department Director and subordinate.

### **6.2.5 Disciplinary Appeal Rights**

The employee's decision to request or to waive a pre-disciplinary hearing shall have no effect on the right to appeal utilizing either the Grievance Procedures outlined in Section 11: Grievance Procedure and Disciplinary Appeal or in an applicable labor agreement.

- A. A decision by a Department Director to terminate the employment of a regular full-time employee shall be subject to a timely appeal to the City Manager.
- B. An employee may file an appeal contesting dismissal as outlined in the disciplinary appeal policy. If the results of an investigation support the employee's complaint, the employee shall be reinstated with full recovery of back pay and benefits, or other action as determined by the City Manager.
- C. The City Manager's decision on any disciplinary appeal shall be final.

## **6.3 Performance Evaluations**

As required in Florida §110.224, all employees in positions that last for more than six (6) months shall receive a performance evaluation at least annually as a basis for evaluating and improving the performance of the City's workforce, to inform employees of strong and weak points in the employee's performance, and to identify training needs. After the initial evaluation, annual evaluations should be performed on a date recommended by the Department Director and approved by the City Manager. Department Directors and employees are encouraged to discuss performance on a frequent basis. The Performance Evaluation process provides supervisors and Department Directors with a tool that allows them to discuss expectations for conduct and performance in a positive, purposeful manner.

- A. Human Resources oversees the administration of the Performance Evaluation Program. Performance Evaluations may be administered at intervals throughout the year. Employees who receive an overall performance evaluation rating in the unacceptable range will be offered a Corrective Action Plan (CAP), a development tool prepared by the supervisor with assistance from Human Resources.
- B. Employees may appeal their evaluation using the steps outlined in the disciplinary appeal procedure.

The method by which supervisors should establish these standards and

## Section 6: Employee Standards of Conduct

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objectives will be provided for in procedures established and/or approved by Human Resources.

### **Performance Evaluation Records**

Performance Evaluation Records may initiate the need for performance counseling. In addition, records may be used to assist in termination decisions, grievance and discrimination complaints, disciplinary actions, and promotion, demotion, transfer, and layoffs.

- A. All employee evaluations shall be on a standard form approved by Human Resources.
- B. A performance evaluation will be conducted at a minimum of once per year. Supervisors shall include at a minimum, two goals and/or areas of improvement to assist the employee with future goals and departmental needs.
- C. For departments with direct supervisory positions, employee evaluations shall be submitted to the Department Director for review and comment prior to meeting with the employee.
- D. For departments without direct supervisory positions, employee evaluations shall be submitted to the City Manager for review and comment prior to meeting with the employee.
- E. All performance evaluation forms must be submitted to Human Resources for inclusion in the employee's personnel file.

## Section 7: Compensation – Wages and Salary Plan

It is the policy of the City of Indian Harbour Beach to provide equitable compensation for its employees in the form of wages and salary pay; leave benefits; and other fringe benefits to attract and retain qualified individuals for all positions.

Compensation policies depend on City Council approval of the Budget on an annual basis.

### 7.1 Employee Pay

All employees are paid on a bi-weekly pay schedule and payday is every other Friday. Employees are required to participate in direct deposit.

#### 7.1.1 Pay Period

A pay period covers a two (2) week cycle. The work week shall begin at 12 a.m. Saturday and end at 11:59:59 p.m. the following Friday, except for those employees governed by a Collective Bargaining Agreement.

#### 7.1.2 Payroll Deductions

- A. Mandatory Deductions – The City is required by law to make the following deductions from each employee's paycheck.
  - i. FICA (Federal Insurance Contribution Act) – commonly called Social Security and Medicare, are legally established percentages of salary up to a certain dollar amount of salary earned in a year.
  - ii. Federal Income Tax (Withholding Tax) – the amount deducted based on annual earnings and information provided on the most recent W-4.
  - iii. Members of the Police Pension Plan are required by City Ordinance to contribute a percentage of salary to the Indian Harbour Beach Municipal Officers' Retirement Trust Fund.
  - iv. Members of the Florida Retirement System are required to contribute a percentage of salary according to current FRS guidelines.
  - v. Court-Ordered Payments to Third Parties: Periodically, the City receives notification for child support, Internal Revenue Service tax levies, or other court-ordered garnishments. The City is required to take these deductions according to the guidelines specified in the order. When the order is received, the Comptroller's office shall notify the employee of the type and amount of the deduction and the effective deduction date.
  - vi. According to the Fair Labor Standards Act (FLSA), mandatory deductions, such as court-ordered payments to third parties, may

## Section 7: Compensation – Wages and Salary Plan

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be implemented even if they reduce the employee's net pay below the federally required minimum wage.

B. Voluntary Deductions – The City of Indian Harbour Beach will make deductions for specific programs from employee paychecks with the employee's written authorization to include, but not limited to:

- Additional withholding tax.
- "Cafeteria" plan products.
- Financial Institution.
- Deferred compensation.
- Dependent health insurance.
- Labor union dues.
- Voluntary insurance.
- Reimbursements owed to the City.

Voluntary deductions will only be made from the employee's paycheck with prior written authorization/approval by the employee.

### 7.1.3 Direct Deposit

The City utilizes direct deposit to provide wages and salaries, awards, reimbursements, and any other form of compensation to the employee. Funds are electronically transmitted to the financial institution of the employee's choosing. To complete this process, a written authorization by the employee is required.

- A. Employee pay will only be deposited directly into the employee's authorized bank account.
- B. New or changes to an employee's direct deposit request may require the need to pre-note a payroll deposit. The employee will be notified of the need to pre-note and will receive a paycheck for that payroll.
- C. Employees may temporarily suspend their direct deposit for up to two (2) consecutive payrolls with prior notification to the Comptroller's office utilizing the *Direct Deposit Authorization* form.
- D. Employees will receive a direct deposit payroll advice form with payroll information for the corresponding pay period. The direct deposit payroll advice shall reflect the number of hours worked, the wage or salary being paid, and will list deductions, employer costs, net pay and year-to-date information. Employees should regularly review all the information on their direct deposit payroll advice form including checking for their most up-to-date leave balances.

## Section 7: Compensation – Wages and Salary Plan

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- E. Employees shall notify the Comptroller's office of any discrepancies. Payroll information will be reviewed and the employee shall be notified of any adjustments that may need to be made.
- F. It is important that the Comptroller's office be notified immediately of any problems with an employee's direct deposit.
- G. Employees are responsible for providing notice of changes in their bank account information to the Comptroller's office prior to the processing of payroll.
- H. If an employee is not available to receive their payroll advice form, a written statement authorizing its release to a third person may be submitted to the Comptroller's office.
- I. Employees who have questions are asked to contact Human Resources or the Comptroller's office.

## 7.2 Employee Pay and Classification Plan

### Purpose

To establish and maintain an equitable, uniform, and transparent plan of available job titles based upon a comparative worth analysis of positions in the service of the City. Only job titles listed within the Plan can be used in filling vacancies. If a Department Director desires to fill a vacant position with a job title not in the most recently Council adopted Employee Pay and Classification Plan, a revised Employee Pay and Compensation Plan which includes the new job title must first be adopted by the City Council. The Employee Pay and Classification Plan is the basis of compensation for employees of the City. The Plan is constructed to reflect the following:

- A. Relative difficulty and responsibility existing between the job titles reflecting equal pay for equal work.
- B. Prevailing rates of pay for similar types of work in the labor market from which employees are recruited.
- C. Education and training required for the position.

### Uses

The Employee Pay and Classification Plan is used to develop the annual operating budget and to fill all vacancies throughout the year.

### Content

The Employee Pay and Classification Plan contains the following elements:

- Job title

## Section 7: Compensation – Wages and Salary Plan

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- Pay grade number
- Annual minimum, mid-point, and maximum salary
- Hourly minimum, mid-point, and maximum salary

During the preparation of the City's annual operating budget, the City shall on a biennial basis conduct a mini-salary survey of comparable organizations to ensure the Plan remains competitive in the local marketplace. During times of significant changes in the job market, the City should hire an independent vendor to conduct a more comprehensive wage and benefits study to ensure the City stays competitive in the local job market.

Department Directors are required to have up-to-date job descriptions as an aid in:

- Hiring;
- Training new or temporary employees;
- Reviewing job content with employees for counseling or performance evaluation purposes;
- Reorganizing or restructuring work flow or assignments to achieve greater efficiency and productivity.

### 7.3 Appointment and Starting Rates

- A. The pay rate, at the time of appointment to any position, shall be no less than the minimum for the position grade.
- B. Appointments that are above the minimum salary may be considered when the applicant's training, experience, skill or other qualifications are above the minimum requirements for the position, or conditions of the labor market justify such action. This could be at the recommendation of the Department Director, with the approval of the City Manager.
- C. In accordance with the City Charter, the City Manager shall designate the compensation of employees within the City's annually adopted Employee Pay and Classification Plan.

### 7.4 Salary Increases

Employees will become eligible for consideration for a salary increase once a year until the maximum salary is reached and if funds are available in the adopted budget.

Salary increases, if budgeted, are not intended to be automatic nor are guaranteed, but are to be earned and based upon individual job performance.

The amount of an increase shall be established within the annual Budget Document and either be a flat rate, a percentage based cost of living adjustment (COLA), or progression increase for all eligible employees. The effective date

## Section 7: Compensation – Wages and Salary Plan

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of increases may differ (i.e., COLA given on October 1<sup>st</sup> and flat rate or progression increases at a later date). No increase can cause the employee's pay to exceed the maximum pay rate for their position.

- A. Flat rate increases (if budgeted within a given fiscal year) will be given to all non-probationary employees who are employed on the effective date of said increases. Probationary employees will receive their increase upon completion of their probationary period. If a flat rate increase would cause the employee's pay to exceed the maximum pay amount, the overage will be paid to the employee via the EXCEL program as defined below.
- B. Cost of Living Adjustment (COLA) increases (if budgeted within a given fiscal year) will be given to all employees who are employed on the effective date of said increases. Said COLA increases shall increase minimum and maximum rates correspondingly in each pay grade.
- C. Progression increases may be either a fixed amount or a percentage as established in the Annual Budget and adopted by the City Council. Progression increases (if budgeted within a given fiscal year) will be awarded to all non-probationary employees employed on the effective date of said increases. Probationary employees will receive their increase based on their 6-month evaluation and upon completion of their probationary period. If a progression increase would cause the employee's pay to exceed the maximum pay amount, the overage will be paid to the employee via the EXCEL program as defined below.

D. Other Salary Increases

Non-Union salaries may be adjusted at the request of the Department Director via a Memo outlining why the increase is in the best interest of the City, why the employee is qualified for such an increase, and the available funding sources. The adjustment shall be reviewed to ensure that it does not adversely affect other similar situated positions, and must not exceed the maximum for the employee's pay grade. Approval for this adjustment shall ultimately be made by the City Manager.

### 7.4.1 Excel Program

The EXCEL (Excellent City Employees with Longevity) Program provides incentive to employees who have reached the top of their salary range but still are continuing to contribute through exemplary work.

- A. Payment of EXCEL, if budgeted, is not intended to be automatic nor is guaranteed, but is to be earned and based upon job performance.
- B. If an employee's wage rate is greater than the maximum of their current pay grade and the employee qualifies for EXCEL, their wage is frozen until a general wage adjustment is applied to the entire pay plan.

C. If an employee has reached the maximum in their pay grade and payment is approved by the City Manager, the employee will receive the amount over their maximum in the form of an EXCEL lump sum payment, less payroll taxes and retirement contribution, when City raises are distributed.

## 7.5 Employee Position Control

The Annual Operating Budget shall be the controlling document for the number of authorized paid positions which shall be listed as Full-Time Equivalents (FTEs). Any increase in the approved FTE number for the City as a whole must first be approved by the City Council before said additional position(s) can be filled.

## 7.6 Overtime

All City positions are governed by the Fair Labor Standards Act (FLSA) which classifies positions for overtime purposes as either “exempt” or “nonexempt”.

- A. Non-exempt employees are eligible for overtime pay for hours worked in excess of forty (40) hours per work week.
  - i. Overtime must be approved by the supervisor or Department Director in advance.
  - ii. Shall be paid at one and one-half (1½) times an employee's regular hourly rate for hours worked.
  - iii. An employee may choose to receive compensatory time in lieu of cash payment for some or all of the overtime hours worked.
    - a. Compensatory time shall be credited at the rate of one and one-half hours for each hour of overtime worked.
    - b. A non-exempt employee may accrue up to 120 hours of compensatory time. Any additional overtime worked will be paid.
  - iv. Employees covered under a collective bargaining agreement may have a different requirement for the number of hours to be worked before overtime will be paid and should consult the agreement for clarification.
  - v. Paid leave including, but not limited to, vacation, sick, compensatory, personal holiday, jury duty, military leave, unpaid leave, and administrative leave do not count as hours worked for the purpose of calculating overtime hours unless specifically addressed elsewhere in this policy manual.
- B. Non-exempt employees who are called back to work after completing his or her normal shift, for an unscheduled event, will be compensated at time and one-half their hourly rate for a minimum call-back time of two hours, except when the call-back event is the employee's error or failure to perform a task that required immediate corrective action. Work in

excess of this 2-hour minimum will be treated normally in the calculation of overtime in a 40-hour work period.

## Section 8: Compensation – Leave Benefits

It is the policy of the City of Indian Harbour Beach to provide equitable compensation for its employees in the form of wages and salary pay; leave benefits; and other fringe benefits to attract and retain qualified individuals for all positions.

### 8.1 Americans with Disabilities Act (ADA) Leave

The ADA does not specifically require employers to provide medical or disability-related leave. However, if necessary, reasonable accommodations to perform essential job functions will be made for qualified employees with disabilities unless doing so would result in an “undue hardship” to the City. Accommodations may include modifications to work schedules.

At the discretion of the City Manager, if an employee is temporarily unable to perform their essential job duties, the employee may be placed on unpaid leave or paid leave utilizing available accruals.

- A. While on an ADA leave of absence, an employee will not lose employment benefits accrued prior to leave.

In the event an employee is on unpaid leave, they will not continue to accrue sick or vacation leave. Holiday Pay will not be earned while on ADA Leave. If out on ADA leave when the personal holiday is accrued, the employee will not receive these hours until after they have returned to work for 30 days.

- B. If the employee normally pays a portion of their premium for health, vision, dental, or life insurance, these payments will continue during the period of ADA leave. Payment will continue through payroll deduction as long as the leave time being paid covers these payments. Arrangements for premium payments after that must be made through the Comptroller's office.

- i. If it is anticipated that the employee will be on unpaid leave, they will be asked to sign an agreement before the leave of absence begins that details the coverages and payments, along with payment obligations.
- ii. An employee's failure to pay premiums within thirty (30) days of the due date for such premiums may result in the loss of insurance coverage. The City will attempt to notify the employee in writing at least 15 days before the date that insurance coverage will lapse.
- iii. In the event that an employee does not return to work for at least 30 days at the end of an approved ADA leave, the employee is

responsible for the repayment of the City's portion of insurance premiums paid while the employee was on unpaid leave.

## 8.2 Bereavement Leave

Regularly scheduled full-time employees will be granted bereavement leave as follows:

- A. In case of the death of an employee's immediate family member (as defined in sub-section B below) the employee will be allowed five (5) work days off for bereavement. The time off does not have to be consecutive, but must be associated to final arrangements, services, or interment for the family member. Up to five (5) additional work days off are allowed for employees who must travel out of state to attend the service. The City reserves the right to request verification when it deems necessary.

If additional time off is necessary for bereavement, the use of accrued annual leave may be approved by the Department Director and the City Manager.

- B. Immediate family member for the purpose of this section shall include spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit. This definition includes Registered Domestic Partners.
- C. In the event of a miscarriage of an employee's child, the employee will be allowed up to five (5) work days off for bereavement.
- D. If the employee wishes to attend services for someone other than an immediate family member or someone living in the same household, accrued leave shall be used.
- E. In the event of the death of a current employee or elected official, the City encourages employees to attend local funeral or memorial services. An employee may be released by supervision to attend services if the absence will not impact routine work operations. The time away from work should not exceed the reasonable amount of time necessary to attend the service and should be recorded as bereavement leave on the timesheet.
- F. Rules governing bereavement leave for bargaining unit employees are outlined in their respective labor agreements.

## 8.3 Compensatory Leave

Non-exempt employees may accrue compensatory leave in lieu of overtime payment up to 120 hours. Employees covered by a collective bargaining agreement may have other governing guidelines and limitations.

An employee who requests the use of accrued compensatory time shall be permitted to take such leave within a reasonable period after making the request, unless the employee's absence would unduly disrupt the operations of the department.

### **8.4 Administrative Leave**

Exempt employees shall be awarded 40 hours of "use it or lose it" administrative time on January 1<sup>st</sup> each year. Administrative time not used by close of business each December 31<sup>st</sup> shall be forfeited. Administrative time is not eligible for payout upon separation.

Exempt employees hired or employees promoted into exempt positions shall be granted a prorated amount of administrative leave for the balance of the calendar year.

### **8.5 Conference Leave**

An employee may be granted leave with pay to attend professional and technical institutes, conferences, seminars, workshops or other similar meetings which contribute to the effectiveness of the employee's current job duties. Conference leave is normally for seven or less consecutive calendar days and excludes formal training sessions.

#### **A. Authorization**

- i. All conference leave and expenses will be subject to the approval of the Department Director or City Manager.
- ii. Authorization to attend a conference or similar meeting outside the State of Florida requires written approval by the City Manager.

#### **B. Conference Leave, excluding formal training sessions, for more than seven consecutive calendar days may be considered Education Leave and must be approved by the City Manager.**

#### **C. Calculation of Hours**

Hours for attendance and/or travel under this section shall be shown on the timesheet as training. For purposes of conference leave, pay will be as follows:

- i. Employees will be paid conference leave at their normal rate for hours in attendance during scheduled training and/or reasonable travel time. Employees will not be paid for any hours in excess of their normal number of daily hours unless actually performing work duties that have been preauthorized by the Department Director.

- ii. Attendance during scheduled training shall be considered worked hours for overtime purposes.
- iii. Travel hours shall not be counted as hours worked for overtime purposes.

D. Expense Reimbursement – Please refer to the Administrative Standard Operating Procedure Travel Policy for reimbursement information.

## 8.6 Domestic Violence Leave

The City of Indian Harbour Beach established the Domestic Violence Leave Policy in accordance with Florida §741.313, requiring that certain employers permit an employee to take leave from work to undertake activities resulting from an act of domestic violence.

This section applies to an employee who has been employed with the City for three (3) or more months.

A. Definitions (under this section)

- **Domestic Violence** – Includes any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.
- **Family or Household Member** – Includes spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit. This definition includes Registered Domestic Partners.

- B. An employee seeking leave for Domestic Violence is permitted to use vacation, sick, compensatory, or accrued personal holiday. Unpaid Leave under this section will be allowed only after the employee has exhausted all available paid leave.
- C. Except in cases of imminent danger to the health or safety of the employee, or to the health and safety of a family or household member, an employee seeking leave from work under this section must provide appropriate advance notice of the leave along with certification from a health care provider who can provide sufficient validation of the need for such medical or mental health care services.
- D. Such information will be kept confidential and exempt to the extent authorized by Florida Statute.

E. An employee's use of leave is limited to the following activities:

- i. To seek an injunction for protection against domestic violence, or an injunction for protection in cases of repeat violence, dating violence, or sexual violence.
- ii. Obtain medical care or mental health counseling, or both, for the employee or a family or household member to address physical or psychological injuries resulting from the act of domestic violence.
- iii. Obtain services from a victim-services organization, including, but not limited to, a domestic violence shelter or program or a rape crisis center as a result of the act of domestic violence.
- iv. Make the home secure from the perpetrator of the domestic violence or to seek new housing to escape the perpetrator.
- v. Seek legal assistance in addressing issues arising from the act of domestic violence or to attend and prepare for court related proceedings arising from the act of domestic violence.

## 8.7 Educational Leave

Leave with pay, for a maximum of 90 days, may be granted a regular full-time employee to attend a training academy for the purpose of receiving training that is of clearly foreseeable benefit to the position. An extension of education leave may be requested in writing and granted by the City Manager.

- A. Enrollment in short courses, seminars or conferences (7 days or less in total) which are required as part of an employee's job shall not be considered educational leave, but shall be considered conference leave (See Section 8.4).
- B. The City may require the employee to sign an agreement which would require the employee to refund to the City the costs for such leave to include: tuition, educational material, travel expenses, and any other expenses not listed that were paid on behalf of the employee, or paid/advanced to the employee while on leave. Reimbursement will be prorated based on actual dates worked.

This agreement would require the employee to reimburse the City in the event the employee should resign from employment within two (2) years from the date of return to full-time status.

- C. While on education leave, an employee will not accrue sick, vacation, or personal holiday and will not receive holiday pay.
- D. Insurance Coverage
  - i. If the qualifying period for insurance eligibility has not been met prior to starting Education Leave, the qualifying period will start over on the first day after the employee returns to their regular work schedule.

- ii. Employees who are currently covered under insurance benefits will be required to pay the premium for health, vision, dental, and/or life insurance while on education leave. Payment will continue through payroll deduction as long as the employee has vacation or compensatory leave time available to cover these payments. Arrangements for premium payments after that must be made through the Finance Department. The employee will have a minimum 30-day grace period in which to make premium payments. If payment is not received in a timely manner, the employee's (and dependents', if applicable) group insurances may be cancelled, provided the employee is notified in writing at least 15 days before the date that the insurance coverage lapses.

## 8.8 Family and Medical Leave Act of 1993 (FMLA)

The Family and Medical Leave Act (FMLA) provides eligible employees with up to twelve (12) work weeks of unpaid, job-protected leave (or up to 26 in certain cases pertaining to care of certain members of the armed forces) for certain family and medical reasons during a twelve (12) month period if the employee is taking leave under particular circumstances. FMLA provides that the employee has the right to return to current position, or to an equivalent position with equivalent pay, benefits, and other terms and conditions.

### Eligibility

- A. The employee needs to have worked for the City for 12 months;
  - In the event of an employee's fulfillment of military obligations, the twelve (12) months need not be consecutive;
- B. The employee needs to have worked at least 1,250 hours for the City within the last 12 months.

#### 8.8.1 Reasons for Leave

- A. Employee's "serious health condition" – the employee is experiencing or will experience a serious health condition.

A "serious health condition" exists when an illness, injury, impairment, or physical or mental condition that involves:

- i. Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility.
- ii. A period of incapacity requiring absence of more than three (3) calendar days from work that also involves continuing treatment by (or under the supervision of) a health care provider.
- iii. Several conditions have been ruled as too minor to qualify as a serious health condition and are not considered a triggering event for FMLA. These include: colds, earaches, stomach upset, headaches (other than migraines), and routine dental problems.

## Section 8: Compensation – Leave Benefits

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Please contact Human Resources, or designee, if you have any questions regarding what qualifies as a serious health condition.

- iv. Any period of incapacity due to pregnancy, or for prenatal care; or any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.).
- v. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.).
- vi. Any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

B. Birth, adoption, or acceptance into foster care of a child (must be taken within twelve (12) months of the birth, adoption or placement in foster care).

C. FMLA regulations support that an employee who suffers from morning sickness would qualify for FMLA leave, regardless of whether the employee seeks medical treatment or the condition lasts for three days.

D. Family Member's "Serious Health Conditions"

A family member as pertains to this section includes: a spouse, parent, child, foster child, and legal ward.

- i. If the leave is for a child:
  - a. The employee could be a person who is "standing in loco parentis";
  - b. If the child is over the age of 18, then the child must be mentally or physically disabled and "incapable of self-care".
- ii. If the leave is for the care of a parent, it includes a person who stood in place of a parent when the employee was a child, but does not include a parent-in-law.

E. Military Qualifying Exigency

For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is a military member in the Armed Forces, including the National Guard or Reserves on covered active duty, or that has been notified of an impending call or order to covered active duty.

- i. Military Caregiver Leave

Up to twenty-six (26) work weeks of leave consisting of unpaid leave, and when requested and appropriate, accrued sick and/or

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vacation leave for a combined total of up to 26 weeks during a single rolling forward 12-month period on the date the military caregiver leave is first used.

ii. Military Caregiver FMLA can be used:

- a. To care for a covered service member, who is a current member of the Armed Forces, including the National Guard or Reserves, with a qualifying serious injury or illness who is the spouse, son, daughter, parent, or legally declared next of kin to the employee;
- b. To care for a covered veteran, with a qualifying serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee.

### 8.8.2 Length of Leave Time

- A. A qualifying employee is entitled to up to 12 work-weeks of leave (26 work-weeks for military qualifying exigency) within a rolling 12-month period. The City uses a "rolling period" which looks back over the last 12 months from the date the leave begins to determine how much leave time the employee has used; therefore, determining how much FMLA time is still available.

This means that each time an employee requests a leave under the provisions of this policy, the available time for a leave of absence will be the balance of the total twelve (12) weeks that has not been used during the twelve (12) month period immediately preceding the commencement of leave.

- B. In the event that both spouses are employed by the City, the leave for both may be limited to a total of twelve (12) work weeks during any twelve (12) month period when such leave is due to the birth or placement of a child(ren).
- C. FMLA leave does not need to be taken in consecutive days for one incident. If days are to be taken intermittently, a tentative schedule must be provided to the employee's supervisor or Department Director, and Human Resources.

### 8.8.3 Failure to Return to Work

Employees who do not return to work after using all FMLA leave may be subject to immediate termination unless additional leave has been requested and granted.

- A. Employees should submit a written request for an extension of leave to Human Resources. This written request should be made as soon as the employee is aware of the inability to return on the original return date.
- B. An employee who fails to return to work after the expiration of the leave will be required to reimburse the City for the City's portion of health

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premiums paid during the leave, unless the reason the employee fails to return is a serious health condition which prevents the employee from performing the job duties, or if the circumstances are beyond the employee's control.

### 8.8.4 Intermittent Leave

Under certain circumstances FMLA leave may be taken on an intermittent or reduced work schedule basis.

- A. Parental Leave of Absence may be taken intermittently or on a reduced work schedule basis if the employee and the City can agree on the schedule requested by the employee.
- B. Leave may be taken intermittently on a reduced work schedule basis if the requesting employee produces the required certification that there is a medical need for an intermittent leave or reduced work schedule. The City reserves the right to a second medical certification at the City's expense.
- C. A fitness for duty certification may be required every thirty (30) days in the case of intermittent or reduced schedule leave. The employee has fifteen (15) days from the date of request to provide this certification to Human Resources.
- D. If an employee is using intermittent leave without pay during FMLA Leave, accruals will be based on hours worked.

### 8.8.5 Notice

Employees must comply with the City's requirements for requesting leave and provide enough information for the City to reasonably determine whether FMLA may apply to the leave request.

- A. When an employee has foreseeable leave, the employee should inform the Department Director in advance of the need for leave (the request does not need to be in writing) and does not need to mention FMLA. However, it is the Department Director's responsibility to inform the employee that the leave time may qualify for FMLA and to notify Human Resources that a request for leave has been made that may qualify.
- B. If an employee has unforeseeable leave, the employee must give notice to their Department Director or Human Resources "as soon as practicable under the facts and circumstances of the particular case". This generally means within no more than one or two working days of learning of the need for leave, unless such notice is not feasible.

### 8.8.6 Forms

Forms, which may be revised or updated from time to time, are available from Human Resources.

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- A. Request for Leave of Absence
  - i. Completed by employee.
  - ii. This form helps identify whether leave is for a qualified FMLA reason.

- B. Notice of Eligibility and Rights & Responsibilities

This form will be provided to the employee from Human Resources and may include a *Certification of Health Care Provider* form that must be returned within 15 calendar days.

- C. Certification of Health Care Provider

FMLA permits an employer to require a timely, complete, and sufficient medical certification to support a request for FMLA leave be submitted. The employee's response is required to obtain or retain the benefit of FMLA protections. Form is to be completed by the attending doctor in the situation of a "serious health condition" of either the employee or a family member.

- i. Completed form must be returned to Human Resources within 15 days.
- ii. Returned form may also be used to determine whether or not there is a "serious health condition" as described herein.
- iii. Failure to provide a complete and sufficient medical certification may result in a denial of an FMLA request.
- iv. Recertification may be required if:
  - a. The employee requests an extension of leave.
  - b. The amount of leave needed is unclear. In this situation, a new certification will be requested every thirty (30) days.
  - c. Circumstances described by the original certification have changed significantly.
  - d. The City receives information that casts doubt upon the continuing validity of the certification.
  - e. An employee is unable to return to work because of the continuation, recurrence, or on-set of a serious health condition.
- v. The City utilizes the following U.S. Department of Labor, Wage and Hour Division certification forms, as updated, which include the following:
  - a. Employee's serious health condition – Certification of Health Care Provider for Employee's Serious Health Condition.
  - b. Care of family member – Certification of Health Care Provider for Family Member's Serious Health Condition.

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- c. Military qualifying exigency – Certification for Serious Injury or Illness of a Covered Service Member – Military Family Leave or Certification for Serious Illness or Injury of a Veteran for Military Caregiver Leave.

### D. Designation Notice

Form is to be completed by Human Resources within five (5) business days after receipt of the Certification of Healthcare Provider forms. This form:

- i. Informs the employee as to whether or not leave is protected under FMLA.
- ii. Notifies employee of FMLA leave request status. Request may be approved, disapproved, or require additional information.

### E. Return to Work Certification

If an employee is out for a serious health condition, a *Return to Work Certification* form is required.

- i. Section A is to be completed by the employee. Section B must be completed by the healthcare provider.
- ii. Completed form must be returned to employer at minimum two working days prior to returning to work.

#### **8.8.7 During FMLA Absence**

- A. Leave of 30 Days or More – While on leave, the employee will be required to furnish Human Resources with periodic reports every 30 days, which may include, but is not limited to a note from the doctor's office. This report will notify the City of the employee's status and intent to return to work.
- B. Leave of Less than 30 Days - If leave is for less than 30 days, the employee will not be required to provide periodic reports. If the circumstances change and the employee is able to return to work earlier than the date indicated on the original request or updated reports, when foreseeable, the employee must provide a *Fitness for Duty Certification* form to Human Resources at least two work days prior to the date the employee intends to report for work.
- C. The City reserves the right to a second medical certification at the City's expense.

In the event, the first and second opinions conflict, the City reserves the right to require the opinion of a third health care provider, at City's expense, designated or approved jointly by the City and the employee. The opinion of the third health care provider shall be final. To be sufficient the certification must state:

- The date on which the serious health condition commenced.

- The probable duration of the condition.
- The appropriate medical facts within the knowledge of the health care provider regarding the condition.

D. Inability/failure to return to work at the expiration of the twelve (12) week period may result in termination of employment.

#### **8.8.8 Payments and Benefits**

- A. If the employee has requested and is approved for FMLA leave, the employee will be required to use all accrued paid leave which may have accrued before utilizing unpaid leave. While on FMLA leave, paid leave time may be taken in the order designated by the employee or if no designation is made, the time will be taken in the order of (1) sick, (2) vacation, (3) compensatory, (4) personal day or any other available leave.
- B. While on an FMLA leave of absence, the employee will not lose employment benefits accrued prior to leave.

In the event an employee is on unpaid leave, they will not continue to accrue sick or vacation leave. Holiday Pay will not be earned while on FMLA. If out on FMLA when the personal holiday is accrued, the employee will not receive these hours until after they have returned to work for 30 days.

- C. If the employee normally pays a portion of their premium for health, vision, dental, or life insurance, these payments will continue during the period of FMLA leave. Payment will continue through payroll deduction as long as the leave time being paid covers these payments. Arrangements for premium payments after that must be made through the Comptroller's office.
  - i. If it is anticipated that the employee will be on unpaid leave, they will be asked to sign an agreement before the leave of absence begins that details the coverages and payments, along with payment obligations.  
If the FMLA leave is not foreseeable, this agreement must be signed as soon as possible after the leave begins.
  - ii. An employee's failure to pay premiums within thirty (30) days of the due date for such premiums may result in the loss of insurance coverage. The City will attempt to notify the employee in writing at least 15 days before the date that insurance coverage will lapse.
  - iii. In the event that an employee does not return to work for at least 30 days at the end of an approved FMLA leave, the employee is responsible for the repayment of the City's portion of insurance premiums paid while the employee was on unpaid leave.

## 8.9 Holidays

### Holidays Observed

- A. The following are official paid holidays:
  - i. New Year's Day ..... January 1
  - ii. Martin Luther King Day ..... Third Monday in January
  - iii. President's Day ..... Third Monday in February
  - iv. Memorial Day ..... Last Monday in May
  - v. Independence Day ..... July 4
  - vi. Labor Day ..... First Monday in September
  - vii. Veteran's Day ..... November 11
  - viii. Thanksgiving Day ..... Fourth Thursday in November
  - ix. Friday after Thanksgiving ..... The day after Thanksgiving
  - x. Christmas Day ..... December 25
  - xi. Christmas Eve/Floating Holiday

Typically, the City grants the day before or the day after Christmas. Depending on operational needs, this could change to another date during the year at the discretion of the City Manager.
- xii. Personal Holiday - See Section 8.9.4.
- B. When a holiday falls on Saturday, the preceding Friday shall be observed as a holiday. When a holiday falls on Sunday, the following Monday shall be observed as a holiday.
- C. Paid holidays (except Personal Holiday) are considered worked hours for the purpose of calculating overtime.
- D. Employees in departments working on a shift basis will receive credit for the holiday on the actual date of the holiday.
- E. The City Manager with the approval of the City Council can change the number of and specific holidays designated.
- F. An employee must be on "active pay status" (see definition) on the regularly scheduled working day immediately prior to a holiday and the regularly scheduled working day immediately following a holiday in order to qualify for the holiday pay.
- G. Employees will be compensated only for the holidays earned while employed by the City.

### Eligibility

Regularly scheduled full-time and part-time employees who are active during the payroll of a holiday shall receive holiday pay at the employee's base hourly rate of pay times the regularly scheduled hours up to a maximum of 8 hours. Employees (exclusive of those covered by a CBA) who are regularly scheduled

to work more than an 8-hour shift shall adjust their schedule per their election on their alternate schedule form as approved by their Department Director and the City Manager.

### **8.9.1 Holiday on Work Day**

Full-time employees assigned and scheduled to work on a holiday, and who in fact do work, shall receive their usual day's pay plus pay for the holiday.

### **8.9.2 Holidays During Paid Leave**

Employees on vacation, sick, or bereavement leave on a designated holiday shall be paid for the holiday and not charged with paid leave for the day. Under no circumstances shall the employee receive holiday pay and vacation, sick or bereavement leave pay.

### **8.9.3 Holiday During Leave of Absence**

- A. An employee on workers' compensation leave, disability leave, FMLA or unpaid leave shall not be paid holiday pay for the day of the holiday.
- B. An employee must return to work for the regularly scheduled working day immediately prior to a holiday and work the next regularly scheduled working day in order to qualify for the holiday pay.

### **8.9.4 Personal Holiday**

- A. Full-time employees, who are not covered by a CBA, will receive one (1) paid Personal Holiday, up to a maximum of eight (8) hours, each calendar year taken at the discretion of the employee, with prior approval of Department Director.
  - i. Full-time employees who are regularly scheduled to work less than 40 hours per week, accumulate Personal Holidays at a rate based on their normal schedule.
  - ii. Part-time employees, temporary, and probationary employees are not eligible for Personal Holidays.
  - iii. Probationary employees are not eligible to earn Personal Holidays unless they are active on January 1st; the Personal Holiday will be accrued 30 days after the end of the probationary period.
- B. Personal Holidays are earned on January 1st of each calendar year.

If an employee is out on Unpaid Leave or FMLA when the personal holiday is accrued, the employee will not receive these hours until thirty (30) days after returning to work.

- C. Personal Holidays are not to be considered worked hours for purposes of calculating overtime.

- D. Pay for the Personal Holiday will be as set forth in eligibility under Section 8.9.
- E. The following criteria shall be met before the use of a Personal Holiday is approved by the appropriate Department Director:
  - i. An employee's request to use a Personal Holiday must be approved by the appropriate Department Director at least three (3) working days prior to the desired time off.
  - ii. The Personal Holiday must be taken as one full workday equivalent (maximum of 8 hours) and may be taken only when it does not disrupt the essential services of departmental operations.
- F. If the Personal Holiday has not been used by December 31<sup>st</sup> of each calendar year, the Personal Holiday shall be considered lost and forfeited.

#### **8.9.5 City Day Holiday**

- A. All non-exempt full-time employees shall be awarded a "City Day" eight (8) hours holiday accrual on or before December 23rd to be used within the next calendar year.
- B. City Day holiday is not to be considered worked hours for purposes of calculating overtime.
- C. Pay for the Personal Holiday will be as set forth in eligibility under Section 8.9.
- D. The City Day Holiday must be taken as one full workday equivalent (maximum of 8 hours):
- E. If the City Day Holiday has not been used by December 31<sup>st</sup> of each calendar year, the City Day shall be considered lost and forfeited.

#### **8.10 Jury/Witness Duty**

The City recognizes service on a jury to be an important civic duty. If an employee is absent because of jury duty, the employee is entitled to jury duty pay.

An employee who is summoned for jury duty must notify supervision of jury service as soon as summons is received.

- A. Regularly scheduled full-time employees are eligible for Jury Duty pay. This time shall be charged as jury duty on the employee's timesheet.
- B. The employee must provide a copy of the document requiring attendance in court with a leave request. This may be in the form of a

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jury notice, subpoena, letter of request from the defense or prosecuting attorney, request of the hearing officer, etc.

- C. Employees are required to notify the Court that they will receive full pay from the City and should not be paid juror or witness fees.
- D. If jury duty does not take the entire workday, the employee is required to report to work immediately after release from jury duty provided that at least one hour remains in their regular work day/shift. In lieu of returning to work, an employee, with prior approval from their Department Director, may take vacation or compensatory time for hours after release from jury duty.
- E. Time spent on jury duty shall be computed as hours worked for the purposes of computing leave accruals, but is not considered hours worked for overtime purposes, unless the jury duty was related to City business.
- F. When employees return to work they shall submit documentation to the Department Director providing proof of service signed by the jury duty coordinator to receive compensation and excused absence(s).
- G. Employees who must appear in court as a witness for other reasons not related to City business shall use vacation leave or compensatory time.
- H. The employee shall not be entitled to overtime pay if their jury service extends beyond eight (8) hours in a day or forty (40) hours in a week. This will also apply to employees who are regularly scheduled to work 30 hours or more per week.
- I. Mileage, if paid by the court, will be surrendered to the City if a City vehicle was used.  
For City related proceedings, if a personal vehicle was used to attend, the employee may retain any reimbursement for mileage paid by the court. If there were no court reimbursements, personal vehicle mileage and meal reimbursement will be paid by the City.
- J. Police Officers attending court will be governed by the appropriate labor agreement.

### **8.11 Military Leave**

This policy applies to all eligible full-time employees who are members of the uniformed services, who attend military training, and/or who are mobilized for active duty. In the event employees enter active military service because of a draft or on a voluntary enlistment, the provisions of the Uniformed Services Employment and Reemployment Rights Act will be followed.

The employee's years of service and seniority will continue during military leave as if the employee was actively at work. Additional laws governing military leave

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may be found in Florida §115.

### A. Military Training

- i. All commissioned reserve officers or reserve enlisted personnel in the United States military or naval service or members of the National Guard shall receive a leave of absence without loss of vacation leave, pay, time or efficiency rating, on all days during which they are engaged in training ordered under the provisions of the United States military or naval training regulations when assigned to active or inactive duty. In any one annual period, leaves of absence shall not exceed 240 working hours. An employee who is a member of the military reserve who has been called into active military service (as defined in Florida §115.08) shall receive the first thirty (30) days of leave with full pay. This is based on the number of days an employee is regularly scheduled to work during the first 30 calendar days following the date called to active duty and is limited to once per calendar year.
- ii. A copy of the official orders or appropriate military certification shall be filed in the employee's personnel file.
- iii. An employee who is drafted, volunteers for active military service, or is ordered to active duty in connection with reserve activities other than short-term training shall, upon presentation of a copy of official orders, be granted leave of absence.
- iv. Upon separation from the military service, the employee must request reinstatement within (90) calendar days according to the Uniformed Service Employment and Reemployment Rights Act of 1994 or waive any claim to further employment.

### B. Active Military Service

Employees called to active military duty are entitled to leave of up to five years in the event their military unit has been mobilized by decree of the President of the United States. Such leave will commence on the date substantiated by official orders.

- i. An employee shall receive the first thirty (30) days of military leave, resulting from active mobilization, with full normal pay and benefits. Thereafter, an employee who continues on active military leave may elect to receive a pay supplement, to make up the difference between the employee's normal pay and military pay. An employee's accrued leave shall be used for supplemental pay, until all accrued leave has been exhausted. While on active military service employees will continue to accrue leave benefits.
- ii. The City will follow the Uniformed Services Employment and Reemployment Rights Act (USERRA), for reemployment rights.

### C. Supplemental Pay – Military Duty Status Exceeding 30 days.

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- i. Supplemental pay will not be processed without written confirmation of the “Military Leave and Earnings Statement”.
- ii. Payroll direct deposits will be processed in accordance with the employee’s instructions on file.
- iii. If the employee’s gross military pay including housing and family expense allowances per pay period is less than normal pay for that same pay period, the employee’s accrued leave will be used as needed until exhausted.
- iv. If the employee’s base military pay per pay period is greater than normal pay for that same pay period, the employee shall not receive a supplement. The employee must inform the City of any changes in military salary by providing an updated “Military Leave and Earnings Statement”.
- v. An employee’s eligibility and/or supplemental pay may change based on pay changes enacted by the military or by the City. Active military leave will be considered continuous service with the City for retirement plan purposes, provided the employee returns to work under the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA).

### D. Employee Responsibilities

- i. When requesting leave, the employee must provide advanced written notice of all military duty, unless notice is impossible, unreasonable, or precluded by military necessity. A Leave Request form with the dates of requested leave and a copy of the military orders (if available) must be given to the Department Director and Human Resources.
- ii. To receive any military pay supplement, the employee must submit a current “Military Leave and Earnings Statement” to the Comptroller’s Office.
- iii. The employee, prior to departure if possible, must contact Human Resources to discuss the status of health and other insurance benefits.
- iv. The employee must contact Human Resources or the Comptroller’s office to make any changes regarding direct deposit of payroll and the mailing of the payroll advice forms.
- v. The employee must ensure the City has an updated Emergency Contact form on file. The City recommends the employee submit notarized documentation designating a representative to provide or obtain information and/or act on behalf of the employee while on active leave.
- vi. A copy of the military orders releasing the employee from active duty must be provided to the Department Director and Human Resources when the employee returns to work. The employee is

required to contact the Department Director at least five working days prior to the date of returning to work.

**E. Reemployment**

- i. Upon return from active military leave based on USERRA provisions, an employee will be reinstated to the previous position held or to a position of equal status and pay without reduction of benefits or seniority or to the position for which the employee can become qualified and would have held had there been continuous employment.
- ii. The City is not required to reemploy an employee returning from active military duty if:
  - a. Circumstances have so changed as to make such reemployment impossible or unreasonable.
  - b. The employment from which the employee leaves to serve in the uniformed services is for a brief, non-recurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.
- iii. In the case of an employee entitled to reemployment under subsection (a)(3), (a)(4), or (b) (2)(B) of section 4313 of the Uniformed Services Employment and Reemployment Rights Act of 1994 or Florida Statute Section 250.482 regarding active state duty of members of the National Guard, such employment would impose an undue hardship on the employer.
- iv. Under Florida law, regarding active state duty for members of the National Guard, the employer had legally sufficient cause to terminate at the time the employee left for active state duty.
- v. An employee on indefinite military leave who does not accept reappointment with the City in the same or comparable position within ninety (90) days after the date of release from active duty shall be considered to have resigned from the City.

**F. Insurance Continuation**

If requested by the employee, insurance coverage may be continued for the employee and dependents currently covered. Employees are required to continue paying their current dependent deductions and any health insurance buy-up through payroll if supplement pay is received or payment to the City prior to the first of every month.

- i. A letter of confirmation will be issued to confirm the benefits and insurance premium payments to be continued while on active military duty.
- ii. Any requested changes in coverage must be received within thirty (30) days and be within 125 Plan guidelines.

The employee is responsible for their normal employee insurance deductions.

The City will allow the employee to continue insurance for a maximum of 24 months as long as any necessary premium payments are made.

## **8.12 Natural Disaster and State of Emergency Leave**

It is the policy of the City of Indian Harbour Beach to fairly compensate employees when any natural, technological or human caused emergency or disaster requires an emergency declared by the City resulting in an interruption to normal work schedules.

After the City declares a State of Emergency and activates the Emergency Management Plan, for a declared emergency, or in cases of deployment of City employees to other agencies, such as statewide mutual aid agreements normal payroll will be continued.

It is recognized by the City that each event is unique and deviations may be addressed appropriately by the City Manager.

- A. During declared emergencies, all leave requests may be cancelled upon declaration of a state of emergency. If a leave request was submitted and approved prior to the state of emergency, it may be re-evaluated by the Department Director or designee pending or during a state of emergency. It is the responsibility of the employee requesting leave to obtain written approval from the Department Director or a designee prior to utilizing leave during an emergency event. If the employee is already on leave when the emergency is declared, the Department Director, or designee must contact the employee, if they are required to report back to work. The City will make every effort not to call back employees while on leave during a state of emergency.
- B. Employees already on leave or are scheduled to be on leave during the event (vacation, sick, etc.) will not receive any additional paid time off and will be granted leave according to their original leave request. Employees on leave and who are called in to work due to the emergency situation will be paid for hours worked according to this section.
- C. Personnel who are instructed to work during or after the emergency or disaster and are not able to report to work (due to a catastrophic event affecting their personal circumstances [for example, flooding of their personal home or street] and prohibiting their ability to respond as instructed during the first 24 hours after the catastrophic event, with verifiable supporting documentation) will be required to use accrued leave.
- D. Department Directors and Supervisors are responsible for coordinating the transition roles of employees including releasing employees from their normal duties in a timely and orderly fashion while maintaining the necessary operations and service levels.

#### E. ESSENTIAL PERSONNEL

- i. Non-exempt employees who are designated by their Department Director or City Manager as essential personnel for the response and in support of the plan and who are assigned to work or are sequestered at a designated area as instructed (i.e. Police Department, City Hall, etc.) in contemplation that their services might be needed during the emergency or disaster, will be compensated at their regular hourly rate for all hours during the confined period. Hours will be counted as hours worked for overtime purposes. Once an employee reaches forty (40) hours worked (including sequestered time) for the pay week, all remaining hours worked that week will be overtime. All other monetary considerations affected by specific collective bargaining agreements will not be suspended.
- ii. Exempt employees, performing duties related to the emergency, shall receive straight-hours for all hours worked or sequestered at a designated area as instructed, in excess of forty hours or their regular work week schedule. The City shall request reimbursement of these costs from FEMA or from the agency to which mutual aid was sent.

#### F. NON-ESSENTIAL PERSONNEL

While the City is in a State of Emergency and as circumstances change, the City Manager may deem positions originally considered non-essential as essential. Hours paid but not worked, excluding holidays, other than personal holidays, will be included in calculations for purposes of overtime. Compensation will be as follows:

- i. Following the closure of City Offices, full-time, non-exempt employees who are considered as non-essential to the response and in support of the Plan and are sent home will be paid emergency leave for the remainder of their shift. If alternate work is assigned in another department, employees must report to that location for work.
- ii. In the event non-exempt employees are instructed to return to work to perform duties related to the event (storm clean-up, damage assessment, etc.), they will be paid the emergency leave time up to their normal daily hours plus the actual hours worked at their regular rate of pay. These hours will be counted as hours worked for overtime purposes.
- iii. Employees who are not instructed to report for duty, will be compensated with emergency leave pay. These hours will be counted as hours worked for overtime purposes.
- iv. As determined by the City Manager, or designee, Emergency Leave may be paid for normal work hours during the catastrophic event. After an employee has been called back by management,

- if additional hours are required by an employee, the leave shall be charged to accrued leave.
- v. Part-time, seasonal and temporary employees will only be paid for the hours worked.

G. During an emergency, an employee may be directed by the City Manager to report to an alternate location. Should employees fail to report as directed, they shall be subject to progressive discipline and be required to use accrued leave time.

## **8.13 Sick Leave**

Sick Leave is a privilege and a benefit to be accumulated to protect employees in times of major illness and assure they will not have to worry about receiving a paycheck in addition to coping with a serious medical condition.

### **Eligibility**

- A. All regularly scheduled full-time employees shall accrue sick leave.
- B. Temporary and part-time employees regularly scheduled to work less than thirty (30) hours a week are not eligible to accrue sick leave.

### **Rate of Earning**

- A. Each regular full-time employee will earn 96 hours of sick leave in one (1) calendar year. Accrual of sick leave shall be credited the first two pay periods of each month. (amended by the City Council on December 12, 2023)
- B. Full-time employees regularly working between 30 and 40 hours a week earn at a prorated amount.
- C. If on unpaid leave for greater than 14 consecutive calendar days, sick leave does not accumulate.

### **8.13.1 Charging Leave**

- A. Sick leave may be taken during the employee's probationary period, however, in the event the employee resigns or is otherwise terminated before the end of the probationary period, any sick leave taken will be reimbursed to the City by deduction from the employee's final pay.
- B. Sick leave will be charged in 15 minute increments for actual time the employee is away from work.
- C. After an employee's accrued sick leave has been exhausted, vacation leave, compensatory time, or personal holiday time may be used upon request of the employee.

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- D. When absence due to illness exceeds the amount of total paid leave earned and authorized, the pay of an employee shall be discontinued until employee returns to work.
- E. Employees who become sick while on vacation may use sick time for such period of illness and may be required to present a doctor's certificate if requested by Human Resources.
- F. If a holiday occurs during paid sick leave, the holiday shall be charged to holiday pay.
- G. Sick leave shall be used only with the approval of the employee's Department Director and shall not be authorized prior to the time it is earned and credited to the employee.
- H. Sick leave will not be granted in advance of accrual.
- I. Sick leave will not be considered as time worked for overtime computation.

### **8.13.2 Request for Leave**

- A. To receive compensation while absent on sick leave, the employee shall notify their immediate supervisor or Department Director before the scheduled reporting time or as established by the Department. This procedure shall be followed for each day the employee is unable to work, unless prior approval is given by the Department Director for a predetermined number of days.
- B. This provision may be waived on the first day by the Department Director if the employee submits evidence that it was impossible to give such notification.
- C. It is the responsibility of supervision to verify requests for use of sick leave. If an employee has an insufficient sick leave balance, the Department Director may authorize the use of vacation, compensatory time and/or personal holiday to be used in lieu of unpaid leave.
- D. Employees who are absent more than three (3) consecutive scheduled working days due to illness may be required to submit a physician's statement. In the event sick leave is taken to care for a family member, a physician's certification for the family member's illness may be requested.
- E. An employee who fails to notify their Department Director for three (3) or more consecutive work days may be terminated as being deemed to have abandoned their position with the City.
- F. Upon release from a hospital or other medical facility or following surgery that may affect an employee's ability to perform their job duties, a physician's written release must be submitted to Human Resources prior

to the employee's return to work. Such release must specify any and all limitations. Physicians' releases are considered confidential medical records, in accordance with applicable statutes; as such, they are not public records. All such medical records are to be placed in an envelope marked "confidential" for inclusion in the employee's confidential medical file.

G. If deemed necessary, Department Directors are authorized to make any investigation of benefits claimed under this rule.

#### **8.13.3 Other Duty Assignments**

Many incidents of illness and/or slight injuries may prohibit the performance of regularly assigned duties; however, there may be other duties that such employees may be able to perform without aggravating such injuries or sickness. There shall be no expectation of a light duty assignment.

Providing that the physician states that light duty work is acceptable, the employee may, at the Department Director's option, report to the supervisor for assignment within the department. The department may assign such duties as the health and condition of the involved employee permit, only in cases where bona-fide jobs or duties are available. In addition, such assignments will be allowed only when the supervisor determines that the employee can, in fact, be productively employed at light duty.

#### **8.13.4 Use**

- A. Sick leave may be granted for the following purposes:
  - i. Personal injury or illness of the employee.
  - ii. Illness of a member of the employee's immediate family or someone living within the same household whose illness requires the personal care and attention of the employee. An employee may be required to provide a doctor's note stating the family members need for care.
  - iii. The employee's personal appointments with a doctor, dentist, or other recognized practitioner when it is not possible to arrange such appointments for non-work hours.
  - iv. The employee's care of an immediate family member, including appointments with a doctor, dentist, or other recognized practitioner when it is not possible to arrange such appointments for non-work hours.
  - v. The need to be away from work due to the adoption of a child.
  - vi. Exposure to contagious disease which would endanger others as determined by a physician.
- B. Employees must use available sick leave when they need time off for purposes as outlined in this Section

C. Sick leave time that is requested for more than ten (10) consecutive working days for a single incident must have Family Medical Leave Act (FMLA) paperwork processed.

Qualified and approved FMLA leave includes employee, spouse, child, or parent care for serious health conditions; pregnancy or prenatal care; or permanent or long-term conditions requiring treatment in any environment as long as it meets the other conditions. See Section 8.8 for additional information.

D. Employees who do not use sick leave during the calendar year shall be awarded up to two (2) additional vacation days. If an employee uses no more than one (1) sick day, the employee shall receive an additional day of vacation. If an employee uses no more than 2 sick days, the employee shall be awarded one-half ( $\frac{1}{2}$ ) day vacation.

#### **8.13.5 Maximum Accrued Sick Leave**

- A. The maximum number of hours which can be accumulated and on the books at the end of the fiscal year is eight hundred (800) hours.
- B. When an employee reaches the maximum cap of 800 hours accumulation, the City will keep track of earned sick leave over 800 hours and on September 30th of each calendar year, the employee will be credited with 75% (3/4) of the excess over 800 hours in additional vacation time. The converted accrual of sick leave to vacation leave cannot cause vacation leave maximum to be exceeded.

#### **8.13.6 Payment of Unused Sick Leave**

- A. The City will pay fifty percent (50%) of unused sick leave upon retirement as defined in Section 10.7;
- B. The City will pay thirty percent (30%) of unused sick leave upon termination in good standing with a minimum of two (2) years of service.

An employee shall not be considered to have left in good standing if dismissed or leaves employment of the City because of any pending investigation.

- C. In the event of death, an employee's unused sick leave will be paid as follows:
  - i. At a rate of fifty percent (50%) if the employee was qualified for normal retirement (as defined in Section 10.7) at the time of death.
  - ii. At a rate of thirty percent (30%) if the employee had a minimum of two years' continuous service with the City.

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- D. Pursuant to Florida Statutes Section 222.15, unused sick time due to a deceased employee are authorized to be paid in accordance with Section 10.1 of this document.
- E. In no event shall an employee be allowed to take sick leave in conjunction with termination to extend the termination date.

### **8.13.7 Abuse of Sick Leave**

- A. Sick leave is to be used only for the purposes set forth in Section 8.13.4.
- B. Using sick leave as soon as it accumulates may indicate a pattern of abuse, as does calling in sick regularly on a Monday or Friday, which gives the appearance of extending the normal weekend.
- C. Frequent and/or excessive absences including the use of sick leave to extend appointments beyond a reasonable time, with or without medical verification which hinders operations, impedes work flow, or creates other adverse operational impact, may result in disciplinary action, up to and including discharge.
- D. Frequent claiming of sick leave benefits may constitute grounds for the Department Director to request medical verification that an employee is fit to perform job duties.
- E. The City Manager or Department Director may request an audit of attendance records for possible excessive absenteeism of one or more employees.
- F. The City has and reserves the right to refer any employee to a medical physician, at City expense, to establish and/or certify whether an employee is medically fit for work.
- G. Abuse of sick leave or any form of malingering, including while on leave from a workers' compensation injury or while receiving workers' compensation benefits, is basis for discipline up to and including discharge.

### **8.13.8 Donated Sick Leave**

It shall be the policy of the City of Indian Harbour Beach to allow employees to donate accrued sick leave to another employee that has exhausted all of their accrued various leave time. Employees who have exhausted all of their accrued leave may make a written request, but should not have any expectation of receiving donated leave.

- A. Procedures
  - i. The City Clerk or Comptroller should notify the City Manager and Department Director of any employee who is projected to be out of work beyond available paid leave for the illness.

## Section 8: Compensation – Leave Benefits

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- ii. Employees who want to donate leave should provide a written confirmation to the Comptroller on a form provided by the City.
- iii. The maximum amount of hours that can be donated will be forty (40). This will be a one-time only donation per recipient per rolling 12-month period.
- iv. To assure that the donor will have enough remaining time on the books for themselves, the donor must have a minimum of 160 total hours of sick leave, vacation leave, and/or compensatory time remaining on the books after the donation has been made.
- v. It is not the intent of the City to disclose donor or donated hour information beyond what is needed to process payroll.

### B. Conversion of Sick Leave Hours

- i. All hours donated will be converted into a dollar amount based on the donor's rate of pay. The dollar amount will then be reconverted to hours at the receiver's rate of pay.
- ii. Donated hours will be deducted from donor employees per pay period on a prorated basis.
- iii. Donated hours remain in the donors' sick leave balance until the hours are needed by the recipient and shall be withdrawn on a bi-weekly basis in conjunction with the processing of payroll.

### C. Eligibility for Receipt of Donations

- i. The recipient of such donated time must have experienced a serious illness, injury, impairment, or physical/mental condition that renders the employee unable to perform the functions of their position.
- ii. The recipient of such donated time must exhaust all accrued sick leave, vacation leave, personal leave, compensatory leave and other available paid leave.
- iii. Employees who are receiving workers' compensation are eligible for receipt of voluntary sick leave donations.

### D. Restrictions

- i. Recipients cannot receive sick leave from donated hours in excess of what they actually need during any given payroll period.
- ii. The decision to voluntarily donate sick leave hours is a purely individual decision. Under no circumstance will any employee be threatened, coerced, or intimidated in any way by anyone to donate accrued sick leave.

## **8.14 Unpaid Leave**

Regular employees may be granted an unpaid leave of absence for illness, disability, pregnancy, military duty, or for any other legitimate purpose.

## Section 8: Compensation – Leave Benefits

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Employees must provide justification for requesting the leave to their Department Director. When unpaid leave qualifies under the Family and Medical Leave Act Policy, it is also subject to the requirements of Section 8.8.

Failure to comply with all of the requirements within this section will result in the employee being dropped from leave of absence status, in which case the employee must return to duty or be discharged.

- A. The granting of unpaid leave of thirty (30) days or less is subject to the approval of the Department Director or City Manager. Unpaid leave of more than thirty (30) days must be approved by the Department Director and the City Manager or designee.
- B. The requesting employee must justify in writing any request for unpaid leave. When an unpaid leave exceeds 14 consecutive calendar days in any month, service credit for all employment privileges shall cease until the employee returns from leave, unless superseded by other regulations (e.g. FRS).
- C. The following provisions apply to leave without pay:
  - i. Unpaid leave may not be utilized if an employee has available accrued leave.
  - ii. Should the employee have a change in contact information while on unpaid leave, the City should be notified within three (3) business days.
  - iii. An employee granted an unpaid leave of absence must keep the Department Director and Human Resources informed of current activity, if there are any changes from the original leave request.
  - iv. An employee who obtains either part-time or full-time employment elsewhere, while on an authorized unpaid leave of absence, is required to notify the department in writing within three (3) days of accepting such employment.
  - v. Any employee granted an unpaid leave of absence shall contact the Department Director and Human Resources at least two (2) weeks prior to the expiration of the leave in order to facilitate the reinstatement process.
  - vi. If an employee fails to return to work at the time specified in the request for unpaid leave and does not provide a reasonable excuse and notice to the City prior to that date, the employee shall be considered to have resigned effective the first date of unpaid leave as specified in the original request.
- D. Other than for FMLA or military leave, the granting of unpaid leave for a specified amount of time does not constitute a commitment to the employee that there will be a position available upon return, which is at least a pay grade equal to the position vacated and at the same or higher rate.

For example, if during an unpaid leave, the employee is terminated for reasons unconnected with the approved leave, or the employee's position is eliminated through a reduction in force, the commitment to return the employee to a position with the City will cease on the day the employee is terminated or the position is eliminated.

E. While on unpaid leave for periods greater than 14 consecutive calendar days, sick and vacation leave will not be accrued and the employee will not be eligible for holiday pay.

If out on unpaid leave when the personal holiday is normally accrued, the employee will not receive these hours until after they have returned to work for 30 days.

F. An authorized leave without pay for thirty (30) days or more shall constitute a break in service, and the time will not be credited toward retirement unless otherwise specified in the specific pension plan. The anniversary and classification dates will be adjusted accordingly.

G. Group Health, Vision, Dental, and Life Insurance (during unpaid leave)

- i. If an unpaid leave of absence extends beyond 14 calendar days, coverage will be continued provided the employee pays the full premium for employee and/or dependents beginning the 1st of the month following 14 calendar days of absence to avoid a lapse in coverage.
- ii. Coverage may be continued for a maximum period of six (6) months while on authorized unpaid leave, provided full premium payments are kept current by the employee.
- iii. Premium Payments
  - a. A maximum delinquency period of thirty (30) days will be enforced for payment of premiums. If a monthly premium is delinquent and payment is not made, coverage will be cancelled as of the beginning of the delinquent period.
  - b. If any coverage is cancelled during an approved unpaid leave of absence, it will not be re-instated upon return to active duty without observing the waiting period prescribed for new employees.
  - c. If the employee will be out of town during an approved leave exceeding thirty (30) days, payment arrangements must be made in advance so that premiums are kept current.

## 8.15 Vacation

### Eligibility

A. All regular full-time employees shall be entitled to accrue vacation leave.

- B. Employees regularly scheduled to work at least 30 hours but less than 40 hours per week shall accrue a prorated amount of vacation leave based upon their regular scheduled per week work hours.
- C. Part-time (less than 30 hours per week), temporary and seasonal employees shall not accrue vacation leave.
- D. Employees who earned vacation leave as regular employees shall be paid out any accrued leave upon the acceptance of reassignment to a temporary or part-time position (less than 30 hours per week).
- E. Vacation accruals for represented members of a Collective Bargaining Agreement shall be applied as stated in the agreement.

#### **8.15.1 Rate of Earning**

- A. All full-time employees shall start with a 40 hours advance of vacation time. New hires will not start accruing additional vacation time until the start of the completion of their 10<sup>th</sup> pay period.
- B. New hires with prior government service may be credited up to nine (9) years of service regarding vacation accrual. Said employees shall provide a sworn statement listing specific years of service.
- C. Sworn new hires with prior military service may be credited up to nine (9) years of service regarding vacation accrual. Said employees shall provide a sworn statement listing specific years of service.
- D. Years of credit provided under sub-sections G and F above shall not be combined to exceed nine (9) years of vacation accrual credit.
- E. Vacation leave for full-time employees is accrued based upon the number of years of service with the City as outlined in the following chart. Accrual of vacation shall be credited at the end of the first two pay periods of every month.

**Vacation Accruals**

Years employed	Hours earned per year	Maximum accrued hours
-	1.99	96*
2	2.99	102
3	4.99	110
5	6.99	120
7	8.99	120
9	10.99	126
11	12.99	132
13	14.99	140
15	16.99	168
17	20.99	176
21+	N/A	200
		600

\*indicates new employees receive an advance of 40 hours on first day of work and do not start accruing hours until 10th pay period of work

- F. When an employee completes the years of service required to move to a higher vacation accrual rate per pay period, the new accrual rate will be effective on the next payroll processing date following the employee's anniversary.
- G. Years of service is determined by the most recent date of hire with the City, regardless of positions held subsequent to such date.
- H. No more than three (3) times the employee's current annual vacation may be accumulated. Vacation in excess of the maximum allowed accumulation of advanced time shall be forfeited.
- I. If on unpaid leave for a time greater than 14 consecutive calendar days, vacation leave does not accumulate.
- J. Vacation leave may also be accrued as provided for in Sections 8.13.4.D and 8.13.5.B.

**8.15.2 Charging Leave**

- A. Vacation leave time shall be scheduled and charged to the employee for the actual time the employee is away from work.
- B. The minimum charge for vacation leave is one-quarter (0.25) hour increments.

C. Holidays which occur during the period selected by the employee for vacation leave shall be charged to holiday leave.

#### **8.15.3 Request for Leave**

- A. A request for vacation leave shall be submitted in writing on a City approved form to the employee's Department Director. The request for leave should be made in advance of leave if possible. Employees making the leave request through ExecuTime will not be required to also put in writing.
- B. The employee has the responsibility to assure that leave requests are made within a reasonable length of time prior to the commencement of the leave. Operational needs of the department may require management to deny requests. Employees will be informed of approval or denial in a timely manner.
- C. In the event of an emergency that requires employee absence, the employee shall notify the Department Director or supervisor as early as possible before the start of their shift.
- D. Vacation leave may be taken only after approval by the appropriate Department Director, but every employee shall be encouraged to take at least ten (10) days leave during the year.
- E. Leave may be used only as earned and shall not be allowed in advance of being earned.
- F. Department Directors will arrange employee vacation schedules and re-allocate duties on such a basis as to cause minimum interference with the normal functions and operations of the organization.

#### **8.15.4 Use**

- A. Vacation leave may be used for the following:
  - i. Vacation Leave.
  - ii. Absences for transaction of personal business which cannot be conducted during off duty hours.
  - iii. Religious holidays other than those designated by the City Council as official holidays.
  - iv. For uncovered portion of medical leave, once sick leave has been exhausted through illness. Employees who become sick while on vacation may use sick time for such period of illness and may be required to present a doctor's certificate if requested by their Department Director.
  - v. Approved scheduled absences from work not covered by other types of leave provisions established by these rules.

## Section 8: Compensation – Leave Benefits

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- B. If the City is in a state of emergency and pre-scheduled vacation time cannot be taken, the time over the maximum accrual may be paid out with the approval of the City Manager.
- C. Employees must use available vacation leave when they need time off.

### **8.15.5 Separation**

Upon termination from the City, employees will be paid for unused accrued vacation leave.

### **8.15.6 Vacation Leave Buyback Program**

Pending the availability of funds, employees may sell vacation leave hours in excess of 30% of their October 15th current annual accrual. Payments will be processed through payroll; therefore, all applicable federal taxes will apply and payment will be considered taxable wages. Method of payment is determined by management.

Guidelines for the Vacation Leave Buyback Program are as follows:

- A. Employees may sell a maximum of 80 hours of unused vacation leave.
- B. Employee must have taken a minimum of 80 hours of vacation leave during the pay periods between November 1st and October 31st of the current program year.
- C. An *Intent to Participate* form must be submitted to the Comptroller's office no later than April 30th of the current program year to be eligible for participation. This form does not obligate you to participate in the program.
- D. In November of each year, the Comptroller's office will provide a *Request for Payment* form to those employees who submitted an *Intent to Participate* form to confirm eligible hours and authorize payment through the program.

## **8.16 Worker's Compensation and Work Related Disability Leave**

It is imperative that all work related injuries be reported as soon as possible to the Department Director and Human Resources to ensure proper reporting of the incident even if immediate medical attention is not required.

Workers' Compensation Leave will be reported and counted toward Family and Medical Leave Act entitlement.

### **A. Disability Determination**

Determinations of the existence and service connection of a disability shall be made in accordance with the Florida Statutes Workers' Compensation Act (Chapter 440) which provides that the employer is

responsible for furnishing employees with such remedial treatment, care and attendance under the direction and supervision of a qualified physician, surgeon, or other recognized practitioner. The City reserves the right under the provision of this section to specify the physician, surgeon or recognized practitioner to handle any and all service connected disability cases. The City shall have no liability of on the job injuries other than as provided in the said Statute.

The City reserves the right to require periodic medical examinations. If a second opinion is required by the City, any co-pays related to such a request will be reimbursed to the employee with proper documentation. A letter confirming the need for continued Workers' Compensation Leave shall be provided to Human Resources by the medical provider.

### B. Compensation during Disability

The following provisions shall govern compensation for work absences resulting from on-the-job injuries covered under Workers Compensation:

- i. Full wages will be paid for the day of the injury or for time spent receiving medical treatment. Such hours are to be considered hours worked for payroll purposes; however, shall be recorded on the timesheet as workers' compensation hours.
- ii. If the injured employee cannot return to work on the employee's next shift or normal workday, the injury will be considered a disability beginning on the day of the injury.
- iii. An employee who sustains a service-connected disability, compensable under the Workers' Compensation Law, shall be carried in full pay status for a period of up to seven (7) calendar days.
- iv. If an employee receives wage reimbursement from Workers' Compensation for the first seven (7) calendar days of leave, the employee shall reimburse the City the amount of the benefits previously paid to the employee by the City.
- v. In the event that the period of leave time exceeds seven (7) calendar days, the employee may elect to use accrued sick, compensatory, or vacation leave in an amount necessary to receive salary payment that will increase the Workers' Compensation payments not to exceed the regular gross pay the employee was receiving prior to the occurrence of the disability. All employee payouts include regular employee deductions (e.g. insurance, retirement, union dues).
- vi. Department Directors are responsible for completing the timekeeping and attendance submittal indicating days and hours that an employee is out on workers' compensation leave. It is the employee's responsibility to notify the Finance Department if accrued leave will be used to supplement the workers' compensation payment.

- vii. Calculations for prorated leave time will be performed by the Finance Department. A schedule of the calculations used will be available to the employee for review upon request. In the event that an employee has insufficient accrued leave to supplement workers' compensation reimbursements, no supplemental pay will be paid.
- viii. While on Workers' Compensation Leave, the employee will continue to accrue vacation and sick leave, which can be used to supplement workers' compensation payments. However, the employee will not earn holiday pay while out on Workers' Compensation Leave.
- ix. Temporary/contractual employees shall be eligible only for Workers' Compensation payments.

C. If on workers' compensation during previously scheduled vacation time, accrued vacation time will not be charged as originally requested. If an employee chooses to schedule a vacation while on workers' compensation, a request must be submitted to the City in advance to allow for scheduling in the event the employee has been released for duty. Failure to submit the request in advance may result in the vacation leave not being approved.

D. Rules governing Workers' Compensation leave benefits and compensation for bargaining unit employees may be outlined in the respective labor agreements.

E. Nothing in this policy shall be construed as a guarantee of continued employment during the period of disability as allowed by law.

## Section 9: Compensation: Fringe Benefits

It is the policy of the City of Indian Harbour Beach to provide equitable compensation for its employees in the form of wage and salary pay; leave benefits; and other fringe benefits to attract and retain qualified individuals for all positions.

This section of the Personnel Policies Manual presents information regarding the fringe benefits portion of the City's Compensation Plan. Fringe benefits will be reviewed on an annual basis.

Fringe benefits may be considered taxable under IRS rules (Publication 15B). Fringe benefit reimbursements and allowances that are paid to an employee under a written City fringe benefit plan approved by Council **and** are excludable from federal employment taxes by IRS regulations and guidelines may be part of an Accountable plan and non-taxable. Additional information on Accountable Plans may be found in the Finance Department's Payroll SOP. In order to remain compliant, Department Directors are responsible for notifying the Comptroller's office of the employee's name and the fringe benefit received.

### 9.1 Awards

The purpose of City Awards is to recognize and reward the diligent efforts of employees who provide outstanding quality performance, teamwork and loyalty to our City.

#### Definitions

- Highly Compensated Employee – an employee who received more than the current maximum as established by the IRS in Publication 535, Chapter 2.
- Non-Qualified Plan Award – Any award that is not specifically listed in this section.
- Qualified Plan Award – An achievement award given as part of an established written plan or program that doesn't favor highly compensated employees as to eligibility or benefits.

#### Guidelines

Employees who receive awards have demonstrated exemplary behaviors and skills. They persistently pursue excellence and continuously work to improve our City.

The awards of cash or cash equivalents, gift certificates, or other tangible property such as vacations, meals, lodging, tickets to theater or sporting events, stocks, bonds and other securities are taxable under IRS guidelines.

### **9.1.1 Above and Beyond Award**

The Above and Beyond Award recognizes outstanding performance by an employee and may be awarded at the discretion of the City Manager.

### **9.1.2 Employee of the Quarter Award**

Departments may have an award program outlined in their SOP that has been approved by the City Manager and would allow the recognition of an employee on a quarterly basis for outstanding service or performance.

### **9.1.3 Employee of the Year Award**

### **9.1.4 The Employee of the Year Award recognizes an employee who has provided exemplary job performance or service to the public or fellow employees during the past year. The selection of the Employee of the Year will be made by the City Manager. Employee Safety Award Program**

The City Manager may institute an Employee Safety Award Program. Through this program, safety awards may be made either to groups or to individuals and will normally be made in recognition of outstanding safety performance.

## **9.2 Cell Phones**

Cellular phones are only issued to employees who, in the normal course of their duties, do not have immediate access to a City, commercial or public phone; or a manager who needs to contact their employee and no other conventional method of communication may be available.

Cellular phones have additional "air time" and possibly other charges; therefore, employees are expected to use a landline telephone when available. This stipulation applies to personal calls and official calls. All personal calls should not adversely affect the performance of official duties by the employee or the employee's department, should be of reasonable duration and frequency, and could not reasonably have been made at another time. Please note that personal usage may be authorized but can create a reimbursable event or taxable event as noted below. Any overage charges beyond what is allowed on the plan may be reimbursable to the City.

All employees who are issued a City cell phone must agree and sign the City Cell Phone Policy.

## **9.3 Education Reimbursement**

The City of Indian Harbour Beach encourages full-time eligible employees to

## Section 9: Compensation - Fringe Benefits

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continue developing and improving their skills for their current job and to prepare for promotional opportunities and reasonably anticipated career advancement. The purpose of this program is to increase operational efficiency and assist employees in preparing themselves for increasing difficulty and responsibility.

Employees that are covered under a Collective Bargaining Agreement may have additional criteria for reimbursement.

This policy does not apply if the City requires an employee to attend a course or to fund the individual pursuit of professional certifications (i.e. IACP, CPA, PE, CMC, or PHR). Obtaining such certifications, although encouraged, should be planned for and addressed in each department's budget.

- A. The City may offer, when economically feasible, an Education Reimbursement Program for eligible employees. This program may be amended or terminated at any time; however, such amendment or termination will not affect any course of study previously approved.

The City has established this program to help its employees defray the costs associated with the aforementioned pursuit. Specific requirements, criteria and procedures associated with the educational assistance program are as follows:

- i. It is the intent of this policy to financially assist employees in their efforts to improve the level of service rendered to the public.
- ii. Department Directors shall determine if planned educational advancement is eligible for this program and give the employee a written authorization that planned continuing education meets the criteria for reimbursement. Said determinations shall be confirmed by the City Manager in writing.
- iii. Courses that are not part of the curriculum of a pre-approved degree, including approved electives, will be taxable under IRS guidelines.
- iv. Employee participation in this program is voluntary.
- v. Educational courses shall be held on the employee's own time. It is not incumbent on the City to adjust work schedules to accommodate attendance at colleges and universities.
- vi. The course(s) must be taken from an accredited institution, as accredited by the Southern Association of Colleges & Schools, the Higher Learning Commission or other accreditation facilities accepted by the U.S. Department of Education and approved by the City.
- vii. Failure to accurately reflect the courses being taken will result in the denial of the tuition reimbursement request.

## Section 9: Compensation - Fringe Benefits

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- viii. Employees must be on the payroll when final grades are submitted in order to be eligible for reimbursement.
- ix. The City will only reimburse tuition costs.

### B. Education expenses from non-City sources

- i. Employees receiving payments or assistance for educational expenses from any other non-City sources (i.e. student loans) which do require repayment are eligible for participation to the maximum extent provided herein. It is the employee's responsibility to provide to the City adequate certification of the source and terms of repayment of such non-City assistance.
- ii. Employees receiving grants for educational expenses from any other non-City sources which do not require repayment are eligible for educational assistance. It is the employee's responsibility to provide to the City adequate documentation of the grant and all qualified course expenses. The City shall only reimburse for tuition that is not covered by the grant.
- iii. The City will reimburse an employee for the balance of tuition due that was not covered under benefits from the Veterans Administration.
- iv. Under no circumstances shall an employee receive an education reimbursement from the City that when combined with other sources would exceed the amount of tuition.

### C. Educational Assistance is contingent upon compliance with all requirements and availability of funds.

The following procedures must be adhered to in order to receive reimbursement. Failure to submit the paperwork in a timely manner may result in denial of reimbursement for the requested course(s).

- i. In advance of enrollment in any course or degree program for which an employee might seek reimbursement, the employee shall submit the Educational Reimbursement Application for approval by the Department Director and City Manager. Information shall include the following:
  - a. Course name or type of degree being pursued
  - b. Institution's course description or schedule of required degree courses including suggested electives
  - c. Current tuition costs
  - d. Anticipated start date of course(s)
- ii. After enrollment in the approved course(s), the employee must submit confirmation of enrollment including course registration and

the amount of tuition expense to the Department Director and the Comptroller's Office.

- iii. After final grade is received or no more than 30 days after completion of course, the employee shall submit a *Payroll Reimbursement Request* form and a copy of the transcript to the Comptroller's office for reimbursement through payroll based upon final course grades.
  - a. The City shall reimburse for an academic grade of "C" or better.
  - b. The City shall not reimburse for any grade below "C".
  - c. Should a class be considered Pass/Fail, the City shall only reimburse based on a passing grade.
  - d. In the event transcripts are turned in more than 30 days after course completion, tuition fees will no longer be eligible for reimbursement.
- D. The *Education Reimbursement Application* for program participation will provide an agreement to be signed by the employee stipulating that should the employee's services be terminated either voluntarily or involuntarily, the City shall be reimbursed for funds paid to the employee for educational expenses as provided in the following:
  - i. If the employee leaves City employment within two (2) years, not due to death, a pro-rata reimbursement of the tuition will be deducted from the final pay.
  - ii. The repayment of educational reimbursement shall be made from any accrued leave payouts due to the employee at the time of termination. Any amount owed over and above those accrual benefits must be paid to the City prior to the receipt of final pay.

## 9.4 Facility Rental

Employees may "rent" one of the City's facilities at no cost in a calendar year. Additional facility rentals will be charged at the normal rate. The no cost rental is a taxable fringe benefit and will be taxed based on the resident rate at the time of rental under the following guidelines:

- A. A deposit of 40% of the normal rate charged to patrons must be paid in advance.
- B. Any additional costs (e.g. cleaning charges, lost keys) are the employee's responsibility.

## 9.5 Insurance Plans

The City provides health, vision, dental, and life insurance plans for its employees.

Employees are eligible to participate in these plans the first of the month following 30 days of credited full-time employment. Current information regarding these plans is available through Human Resources.

Details for additional supplemental insurance programs (e.g., AFLAC, Employee Assistance Program (EAP), and COBRA) and dependent coverage are available from Human Resources.

Employees are directed to read their policy and plan documents for detailed information. The City may modify or terminate any of its current insurance policies and contribution requirements at any time. Employees should refer questions regarding the City's benefit plans to Human Resources, or designee, or refer to the City's plan documents or summary plan descriptions.

### **9.5.1 125 Cafeteria Plan**

A 125 Cafeteria Plan is a federal plan that provides that certain types of employee insurance deductions may be deducted on a pre-tax basis. Employees enroll at the time of eligibility and re-enroll prior to the beginning of each plan year. Federal law governing 125 Cafeteria Plans require a "qualifying event" to occur before a Cafeteria Plan can be changed during the plan year. Documentation supporting this "qualifying event" must be submitted within 30 days of the event. The City's plan year is October 1 through September 30.

### **9.5.2 Elected Officials**

Elected officials are provided a life insurance plan through the City that takes effect the first of the month following being sworn into office. Additional details are available through Human Resources.

### **9.5.3 Retirees**

When a full-time regular employee retires from the City, the retiree is eligible for extension of their health, vision, dental, and reduced life insurance coverage, with the employee paying the entire cost of said premium. Health coverage may continue until age sixty-five. The City provides survivors of retired employees the option to continue the survivor's insurance coverage by paying the entire cost of said premium.

### **9.5.4 Unpaid Leave of Absence**

If an employee is on unpaid leave, arrangements for premium payments must be made through the Comptroller's office. See Section 8.14 for further details.

## **9.6 Pool Memberships**

Upon request, the City provides employees with a pool membership to the Gleason

## Section 9: Compensation - Fringe Benefits

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Park Swimming Pool for employees and their family members who reside in their household. The following guidelines apply:

- A. Individual employee members may receive one (1) membership card and employee and family memberships may receive two (2) membership cards.
- B. Employees must present their membership card and sign in when utilizing the pool.
- C. Employee pool memberships expire one year from application date or on the employee's last day of work, whichever comes earlier.

If an employee leaves the employment of the City, the remaining balance of their pool membership may be purchased at the prorated City resident rate.

- D. In the event that capacity for the number of swimmers is reached, employees and/or members of their household who are utilizing the pool must give up their spot for paying patrons.

## 9.7 Reemployment Compensation

The City is registered with the State of Florida for reemployment compensation. Terminated employees who file a claim and are determined qualified under the Florida Law may be eligible to receive reemployment compensation benefits. Additional information may be obtained from Human Resources.

## 9.8 Retirement Plans

### 9.8.1 Civilian Employees

All civilian employees in a City position that lasts for more than 6 months in a year are eligible to participate in the Florida Retirement System upon employment with the City and qualifying with FRS. Current details regarding the pension plan, investment plan, and vesting may be obtained from the FRS website ([www.myfrs.com](http://www.myfrs.com)), Human Resources, or designee.

### 9.8.2 Sworn Police Officers

All sworn police officers are eligible to participate in the Indian Harbour Beach Municipal Officer's Retirement Trust Fund (MORTF) and the Indian Harbour Beach Police Officer Supplemental Pension Plan (POSPP) upon employment with the City. Current details for the MORTF may be obtained from the plan administrator. Current details for the POSPP may be obtained from Human Resources or designee.

### **9.8.3 Deferred Compensation Plan**

In order to supplement other retirement income, the City makes available a 457 Deferred Compensation Plan. Full-time and regular part-time employees may elect to contribute pre-tax dollars to this plan or after-tax dollars to a Roth IRA plan, which are both governed by federal law. Information is available from Human Resources.

## **9.9 Safety Equipment**

The City will conform to and comply with laws pertaining to safety, health, sanitation, and working conditions as required by Federal, State, and local laws. The goal of the City is to eliminate accidents and health hazards.

The City shall provide protective devices, apparel, and other equipment necessary to protect employees from injury based on job classification. Such protective devices, apparel, and equipment, when provided, shall be used; any willful neglect or failure by the employee to obey safety regulations or failure to use safety devices, apparel, and equipment shall be cause for disciplinary action, up to and including termination.

### **9.9.1 Equipment**

The following safety equipment items may be issued to employees and will remain on City property:

- A. Safety vest.
- B. Safety work gloves.
- C. Additional safety equipment (i.e. safety glasses, earplugs, chaps, masks, helmets) will be available for all applicable employees as needed.

### **9.9.2 Safety Shoes**

Employees participating in the Safety Shoe program generally work in uncontrolled environments, work out in the field, carry or move heavy items, and/or walk on unpredictable terrain.

- A. Employees in the following positions are required to wear safety shoes:
  - Maintenance personnel and field staff;
  - Building Official, inspectors, and Code enforcement personnel;
  - Any position designated by the City Manager for safety reasons.

- B. Safety shoes (approved by OSHA, ANSI or ASTM) that are required for industrial purposes will be eligible for reimbursement, on a dollar for dollar basis, up to a maximum of one-hundred fifty dollars (\$150.00) every six months within thirty (30) days of purchase of the approved safety shoes. The City will designate the acceptable types of shoes that are eligible for reimbursement.
  - i. Reimbursement will be through payroll.
  - ii. Reimbursement will not include sales tax.
- C. Eligible newly hired employees will be able to participate in the Safety Shoe program upon hire. Newly hired employees who were reimbursed for safety shoes or boots, and who do not complete their 6-month probationary period, will repay a prorated amount in their final paycheck, up to the total value of the reimbursement. Newly eligible employees (including position transfers) will be able to participate in the Safety Shoe program, as determined by the Department Director.
- D. Employees who receive reimbursement within three months of leaving the employment of the City shall repay in their final paycheck a prorated amount based on a six-month useful life up to the value of the reimbursement.

## **9.10 Summer Camp**

In the event that the City's Recreation Department is holding a summer camp, employees needing care for their dependent children during work hours may register their children at a 75% discount of the resident rate. The cost of the summer camp must be paid by the employee. The discounted amount is a taxable fringe benefit to the employee.

## **9.11 Swimming Lessons**

The City will provide one summer session of swimming lessons for each employee's dependent child. This is an IRS taxable fringe benefit and employees will be taxed based on the resident rate for one session.

Employees may register their dependent child(ren) for additional sessions at the normal rate.

## **9.12 Uniforms**

The City's policy is to furnish uniforms, clothes, and safety shoes as prerequisites to officers and employees only in those specific instances where it is determined that the furnishing of such items is in the best interest of the City due to the exceptional or unique requirements of the position.

All uniforms (taxable and non-taxable) must be approved by the City Manager.

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Employees required to wear a uniform to work shall receive an appropriate number of work uniforms as determined by the Department Director and City Manager. All employees who are provided with uniforms are required as a condition of employment to wear a clean uniform during work hours in a neat and orderly fashion.

- A. Any employee reporting to work not wearing the complete uniform or dressed appropriately for their position as defined by the Department Director, will be informed to return home and report back to work in the appropriate attire. An employee so advised shall use accrued leave. Repeated dress code violations may result in disciplinary action in accordance with the City's discipline policy.
- B. All City issued uniforms are restricted from use outside of working hours except for travel to and from work.
- C. Uniform Fringe Benefit Taxation
  - i. Police Officer's standard navy uniforms are excludable.
  - ii. Fire department personnel's Class A and B uniforms, and approved duty wear items are excluded.
  - iii. Casual clothing (e.g. polo shirts, or similar casual clothing items, such as baseball caps, khaki pants, shorts) issued to sworn Police Officers are exempt from taxation as ratified by City Council at the November 12, 2019 City Council meeting.
  - iv. Rented uniforms are excludable.
  - v. Certain equipment that is SPECIFICALLY designed and manufactured for safety (e.g. hardhats, safety shoes, hi-visibility vests, safety gloves) are excludable.
  - vi. All other uniforms or clothing provided to an employee is taxable under IRS Publication 15-B. The City shall gross up employee's paycheck to offset the cost of the required taxes so as to not negatively impact employee's take home pay.
    - a. The current value of the clothing provided to each employee is taxable and the City shall withhold payroll taxes.
    - b. Uniforms or clothing that are not part of this accountable uniform plan are taxable.
    - c. Uniforms or clothing that are provided to Communications Officers and other non-sworn Police Department personnel.
- D. Upon separation from the City, employees shall return all safety equipment and uniforms in their possession to their Department Director. Seasonal employees may retain some or all of their uniforms if their Department Director is confident of their return to work in the subsequent year. A

## Section 9: Compensation - Fringe Benefits

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deduction from the employee's final pay in accordance with the Fair Labor Standards Act (FLSA) may be administered for the cost of replacing any non-taxable or rented uniforms that are not returned. Employees required to wear uniforms should contact their Department Director for further information regarding replacement and return of uniforms.

- E. Employees who receive a uniform or a reimbursement for such within three months of leaving the employment of the City shall repay in their final paycheck a prorated amount based on the useful life up to the value of the uniform or reimbursement.
- F. Department Directors shall ensure an inventory log is maintained. Information contained therein shall include uniforms purchased (and their cost), items assigned to each employee, items returned, and items disposed.

### **Administrative & Support Personnel**

The City may annually purchase a casual shirt, pending the availability of funds that will include the municipal logo, and may include any of the following: department, title, and/or employee name. The City Manager may authorize additional shirt purchases for specific individuals as warranted.

### **Fire Department**

The issuance of Fire Department uniforms shall follow the guidelines provided in the Department's SOP. Any subsequent changes shall be approved by the City Manager.

### **Police Department**

The issuance of Police Department uniforms shall follow the guidelines provided in the Department's SOP. Any subsequent changes shall be ratified by Council.

### **Building Department**

The Building Official will be issued casual uniform shirts to be worn daily that will include the municipal logo, department or title, and/or employee name. The Building Official may also be issued a jacket, including the municipal logo and department, and a hat with the municipal logo.

### **Public Works**

- A. General maintenance employees and mechanics will be issued rented uniforms in a combination of short-sleeve/long-sleeve shirts with municipal logo and shorts or long pants (11).
- B. The Public Works Director will be issued uniform shirts to be worn daily.

- i. Button-down shirts will include at minimum the municipal logo.
- ii. Casual shirts will include the municipal logo and department, title, and/or employee name.

## RECREATION DEPARTMENT

Recreation Department Staff, Lifeguards, and Camp Counselors will be provided T-shirts on an as needed basis to be determined by the Recreation Director and City Manager.

Lifeguards will also be provided with one (1) lifeguard suit for seasonal guards and up to two lifeguard suits per year for year-round guards.

### **9.13 Vehicles (City Owned)**

#### **Purpose**

The City of Indian Harbour Beach utilizes motor vehicles to conduct official City business. This utilization is based on the premise that City motor vehicles are provided as a tool to employees for accomplishment of assigned duties and responsibilities and are not authorized for reasons of compensation, prestige, or personal convenience. This policy applies to all regular full-time, part-time, temporary employees and volunteers of the City of Indian Harbour Beach and all owned, non-owned, rented, or leased automobiles/vehicles. Any exceptions to this policy must have prior approval of the employee's supervisor and the City Manager.

#### **Definitions**

- Official Use – any use associated with the job function to which the user is assigned and includes, but is not limited to, use for training, seminars, conferences, court attendance, meetings, etc. which are approved, assigned, or required in the job function. Unless provided for in Section 9.13.2 this does not include transportation to and from home.
- Personal Use – any use which is not official use.
- Restricted Personal Use – transportation to and from work and personal use within Brevard County.

#### **9.13.1 Employee Responsibilities**

##### **A. General Standards**

- i. Employees shall use City motor vehicles for official City business only, except as otherwise specifically provided herein. Infrequent de minimis personal use of a City vehicle may be permitted when travelling to destinations for official City business and such use is incidental to the official City business, such as stopping at a

restaurant or convenience store for the purpose of eating during a designated meal period or for a rest break during a break period, if such period coincides with official City business travel and does not deviate from the normal travel route.

- ii. The practice of transporting non-City employees in City vehicles is discouraged except for official City business purposes.
- iii. All City motor vehicles, other than specially designated unmarked police vehicles, shall have official City logos, identification lettering, and/or numbering permanently affixed.
- iv. The possession of firearms and weapons concealed or otherwise, is prohibited in City motor vehicles except by sworn law enforcement officers.
- v. Under no circumstances may a driver operate a City motor vehicle while under the influence of intoxicating beverages, drugs, or substances.
- vi. Tobacco use of any form or vaping in any City motor vehicle is prohibited.
- vii. Citations and/or fines are the responsibility of the driver at the time of issue and shall be paid or otherwise resolved promptly.
- viii. All occupants of a City motor vehicle used in City operations, or personal motor vehicle used in the performance of official City business, must properly wear seat belts/occupant restraints at all times while the vehicle is in motion if required by law. Failure to do so may result in loss of worker's compensation benefits in the event of an accident.
- ix. The City shall not be responsible for any personal property left in any motor vehicle.
- x. At no time will a City vehicle be parked at an adult entertainment establishment or an establishment whose primary business is the sale of alcoholic beverages, except as required by operational needs.
- xi. Authorization given to an employee to use a City motor vehicle is not and shall not be construed as being a guaranteed benefit or entitled form of compensation to the employee. Vehicles are assigned based on operational needs within budgetary limitations and the City may remove, reassign, or decommission any of its vehicles at any time at its discretion.
- xii. Take-home vehicles will be taxed in accordance with IRS regulations. Employees are responsible for any tax liability that may accrue as a result of the use of an assigned take-home vehicle. Tax

liability will be deducted through payroll and submitted to the IRS by the Comptroller's office.

xiii. Exception: Marked public safety and unmarked sworn officers' take-home vehicles are exempt from taxation for commuting and official City business.

B. Driver's License Standards

- i. A valid Florida driver's license must be in the driver's possession at all times while operating a motor vehicle. In the case of commercially rated motor vehicles, the proper Florida commercial driver's license for the motor vehicle's weight and class must be valid and in the operator's possession. A driver may not possess a license from another state in addition to Florida.
- ii. An employee who operates a City motor vehicle must notify in writing their Supervisor and Department Director no later than the beginning of their next scheduled work shift when an issued license has been suspended, revoked or canceled, or if for any other reason the employee is disqualified from driving.

C. Accident Reporting

- i. In the event of an accident involving a City motor vehicle, or personal vehicle used while in the performance of official City business, the driver shall immediately summon medical care for any injured parties, notify appropriate law enforcement authorities, and as soon as possible notify their immediate supervisor. Should the driver be unable to do so, any employee at the scene shall summon assistance and make the notifications.
- ii. The supervisor shall immediately notify the Department Director and the City Clerk and complete all required City reports and recommend any follow-up preventive actions to the Department Director.
- iii. Drivers of City vehicles shall ensure that whenever an incident occurs (e.g. breakdown, traffic accident or vandalism), their immediate supervisor is notified as soon as possible. The operator of the City vehicle involved shall provide all necessary information to the other party involved; however, no other information or admission of liability should be made.

**9.13.2 Assignment of Take-Home Vehicles**

Authorization to take a vehicle home must be requested by the employee on a completed *Take-home Vehicle Authorization Request* form, recommended by the Department Director, and approved by the City Manager. Authorization will be based on:

## Section 9: Compensation - Fringe Benefits

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- A. The vehicle being uniquely equipped for a special purpose (e.g. K-9 transport, equipment to "safe up" a work site).
- B. The vehicle being needed on-scene as soon as possible for a life-safety situation.
- C. The vehicle being assigned to an employee who has responsibility to answer all service/emergency calls after normal working hours such as at night, on weekends, and holidays.
- D. Time being of the essence in responding to a crime scene and immediate field investigative follow-up being needed.
- E. The following positions may be assigned take-home vehicles with restrictions as indicated unless otherwise revoked by the Department Director and City Manager:
  - i. Police Chief – in accordance with Employment Agreement.
  - ii. Police Deputy Chief, Police Commander, Police Lieutenant, Police Detectives, and K-9 Officer – official and restricted personal use only.
  - iii. Other police vehicles as authorized by FOP contract.
  - iv. Fire Chief – in accordance with Employment Agreement.
- F. City Manager may temporarily authorize a take-home vehicle as warranted.
- G. Other permanent take-home vehicles may be authorized by the City Manager with approval of City Council.

## Section 10: Employee Separation

Separations and/or termination from positions in the City are designed as one of the following types:

- Death
- Dismissal or Discharge
- End of Temporary Assignment
- Layoff
- Medical, Health, or Disability Termination
- Resignation
- Retirement

When completing separation paperwork, the effective date of termination (voluntary, involuntary, or failure to return from an approved leave of absence) shall be the last day worked or the last day for which pay was received, whichever occurs first. Upon the recommendation of a Department Director, the City Manager may authorize a later separation date when in the best interest of the City

### 10.1 Death

In the event of the death of an employee, pursuant to Florida Statutes Section 222.15, all wages and unused accrued leave due to a deceased employee are authorized to be paid in the following order:

- A. Spouse;
- B. If there is no spouse, then children of the deceased over the age of 18;
- C. If there are no children over the age of 18, unused sick time shall be paid to the father or mother of the deceased employee;
- D. If there is no surviving parent, unused sick time due upon the death of an employee may be paid to the administrator or personal representative of the deceased employee's estate.

Specific conditions and limitations may affect beneficiary payments. These include Florida Statutes, Internal Revenue Service rules and regulations, and Social Security Administration rules and regulations.

Human Resources will contact the deceased employee's estate for the return of any City property.

### 10.2 Dismissal or Discharge

## Section 10: Employee Separation

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A dismissal or discharge is the involuntary separation of an employee from the City. In accordance with the City Charter, the City Manager shall have the authority to discharge all personnel.

All employee records that may lead to dismissal or discharge of an employee including but not limited to records of counseling sessions, documentation, and correspondence shall be provided to Human Resources for inclusion in the employee's personnel file.

### **10.2.1 Abandonment of Position**

An employee who is absent without prior authorization for three (3) consecutive workdays or fails to return to duty after an approved leave of absence or following suspension shall be considered to have abandoned their position with the City.

If discharge is the result of abandonment of the position by the employee, a discharge letter will be sent by certified mail to the employee's address of record. The employee will not be given the opportunity to appeal this decision.

Employees who are discharged shall receive payment for any accrued vacation leave and compensatory time.

### **10.2.2 Non-Probationary Employee Discharge**

Employees discharged for disciplinary reasons will not be eligible for rehire. See Section 11.4 for information regarding Pre-Disciplinary Hearing.

### **10.2.3 Probationary Employee Discharge**

- A. A probationary employee may be terminated at any time during the probationary period without the right to a pre-disciplinary hearing or a post-termination appeal.
- B. The Department Director, with prior approval/concurrence from the City Manager and notification to Human Resources, shall give the employee a written discharge notification. The written notice, signed by the Department Director, shall be given to the employee and a copy provided to Human Resources.
- C. Probationary employees who are discharged shall not receive payment for any accrued leave benefits.

## **10.3 End of Temporary or Seasonal Assignment**

- A. An employee leaving City employment due to the end of a temporary or seasonal assignment, shall be responsible for clearing all appropriate items on the *Employee Checkout Sheet*.

The Department Director and Human Resources shall review the *Employee Checkout Sheet* for determination of still outstanding items. In

the event that there are outstanding items, the Comptroller's office shall be notified. Failure to return City items may result in the delay of final payment or a payroll reimbursement deduction for the cost of non-returned items.

- B. In the event the temporary or seasonal assignment may need to be extended beyond the original end date, the Department Director shall notify the City Manager in writing of the circumstances creating the need for an extension. An approved copy shall be provided to Human Resources for inclusion in the employee's personnel file.

### 10.4 Layoff

Layoff is defined as separation of an employee from a City position because of a reduction in work load, abolishment of a position, internal reorganization, fiscal budget restraints, or for other related causes (i.e., a regular employee who was unsuccessful in completing a probationary period required upon promotion) and does not reflect discredit on the service of the employee.

- A. Should it become necessary to reduce the workforce of the City, the City Manager has the sole responsibility of determining the number and classes of employees to be laid off. A layoff is not a disciplinary action and affected employees are laid off without prejudice.

When a Department Director believes that an employee is essential to the efficient operations of the department because of special skills or abilities, and wishes to retain this individual, the Department Director must submit a written request to the City Manager for consideration.

- B. The layoff decision is a management right and is not subject to the grievance or appeal process.
- C. When it becomes necessary to reduce the number of employees, employees shall be laid off on the basis of the following factors, each weighed equally:
  - i. Length of service in the class.
  - ii. Length of service in the City.
  - iii. Performance evaluation for the past three (3) years or for the entire period of service where the length of service with the City is less than three (3) years.
- D. No regular employee shall be laid-off while another person in the affected class is employed on a provisional, part time, temporary, or seasonal basis.
- E. Once a layoff list is prepared, affected employees will be notified verbally and in writing of the layoff.

- F. A laid off employee shall be paid for all eligible accrued leave, compensatory time, and sick leave as defined in Section 8.13.6.B as if leaving in good standing.
- G. Any employee who has been laid off shall be paid two (2) weeks compensation in lieu of two (2) weeks' notice.
- H. Every attempt will be made to recall the employee in a comparable position for which qualified, if such a position becomes available.
  - i. Employees who are placed on layoff remain eligible to recall for a period of one (1) year.
  - ii. If a vacancy occurs or a new position is established in a class from which an employee was laid off, during the one (1) year period, reinstatement may be given to employees in the reverse order of layoff.
  - iii. If the employee accepts the first offer of reinstatement within one (1) year to a position of at least equivalent status and pay grade, they shall earn vacation accruals at an equivalent rate to when the employee was laid off and shall have non-paid sick leave hours restored.

## **10.5 Medical, Health, or Disability Termination**

The City may determine that it is necessary to terminate an employee due to the employee's inability to perform the essential functions of their position as a result of health or disability reasons.

- A. The City may request (for reasonable cause) an employee to be examined by a physician and/or psychologist designated or approved by the City. Any deductible or copay for the initial visit may be reimbursed by the City. If a disability of any kind is discovered which impairs the effectiveness of an employee or makes continuance on the job a danger to themselves or others, the following action shall be taken.
  - i. If the disability is correctable, the employee will be allowed a specified time to have it corrected. If the employee fails to take steps to have the disability corrected within the specified time allowed by the physician and/or psychologist, the employee shall be subject to retirement or dismissal.
  - ii. If, in the opinion of the examining physician and/or psychologist, the disability cannot be corrected, the City will attempt to place the employee in another position which can be performed satisfactorily at the salary grade of the new position. If that step cannot be accomplished successfully, the City shall take steps to separate the employee from the City's service either through retirement or dismissal.
    - a. The employee will be notified in writing of the proposed termination and given the opportunity to request a Pre-Disciplinary Hearing with the Department Director and

Human Resources to present information regarding current condition and ability to perform the job. The final decision regarding the employee's status shall be furnished to the employee in writing, including the right of appeal.

- b. Pre-disciplinary decision to terminate the employment of a regular full-time employee shall be subject to a timely appeal to the City Manager. The City Manager's decision on any termination appeal shall be final.

- B. Employees who are terminated for health or disability reasons are eligible to receive payment for accrued leave benefits, in accordance with the provisions outlined elsewhere in this policy manual.

### 10.6 Resignation

Prior to voluntarily terminating employment, an employee should provide a minimum of two (2) weeks written notice to their Department Director or Human Resources. The written notification shall be retained in the employee file.

It is the responsibility of the Department Director to obtain a written resignation from the employee and contact Human Resources to request a copy of the Resignation of Employee form for employee and Department Director signatures. The form must then be forwarded to Human Resources for completion of signatures.

- A. In order to resign in good standing, an employee shall give a minimum of two (2) weeks' notice.
- B. Department Directors with the concurrence of Human Resources shall have the authority to determine that an employee's resignation is in "good standing" if less than two (2) weeks' notice is given, depending upon the circumstances.
- C. Approval of a request to rescind resignation will be at the discretion of the Department Director and Human Resources based on overall performance, work record, and benefit to the City.
- D. The City reserves the right to deny payment through the end of the notice period when an employee does not fulfill the requisite number of hours within it or have sufficient leave accruals.
- E. Provided adequate resignation notice is given and operational needs are met, a Department Director may approve the use of vacation, compensatory time, or unused Personal Holiday after verifying with the Comptroller's office that there are no outstanding monies due to the City including payments for education reimbursements.

F. An employee must resign in good standing, as defined herein, in order to be eligible for payment of sick leave benefits, in accordance with the provisions outlined elsewhere in this policy manual.

G. An employee who voluntarily resigns may be paid for their two weeks in lieu of notice at the discretion of the Department Director and with concurrence of the City Manager.

## **10.7 Retirement**

The employee must submit appropriate written notice to the City of Indian Harbour Beach, a minimum of two weeks in advance of the retirement date, stating that the employee is retiring under FRS or the Police Pension Plan with the effective date of separation.

The employee must be eligible to receive retirement benefits at the time of leaving the employment of the City to be considered a retiree. If not, the employee will be considered resigned.

- A. FRS or Police Pension Plan – a copy of the application for retirement benefits must be submitted to Human Resources.
- B. FRS Investment Plan – the member must meet the Investment Plan's normal retirement requirements and be eligible to receive payout.

### **10.7.1 Continued Group Insurance Coverage**

The City of Indian Harbour Beach offers continuation of current group coverage (health, vision, dental, and/or life) for all employees that are separating employment and who are immediately, upon separation, entering a qualified retiree status per Sections 110.123 and 112.0801 of the Florida Statutes.

**DISCLAIMER:** The City of Indian Harbour Beach reserves the right, in its sole and absolute discretion, to amend, modify or terminate, in whole or in part, any or all of the provisions of the benefit plans described herein, including any health, vision, dental or life benefits that may be extended to retirees and their dependents. Further, the City of Indian Harbour Beach reserves the exclusive right, power and authority, in its sole and absolute discretion, to administer, apply and interpret the benefit plans described herein, and to decide all matters arising in connection with the operation or administration of such plans.

A. The following guidelines apply:

- i. The employee must be employed by the City of Indian Harbour Beach immediately preceding retirement and meet the retirement requirements in the Retirement section.
- ii. The continuation of current coverage is only for those that are covered prior to retirement. Retiree and dependent coverage cannot be added at the time of retirement, but may be deleted.

B. Insurance Premium Payments

## Section 10: Employee Separation

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- i. Retirees pay full premium for any health, vision, dental, or life plan they choose. In the event the retiree fails to make timely payments, coverage will be cancelled retroactive to the beginning of the month for which the participant failed to make a payment. The retiree will be financially responsible for all payments made on the retiree's behalf by the health, vision, dental, and life plan(s) retroactive to the cancellation date.
- ii. There is a grace period of thirty (30) days. Any late payments outside of the allowable grace period will result in cancellation of coverage.

### C. Retiree insurance coverage terminates if:

- i. The retiree declines coverage upon retirement.
- ii. The retiree or dependent passes away, coverage would terminate for that person only.
- iii. Dependent no longer meets the plan's definition of dependent.
- iv. The retiree dependent, in the event the retiree is deceased, cancels coverage.
- v. The retiree or dependent fails to pay premiums in a timely manner.

When the coverage ends, the retiree is not given an opportunity to re-join the retiree coverage program at a later date.

### D. Surviving Spouse Eligibility

In the event a retiree dies after employment separation and the spouse was a covered dependent in health, vision dental, and/or life at the time of the retiree's death, the surviving spouse (and qualified dependents) will be offered continuation of insurance.

## 10.8 Temporary Suspension

The Department Director with approval from the City Manager or designee may temporarily suspend an employee. The employee shall receive written notice, stating the nature and reason for the action, the duration and rights of appeal.

- A. Temporary suspension may not exceed 3 days and does not require a predetermination hearing.
- B. An employee may be suspended for disciplinary reasons, acts involving unsatisfactory performance, or conduct prejudicial to the public interest.
- C. The suspension shall be terminated by restoration to the position held or by dismissal.

## 10.9 Exit Procedures

## Section 10: Employee Separation

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- A. If the *Resignation of Employee* form has not been previously submitted, the Department Director or Human Resources will request its completion.
- B. The employee shall be responsible for clearing all appropriate items on the *Employee Checkout Sheet*.
- C. The employee shall be requested to complete an exit interview with Human Resources. The employee may decline to participate in an exit interview.

### **10.9.1 Return of City Property**

At the time of separation from City employment and prior to receiving final leave balance payouts if any (i.e. vacation, sick, compensatory), all records, books, assets, uniforms (if applicable), keys, tools, and other items of City property in the employee's custody shall be returned to the department or other designated source. Accomplishment of the preceding shall be certified on the Employee Checkout Sheet by the employee and the Department Director; this signed form shall be forwarded to Human Resources.

Any monies due the City including but not limited to lost, damaged, or destroyed City property shall be deducted from the final pay out or reimbursed to the City prior to processing of final payroll.

### **10.9.2 Exit Interview**

It is the desire of the City to determine why regular full-time employees voluntarily leave the City's service. An exit interview program has been established and will be administered to determine the causes of and possible solutions for turnover within the work force. Interviews will be conducted by Human Resources.

- A. The employee shall be advised of eligibility for benefits.
- B. The Employee, Department Director, and Human Resources shall review and sign the *Employee Checkout Sheet* for determination of still outstanding items. In the event that there are outstanding items, the Comptroller's office shall be notified. Failure to return City items may result in the delay of final payment or a payroll reimbursement deduction for the cost of non-returned items.
- C. The employee shall be notified of any deductions that shall be taken from their final pay or from the leave accrual payout including but not limited to: insurance deductions owed for the remainder of the month, education reimbursement, City property that has been damaged or not returned.

## **10.10 Termination of Employee Benefits**

All employee benefits terminate for employees and their dependents with separation of employment. Medical, vision, dental, and life insurance terminate

## Section 10: Employee Separation

on the last day of the termination month. An employee has the option to continue medical and dental benefits in accordance with the Consolidated Omnibus Budget Reconciliation Act (COBRA) regulations. Information will be mailed to the employees by the City's COBRA Administrator. Retirees may continue coverage under the guidelines provided in Section 10.7. For additional information, contact Human Resources.

### **10.11 Re-hires**

An employee who resigned from employment with the City, may be eligible for re-hire. The City has no obligation to rehire any individual.

## Section 11: Grievance Procedure and Disciplinary Appeal

### Purpose

The City is committed to working with employees to maintain conditions which foster a positive work experience and work environment. Part of this commitment is to encourage an open and frank atmosphere in which questions, problems, and concerns receive appropriate and timely responses from City Management. Employees who have a work-related issue or concern are encouraged to speak with their Supervisor or Department Director. Most problems will resolve themselves through an open and honest discussion among those involved.

- A. However, it is recognized that there will be grievances which will be resolved only after formal discussion and review. This policy's intent is to provide employees not covered by a collective bargaining agreement a process by which grievances can be addressed and resolved quickly. The Grievance Procedure for employees represented by a labor agreement is outlined in the respective agreements.
- B. No employee shall ever be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of filing a grievance or grievance in good faith or participating in the investigation of a grievance. If an employee feels subjected to any of the above, said employee will have the right to appeal directly to the City Manager or designee, with notice to Human Resources.

### 11.1 Management Prerogatives

The following areas are considered prerogatives of management, and as such, shall not be subject to the grievance procedure unless superseded by a collective bargaining agreement:

- Scheduling, including hours of work, and assignment of work and work stations.
- Establishing work standards and quality.
- Size of work force including reductions, layoffs and reorganizations.
- Appropriations and budgets.
- Scope of work within job classifications.
- Evaluations of employee performance.
- Salary scale, rates of pay, or salary increases.
- Promotions.
- Management's right to discipline.
- The goals/objectives of the City.

## 11.2 Fundamental Principles of Management

The goal of the City is to minimize the number of grievances by effective management practices with regard to both consistent and fair application of City policies and procedures and to employees' sensibilities. To accomplish this goal, supervisors and Department Directors should remember that our employees are our most valuable asset. Positive development of employees is a primary responsibility for which every member of management is accountable.

In furtherance of this goal, management should follow these guidelines:

- A. Respond promptly to minor problems with prompt corrective actions.
- B. Give clear and adequate directions, instructions, and orders, including any reasons for deviations from routines.
- C. Treat employees with consideration, respect, and impartiality when issuing disciplinary action, and assure that matters related to disciplinary actions/investigation are conducted privately.
- D. Create an environment so that the employee can have a full and unhurried opportunity to speak, in a private setting without interruption, and with the undivided attention of the supervisor or Department Director. Allowing the employee to speak in this manner may have a calming or defusing effect.
- E. Avoid arguing with the employee. Instead, focus on the factual issues of the case and elicit from the employee specific information in support of the grievance. It is important to refrain from embarrassing or demeaning the employee regardless of the merits of the grievance. Similarly, if it is determined that management is in error, an admission of error makes it easier for the employee to accept any part of the responsibility in the matter.
- F. In dealing with issues which are not clear-cut, involve disciplinary action, or which concern matters of broad policy application or interpretation, management should fully investigate; corroborate information; consult with Human Resources or the City Manager, if necessary; review relevant records (attendance, leave usage, overtime, tenure, etc.); interview other employees if they are involved or have pertinent information; confer with other departments, if appropriate; and review policies and procedures prior to reaching a decision.

If it is determined that additional time will be required to effectively respond to the grievance, the employee shall be notified of the need for additional time. In doing so, it is important to convey the need for adequate time to ascertain and evaluate all the facts in order to make a fair and objective decision.

### **11.3 Grievance Procedure**

Good employee relations and the City's best interest demand that supervision/management follow the grievance procedure properly and promptly. This is especially significant at the initial stages of the grievance, when the aggrieved employee is most easily inflamed. Improper grievance administration at this critical early stage can erode supervision's/management's efforts to accomplish the department's and City's mission to improve employee relations.

- G. Any retaliation taken as a result of an employee using the Grievance Procedure is strictly prohibited and is subject to appropriate disciplinary action.
- H. The grievance procedure is for an individual employee's use to address a serious concern, dissatisfaction, complaint, and alleged wrong; or to solve a problem relating to personnel policies. Grievances will not be accepted if filed by one employee on behalf of another or by a group.
- I. If the grievance is of such a nature that the employee cannot approach the immediate supervisor or the Department Director, a direct appointment may be made with the City Manager. The City Manager, may give the aggrieved employee anonymity if conditions warrant.

Approaching the City Manager directly for a grievance shall not be abused. Effective management functions best when the chain-of-command is followed, although it is recognized that certain mitigating circumstances may sometimes dictate otherwise.

If during any of the steps outlined below, management fails to respond within the specified time, the employee should proceed to the next level of management within five working days of the latest date a response should have been received. An employee who fails to do so within thirty days will be considered to have dropped the grievance. Extensions may be granted if both parties agree in writing.

#### **Step 1**

This step of the Grievance Process is to attempt to resolve a grievance informally. An aggrieved employee shall, within five (5) business days of the incident, present the grievance in writing on the *Employee Grievance Form* to their Department Director. Efforts to achieve a prompt, satisfactory resolution will be made. The Department Director shall meet with the aggrieved employee within five (5) business days.

- A. If the grievance is settled in this meeting, the Department Director will document a brief description of the grievance and resolution and within three (3) business days forward to Human Resources.

## Section 11: Grievance and Disciplinary Appeal Procedures

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B. If the grievance is not resolved during the meeting, the Department Director shall respond to the employee in writing within three (3) working days of the meeting, and provide a copy to Human Resources.

### **Step 2**

If the employee feels that the matter has not been resolved satisfactorily by the Department Director, the employee shall submit the matter in writing to Human Resources within ten (10) working days of receipt of the written response in Step 1 stating their desire to proceed to the final level of review.

Such requests shall be accompanied by all facts, information and other documents relating to the grievance and the written answers. Human Resources shall assemble documents in order to provide the information packet to the City Manager.

### **Step 3**

A hearing before the City Manager shall be scheduled within ten (10) working days by Human Resources. Employees, Department Directors, their representatives and witnesses shall have the right to appear before the City Manager for the purpose of presenting relative facts and information.

Within ten (10) working days following the hearing, the City Manager shall issue a written decision to all parties concerned and any action or relief which is ordered. The decision of the City Manager shall be final and a copy of the decision shall be provided to Human Resources for inclusion in the employee's personnel file.

## **11.4 Disciplinary Appeal Procedure**

After a pre-disciplinary hearing, as outlined in Section 6.2.2, an employee may appeal by requesting a pre-disciplinary meeting for review of a disciplinary action, dismissal, demotion, suspension, reduction in pay, or position reclassification.

An appeal may be filed by the employee using the steps below.

### **Step 1**

If the employee wishes to appeal the pre-disciplinary decision, the employee shall submit the matter in writing to Human Resources within five (5) working days.

Such requests shall be accompanied by all facts, information and other documents relating to the grievance and the written answers. Human Resources shall assemble documents in order to provide the information packet to the City Manager.

### **Step 2**

## Section 11: Grievance and Disciplinary Appeal Procedures

A hearing before the City Manager shall be scheduled within ten (10) working days by Human Resources. Employees, Department Directors, their representatives and witnesses shall have the right to appear before the City Manager for the purpose of presenting relative facts and information.

Within ten (10) working days following the hearing, the City Manager shall issue a written decision to all parties concerned and any action or relief which is ordered. The decision of the City Manager shall be final and a copy of the decision shall be provided to Human Resources for inclusion in the employee's personnel file.

### **11.5 Discrimination Grievance Procedure**

An employee who feels discriminated against or harassed is urged to contact Human Resources as soon as possible. Any employee, supervisor or Department Director who becomes aware of any such discrimination or harassment should immediately report it to Human Resources to ensure that such conduct does not continue.

Human Resources with the assistance of the Department Director, if appropriate, is responsible for investigating the grievance and assuring that necessary action is taken. An employee who is dissatisfied with the action taken should contact the City Manager's office as soon as possible.