



THE SUNRISE CITY

**FORT PIERCE**

*Florida*

**PERSONNEL  
RULES AND REGULATIONS**

Revised: 04/01/2017



### A Message from the City Manager

As an employee of the City of Fort Pierce, you have become a member of an amazing team that is committed to providing outstanding customer service to our residents, businesses and civic organizations. You bring special abilities and skills to the City that can contribute towards the improved quality of life for the citizens of the beautiful City of Fort Pierce.

The City of Fort Pierce is wholeheartedly dedicated to ensuring that all employees are consistently treated with respect and in a fair and impartial manner. The guides and regulations in this Personnel Rules and Regulations manual are applied in the same manner for all personnel, regardless of position.

It is of the utmost importance to the City that an environment is cultivated in which all employees are able to achieve their maximum potential. In addition, the City's goal is to attract and retain employees of the highest caliber, and to do so, the City strives to maintain our service delivery at a very high level.

You are encouraged you to read this manual in order to become familiar with important benefit programs and your responsibilities as a City employee.

I wish you continued success and many years of service with the City of Fort Pierce.

---

Nicholas C. Mimms, P.E. City Manager

Date: February 8, 2018

<b>INDEX</b>		<b>Page</b>
Index		i
Preface (see redline changes/additions)		vii
Excerpt: Code of Ethics for Public Officers and Employees		viii
Section 1	DEFINITION OF TERMS (see redline changes/additions)	1
Section 2	GENERAL PROVISIONS (see redline changes/additions)	6
2.01 The City Service		
2.02 Unclassified Service		
2.03 Classified Service		
2.04 Administration		
2.05 Amendments		
2.06 Department Policies		
2.07 Collective Bargaining Agreements		
2.08 Movement of Unclassified Positions and Employees Into Classified Positions		
2.09 Classified Service Employees in Unclassified Positions		
Section 3	STANDARDS OF CONDUCT (see redline changes/additions)	11
	3.01 General Policy	
	3.02 Equal Employment Opportunity/Prohibition Against Discrimination, Harassment and Retaliation	
	3.03 Conflict of Interest	
	3.04 Political Activity	
	3.05 Employment of Relatives and Fraternalization	
	3.06 Outside Employment	
	3.07 Release of Information	
	3.08 Solicitation and Distribution	
	3.09 Use of City's Property	
	3.10 Dress and Appearance	
	3.11 Membership in Organizations	
	3.12 General Prohibitions	
	3.13 Communications on Behalf of the City of with City Officials	
	3.14 Bullying	
	3.15 Social Media	
	3.16 Whistleblower	
Section 4	APPLICATIONS AND EXAMINATIONS (see redline changes/additions)	18
	4.01 General Policy	
	4.02 Positions in the Classified Service	
	4.03 Employment Requirements	

<b>INDEX</b>	<b>Page</b>	
	4.04 Veteran's Preference	
	4.05 Driver's Licenses	
	4.06 Competitive Examinations	
	4.07 Unassembled Examinations	
Section 5	<b>ELIGIBILITY LISTS</b>	28
	(see redline changes/additions)	
	5.01 Establishment of Eligibility List From Competitive Promotional Examination	
	5.02 Duration of Eligibility Lists	
	5.03 Certification From the List	
Section 6	<b>CERTIFICATION AND APPOINTMENT</b>	29
	(see redline changes/additions)	
	6.01 Procedure for Filling Vacancies	
	6.02 Order of Lists for Certification	
	6.03 Certification From the List	
	6.04 Temporary Appointments	
	6.05 Acting Capacity Appointments	
	6.06 Types of Appointments	
	6.07 Former Employees Who Are Re-Employed	
Section 7	<b>PROBATIONARY PERIOD</b>	33
	(see redline changes/additions)	
	7.01 Objectives	
	7.02 Duration	
	7.03 Dismissal or Demotion During Probationary Period	
	7.04 Probationary Period Reports	
	7.05 Transfers: Probationary Period	
Section 8	<b>TRANSFERS, DEMOTIONS, REINSTATEMENT</b>	36
	(see redline changes/additions)	
	8.01 Transfers	
	8.02 Demotions (Involuntary)	
	8.03 Demotions (Voluntary)	
	8.04 Reinstatement	
Section 9	<b>EMPLOYEE PERFORMANCE APPRAISAL</b>	38
	(see redline changes/additions)	
	9.01 Objective	
	9.02 Period of Evaluation	

<b>INDEX</b>	<b>Page</b>	
	9.03 Review with the Employee	
Section 10	CODE OF CONDUCT AND DISCIPLINARY PROVISIONS (see redline changes/additions)	39
	10.01 Purpose	
	10.02 Policy	
	10.03 Disciplinary Actions	
	10.04 Application of Disciplinary Measures	
	10.05 Code of Conduct	
Section 11	HOLIDAYS (see redline changes/additions)	46
	11.01 Days Observed	
Section 12	VACATION LEAVE	48
	12.01 Eligibility	
	12.02 Rate at Which Leave is Earned, Accumulated, and Paid	
	12.03 Use of Vacation Leave	
	12.04 Payment of Unused Vacation Leave	
	12.05 Transfers – Vacation Leave	
Section 13	SICK LEAVE (see redline changes/additions)	50
	13.01 Eligibility	
	13.02 Rate at Which Sick Leave is Earned	
	13.03 Charging Sick Leave	
	13.04 Request for Sick Leave	
	13.05 Use of Sick Leave	
	13.06 Accumulation of Sick Leave	
	13.07 Certification by a Physician	
	13.08 Unused Sick Leave	
	13.09 Sick Leave Conversion Plan	
	13.10 Transfers – Sick Leave	
Section 14	LEAVES OF ABSENCE (see redline changes/additions)	54
	14.01 Bereavement Leave	
	14.02 Civil Leave	
	14.03 Administrative Leave	
	14.04 Leave of Absence Without Pay (for requests not covered by the Family Medical Leave Act)	
	14.05 Military Leaves	

<b>INDEX</b>	<b>Page</b>	
	14.06 Injury Leave	
	14.07 Educational Leave	
	14.08 Voting Leave	
	14.09 Absence Without Leave	
	14.10 Family and Medical Leave Policy (FMLA)	
	14.11 Domestic Violence Leave	
Section 15	PHYSICAL EXAMINATION/TESTING PROCEDURES	72
	(see redline changes/additions)	
	15.01 Pre-Employment Physical Examinations	
	15.02 Pre-Employment Drug Testing	
	15.03 Drug-Free Workplace	
Section 16	SAFETY	75
	(see redline changes/additions)	
	16.01 Accident Prevention	
	16.02 Accident Reporting	
	16.03 Workers' Compensation	
	16.04 Safety Incentive Program	
	16.05 Workplace violence Prevention Policy Objective	
Section 17	RECORDS AND REPORTS	78
	(see redline changes/additions)	
	17.01 Responsibility	
	17.02 Records	
Section 18	ATTENDANCE AND OVERTIME	79
	(see redline changes/additions)	
	18.01 Hours of Work	
	18.02 Attendance	
	18.03 Overtime	
	18.04 Compensation for Overtime	
	18.05 Exempt Employees	
	18.06 Payroll Errors	
	18.07 Standby Duty	
Section 19	MISCELLANEOUS RULES AND BENEFITS	81
	(see redline changes/additions)	
	19.01 Vehicles	
	19.02 Pension Plan	
	19.03 Insurance Benefits	

<b>INDEX</b>	<b>Page</b>	
	19.04 Deductions	
	19.05 Use of Electronic Equipment, Telephone Calls, and Callers	
	19.06 Remote Access and Cell Phones	
	19.07 Rest Periods	
	19.08 Travel and Other Expenses	
	19.09 Smoking and E-Cigarettes	
Section 20	POSITION CLASSIFICATION PLAN	87
	<a href="#">(see redline changes/additions)</a>	
	20.01 Purpose	
Section 21	COMPENSATION PLAN – SALARY SCHEDULE <a href="#">(see redline changes/additions)</a>	88
	21.01 Purpose	
	21.02 Adoption and Amendment	
	21.03 Performance Salary and Special Increases	
	21.04 Promotional Increases	
	21.05 Demotion	
	21.06 Transfers	
	21.07 Trainee Category	
	21.08 Lead Worker Category	
	21.09 Call Back	
	21.10 Budget Limitations	
	21.11 Reimbursement for Personal Property Damages	
	21.12 Salary Advances	
	21.13 Temporary Work at a Higher Classification	
Section 22	SEPARATIONS <a href="#">(see redline changes/additions)</a>	92
	22.01 Types of Separations	
	22.02 Resignation	
	22.03 Retirement	
	22.04 Health	
	22.05 Death	
	22.06 Reduction in Force (Lay-Off)	
	22.07 Dismissal or Discharge	
	22.08 Deferred Retirement Option Program (DROP)	
	22.09 Return of Property and Financial Obligation	
	22.10 Exit Interview	
Section 23	ACCOMMODATIONS	96
	<a href="#">(see redline changes/additions)</a>	
Section 24	EMPLOYEE GRIEVANCES; APPEALS; AND COMPLAINTS OF	97

<b>INDEX</b>		<b>Page</b>
	DISCRIMINATION, HARASSMENT AND RETALIATION	
	(see redline changes/additions)	
	24.01 Grievances	
	24.02 Appeals	
	24.03 Complaints of Discrimination, Harassment and Retaliation	
Section 25	TUITION REIMBURSEMENT	107
	(see redline changes/additions)	
Section 26	EMERGENCY PERSONNEL POLICIES	110
	(see redline changes/additions)	
Section 27	SEVERABILITY (see redline changes/additions)	111

## PREFACE

These Rules and Regulations were adopted by the Ft. Pierce City Commission on February 20, 2018. This edition of the Rules and Regulations set forth herein supersedes all previously published handbooks, Rules and Regulations and Personnel Rules and Regulations.

Additional Rules and Regulations may be contained within the City's Administrative Rules and Regulations, individual departmental regulations and policy memoranda issued by the City Manager. However, where such Rules and Regulations conflict with those set forth herein, these Rules and Regulations shall govern.

By City Charter, the City Commission is vested with the authority to issue City policies. Departmental managers are vested with discretion to interpret and apply these Rules and Regulations within their respective departments but are not authorized to change Commission adopted Rules and Regulations either orally or by practice. Employees may seek further interpretive guidance from the City of Ft. Pierce Human Resources Department with respect to the application of these policies to specific employment issues or problems. The ultimate authority to interpret and apply the policies set forth herein is vested in the City Manager.

If any direct conflicts exist between the Rules and Regulations included herein and any current collective bargaining agreement to which the City is a party, the terms and conditions of the collective bargaining agreement shall take precedence for employees in classifications represented by the applicable bargaining unit, whether the rights and benefits are greater or less than those provided by these Rules and Regulations.

~~Florida Statutes Imposes a Code of Ethics upon all public employees. The Code of Ethics is published at Florida Statutes Chapter 112, Part III. Employees may obtain a copy of this Code from either the legal department or the Administrative Services Department. As a convenient reference for our employees, some of the most pertinent provisions are set forth herein. These provisions are not exhaustive and employees are encouraged to review the entire Code of Ethics.~~

## CODE OF ETHICS FOR PUBLIC OFFICERS AND EMPLOYEES

Florida Statutes establish a mandatory Code of Ethics for all public employees and officers at F.S. Chapter 112, Section III. City employees are required to comply with this Code of Ethics, and are strongly encouraged to seek guidance from the Legal Department and/or the Human Resources Department if there is any question whatsoever about the propriety of any contemplated action prior to such action being undertaken.

A copy of the statutory Code of Ethics may be obtained by contacting either the Legal Department or the Human Resources Department. The more pertinent provisions of the applicable Statute is summarized as follows:

1. No City public officer or employee shall solicit or accept anything of value to the recipient such as a gift (including Christmas gift), favor, loan, reward, promise of future employment, preferred service, benefit, or concession that would reasonably tend to improperly influence him in the discharge of his official duties or give the appearance of improperly influencing him.
2. No City public officer or employee shall use or attempt to use his/her position, or any property or resource under his/her care or in his/her trust, or perform his/her official duties to secure special privileges; benefits or exemptions for himself/herself or others, except as may be provided by policy and/or law.
3. No City public officer or employee shall accept employment or engage in any business or professional activity which he/she might reasonably expect would require or induce him/her to disclose confidential information acquired by him/her by reason of his/her official position.
4. No City public officer or employee shall disclose or use information not available to members of the general public and gained by reason of his/her official position for his/her personal gain or benefit or for the personal gain or benefit of any other person or business entity.
5. If any public officer or employee of the City is an officer, director, partner, proprietor, associate, or agent of, or owns a material interest in any business entity which is granted a privilege to operate in this state, he/she shall file a sworn statement disclosing such facts no later than 45 days after becoming an officer or employee or after the acquisition of such position or material interest. The individual shall file a sworn statement with the employee Director of Human Resources and Clerk of the Circuit Court of the county in which he/she is principally employed.
6. No City public officer or employee shall transact, or solicit to transact any business in his/her official capacity with any business entity of which he/she or his/her spouse or child is an officer, director, agent, or member, or in which he/she or his/her spouse or his/her child owns a financial interest, or otherwise

has any material interest therein. Nor shall a City public officer or employee, acting in a private capacity, transact or solicit to transact any business with the City, or with any of its subdivisions or agencies.

7. No City public officer or employee shall have personal investments in any enterprise which would reasonably create a conflict between his/her private interests and the public interest.
8. No City public officer or employee or his/her spouse or minor child shall, at any time, accept any compensation, payment or thing of value when such public officer or employee knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer or employee was expected to participate in his/her official capacity.
9. No City public officer or employee shall have or hold 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, or any part of the City of which he/she is an officer or employee. Nor shall any City officer or employee have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his/her private interests and the performance of his/her public duties, or that would impede the full and faithful discharge of his/her public duties.
10. No City public officer or employee shall have any interest, financial or otherwise, in any business transaction or professional activity, nor from any obligation of any venture which is in substantial conflict with the proper discharge of his/her duties in the public interest.

Certain City public officers and employees, including but not limited to Local Officers, Procurement Employees, Legislative Analysts, Legislative Assistants, Executive Assistants, are required by law to file either limited financial disclosure forms or full financial disclosure forms, and are subject to more stringent requirements, especially with regard to the acceptance of gifts and honoraria. As mentioned previously, when any City employee or officer has any doubt as to the personal application of the laws governing ethical behavior, he/she should discuss the matter with the Director of Human Resources. An employee wishing to determine whether a proposed activity would be prohibited may document the circumstances of the proposed activity and request an opinion from the State of Florida Commission on Ethics in Tallahassee, Florida. Copies of the request and resulting opinions should be provided to his/her department director and the Director of Human Resources prior to engaging in the activity.

**SECTION 1  
DEFINITION OF TERMS**

**ACTIVE PAY STATUS** Authorized paid leaves, holidays, or time on duty.

**ALLOCATION** Assignment of a position to its appropriate class in relation to duties performed.

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

**APPOINTING AUTHORITY** The City Manager or his or her Designee.

**APPOINTMENT** Offers and acceptance by a person of a position either on a regular or temporary basis.

**BOARD** The Civil Service Appeals Board.

**CERTIFY** The act of the Director of ~~Administrative Services~~ Human Resources supplying a Department head with the names of applicants who are eligible for appointment to the class and position for which certification is requested.

**CITY** The City of Fort Pierce.

**CITY SERVICE** All persons employed by and under the jurisdiction of the City Commission as members of the Classified or Unclassified Services.

**CLASS** Group of positions which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, class descriptions, and pay range.

**CLASS DESCRIPTION** Written description of a class consisting of a class title, a general statement of the major function of work, illustrative duties, and the qualifications for the class.

**CLASS TITLE** Title in the classification plan which describes the nature of work of the position.

**CLASSIFICATION** Grouping positions in classes with regard to duties and responsibilities, requirements as to education, knowledge, experience and ability, and ranges of pay.

**CLASSIFICATION DATE** Date an employee entered, transferred, or was promoted to the current position. This is the date from which length of service in classification is computed for determination of probationary periods, order of layoff, and eligibility for performance increases.

**CLASSIFICATION PLAN** Official system of grouping positions into classes. 2

**COMMISSION** The City Commission of the City of Fort Pierce.

**COMPENSATION** Standard rates of pay which have been established for the respective classes of work, as set forth in the pay plan.

**CONFIDENTIAL** Entrusted information treated with privacy.

**CONTINUOUS SERVICE** Employment which is uninterrupted except for authorized leaves of absence or suspension. Time lost due to leaves of absence or suspension shall not be included in the determination of length of continuous service. Authorized paid leave of absence are included as part of continuous service.

**CONTRACTED EMPLOYEE** An employee under an agreement, who may be terminated when the contract terminates and whose benefits will be in accordance with the agreement.

**DEMOTION** Assignment of an employee from one class to another which has a lower maximum rate of pay.

**DEPARTMENT HEAD** The designated manager who directs the activities of and has the responsibility for a major department or facility.

**ELIGIBLE** A person listed on an active Eligible List.

**ELIGIBILITY LIST** An Employment List, Promotional List, Reemployment List, or Reinstatement List.

**EMPLOYMENT LIST** List of persons who have been found qualified by an entrance examination for appointment to a position in the class.

**EXAMINATIONS** Common, assembled techniques, with written tests, performance tests and interviews, which would include education, training and experience; evaluation of qualifications including written appraisals, oral inquiries and investigation; evaluations and samples of applicants' work, and medical reports.

**EXEMPT STATUS** Employees who are in an exempt status category are not eligible for over time pay under the requirements of the Fair Labor Standards Act.

**FULL TIME** Position that requires an employee to work the full amount of hours as approved by the Appointing Authority.

**IMMEDIATE FAMILY** See RELATIVE.

**INCUMBENT** The person occupying a position.

**INSUBORDINATION** Unwillingness on the part of an employee to submit to the authority vested in the Appointing Authority, Department Head, Supervisor, or other position of authority as outlined in these Personnel Rules and Regulations, Department manuals or operations.

**LAYOFF** Reduction of the number of employees due to the lack of work, funds, or other determinations.

**LEAVE** An appointed absence from work of a type as provided by these rules.

**MAY** The word “May” shall be interpreted as permissive.

**ORAL EXAMINATION** The face-to-face contact between the candidate and those members interviewing and/or examining a candidate as a portion of the overall examination process.

**OVERTIME** Time worked in excess of a non-exempt employee’s regularly scheduled work shift.

**PART TIME** Position that requires the employee to work fewer hours than normally designated for others in the same classification, usually less than thirty (30) hours per week.

**PAY** Salary or hourly compensation paid to an employee.

**PAY PLAN** Official schedule of pay for each classification.

**PAY RANGE** A minimum and maximum salary which is assigned to a classification title, expressed as a pay range number.

**PERFORMANCE EVALUATION** A report relative to the job performance of an employee made by a supervisor.

**PERFORMANCE EXAMINATION** A practical test in which the candidate performs a sample of the actual work that is found on the job.

**PERFORMANCE PAY** Increase in pay established in the pay plan which may be granted to an employee based on job performance.

**POSITION** Group of duties and responsibilities assigned and budgeted requiring the full time or part time employment of one (1) person.

**PROBATIONARY PERIOD** Period of time provided to allow the City an opportunity to evaluate an employee’s performance and to recommend to the Appointing Authority whether or not the employee is to be retained in that position.

**PROMOTION** Assignment of an employee from one class to another which has a higher maximum rate of pay.

**PROMOTIONAL EXAMINATION** An examination or group of examinations for a position in a certain class, admission to which is limited to employees in the Classified Service and who hold regular status in another class.

**PROMOTION LIST** A list of persons who have been found qualified by a promotional examination or other criteria if no examination has been administered, for appointment to a position in a particular class.

**PROVISIONAL EMPLOYEE** Any employee filling a position in the Classified Service without competition pending the establishment of an Eligible List.

**REEMPLOYMENT LIST** List of ex-employees who were previously separated from City employment for reasons not detrimental to their work history.

**REGULAR APPOINTMENT** An employee who has satisfactorily completed a probationary period.

**RELATIVE** As defined by Florida Statutes and administered thereof.

**RESIGNATION** An act by an employee to voluntarily withdraw from employment of the City.

**RETIREMENT** Whenever an employee meets the conditions set forth in the Retirement Plan regulations and elects to retire and receive benefits earned under the City's Retirement Plan.

**SHALL** The word "shall" will be interpreted as mandatory.

**SUPERVISOR** An individual employee responsible for various management and supervisory responsibilities as specified by the Appointing Authority or designee, or by job description.

**SUSPENSION** Relief from work with or without pay under the Personnel Rules and Regulations as recommended by the Supervisor and/or Department Head and approved by the Appointing Authority.

**TEMPORARY EMPLOYEE** An employee appointed for a special project or other work of a temporary or transitory nature; who will serve in an exempt status and meet requirements set by the City.

**TRAINEE** Employee undergoing a training period to learn the job duties or to attain education or certification.

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

**WORK DAY** Scheduled number of hours an employee is required to work per day.

**WORK PERIOD** Number of hours regularly scheduled to be worked during a work cycle.

## **SECTION 1**

### **GENERAL PROVISIONS**

#### **1.01 PURPOSE**

The purpose of these Rules and Regulations is to provide a general guide for the personnel administration of the City of Fort Pierce.

1. These Rules and Regulations are not intended to be a legally enforceable contract (either expressed or implied).
2. These Rules and Regulations are not intended to create any legally enforceable obligation on the part of the City.
3. These Rules and Regulations supersede all previously adopted Rules and Regulations and personnel policies and procedures to the extent such prior policies conflict with those provisions.
4. These Rules and Regulations are a reference document and are not intended to contain all of the official Rules and Regulations of the City.
5. No employee other than the Appointing Authority has the authority to enter into an employment agreement.

#### **1.02 MANAGEMENT RIGHTS**

To ensure effective and efficient public service, City management's rights, duties and responsibilities include but are not limited to the following:

1. To determine the organization of the City's Departments and Units.
2. To determine the purpose of each of its Departments.
3. To exercise control and discretion over the organization and efficiency of operations.
4. To set standards for services to be offered to the public.
5. To manage and direct the employees of the City and to determine the number of personnel to be employed.
6. To hire, examine, classify, reclassify, promote, train, transfer, assign, schedule, and retain employees.

7. To suspend, demote, discharge, or take disciplinary action against employees.
8. To increase, reduce, change, modify, or alter the composition and size of the work force including the right to relieve employees from duties because of lack of work, lack of funds, or other reasons.
9. To determine the location, methods, means and personnel by which operations are to be conducted including the right to contract and subcontract existing and future work.
10. To establish, change, or modify the number, types, and grades of positions or employees assigned to an organization, unit, departments, or projects.
11. To establish, change, or modify duties, tasks, responsibilities, or requirements within job descriptions in the interest of efficiency, economy, technological change or operating requirements.

## SECTION 2

### **PURPOSE PHILOSOPHY**

~~The purpose of these Rules and Regulations is to provide a general guide for the personnel administration of the City of Fort Pierce.~~

It is the intent of the City to ensure fair treatment of all of its employees in all aspects of their employment. Without limiting the foregoing, these policies shall be carried out without regard to an employee's race, color, creed, national origin, religion, marital status, disability, age, gender or sex and with proper regard for an employee's privacy and rights as a citizen.

#### 2.01 THE CITY SERVICE

All offices and positions of the City are divided into the Classified Service and the Unclassified Service. Except as specifically modified by a Collective Bargaining Agreement or other contract, all city offices and positions shall be governed by these Rules and Regulations. ~~with respect to Standards of Conduct (Section 3), Code of Conduct (Section 10.05), Holidays (Section 11), Vacation Leave (Section 12), Sick Leave (Section 13), Leaves of Absence (Section 14), Safety (Section 16), Position Classification Plan (Section 20), and Compensation Plan — Salary Schedule (Section 21).~~

#### 2.02 UNCLASSIFIED SERVICE

The Unclassified Service shall include the following positions:

- A. City Commission.
- B. All elected officials.
- C. The City Manager, City Attorney, City Clerk, ~~Director of Administrative Services~~ Human Resources Manager, Finance Director, Chief of Police, Department Heads and specifically designated Assistant Department Heads.
- D. All members of Boards and Commissions appointed by the City Commission.
- E. Volunteer, part-time, temporary, and probationary personnel and employees appointed from temporary employment agencies.
- F. Consultants and counsel rendering temporary professional service or persons employed under limited term contractual agreements to perform specialized or technical service for the City.
- G. Others as may be appointed and designated in the future by the City Commission.

### 2.03 CLASSIFIED SERVICE

The Classified Service shall include all other positions in the City Service that are not specifically placed in the Unclassified Service.

### 2.04 ADMINISTRATION

The City expects each employee to read, understand and comply with the Rules and Regulations set forth herein. If an employee is uncertain about the meaning of a policy or how a policy applies to a specific employment issue or problem, they should consult with their supervisor and/or Department Head. In addition, employees may seek further guidance from the City of Ft. Pierce Human Resources Department with respect to the application of these policies to specific employment issues or problems. Ultimately, the City Manager is vested with the final authority to interpret and apply the policies set forth herein.

### 2.05 AMENDMENTS

The City Commission may modify, amend, or change Rules and Regulations as it, in its sole judgment, deems necessary for the effective administration of personnel management.

~~Any amendments, changes, or revisions of these Personnel Rules and Regulations, as approved by the Commission, shall be distributed to and acknowledged by new hires and to each employee through their respective department heads. All new policies shall also be posted on bulletin boards and the City's web page.~~

### 2.06 DEPARTMENTAL POLICIES

Departmental policies, General Orders and Standard Operating Procedures, if any, serve as supplements to these Rules and Regulations. In the event of a conflict between these Rules and Regulations and any departmental policy or procedure, these Personnel Rules and Regulations shall govern.

~~Department Rules and Regulations shall be in writing.~~

### 2.07 COLLECTIVE BARGAINING AGREEMENTS

For all employees of the City who are represented by a Certified Employee Organization under a valid Collective Bargaining Agreement, such Agreement shall take precedent over these Rules and Regulations when a difference or conflict between the two documents occurs.

## 2.08 MOVEMENT OF UNCLASSIFIED POSITIONS AND EMPLOYEES INTO CLASSIFIED POSITIONS

When positions are brought into the Classified Service by ordinance or by act of the City Commission and amendment of the City Charter, the conversion of the incumbents will be governed as follows unless specific provisions of an act or ordinance provides otherwise:

- A. Incumbents will be given Classified Service status if they have been serving in their positions for at least six (6) months on the effective date of the movement of their positions into the Classified Service and they must meet the competitive requirement for the position they occupy.
- B. An employee who does not meet the length of service requirements, or who does not meet competitive requirements may be retained in an unclassified status. If the employee lacks the competitive requirements, the employee may be recommended for conversion at such time as he/she does meet them.

## 2.09 CLASSIFIED SERVICE EMPLOYEES IN UNCLASSIFIED POSITIONS

- A. With the approval of the Appointing Authority, an employee in the Classified Service may be appointed to a position in the Unclassified Service. The position in the Classified Service shall be considered vacated and shall be filled by the regular competitive procedures which apply to filling such positions on a permanent basis.
- B. If such employee is separated from the Unclassified Service position, the employee may be returned to the former position or one of equal or similar responsibilities in the Classified Service, upon recommendation of Appointing Authority.

## SECTION 3

### STANDARDS OF CONDUCT

#### 3.01 GENERAL POLICY

The City of Fort Pierce has established a system of personnel management to assist in providing superior service to the community. An employee who violates any of these Personnel Rules and Regulations shall be subject to disciplinary action.

~~B. The City advocates the concept that the quality of public service may only reach maximum efficiency through a Personnel Management System based upon merit principles.~~

~~C. Employees are encouraged to develop skills and seek formal training that will enhance their personal development and add to the overall expertise of the organization.~~

~~D. An employee who violates any of these Personnel Rules and Regulations shall be subject to disciplinary action.~~

~~E. To ensure effective and efficient public service, City management's rights, duties and responsibilities include but are not limited to the following:~~

~~1. To determine the organization of the City's Departments and Units.~~

~~2. To determine the purpose of each of its Departments.~~

~~3. To exercise control and discretion over the organization and efficiency of operations.~~

~~4. To set standards for services to be offered to the public.~~

~~5. To manage and direct the employees of the City and to determine the number of personnel to be employed.~~

~~6. To hire, examine, classify, reclassify, promote, train, transfer, assign, schedule, and retain employees.~~

~~7. To suspend, demote, discharge, or take disciplinary action against employees.~~

~~8. To increase, reduce, change, modify, or alter the composition and size of the work force including the right to relieve employees from duties because of lack of work, lack of funds, or other reasons.~~

~~9. To determine the location, methods, means and personnel by which operations are to be conducted including the right to contract and subcontract existing and future work.~~

~~10. To establish, change, or modify the number, types, and grades of positions or employees assigned to an organization, unit, departments, or projects.~~

~~11. To establish, change, or modify duties, tasks, responsibilities, or requirements within job descriptions in the interest of efficiency, economy, technological change or operating requirements.~~

~~9F. Purpose and scope of the currently revised Personnel Rules and Regulations:~~

~~1. These Rules and Regulations are not intended to be a legally enforceable contract~~

~~(either expressed or implied).~~

~~2. These Rules and Regulations are not intended to create any legally enforceable obligation on the part of the City.~~

~~3. These Rules and Regulations supersede all previously adopted Rules and Regulations and personnel policies and procedures to the extent such prior policies conflict with those provisions.~~

~~4. These Rules and Regulations are a reference document and are not intended to contain all of the official Rules and Regulations of the City.~~

~~5. The City reserves the right to unilaterally modify or change these Rules and Regulations at anytime and within its sole discretion.~~

~~6. No employee other than the Appointing Authority has the authority to enter into an employment agreement.~~

### 3.02 EQUAL EMPLOYMENT OPPORTUNITY/PROHIBITION AGAINST DISCRIMINATION, HARASSMENT AND RETALIATION

#### A. Definitions

1. Discrimination is conduct in which an employee of the City is treated less favorably than a similarly situated employee on the basis of religion, race, marital status, disability, color, gender, sex, age, pregnancy, or national origin (except where such factor is a bona fide occupational qualification or is required by law).
2. Harassment is speech or behavior directed toward an employee on the basis of religion, race, marital status, disability, color, gender, sex, age, pregnancy, or national origin and which is so objectively offensive, severe or pervasive as to alter the employee's working conditions or environment. Harassing conduct includes, but is not limited to epithets, slurs or negative stereo-typing; threatening, intimidating or hostile acts; denigrating jokes; or written or graphic material which is displayed or circulated in print or electronic media and that denigrates or shows hostility or aversion toward an individual or group on the basis of religion, race, marital status, disability, color, gender, sex, age, pregnancy, or national origin.
3. Sexual harassment is unwelcome sexual advances, requests for sexual favors or other verbal or physical acts of a sexual or sex-based nature when (1) submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) is sufficiently pervasive or severe to alter an employee's working conditions or environment. Sexual harassment encompasses a wide range of conduct but includes, among others:

- a. Promising, directly or indirectly, an employee an award, if the employee complies with a sexually-oriented request;
  - b. Threatening, directly or indirectly, to retaliate against an employee, if the employee refuses to comply with a sexually-oriented request;
  - c. Denying, directly or indirectly, an employee an employment-related opportunity, if the employer refuses to comply with a sexually-oriented request;
  - d. Engaging in sexually suggestive physical contact or touching another employee in a way that is unwelcome;
  - e. Displaying, storing or transmitting pornographic or sexually-oriented materials;
  - f. Engaging in indecent exposure;
  - g. Making sexual or romantic advances toward an employee and persisting despite the employee's rejection of the advances; and
  - h. Verbal conduct that includes derogatory comments or jokes directed toward an individual's gender or directly toward the individual as a result of his or her gender.
4. Retaliation as used in this section is a material, adverse action taken against an employee for making a good faith complaint of discrimination or harassment or participating in an investigation of a complaint of discrimination or harassment.

B. Policy

1. The City is an equal opportunity employer. The City prohibits discrimination in all aspects of employment including but not limited to recruitment, compensation, hiring practices, conditions of employment, employee development, leaves of absence, employment advancement, discipline and termination.
2. The City shall take affirmative action to expand opportunities for minority groups and women through employment and promotion on a completely nondiscriminatory basis.
3. The City prohibits harassment, including sexual harassment, in the workplace.
4. The City prohibits retaliation against employees who have raised good faith complaints or participated in protected activity.
5. The City shall investigate all reported incidents of discrimination, harassment and retaliation. Substantiated incidents of discrimination, harassment and retaliation will be treated as infractions of the City's Code of

Conduct and may result in disciplinary action up to and including termination of employment.

C. Reporting

All City employees are responsible for helping to enforce this policy against discrimination, harassment and retaliation. Any employee who has been the victim of prohibited discrimination, harassment or retaliation, or who has witnessed such discrimination, harassment or retaliation is required to immediately notify the City of the harassment utilizing the procedures set forth in Section 24.03, Complaints of Discrimination, Harassment and Retaliation.

3.03 CONFLICT OF INTEREST

- A. Employees 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, contractors and other parties.
- B. An outside personal economic relationship which affords present or future financial benefits to an employee, his/her family or relative, or individuals with whom he/she has business or financial ties may be a conflict of interest requiring evaluation by the City. Examples include:
1. The employee is engaged in private business or financial relationship which may secure advantage of goods, services or influence due to the position of the employee or relative with the City.
  2. The employee designates sources for procurement or procures parts, materials, services, supplies or facilities by purchase or lease, or sells or leases to the City in his/her name, ~~or~~ the name of a family member or relative, or individuals with whom the employee has financial ties ~~others~~.
  3. The employee acts as director, officer, agent, sole proprietor, partner, stockholder (if owning in excess of ten (10%) percent of outstanding securities), employee, paid consultant or advisor to a supplier doing business with the City.
  4. Employee or any person related by blood or marriage who has a business relationship within a business or enterprise; is an officer or agent, partner, shareholder having ten (10%) percent or greater ownership, paid consultant qualified by licensure; or such similar relationship is in a position to approve, recommend, accept or reject any proposed procedure, product, service work, application, or submittal to the City.
- C. An employee having an outside personal economic relationship under the conditions specified above shall file a sworn statement to this effect with the Appointing Authority, as well as with any agency or officer as directed by state

law. If the employee is in doubt as to whether a conflict of interest exists, it is that employee's responsibility to seek clarification from the Appointing Authority. The City retains the right to determine whether a specific relationship could cause a potential conflict of interest as construed by this section.

- D. Employee acceptance of loans, advances, gifts, gratuities, favors, or entertainment from a supplier, bidder, or other party doing business with the City is prohibited.
- E. It is prohibited for any employee to use his/her position with the City to obtain or attempt to obtain any special preferences, privileges, or exemptions for the employee or for others.
- F. No employee shall disclose confidential information gained by reason of his/her official position, or use such information for personal gain or benefit, or for gain or benefit of any relative as defined in Florida State statute, or for the gain of any other person or business.

### 3.04 POLITICAL ACTIVITY

Employees will be guided by provisions of F.S. Chapter 104 [Florida Statutes 1997](#) (as amended).

- A. Employees may:
  - 1. Register and vote as they choose.
  - 2. Assist in voter registration drives.
  - 3. Express their opinion about candidates and issues provided he or she is not engaged in the performance of his or her duties or acting in a representative capacity on behalf of the City and, provided further, that the employee does not express such opinions to other employees who are engaged in the performance of their duties.
  - 4. Contribute money to a political organization or attend political fund raising functions.
  - 5. Attend political rallies and meetings.
  - 6. Join a political club or party.
  - 7. Sign nominating petitions.
  - 8. Campaign for or against referendum questions, constitutional amendments, etc.
  - 9. Become a candidate for an elective political office. The employee may use annual leave or work after duty hours during a campaign for other than a City office.
    - a. Any employee who wishes to accept or seek election to a City office shall resign from City employment upon formal declaration

of candidacy.

- b. Any employee wishing to qualify for any other elective office shall submit in writing notification to the Appointing Authority, who will determine whether a conflict of interest exists. If a conflict of interest exists, the Appointing Authority will terminate the individual's employment with the City.

B. Employees may not:

- 1. Use official authority or influence for the purpose of interfering with an election or nomination for office, coercing or influencing another person's vote or affecting the result thereof.
- 2. Directly or indirectly coerce, attempt to coerce, command or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party or candidate.
- 3. Interfere in any other way with the personal rights of any officer or employee.
- 4. Wear or display political badges, buttons, or stickers while on duty or acting in a representative capacity on behalf of the City.

3.05 EMPLOYMENT OF RELATIVES AND

FRATERNIZATION

A. Employment of Relatives (Nepotism)

Nepotism within business organizations can result in many undesirable situations, but it can be even more pronounced within public agencies. For purposes of this section, relative is defined as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandparent or grandchild.

- 1. No relative of any employee of the City will be hired or retained on a regular or temporary basis within the same department, except as may be determined by the Appointing Authority to be in the best interest of the City.
- 2. Approval will not be granted for the employment, promotion, or transfer of a relative to a position where either one would be supervising or influencing in any significant manner the activities of the other.

B. Fraternization

- 1. Employees are discouraged from dating or engaging in romantic, sexual,

or intimate relationships with other employees of the City and should recognize that such relationships may create organizational conflicts. Such a relationship is prohibited when it unreasonably interferes with or materially and adversely affects either employee's work performance, objectivity, judgment, professionalism, business reputation or ability to conduct himself or herself in an appropriate business manner; or it unreasonably interferes with or materially and adversely affects the work environment of other employees; or it results in sexual harassment.

2. Management and supervisory staff are prohibited from dating or engaging in romantic, sexual, or intimate relationships with subordinates that work within the same department or any other position that falls either directly or indirectly within the supervisor's scope of authority.
3. When a promotion, transfer, placement, or assignment of any employee creates a violation of these rules, both employees must report this conflict to the Department Head within one business day of being notified of the promotion, transfer, placement or assignment. The City retains the right to restrict promotion, transfer, placement, or assignment into a position wherein such action would create a violation of these rules.
4. Violations of these rules are grounds for disciplinary action that may include termination of one or both offending employees.

### 3.06 OUTSIDE EMPLOYMENT

- A. Employees are discouraged but not restricted from engaging in other employment during their off-duty hours. City employment shall be considered the primary employment of City employees. No employee may engage in outside employment which would interfere with the interest of or create a conflict of interest with the City. All outside employment must be reported to the appropriate Department Head.
- B. Any employee accepting outside employment shall make arrangements with the outside employer to be relieved from outside duties if and when called for emergency service by the employee's direct supervisor or Department Head. Every employee shall agree to and shall respond immediately to any emergency call to duty whenever the Department Head or his or her designee determines that the employee's services are necessary.
- C. Employees sustaining injuries while engaged in outside employment are ineligible to receive benefits under either the City's Injury Leave policy or the Worker's Compensation benefits as a result of injury or disability resulting from the outside employment. Such employees may be entitled to reasonable accommodations.
- D. Equipment, facilities, vehicles or property of the City shall not be used by

employees for outside employment.

### 3.07 RELEASE OF INFORMATION

- A. 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.
- B. It is the intent of the City to insure that all information released is true and accurate. Unless release of information is a normal part of their duties, employees shall direct such inquiries for information to their Department Head, City Clerk or Appointing Authority.

### 3.08 SOLICITATION AND DISTRIBUTION

- A. Employee contributions to charitable organizations are voluntary. Coercion of an employee to make contributions is prohibited.
- B. Employees are prohibited from conducting or promoting private business for gain during working time, within any City facility or using City property.
- C. Employees are prohibited from soliciting on behalf of or distributing literature which tends to promote any organization, including any labor union, labor organization, or employee organizations during working time or in any area where City work is performed, in accordance with Florida Statutes.
- D. Employees are prohibited from displaying or affixing any literature, labels, messages, or bumper stickers on City property except as approved and directed by the Department Head or Appointing Authority.

### 3.09 USE OF CITY'S PROPERTY

- A. Employees shall not use City property, equipment, or vehicles except in the performance of official duty, nor shall they permit use of property, equipment or vehicles by an unauthorized person, either on or off duty.
- B. Offices, desks, file cabinets, lockers, planners, computers, vehicles, pagers, cell phones and all other facilities and equipment issued or assigned by the City are subject to search consistent with applicable law to collect and preserve evidence related to an administrative or criminal investigation or for supervisory inspection and oversight. Employees are hereby specifically informed that they have no expectation of privacy in regard to offices, desks, file cabinets, lockers, planners, computers, vehicles, pagers, cell phones, tablets, smart phones and all other facilities and equipment issued or assigned by the City.
- C. Employees do not have an expectation of privacy in any city facility or issued

equipment even where the facility or equipment is secured by the employee's personally owned lock, password or other security device.

- D. **Employee Responsibility.** Each employee who is provided City equipment, tools, supplies, or a vehicle shall exercise reasonable care in the safekeeping, use, and preservation of such City property and shall return the property in the same condition as the property was in when issued, except for normal wear and tear, upon separation from employment or upon request. Employees shall promptly report, in writing, to their supervisor the loss, damage, or unserviceable condition of City property assigned to the employee or under the employee's control. The immediate supervisor shall forward the report to the Department Director for appropriate action.

### 3.10 DRESS AND APPEARANCE

- A. No attempt is made by the City to set specific dress standards. The important factor is the overall public impression created. Employees assigned duties dealing with the public should be properly groomed and dressed in a business-like manner.
- B. Determination of appropriate dress and appearance is within the Department Head's discretion.
- C. When uniforms are furnished by the City, the employees shall wear them as prescribed and maintain them in a clean and suitable manner. If an employee terminates, the employee shall return all issued uniforms and equipment. The employee will be charged for all missing uniforms and equipment.
- D. Body art or tattoos that are deemed offensive, discriminatory or inappropriate are not allowed or must be covered.

### 3.11 MEMBERSHIP IN ORGANIZATIONS

All employees have the right to join national, state, and local groups of their choice and the right to organize, within the City, for their mutual benefit, with the exception of such groups as have been declared by the Attorney General of the United States to be of a subversive nature or advocating the overthrow of the Government.

### 3.12 GENERAL PROHIBITIONS

- A. Employees are expected to conduct themselves in a manner which will not discredit the City, public officials, fellow employees, or themselves.

- B. Employees shall avoid conduct or speech that is contrary to good order and discipline. They shall treat each other with the utmost courtesy and respect ~~and at all times refrain from making any derogatory remarks concerning each other.~~
- C. No employee shall make any false statement, certificate, mark, rating, or report concerning any test, certification or appointment made under the provisions of these rules or in any manner commit or attempt to commit any fraud preventing the impartial execution of these rules.
- D. No employee shall, directly or indirectly, give, pay, offer, solicit, or accept any money, service, or other valuable consideration for any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in a position in the City.
- E. No employee shall deceive or obstruct any person in their right to examination, eligibility, certification or appointment under these rules, or furnish to any person any special or confidential information for the purpose of affecting the rights or prospects of any person with respect to employment with the City.
- F. No employee whose duties involve the use of a badge, card, or clothing insignia as evidence of authority or for identification shall permit such items to be used or worn by anyone who is not authorized to use or wear them, nor permit them to be out of their possession without good cause or upon the approval of the Department Head. Such badges, cards, and insignia shall be used only in the performance of the official duties of the positions to which they are related.
- G. No employee shall bypass or refuse to follow the chain of authority on any grievance, complaint or other matter pertaining to his/her employment, except as provided in these Rules and Regulations or permitted by law.

### 3.13 COMMUNICATIONS ON BEHALF OF THE CITY OR WITH CITY OFFICIALS

- A. Communications with City Commission Members. Employees should respond to City Commission's requests for information within one business day and to the best of their ability. Subsequently, the employee should notify his direct supervisor of the request and the action taken. If the employee does not have the ability or authority to address City Commission's questions or requests, the employee should refer the question or request immediately to their supervisor for follow up.
- B. Statements of City Employees to Attorneys Concerning City Employees/Business. If a City employee is requested or subpoenaed to make a statement to an attorney or law firm regarding litigation related to the City, the employee shall inform his Department Director immediately upon receipt of the

request/subpoena. The Department Director will, in turn, inform the Human Resources Manager, who will consult with the City's or insurance company's legal counsel, and the City Manager to determine the proper course of actions. Failure to comply with this rule may subject the employee to disciplinary action.

### 3.14 BULLYING

Bullying of co-workers or the public is strictly prohibited. Bullying is defined as repeated, unreasonable actions of an individual (or a group) directed towards an employee (or a group of employees) or a member of the public, which are intended to intimidate, degrade, humiliate, or undermine; or which create a risk to the health or safety of the employee(s) or the public.

If an employee believes he or she has been bullied, or has witnessed bullying in the workplace, the employee should report this conduct immediately to his or her supervisor. If it is not appropriate to report this conduct to the supervisor, the employee should report this conduct to the Human Resources Department.

### 3.15 SOCIAL MEDIA

A. The purpose of this order is to establish policy and procedure for social networking of the employees with the City of Fort Pierce.

B. It is the policy of the City of Fort Pierce to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balance of employee's Constitutional Rights to speech and expression with the legitimate needs of the City. This policy applies to all forms of communication including but not limited to, video, print media, remote computer access, public and private speech, use of all Internet services, including the World Wide Web, e-mail, file transfers, news services, social networking, instant messaging, blogs, forums, and other file-sharing sites.

This policy is not intended to prohibit or infringe upon any employee's communication, speech, or expression as guaranteed by the Florida and United States Constitutions.

Public employees occupy a trusted position in the community, and thus, their statements may have the potential to contravene the policies and performance of the City. Due to the nature of the work and influence associated with City government, it is necessary that employees of the City be subject to reasonable limitations of their speech and expression, both on and off-duty. To achieve its mission and efficiently provide service to the public, the City of Fort Pierce will carefully balance the individual employee's rights with the City's needs and interests.

C. Procedures

1. Employees should carefully consider the implications of their speech or any other form of expression when using any communication medium; including the Internet. For safety and security reasons, Employees should not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety or privacy of any employee, their family and/or associates.
2. To ensure the City's safety, mission, and public-trust, the following is prohibited:
  - a. Speech or expression made pursuant to official duties that tends to compromise or damage the mission, function, reputation, or professionalism of the City of Fort Pierce or its employees.
  - b. Speech or expression that, while not made pursuant to official duties, is significantly linked or related to the City of Fort Pierce and tends to compromise or damage the mission, function, or the professional reputation of the City or its employees.
  - c. Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
  - d. Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the City. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
  - e. Speech about the guilt or innocence of any suspect or arrestee, or comments concerning pending prosecutions. Employees shall not post, transmit, or otherwise disseminate confidential information, including photographs or videos, related to City training, activities, or work related assignments without the express written permission of the Appointing Authority or Designee.
  - f. Speech or expression that is contrary to the Law Enforcement Code of Ethics as adopted by the City of Fort Pierce.

- g. Use or disclosure, through any means, of information, photographs, videos or other recordings obtained or accessible as a result of employment with the City for financial or personal gain, or any disclosure of such materials without the expressed authorization of the Appointing Authority or Designee or his/her designee or any other act that would constitute a misuse of public information in violation of F.S. Chapter 119.
  - h. Posting, transmitting or disseminating any photographs, videos or other recordings, likeness or images of City logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the City of Fort Pierce or Police Department on any personal social network site, other website, or web page in any manner which is defamatory, obscene, unlawful or interferes with the operations of the City.
  - i. Failing to take reasonable and prompt action to remove any content that is in violation of this policy from any web page or website maintained by the employee or to which the employee has access and/or control (e.g. social or personal websites).
  - j. Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or City owned, for personal purposes while on-duty, except in the following circumstances:
    - i. When brief personal communications may be warranted by the circumstances (e.g. inform family of extended hours).
    - ii. During authorized breaks, however, such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.
3. Unless specifically authorized by the Appointing Authority or Designee or his/her designee, employees may not represent the City of Fort Pierce or identify themselves in any way as being affiliated with the City, by appearing in any commercial, motion picture, film, video, public broadcast or on any website for the purposes of advertising/endorsing a product or for supporting, opposing, contradicting any political campaign, initiative, social issue, cause, or religion.
4. Employees forfeit any expectation of privacy with regard to anything published or maintained through file-sharing software or on any Internet

site open to public view (e.g. Facebook, MySpace, dating services, etc.).

5. All messages and attachments (e.g. photographs, videos, documents) transmitted, received, or accessed over any City network systems are considered City records and, therefore, are the property of the City. The City reserves the right to access, audit and disclose all messages, regardless of the reason, including attachments that have been transmitted, received, or accessed through any City system or device, or any such information placed into any City storage area or device. This includes records of all key strokes or web-browsing history made on any City computer or over any City network system. The fact that access to a database, service or website requires a user name or password will not create an expectation of privacy if it is accessed through a City computer or network system.

### 3.16 WHISTLEBLOWER POLICY

- A. Employees shall report in writing any violation or suspected violation of federal, state or local law by any City employee, official, or business entity with which the City is doing business.
- B. Employees shall report improper use of public office, gross mismanagement or waste of public funds, or any other abuse or gross neglect of duty on the part of the City, a City employee, or a member of the City Commission or any City board.
- C. An employee with knowledge of such actions or activities shall report this information to his immediate Supervisor, other members of supervision, Department Director, Human Resources Director, or the City Manager for investigation and resolution.
- D. The investigation will be conducted by the City Manager, Human Resources Director, and/or Department Director, depending on the nature and circumstances of the allegations. Information related to an ongoing investigation will be maintained on a confidential basis to the extent allowed by public records laws. The Police Department shall be utilized in appropriate circumstances.
- E. Retaliation against an employee who reports in good faith any actual or suspected violation, abuse, or other improper action is strictly prohibited by law, and by City policy. Disciplinary action may be taken against an employee who knowingly files a false and/or malicious report or who fails to make a report when required to do so.

## SECTION 4

### APPLICATIONS AND EXAMINATIONS

#### 4.01 GENERAL POLICY

The City will not discriminate against any person in recruitment, examination, appointment, training, promotion, retention, or any other personnel action because of the individual's religion, race, veteran status, marital status, disability, color, gender, sex, age, pregnancy or national origin.

An applicant with a disability who is able to perform the essential functions of the position, with or without reasonable accommodations, will be given full consideration for employment in all departments. Performance standards will not be used to arbitrarily eliminate individuals with disabilities from consideration.

~~Opportunities for entry into the positions in the Classified Service shall be publicized by public announcement and posting of announcements on appropriately designated bulletin boards or spaces and on the City's website. Announcements shall specify the class title and salary range of the class or classes for the position announced; the time, place, and manner of making application, qualification requirements for eligibility for admission to applicable written and/or oral tests; and other pertinent information. Employees may apply for promotional opportunities by completing an online application. If an examination is not required, all qualified in-service employees will be considered for any vacant position.~~

#### 4.02 POSITIONS IN THE CLASSIFIED SERVICES

- A. All applicants for positions in the Classified Service shall file written applications to the ~~Administrative Services~~ Human Resources Department within time limits fixed in the announcement. Defective applications may be returned to the applicant for correction or to get assistance with the completion of the application; ~~and~~ the corrected application must be returned to the ~~Administrative Services~~ Human Resources Department.
- B. Fraudulent conduct, false statement(s), omissions(s), or misleading statement(s) by an applicant, or by others at his/her request or with his/her knowledge, in any application or examination, shall be cause for the disqualification of such applicant from an examination, removal of his/her name from all eligibility lists, and termination from City employment.
- C. When it is determined that there will be a promotional examination, the Appointing Authority shall designate the lower class or classes from which the promotion is to be made and shall establish the required period of service in these classes.

- D. Law enforcement personnel are required to take a competitive promotional examination for promotion to classes in a higher grade.
- E. Each person in an examination shall be entitled to inspect his/her papers and grades. Such inspection shall be permitted only during regular business hours and at the office of the Director of Human Resources.
- F. A manifest error in rating a test or test procedure shall be corrected if called to the attention of the Human Resources Department within the inspection period. Such corrections shall not invalidate any appointment previously made from such a list. Candidates for examinations may appeal to the Director of Human Resources for correction of their grades upon presentation of reasonable cause to believe that their examinations have been incorrectly rated.

#### 4.03 EMPLOYMENT REQUIREMENTS

Outside Applicants – If an examination is not required, ~~three (3)~~ a sufficient number of qualified applications will be sent to the department/division for interview and tentative selection. All offers of employment are contingent upon the completion of applicable background checks and the execution of paperwork and payroll forms required by the City of Fort Pierce’s Human Resources Department. The City of Fort Pierce is committed to affirmative action, however, all employment decisions will be based on legitimate business factors. The City will comply with F.S. Chapter 295 regarding veteran preference.

#### 4.04 VETERAN’S PREFERENCE

In accordance with the provisions of F.S. §295, veterans and spouses of veterans who meet certain criteria are eligible for preference in employment or promotion provided the veteran or spouse possesses the minimum qualifications of the position as outlined in the job description. Such preference does not preclude the hiring (outside hire) of a non-veteran who is more qualified than a veteran, however, in case of a promotion, a veteran who possesses the minimum qualifications of the position shall be promoted.

Veterans’ employment preference expires following employment/promotion in a position with any public employer in the State of Florida for which veterans’ preference was utilized (i.e. Veterans’ preference can only be used one time).

To receive a veteran’s preference, the applicant or employee must present a DD214 showing the veteran was honorably discharged.

Veteran’s preference does not apply to the following positions with the City:

City Manager  
Department Managers

Management positions as defined by F.S. §295  
Policy-making positions as defined by F.S. §295  
Temporary employees without benefits

#### 4.05 DRIVER'S LICENSES (re-numbered)

- A. Employees driving City vehicles are required to possess a valid driver's license with the endorsement which is applicable for the vehicle being driven as is required by Federal and/or Florida State Law, whether or not this requirement is included or omitted in the description of the class title to which the employee was appointed. If the employee is required to obtain any additional licensing, the employee must do so at his or her own expense.
- B. All violations, citations, fines, or other actions taken by any law enforcement agency against any employee incurred during professional use must be disclosed to the employee's immediate supervisor within three (3) business days. Further, payment for all such violations, citations, fines and other actions taken by any law enforcement agency while driving a City vehicle in violation of these rules shall be the responsibility of the employee. Such violations and citations may also be cause for disciplinary action, up to and including termination of employment.
- C. Employees must immediately report any changes in the status of ~~his/her~~ **their** driver's licenses (i.e., revocation, suspension, etc.) to the appropriate immediate supervisor within 24 hours.

#### 4.06 COMPETITIVE EXAMINATIONS (re-numbered)

- A. Competitive examinations shall be open to all who meet the requirements as listed on the public announcement or posting of the position.
- B. Positions in the Classified Service, when they are to be filled from outside the City service, may be filled through postings open to the public.
- C. Examinations may be assembled or unassembled and may include, but shall not be limited to, written, oral, physical tests, performance tests, ratings of training, and experience or any combination of these. They may take into consideration such factors as education, training, experience, attitude, aptitude, knowledge, and/or physical fitness to the extent relevant to the position to be filled.
- D. Candidates may be required to attain at least a minimum performance on each part of the test in order to receive a passing grade or to be rated on the remaining parts of the test.
- E. Persons who take competitive promotional examinations shall be given notice as to whether or not they qualify on such examinations. An eligible person shall be advised of his/her score and relative position on the eligibility list; however, in consideration of the factors which may change a candidate's relative standing from time to time, the candidate will not be re-advised of his/her relative standing except in response to specific inquiry. The reply will indicate the standing as of a particular date.

#### 4.07 UNASSEMBLED EXAMINATIONS

- A. Whenever the ~~Director of Administrative Services~~ Human Resources Manager determines that because of the nature of the position or that possible applicants are not available in sufficient numbers to justify holding assembled examinations, the ~~Director of Administrative Services~~ Human Resources Manager may conduct examinations for such classes on an unassembled basis.
- B. A person who competes in or is disqualified from an unassembled examination for a particular class is eligible to compete in another examination for the same class after an elapsed time of three (3) months.

#### ~~4.09 METHODS OF RATING COMPETITIVE PROMOTIONAL EXAMS~~

- ~~A. The determination of appropriate written and performance tests, the criteria and method of evaluating experience, and training and the weights to be assigned to various parts of the examination, shall be matters of cooperation between the Director of Administrative Services and the director(s) of the department(s) having the position(s) to be filled. However, the final discretion to rate and select candidates for employment is vested in the Department Head.~~
- ~~B. In all tests the minimum performance by which eligibility is achieved will be established by the Director of Administrative Services. A minimum performance shall also be established for the ratings of all parts of the test when it consists of several parts. Candidates may be required to attain at least a minimum performance on each part of the test in order to receive a passing grade or to be rated on the remaining parts of the test.~~

#### ~~4.10 NOTIFICATION OF EXAMINATION RESULTS~~

~~Persons who take competitive promotional examinations shall be given notice as to whether or not they qualify on such examinations. An eligible person shall be advised of his/her score and relative position on the eligibility list; however, in consideration of the factors which may change a candidate's relative standing from time to time, the candidate will not be re-advised of his/her relative standing except in response to specific inquiry. The reply will indicate the standing as of a particular date.~~

## SECTION 5

### ELIGIBILITY LISTS

#### 5.01 ESTABLISHMENT OF ELIGIBILITY LIST FROM COMPETITIVE PROMOTIONAL EXAMINATIONS

The ~~Personal Director~~ Human Resources Department may establish and maintain ~~such~~ eligibility lists for the various classes of positions as are necessary to meet staffing needs. ~~Each such list shall contain the names of those persons who have successfully qualified on the examination, ranked in the order of their numerical ratings or in accordance with the objective rating system. Eligible applicants attaining the same score shall be considered to have the same rank on the eligibility list.~~

#### 5.02 DURATION OF ELIGIBILITY LISTS

The duration of each competitive promotional eligibility list and the names appearing thereon, shall be for one (1) year from the date of certification. The ~~Director of~~ Human Resources Manager may extend such period before the expiration of the list, in increments of six (6) month extension periods, not to exceed two years total ~~No list shall be extended to a time more than two (2) years from the original establishment of the list, and a statement of the reasons for any extension shall be entered in the records of the Administrative Services Department. Any list that has been in effect for longer than six (6) months and has fewer than three (3) names may be abolished whenever, in the judgment of the Department Head, the City's interest is best served.~~

#### 5.03 CERTIFICATION FROM THE LIST

Upon receipt of a request to fill a vacancy from a competitive promotional list, the ~~Director of Administrative Services~~ Human Resources Manager shall certify names of the three (3) highest individuals on the appropriate list or authorize some other kind of appointment as provided in these rules. If there is more than one vacancy to be filled, the number of names to be certified shall be determined by adding two (2) eligibles to the number of vacancies. When names are removed from the list because of promotion to a higher classification, the remaining names are advanced to the top of the list.

## SECTION 6

### CERTIFICATION AND APPOINTMENT

#### 6.01 PROCEDURE FOR FILLING VACANCIES

- A. All vacancies in the Classified Service shall be filled by original appointment, promotional appointment, provisional appointment, reemployment, reinstatement, transfer or demotion.
- B. Whenever a vacancy is to be filled, the Department Head shall submit a requisition to the Human Resources Department for those eligible for the appointment to the class or position for which the vacancy exists. Requests ~~may~~ should be in writing ~~or by phone~~.
- C. If the position is other than entry-level, a promotional opportunity announcement shall be sent to all departments for posting on bulletin boards. All interested employees, if they meet the minimum qualifications, may make a request to the Human Resources Department to be considered for the vacant position.
- D. If the position is a regular position, the ~~Director of Administrative Services~~ Human Resources shall certify to the Department Head the proper number of names from the appropriate list or authorize some other kind of appointment as provided in these rules.

#### 6.02 ORDER OF LISTS FOR CERTIFICATION

Certification shall be made from existing lists in the following order:

- A. Lay-Off List
- B. Competitive Promotional Examination List
- C. Promotional Opportunity List
- D. Reinstatement List (Other Than Lay-Off)
- E. Open Applicant List

#### 6.03 CERTIFICATION FROM THE LIST

- A. Lay-Off

A regular full time employee, who has been involuntarily separated from the

Merit System without fault or delinquency, may have his/her name placed on the lay-off list for the same class of position held at the time of separation. The name of such employee shall be placed upon the list in the order determined by the ~~Director of Administrative Services~~ Human Resources Manager after considering performance rating and total continuous time served in the class. Such employee shall be eligible for re-employment for a period of one (1) year from the date of separation.

B. COMPETITIVE PROMOTIONAL EXAMINATION LIST

Employees who have qualified on competitive promotional examinations and whose name is listed on a Competitive Promotional Exam list for a regular position that is a higher classification, shall be certified to the Department head for consideration for promotion to the higher position. Names of the top three (3) eligibles shall be certified for consideration.

C. PROMOTIONAL OPPORTUNITY LIST

If the position to be filled is other than entry level, a promotional opportunity announcement listing the title, department/division, salary and closing date will be sent to all departments, to be posted on bulletin boards.

~~D. REINSTATEMENT LIST (OTHER THAN LAY-OFF)~~

~~Former employees who have left City service on a voluntary basis and in good standing shall be eligible for reinstatement to a similar position held while employed. If such a vacancy exists, the former employee will be considered for reemployment.~~

D. OPEN APPLICANT LIST

If in-service applicants are not available to fill vacant positions, applications from outside City service shall be reviewed in the Human Resources Department and a sufficient number of qualified applicants will be sent to the Department Head or Supervisor for interviews in accordance with the City's Selection/Hiring Policy. ~~which states that Department Heads and Supervisors, during interviews, must keep in mind the City's commitment to Affirmative Action. If all applicants are equal in skills, education, and abilities, consideration should be given to the applicant that will increase the City's minority representation.~~ The City of Fort Pierce is committed to affirmative action, however, all employment decisions will be made based on legitimate business factors. The City will comply with F.S. Chapter 295 regarding veterans preference.

6.04 TEMPORARY APPOINTMENTS

In an emergency, the Appointing Authority or Department Head may authorize the

temporary appointment of any qualified person in a position to prevent stoppage of public business, any loss or serious inconvenience of the public. However, a vacancy of which the Department Head has had reasonable notice, or an employment condition of which he had, or might with due diligence have had previous knowledge, shall not be considered an emergency under this section. Temporary appointments shall be limited to a period not to exceed six (6) months, unless extended for a longer period in specific cases with the consent of the Appointing Authority. Temporary employees are not included in the Retirement System.

## 6.05 ACTING CAPACITY APPOINTMENTS

Whenever a vacancy exists in an authorized position, the Appointing Authority or Department Head may appoint a present employee who meets the minimum standards established for the position, to the vacant position in an acting capacity. Acting appointments shall be limited to a period not to exceed six (6) months, unless extended for a longer period in specific cases with the consent of the Appointing Authority. Such acting appointment shall be terminated as soon as an Eligibility List has been established and an appointment of a regular full or part-time employee is made. Any employee tendered an acting appointment, who previously held regular status, shall not suffer loss of status, vacation, sick leave, or other rights while serving in an acting capacity. Any employees placed in an acting capacity, if subsequently tendered the appointment to the position, shall be entitled to count all of his/her acting time toward his/her probationary period. If not subsequently appointed to the vacant position, he/she shall be reverted to his/her status immediately preceding his/her acting appointment.

## 6.06 TYPES OF APPOINTMENTS

The following types of appointments may be made to the Classified Service in conformity with the rules established: Regular, Temporary, Part-time, and Acting appointments not to exceed six (6) months unless otherwise extended herein.

### A. REGULAR EMPLOYEE

A regular employee works full time. He/she is subject to all Rules and Regulations and receives all benefits and rights as provided by the Personnel Rules and Regulations.

### B. TEMPORARY APPOINTMENTS

In order to prevent stoppage of business or loss, or serious inconvenience to the public, or in an emergency, appointments of employees on a temporary basis may be authorized by the Appointing Authority in accordance with this rule. This type of appointment will not be made for a period in excess of six (6) months.

### C. PART-TIME EMPLOYEES

Part-time employees are employees who work less than the normal workweek, but on a regular basis.

### D. ACTING CAPACITY APPOINTMENTS

Acting capacity appointments are made when there is no employment list for the classification when it is desired to leave the potential for promotion of an

employee by demonstration or until an employment list can be established.

E. DURATION OF TERM OF SERVICE

Appointments under paragraphs “A”, “C”, and “D” above shall be considered to be probationary subject to the provisions of these rules. All other appointments are to be considered as temporary and subject to termination at the discretion of the Appointing Authority.

6.07 FORMER EMPLOYEES WHO ARE RE-EMPLOYED

All former employees who resign in good standing and are later hired by the City shall be regarded as new employees and shall be required to serve a probationary period the same as a new employee or serve a modified term approved by the Appointing Authority. (See Section 7.)

## **SECTION 7**

### **PROBATIONARY PERIOD**

#### **7.01 OBJECTIVES**

The probationary period shall be regarded as an integral part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his/her position and for rejecting any employee whose performance or conduct is not satisfactory. The successful completion of this probationary period does not imply or guarantee an employee continuous employment with the City. All employees, probationary or non-probationary, serve at the will of the City.

#### **7.02 DURATION**

The probationary period shall be six (6) months for all employees, with the exception of Police Officers and part-time employees, who shall remain in probationary status for a period of one (1) year. To the extent permissible under the terms of any Collective Bargaining Agreement to which the City is a party, an extension of up to six (6) months, in increments of three (3) months, of the established probationary period may be granted at the sole discretion of the Department Head. Employees who perform technical or professional duties, or require a license or certification by a governmental or professional association, may be permitted a specified period of time as determined by the Department Head to obtain the necessary license or certification. The employee will remain in a probationary status until the required license is obtained. If the employee fails to obtain the required license in the period specified by the Department Head, he or she may be terminated from employment or shall revert to the status held immediately preceding his or her appointment.

#### **7.03 DISMISSAL OR DEMOTION DURING PROBATIONARY PERIOD**

- A. At any time during the probationary period, a Department Head may recommend termination of an employee's employment if, in the Department Head's sole discretion, it is determined such employee is unable or unwilling to perform the duties of the position satisfactorily or that the employee's behavior or lack of dependability do not merit his/her continued employment.
- B. If a probationary employee is found to have committed any offense which is considered cause for disciplinary action, the Department Head may recommend to the appointing authority the discharge of such employee without prior notice.
- C. A Department Head, in his or her sole discretion, may demote any employee

to a lower class position during the probationary period without prior notice. Any employee, so demoted, shall begin a new probationary period.

- D. There shall be no right of appeal or grievance from adverse actions taken against an employee during the probationary period.
- E. Nothing in this section shall prohibit or limit a probationary employee from seeking redress for violations of the City's policies prohibiting discrimination, harassment or retaliation as provided by Section 3.02 and Section 24.03 of the Personnel Rules and Regulations. However, such review or investigation of a probationary employee's claim under this paragraph shall not stay the action taken by the City under this section.

#### 7.04 PROBATIONARY PERIOD REPORTS

At least thirty (30) calendar days prior to the expiration of an employee's probationary period, the Department Head shall notify the Human Resources Manager in writing whether or not the employee has performed satisfactorily during the probationary period.

#### ~~7.05 RESTORATION OF DISMISSED EMPLOYEE TO AN APPROPRIATE LIST~~

~~If an employee is removed from his/her position during, or at the end of his/her probationary period, and the Director of Administrative Services determines that he/she is suitable for appointment to another position, his/her name may be placed on the list of eligibles for the appropriate list in accordance with his/her order of standing on the Eligibility List.~~

#### 7.05 TRANSFERS: PROBATIONARY PERIOD

An employee may be transferred in accordance with the following provisions:

##### A. Transfer in the Same Classification

An employee may be transferred within the same classification without changing his/her pay grade, employment date, or classification date. If the transfer is initiated by the City, the employee shall serve no probationary period. Where the transfer was initiated by the employee, the employee shall serve a six (6) month probationary period consistent with the terms set forth in Section 7.02 of the Personnel Rules & Regulations. If, after or during such probationary period, he/she is found to be unsuitable for the position, he/she may return to the classification he/she left with the approval of the concerned department director, provided that a vacancy exists. If no vacancy exists, he/she will be terminated and his/her name will be placed at the top of the appropriate eligibility list for the classification in question for a period of six (6) months.

B. Transfer to a Classification within the Same Pay Grade

When an employee is certified to and accepts a lateral transfer to a different classification having the same pay range as his/her present classification, he/she will be assigned a new classification. An employee who laterally transfers shall maintain his/her current pay rate in the pay range. An employee accepting a transfer to a new classification must complete the probationary period consistent with the terms of Section 7.02 of the Personnel Rules & Regulations. If after or during such probationary period, he or she is found to be unsuitable for the position, the employee may return to the classification he/she left with the approval of the concerned Department Head, provided that a vacancy exists. If no vacancy exists, he/she will be terminated and his/her name will be placed at the top of the appropriate Eligibility List for the classification in question, for a period of six (6) months.

## SECTION 8

### TRANSFERS, DEMOTIONS, REINSTATEMENT

#### ~~8.01 PROMOTIONS~~

~~The Director of Administrative Services shall be responsible for conducting competitive, promotional examinations and for establishing eligibility lists in the manner provided in Section 5 of these Rules. Certification for promotion from a competitive promotion list shall be in accordance with the provisions of Section 6 of these Rules. In competitive promotional examinations, the Director of Administrative Services shall admit to the examination all Classified Service employees who meet the published qualification requirements.~~

#### 8.01 TRANSFERS

- A. Any employee in the Classified Service who has successfully completed his/her probationary period may be transferred to the same or similar position in a different department without being subject to a probationary period. An employee desiring to be transferred should make his/her request in writing to the Human Resources Department. As vacancies occur in other departments, to which the employee would be eligible for transfer, his/her name will be submitted to the Department Head for consideration. Such in-service transfers must be brought to the attention of the appropriate Department Heads.
- B. Transfer of an employee from one position to another without significant change in level may be effected when the employee meets the qualification requirements for the particular position, if it is in the best interests of the City service, and if further training and development of an employee in another position would be beneficial to the future staffing potential of the City service.

#### 8.02 DEMOTIONS (INVOLUNTARY)

- A. An employee may be demoted to a position of lower grade for which he or she is qualified for any of the following reasons:
  - 1. When an employee would otherwise be laid off because his/her position is being eliminated, his/her position is being reclassified to a higher classification for which he/she is not qualified, lack of work, lack of funds, or because of the return to work from authorized leave of another employee, or the right of a previously promoted employee who requests the same or is during or at the end of his/her probationary period placed back in his/her prior position in accordance with Section 7.04. of the Personnel Rules & Regulations.
  - 2. When an employee does not timely obtain or possess the necessary

qualifications or fails to render satisfactory service in the position he/she holds.

3. When an employee becomes physically or mentally incapable of performing the duties of his/her position with or without reasonable accommodation, he/she may be appointed to a position the duties of which he/she is able to perform in a class carrying a lower compensation, with approval of the Departmental Head.

B. All demotions must receive the approval of the Appointing Authority.

C. All employees demoted in this manner will be required to serve another probationary period.

### 8.03 DEMOTIONS (VOLUNTARY)

Employees may be demoted at their own request to a position in a lower classification, subject to the approval of the Departmental Head. The ~~Director of Administrative Services~~ Human Resources Manager and Department Head shall determine whether the employee is qualified to perform the duties and responsibilities of the lower class position. A regular employee demoted in this manner may not be required to serve another probationary period.

### 8.04 REINSTATEMENT

Vacancies may be filled on a non-competitive basis by the reinstatement of certain former employees. A former employee may be reinstated under the following conditions:

- A. Reinstatement is a privilege of the Department Head and not a former employee's right.
- B. The employee satisfactorily completed a probationary period.
- C. The employee was separated in good standing and with findings of the Department Head and that he/she was eligible for reemployment.
- D. A reinstatement to the same department and to the same class from which the employee was separated requires certification in accordance with Section 6 of these Rules.
- E. If a Department Head proposes to reinstate a former employee to a position in a department other than that from which separated or in a position of a different class from which separated, certification shall be made in accordance with Section 6 of these Rules

- F. The rate within the salary range assigned to the class proposed for the reinstated employee shall be recommended by the Department Head and be subject to the approval of the Appointing Authority.

## SECTION 9

### EMPLOYEE PERFORMANCE APPRAISAL

#### 9.01 OBJECTIVE

- A. The City shall prepare a system of evaluating the work performance of all personnel. The purpose of the employee performance appraisal shall be primarily to inform employees on how well they are doing in their work and how they can improve their work performance. The performance evaluation may also be considered in determining the order of lay-off, as a basis for promotions, training, demotion, transfer, or dismissal and for such other purposes.
- B. Evaluations shall be made by a supervisor of each employee and shall be reviewed by the Department Head or other superior in line above the rating supervisor.

#### 9.02 PERIOD OF EVALUATION

~~On original appointments or promotions, All employees will be evaluated at the end of five (5) months of service~~ approximately six (6) months after hire or promotion, ~~and at the end of eleven (11) months of service. Thereafter, employees shall be evaluated annually by September 30~~ and annually thereafter. Law enforcement officers will also be evaluated at the end of their 1 year probationary period, and thereafter annually.

#### 9.03 REVIEW WITH THE EMPLOYEE

The evaluator shall discuss each performance evaluation with the employee being evaluated. If an employee disagrees with the statements in the evaluation, the employee may submit within ten (10) calendar days following the conference with his/her supervisor, a written statement which shall be attached to the evaluation form and forwarded through supervisory lines to the Department Head. The Department Head will consider the statement and consult with the Manager Human Resources. If an adjustment to the evaluation is not made, the statement will be attached and remain with the evaluation.

## SECTION 10

### CODE OF CONDUCT AND DISCIPLINARY PROVISIONS

#### 10.01 PURPOSE

All employees of the City of Fort Pierce are members of a team working together for the purpose of serving our community. Employees who fail to follow the Rules and Regulations governing their conduct are not only penalizing themselves, but are doing a disservice to other employees and the citizens of Fort Pierce. This Code of Conduct is designed to enforce the Standards of Conduct set forth in Section 3, to ensure the rights, privileges and safety of all employees and to provide working guidelines that encourage acceptable and business like conduct.

#### 10.02 POLICY

It is the policy of the City that all employees and contract employees, regardless of classification or status, maintain the standards of conduct expected of public employees and required by City Management. These disciplinary procedures are designed to encourage appropriate standards of behavior and promote a civil and professional working environment. The City encourages the practice of progressive discipline, where appropriate, whereby employees receive increasingly severe levels of discipline for each successive instance of related misconduct. This will provide an employee an opportunity to modify and correct his/her behavior and/or work deficiencies. In some cases, progressive discipline will not be appropriate, and more severe levels of discipline, including termination, may occur without prior warning or discipline. The City reserves the right to apply appropriate discipline based on the facts and circumstances of a particular situation.

~~B. Informal Counseling~~

~~1. Depending upon the circumstances of the case, a supervisor may choose to use informal counseling to advise an employee of work deficiencies and/or misconduct.~~

~~2. It is recommended that appropriate notes or other records concerning the date, time and nature of an informal counseling session be maintained by the supervisor within the department to document the substance of the counseling, the employees' response to the counseling and the supervisor's expected improvement.~~

#### 10.03 DISCIPLINARY ACTIONS

~~A. Management should inform an employee promptly and specifically whenever his/her performance, work habits or personal conduct falls below an acceptable level. In coordination with the concerned Department Head, it is the responsibility of the employee's supervisor to investigate the facts and evaluate the evidence of misconduct or work deficiency. In most cases, an investigation should include discussing the matter with~~

~~any complaining employee or City resident, if applicable, and the employee involved. A decision to administer a disciplinary action of any kind should include a complete review and consideration of relevant facts and the judgment of the Department Head in administering his or her departmental functions.~~ Management will work with employees to address concerns relating to performance, conduct or other behaviors that fall below an acceptable level, as appropriate. Such informal disciplinary actions may or may not be reduced to writing. The City is not required to engage in informal disciplinary counseling prior to issuing formal disciplinary action as set forth below.

B. Formal disciplinary actions include: the following, and need not be administered in a progressive manner if the facts and circumstances warrant otherwise:

1. Written Warning

~~i. The purpose of a formal warning is to advise an employee of a problem and of the improvement in performance, work habits and/or behavior the supervisor requires. A written warning shall be issued on an Employee Notice form. The recommended procedure is for management to inform the employee of its expectations and how improvement can be achieved. Management should also notify the employee of the consequences of further misconduct.~~

2. Reprimand

~~i. A reprimand shall be documented on an Employee Notice form issued to the employee, which specifically defines the nature of the infraction under these Rules and Regulations, the appropriate departmental General Orders, standard operating procedures or other rule(s). The Employee Notice form should include a complete description of the incident of misconduct and refer to specific times, dates, locations, personnel involved, and any rules violated. The consequence of continued misconduct or unacceptable performance should also be noted in the remarks section.~~

~~ii. The employee's immediate supervisor or other management level employee may initiate an Employee Notice. The form must be signed by the Department Director or his/her designee before the Employee Notice is valid.~~

3. Suspension

i. An employee may be suspended by management for reasons provided by these Rules and Regulations, the appropriate departmental General Orders, standard operating procedures or other rule(s). Suspensions may be for a variable number of workdays as determined by

management based upon the nature, severity and/or number of occurrences of misconduct committed. Suspensions may be for greater than, or less than, the number of days recommended in the groups of offenses in this section. Suspensions of more than one (1) shift shall be issued on a consecutive workday basis. Suspension for two (2) or more offenses shall be cumulative and shall not be served concurrently.

- ii. Suspension days should be scheduled without undue delay. An employee on suspension shall not be eligible to work overtime during the payroll period in which the suspension is served unless such restriction is waived by the concerned Department Head and the Director of ~~Administrative Services~~ Human Resources to meet unusual operational needs. Director of ~~Administrative Services~~ Human Resources.

#### 4. Demotion

- i. In some situations, an employee's conduct may be of such a nature that the appropriate course of action is to demote the employee. Management enjoys sole discretion to determine whether a demotion, as opposed to termination, is appropriate.
- ii. The effective date of the demotion and the position to which the employee is being demoted shall be listed in the remarks section of the Personnel Action form.

### B. Termination and Pre-termination Hearing

1. An employee may be terminated for serious and/or continued misconduct or other problems or work deficiencies which render an employee unacceptable for further employment.  
~~A Personnel Action form and an Employee Notice form describing the reason for termination and rule(s) violated shall be completed and forwarded to the Administrative Services Department immediately following the action.~~

2. A Classified employee has a right to have an informal hearing before a final decision of termination. His/her Department Head, or designee, shall schedule a hearing to discuss the misconduct or problem and proposed action.  
~~The hearing should provide an opportunity to review the case, but need not be elaborate. A Classified employee is entitled to oral or written notice of the charges against him/her, an explanation of the evidence, and an opportunity to present his/her answer to the charges, witnesses or documents supporting the employee's answer and all other materials the Department Head deems relevant to the decision to terminate. After completion of the informal hearing, the department shall take appropriate action and notify the employee.  
If the employee is not available, due to being absent or for some other reason, the department should attempt to contact the employee to give him/her the opportunity to explain why he/she should not be terminated~~

### C. Professional and Supervisory Employees

Classified Service non-union employees who hold professional and/or supervisory positions will not be disciplined using the same progressive discipline system. Rather, ~~the following procedures shall apply~~ appropriate discipline will be administered based upon the totality of the circumstances.

~~1. Informal Counseling~~

~~Depending upon the circumstances of the case, a professional and/or supervisory employee whose performance or conduct is not acceptable may be informally counseled when a problem is first noted. It is recommended that appropriate notes concerning the date, time and nature of informal counseling and expected improvement be kept by the counselor.~~

~~2. Reprimand~~

~~Using the Employee Notice form, a professional or supervisory employee will be put on notice that performance or conduct is not acceptable. Such notice will include a description of the problem and will reference the applicable policies and procedure, the appropriate departmental General Orders, standard operating procedures or other rule(s) that has been violated.~~

#### 10.04 APPLICATION OF DISCIPLINARY MEASURES

- A. In recognition of the fact that employee disciplinary and work records differ, and that each instance of misconduct may vary in some respects from similar actions, the City retains the right to treat each disciplinary occurrence on an individual basis without creating a precedent for resolving other cases of misconduct which may arise in the future.
- B. Every possible act of misconduct cannot be specifically identified in these Rules and Regulations. As such, these policies are to be interpreted broadly within the discretion and judgment of the Department Head. ~~Explanations describing the specific act of misconduct and its relation to these policies may be provided by the Department Head. If a specific instance of misconduct is not appropriately represented by an established rule in these Rules and Regulations, the Department Head may describe the misconduct and take appropriate disciplinary action.~~ Illustrative examples given in any rule are not intended to restrict the regulation, and do not limit the general application of the rule. The disciplinary procedures are not to be construed as a limitation upon the retained management rights of the City, but are to be used as a guide to assist management in determining an appropriate type and level of discipline to be administered.
- ~~C. An employee shall be given documented notice of his/her misconduct or work deficiencies which should include notice of the consequences of further~~

~~misconduct or deficiencies, if the employee fails to take immediate corrective action. The department is responsible for informing the employee of grievance and appeal rights by noting such on the appropriate form. Documentation of all formal disciplinary actions shall be included in the employee's official personnel file maintained by the Administrative Services Department.~~

- ~~D. The employee's signature is required on the form to acknowledge receipt, and does not indicate his/her agreement with the provisions of the disciplinary action. If he/she refuses to sign, it should be so indicated by management on the form in the area reserved for the employee's signature.~~
  
- ~~E. When imposing disciplinary measures on a current charge, supervisors will not take into consideration prior infractions of the City or departmental Rules and Regulations which occurred more than eighteen (18) months previously. However, within the context of progressive discipline, the final action of dismissal from employment cannot be considered corrective or rehabilitative in nature since the employment relationship is terminated. In such instances where progressive discipline has failed to achieve an employee's compliance with expected standards of behavior and a decision to dismiss him/her is under consideration, it is appropriate to review his/her entire employment record with the City.~~
  
- ~~F. An employee may be dismissed as a chronic offender of these Rules and Regulations or departmental rules when he/she has received formal disciplinary action in four (4) instances within an eighteen (18) month period. Eighteen (18) months is defined as the previous eighteen (18) months from the date of issuance of the disciplinary action.~~
  
- ~~G. As a uniform guideline, these procedures provide recommended progressive disciplinary actions for continued misconduct of the same or generally related nature; however, the recommended disciplinary action may be modified by management, including either lesser or more severe discipline, when extenuating circumstances are found to exist. Additionally, the recommended guideline for progressive action is based on violation of a single rule. When an employee has violated more than one rule, more severe discipline may be taken, up to and including termination.~~

## 10.05 CODE OF CONDUCT

~~For Classified Service employees in positions other than professional and/or supervisory, and appropriate level of discipline for related violations of offenses 39~~

~~in separate groups (Group I, II, and III) shall be determined on a case by case basis. Progressive discipline is applicable for repeated misconduct of the same or of a related nature: *In all disciplinary actions, Management reserves the right to issue more severe forms of disciplinary actions, including termination, based on the circumstances involved in the violation. The circumstances which may be considered include, but are not limited to, the following:*~~

- ~~\* the nature and seriousness of the misconduct~~
- ~~\* prior warnings and disciplinary actions for offenses of the same or generally similar nature~~
- ~~\* the number of rules violated~~
- ~~\* the employee's length and quality of City employment~~
- ~~\* time intervals between offenses~~
- ~~\* effectiveness of prior disciplinary actions~~
- ~~\* demonstrated willingness to improve~~
- ~~\* overall work performance~~
- ~~\* disciplinary actions previously administered to other departmental employees with comparable records for the same or similar offenses~~

~~B. Generally, violations of Group I offenses will not result in termination until after an employee receives at least three employee notices within eighteen (18) months. Violations of Group II offenses will not result in termination until after an employee receives at least one Employee Notice within eighteen (18) months. Serious infractions, defined as Group III offenses, may result in termination upon the first offense. An Employee Notice generated to document an infraction of the Rules and Regulations, the appropriate departmental General Orders, standard operating procedures or other rule(s) should include a written warning when termination is considered as the next disciplinary action if improvement in performance does not occur or further misconduct occurs.~~

~~The City's Code of Conduct provides that certain offenses regardless of their group categorization may, under certain circumstances, be of such a serious nature that the use of progressive discipline is not advisable, and that immediate termination from employment is recommended upon the first offense. Therefore, the City retains the right to administer any corrective action, including termination of employment upon the first violation of a City policy when, in the City Manager's sole discretion, such action is deemed appropriate. Termination from employment is also a necessary action when progressive discipline for offenses of a generally related nature has failed to achieve satisfactory improvement in an employee's conduct and/or job performance.~~

~~C. Group Offenses Defined~~

~~1. GROUP I OFFENSES AND RECOMMENDED DISCIPLINARY~~

~~ACTION~~ ~~40 Violation~~

- ~~First~~
- ~~Second~~
- ~~Third~~
- ~~Fourth~~

~~Recommended Disciplinary Action~~

- ~~Counseling/Warning~~
- ~~Warning or Reprimand or Suspension not to exceed one (1) work shift~~
- ~~Reprimand/Suspension not to exceed five (5) consecutive work shifts~~
- ~~Termination~~

~~2. GROUP II OFFENSES AND RECOMMENDED DISCIPLINARY~~

~~ACTION~~ ~~Violation~~

- ~~First~~

~~Recommended Disciplinary Action~~

- ~~Reprimand and Suspension for two (2)~~

~~Second-~~

~~consecutive work shifts-  
Termination-~~

~~3. GROUP III OFFENSES AND  
RECOMMENDED DISCIPLINARY ACTION-~~

~~Recommended Disciplinary Action-~~

~~Violation-~~

~~First-~~

~~Termination-~~

**GROUP I OFFENSES INCLUDE:**

- ~~1. Violation of any standard of conduct set forth in Section 3 of these Rules and Regulations, depending on severity.-~~
- ~~2. Refusing to sign a required acknowledgement of receipt of performance evaluation or written disciplinary action.-~~

A. The following is a list of circumstances that may result in disciplinary action up to and including termination of employment, depending on the facts and circumstances of each case. This list is not all inclusive and is for illustrative purposes only:

1. Operating, using, or possessing tools, equipment or machines to which the employee has not been assigned, or performing other than assigned work.
2. Disregarding job duties by loafing or neglecting work during working hours or quitting work, wasting time, loitering, or temporarily leaving assigned work area during working hours without permission.
3. Discourtesy to persons with whom the employee comes in contact while in the performance of his/her duties.
4. Washing up or changing clothes during working hours without specific permission of the supervisor.
5. Productivity or workmanship not up to required standards of performance.
6. Mistake due to carelessness or neglect.
7. Violating a safety rule or safety practice.
8. Reporting for work or working while unfit for duty, either mentally or physically.
9. Engaging in horseplay, scuffling, wrestling, throwing things, malicious mischief, distracting the attention of others, catcalls, demonstrations on the job, or similar types of disorderly conduct.
10. Creating or contributing to unsafe and unsanitary conditions, poor personal hygiene or poor housekeeping in the work area.

11. Conducting personal business during work time.
12. Failure to properly wear a complete City uniform as provided by the employee's department or to display proper City identification as required by departmental rules.
13. Failure to properly report a late arrival at work to the supervisor or other designated departmental representative within the time required by departmental policy.
14. Taking more than specified time for meals or rest periods.  
~~Habitual failure to punch own time card. (Guide: Three (3) times in any thirty (30) or sixty (60) calendar day period, or six (6) times in any one hundred twenty (120) calendar day period.)~~
15. Tardiness. (Guide: Three (3) times in any thirty (30) calendar day period, or six (6) times in any ninety (90) calendar day period.)
16. Chronic absenteeism. (Guide: Three (3) times in any thirty (30) calendar day period, or six (6) times in any ninety (90) calendar day period.)
17. Absent without permission or leave (AWOL).
18. Failure to file and/or keep current the required Request For Outside Employment form.
19. Failure to pay just debts due or failure to make reasonable provision for the future payment of such debts, thereby causing annoyance, interruption of work or embarrassment to the City or the employee's supervisors.
20. Failure to report immediately to the Department head the loss of a City identification card.
21. Failure to keep the Department Head and Human Resources notified of current address and contact telephone number.
22. Unauthorized posting or removal of any matter on City bulletin boards or City property at any time.  
~~Violation of a departmental rule which is considered within the Group I level for overall seriousness, nature, and significance of the misconduct.~~  
**GROUP II OFFENSES INCLUDE:-**  
~~1. Violations of any standard of conduct set forth in Section 3 of the Rules and Regulations, depending on severity.~~
23. Negligence or omission in complying with the requirements as set forth in the Code of Conduct.

24. Participating in illegal pyramid chain letter organizations, gambling, or engaging in any other game of chance at any time while on duty.
25. Making or causing to be made the publishing of false statements concerning any employee, supervisor, the City or its operation.
26. Unauthorized distribution of written or printed matter of any description on City premises.
27. Failure to report to the City Clerk a request for information, or receipt, of a subpoena from an attorney, law firm, or court of law in connection with City related business. Exception: rule not applicable for criminal/traffic case for law enforcement personnel where the city is not a named party.
28. Unauthorized vending, soliciting, or collecting contributions for any purpose whatsoever at any time on City premises.
29. Use or possession of another employee's tools or equipment without the employee's consent.
30. Refusal to give testimony in City related [investigations](#)/accident investigations or refusing to attend grievance/appeal hearings when subpoenaed or directed to attend.
31. Failure to report in a timely manner (immediately at time of occurrence) an accident or personal injury in which the employee was involved while on the job.
32. Unauthorized use of City vehicles, equipment, or supplies.
33. Driving a motor vehicle while on duty without a valid State of Florida driver's license appropriate for the type of vehicle operated or failure to report the loss or suspension of a driver's license when an employee is required to drive while on duty.
34. Leaving the job site during regular working hours without proper authorization.
35. Where the operations are continuous, leaving the assigned post at the end of the scheduled shift prior to being relieved by the supervisor or the relieving employee on the incoming shift.
36. Abuse of annual leave or extended illness leave privileges which causes scheduling and/or other operational difficulties for the department.

37. Unauthorized use of City telephones for charging personal long distance or toll calls to the City.  
~~Violation of a departmental rule which is considered within the Group II level for overall seriousness, nature and significance of the misconduct.~~  
~~Violations of any standard of conduct set forth in section 3 of the Rules and Regulations, depending on severity.~~
38. Provoking or instigating a fight or actively participating in a fight during the workday, including breaks and meal periods, or any time on City property.
39. Threatening, intimidating, coercing or interfering with fellow employees, supervisors, or the public at any time, including the use of abusive, foul or obscene language.
40. Sleeping during working hours.  
~~Reporting to work while under the influence of alcohol or illegal drugs.~~
41. Conviction of guilt or a plea of *nolo contendere* of a misdemeanor for off-duty possession of illegal drugs or drug paraphernalia.
42. ~~Serious~~ Neglect, incompetence, or inefficiency in the performance of assigned duties.
43. Deliberately misusing, destroying, damaging, or causing to be damaged any City property or property of any employee.
44. Falsification of personnel or other City records including employment applications, medical examination forms, accident records, insurance records, leave records, work records, purchase orders, time sheets, or any other report, record or application.
45. Making false claims or misrepresentations in an attempt to obtain accident benefits, workers' compensation, health insurance payments, or other benefits, or failure to repay overpayments for which not entitled. Payment must be made within a thirty (30) calendar day period.
46. Insubordination by the refusal to perform work assigned or to comply with written or verbal instructions of the supervisory force; may include the use of abusive language or behavior directed toward a supervisor.  
~~13. The consumption of and/or being under the influence of alcohol/illegal drugs while on duty, including break and/or while on lunch periods.~~  
~~14. The possession or use of illegal controlled substances while on duty, including breaks and/or while on lunch periods. (COMBINED BELOW)~~
47. The consumption of and/or being under the influence of and/or being in possession of alcohol, illegal drugs or illegal controlled substances while on duty, including break and lunch periods.
48. Receipt from any person of a fee, gift, or other valuable thing in the course of

work when such fee, gift, or other valuable thing is given or accepted in the hope or expectation of receiving a favor or better treatment than is accorded other persons, or any violation of the Code of Conduct.

49. Deliberately hitting, shoving, striking or physically abusing a supervisor/employee or member of the public at any time.
50. Knowingly harboring, without proper treatment, a communicable disease which may endanger the health of other employees.
51. Concerted curtailment or restriction of production or interference with work in or about the City's work stations, including but not limited to, instigating, leading or participating in any walkout, sit-down, stand-in, slowdown, sick-out, refusal to return to work at the assigned time for the scheduled shift, or participation in a strike or any concerted activity against the City as defined in Florida Statutes.
52. Participating in prohibited political activity in violation of Florida Statutes.
53. Failure to obtain and maintain licenses, certifications or other qualifications required for an employee's job.
54. Knowingly ~~punching the time card of another employee, having one's time card punched by another employee,~~ altering or unauthorized altering of an employee's time ~~card~~ sheet or misrepresenting related payroll records.
56. ~~Being absent from duty for a period of three (3) consecutive working days without proper authorization.~~ Failure to return from an authorized leave of absence within three (3) working days from scheduled date of return.
57. Possession of firearms, explosives, or weapons on City property or within City vehicles, except for law enforcement personnel. Even though the employee may possess a license or permit, the employee must not carry the same on City property or while in the course of their employment. This does not prohibit employees from possessing a legally owned firearm that is lawfully possessed and locked inside or locked to a private motor vehicle in the City's parking lot.
58. Permitting another person to use your City identification card, or using another person's identification card, or altering a City identification card.
59. Use or attempted use of political influence or bribery to secure an advantage of any manner.
60. Theft or removal from City locations without proper authorization any City

property or property of any employee.

61. Unlawful or improper conduct either on or off the job, which would tend to affect the employee's relationship to his/her job, his/her fellow workers, his/her reputation or goodwill in the community.
62. Conviction or a plea of nolo contendere of a felony or a misdemeanor of the first or second degree as defined by Florida Statutes, or any violation of a City ordinance involving moral turpitude, while either on or off the job.
63. Making racial slurs or sexual harassment by: 1) making unwelcome sexual advances or requests for favors or other verbal or physical conduct of a sexual nature a condition of an employee's continued employment, or 2) making submission to or rejection of such conduct the basis for employment decisions 46 affecting the employee, or 3) creating an intimidating, hostile or offensive working environment by such conduct, or 4) related derogatory remarks. Engaging in harassing behavior based on a person's gender, race, age, religion, national origin, pregnancy, disability status, veteran status, marital status or sex.
64. Failure to notify the City of any ~~criminal drug statute conviction or a plea of non contenda for a violation occurring in the workplace no later than five (5) work days after such conviction.~~ arrest, conviction or plea of nolo contendere within three days of the event.  
  
~~Chronic offender of the Code of Conduct. (Guide: Violation of any departmental or City rule or regulation which results in four (4) Reports of Oral Warning or an Employee Notice being issued in an eighteen (18) month period.)~~  
  
~~Violation of a departmental rule which is considered within the Group III level for overall seriousness, nature and significance of the misconduct.~~
65. Conviction of a felony which the Appointing Authority determines could have a direct relationship to work responsibilities including, but not limited to, any area involving drugs, firearms, truth, and veracity.
66. Violation of the City's anti-bullying policy.

## SECTION 11

### HOLIDAYS

#### 11.01 DAYS OBSERVED

- A. The following and any other days authorized by the City Commission are holidays with pay for all employees (with the exception of temporary or part-time employees and school crossing guards):
1. January 1<sup>st</sup>
  2. Martin Luther King's Birthday
  3. ~~George Washington's Birthday~~ Presidents' Day
  4. Memorial Day
  5. July 4<sup>th</sup>
  6. Labor Day
  7. Veteran's Day
  8. Thanksgiving Day
  9. Day after Thanksgiving Day
  10. December 24
  11. Christmas Day
- B. Whenever a holiday falls on a Sunday, the following Monday shall be considered a holiday. When a designated holiday falls on a Saturday, the preceding Friday shall be observed as the holiday.
- C. Holidays when computing on scheduled work days – Employees who are required to work on the observed holiday shall be paid at the regular pay granted for the holiday. Holidays will be considered time worked ~~when computing~~ overtime.
- D. Holidays which occur during vacation leave shall not be charged against vacation leave.
- E. -  
Holidays which occur during an ~~sick leave shall not be charged against sick leave. An employee who is not on approved leave and fails to report on the day before or the day after a holiday shall not be paid for the holiday.~~ approved period of FMLA leave for which the employee is using sick leave shall not be charged against sick leave. If an employee calls out sick either the day before or the day after the holiday, the employee will not be paid for the holiday unless the employee presents a doctor's note or the time is covered by the FMLA.
- F. For regular employees on a workweek other than Monday through Friday, the Appointing Authority or his/her designated representative shall designate the workday that shall be observed, if the holiday does not fall in this normal work

cycle.

- G. If a holiday falls on the employee's normal day off, the employee ~~will receive pay for the holiday.~~ will be entitled to take off the work day either before or after the holiday, as determined by their supervisor, and receive holiday pay for that absence.
- H. Holidays on scheduled workday – Employees who are required to work on the observed holiday shall be paid at the regular pay granted for the holiday. In this circumstance, the holiday will be considered time worked when computing overtime.
- I. When scheduled to work on a holiday and the employee calls in and is placed on sick leave, the employee will receive holiday pay only if the employee provides a doctor's note or the time is covered by FMLA..

**SECTION 12**

**VACATION LEAVE**

**12.01 ELIGIBILITY**

- A. All full time, regular, and provisional employees shall be entitled to earn and accrue vacation leave with pay which will be computed from the starting date of employment.
- B. Temporary employees shall not be eligible for vacation leave.
- C. Part time employees who work twenty-five (25) hours or more per week shall be entitled to accrue leave in proportion to the number of hours worked. An employee who normally works less than twenty-five (25) hours per week shall not be entitled to any vacation leave.
- D. Employees serving a probationary period on an original appointment shall accrue vacation leave in accordance with the provisions of this section. If an employee serving a probationary period on an original appointment leaves the City's service without satisfactorily completing the probationary period, he/she shall not be compensated for any accrued vacation leave.
- E. For vacation purposes, re-instated employees are considered new employees.

**12.02 RATE AT WHICH LEAVE IS EARNED, ACCUMULATED, AND PAID**

- A. All regular employees accumulate vacation leave as follows:

One (1) year of continuous service, but less than five (5) years	12	days	per
year			
Five (5) years of continuous service, but less than ten (10) years	14	days	per
year			
Ten (10) years of continuous service and over	17	days	per
year			
- B. Earned vacation leave may be accumulated to a maximum not to exceed thirty (30) working days. Any accumulation over thirty (30) working days will be considered forfeited and lost. Vacation pay will be computed at the employee's base rate of pay.

**Note:** Employees shall not earn vacation time when the employee is on a non-paid leave status.

### 12.03 USE OF VACATION LEAVE

- A. Subsequent to the successful completion of the first six (6) months of employment, vacation leave may be taken as earned subject to the approval of the Department Head. Two (2) weeks advance notice is required but this may be waived at the discretion of the Department Head, depending on the circumstances.
- B. Vacation leave assignments will be made in accordance with the preference of the employee, whenever possible; however, leave must be taken at the convenience of the department. The Department Head's decision as to when leave may or may not be taken will be final.
- C. Vacation leave will be charged in minimum increments of fifteen (15) minutes.
- D. Vacation/annual leave may be granted for the following purposes:
  - 1. Vacation.
  - 2. Absences for transactions of personal business which cannot be conducted during off-duty hours.
  - 3. Religious holidays.
  - 4. Extended illness, once accumulated sick leave has been exhausted.
  - 5. Any absences from work not covered by other types of leave provisions established by these rules.

### 12.04 PAYMENT OF UNUSED VACATION LEAVE

- A. Upon termination, regular employees who have successfully completed (6) months or more service shall be compensated for vacation leave accrued to the date of separation, not to exceed a maximum of thirty (30) working days.
- ~~B. Employees who elect to participate in the deferred retirement option plan (DROP) will be able to convert all or a portion of their hours to cash up to a maximum of 240 hours. Any or all remaining hours can be carried over into the DROP period with the understanding that any unused hours will be paid out at the end of the DROP period up to a maximum of 240 hours.~~

### 12.05 TRANSFERS – VACATION LEAVE

When an employee is transferred to another position within the City, vacation leave which may have accumulated to his/her credit shall continue to be available for use as necessary.

## SECTION 13

### SICK LEAVE

#### 13.01 ELIGIBILITY

Eligibility requirements to earn and accrue sick leave are the same as indicated for vacation leave in Section 12.01 [of the Personnel Rules and Regulations](#).

#### 13.02 RATE AT WHICH SICK LEAVE IS EARNED

The employee earns sick leave credits at a rate of one (1) working day per calendar month, or major portion thereof. An employee who has taken sixteen (16) or more calendar days of sick leave with or without pay in any month period shall not earn sick leave credit for the month.

#### 13.03 CHARGING SICK LEAVE

All absences chargeable to sick leave of one (1) hour or more are to be reported on the ~~prescribed forms~~. [Request for Leave of Absence, Form 220](#). For purpose of record, absences of fifteen (15) minutes or less may be disregarded, unless such absences become habitual. Absences in excess of one (1) hour will be reported to the next full hour. To be eligible for sick leave, an employee must have accrued a minimum of eight (8) hours sick leave and have been employed for thirty (30) workdays.

#### 13.04 REQUEST FOR SICK LEAVE

To receive compensation while absent on sick leave, the employee shall notify his/her immediate supervisor, division or department head prior to, or within two (2) hours after, the time set for beginning the daily duties. An employee in a unit providing essential services operating on a shift basis must notify the department within the time limit established by the appropriate Department Head. This provision may be waived by the Department Head if the employee submits evidence that it was not possible to give such notification.

#### 13.05 USE OF SICK LEAVE

Employees shall be eligible to use such leave as earned, subject to the provisions of these Rules. Sick leave may be granted for the following purposes:

- A. Personal injury or illness not connected with work.
- B. Pregnancy.
- C. Necessary appointments with physicians, therapists or dentists.

- D. Exposure to a contagious disease which would endanger others.
- E. ~~Illness of a member of the employee's immediate family who lives permanently in the same domicile, who requires the personal care and attention of the employee.~~  
Illness of a spouse, son, daughter or parent of the employee who requires the personal care and attention of the employee.
- F. Absences covered by the Family and Medical Leave Act.

Under no circumstances will an employee be allowed to use Sick Leave for personal business or vacation purposes. Employees who claim or request Sick Leave for reasons other than those listed above shall be subject to disciplinary action for falsification of records.

### 13.06 ACCUMULATION OF SICK LEAVE

The maximum number of accumulated sick leave hours shall be unlimited. Sick leave shall not be used within the first thirty (30) workdays of employment.

### 13.07 CERTIFICATION BY A PHYSICIAN

Whenever an employee uses sick leave in excess of two (2) consecutive days, they may be required by their Department Head/Manager to submit a certificate from a physician licensed under Florida Law. The employee shall not return to work until a written release to resume work responsibility from said physician is presented to the Department Head/Manager. When it is determined that an employee's request for sick leave is not justified, the value of the absent time may be deducted from the employee's pay or accrued vacation leave, as permitted by law.

Claiming sick leave when physically fit shall be cause for disciplinary action and subject to suspension or dismissal.

### 13.08 UNUSED SICK LEAVE

- A. Employees who leave the City's service in good standing and have at least three (3) through nine (9) years of continuous service with the City will receive pay for one-half (1/2) of their accumulated sick leave balance up to a maximum of forty- five (45) days/360 hours.
- B. Employees who leave the City's service in good standing and have at least ten (10) or more years of continuous service with the city, will receive pay for their accumulated sick leave balance up to a maximum of ninety (90) days/720 hours.
- C. Employees who do not use all their sick leave because of sickness or disability may use this toward early retirement. At the employee's request for early

retirement, the employer shall take the total hours of unused accumulated sick leave; divide this by the hours the employee works per week. This figure shall be the amount of time in weeks that the employee may be absent from the department and continue to draw full pay, provided however, such time shall not exceed ninety (90) days. The employee who requests and uses unused accumulated sick leave in this manner shall be considered retired when the sick leave is exhausted. Said request shall be irrevocable.

- D. Employees who elect to participate in the deferred retirement option plan (DROP) will be able to convert up to 720 hours to cash. The remaining hours can be carried over into the DROP period with the understanding that any unused hours will not be paid out at the end of the DROP period.

### 13.09 SICK LEAVE CONVERSION PLAN

The Sick Leave Conversion Plan is an incentive for ~~not abusing sick leave~~ employees. To be eligible, an employee needs to have been employed with the City for at least sixteen (16) months and must meet other specific requirements. For the purpose of this section, the base period shall be defined as the first payroll period in October of the preceding year to the close of the last payroll period in September of the current year.

#### A. Specific Eligibility Requirements for Sick Leave Conversion Plan

1. During the base period, an employee must have put at least forty-eight (48) hours into his/her accumulated sick leave balance which cannot be converted.
2. The employee must be working for the City at the end of the base period.  
~~Under no circumstances can an employee be eligible for the Sick Leave Conversion Plan if he/she is not working for the City at the end of the base period.~~
3. The employee must have more than 128 hours in his/her sick leave balance at the end of the base period.
4. Under no circumstances can an employee's sick leave balance go below ~~sixteen days~~ 128 hours after participating in the Sick Leave Conversion Plan.

#### B. Conversion Plan

1. Providing the criteria in the Special Eligibility Requirements for Sick Leave Conversion Plan have been met within the base period as defined above, an employee may elect to convert ~~up to, but no more than, forty eight (48) hours earned during the current base period to a cash bonus calculated at one hundred percent (100%) of the employee's current hourly salary. This bonus will be paid no later than November 30<sup>th</sup> of the current year and is subject to standard deductions as required by law~~ unused sick leave earned during the base period into a cash bonus.
2. The total amount of unused sick leave an employee can convert is forty eight (48) hours. The amount eligible to convert is whatever sick leave hours the employee

has not used from his or her annual amount of 96 hours, less the 48 hours the employee has to bank to be eligible to participate. Any of those unused hours, up to a maximum of 48, can be converted, provided the remaining balance is at least 128 hours.

3. The unused sick leave that is converted will be paid as a cash bonus calculated at one hundred percent (100%) of the employee's current hourly salary. This bonus will be paid no later than November 30<sup>th</sup> of the current year and is subject to standard deductions as required by law.
4. ~~Providing the criteria in the Eligibility for Sick Leave Conversion Plan have been met,~~ The election form for an employee to convert or not convert sick leave shall be available within (2) weeks of the close of the last payroll period in September. This form shall be returned to ~~Personnel~~ Human Resources no later than October 30<sup>th</sup> of the current year. Such an election shall be final. ~~Personnel shall provide payroll with the list of employees who are converting and the number of hours to convert for said employees by November 14<sup>th</sup> of the current year.~~
5. Any sick leave hours an employee elects to convert into a cash bonus shall be immediately removed from the employee's accumulated sick leave balance and under no circumstances can it ever be reinstated.
6. Even though an employee may be eligible to convert sick leave, he/she may decline. In that event, the employee's sick leave balance shall remain intact.

#### 13.10 TRANSFERS – SICK LEAVE

When an employee is transferred to another position within the City, sick leave which may have accumulated to his/her credit shall continue to be available for his/her use as necessary.

## SECTION 14

### LEAVES OF ABSENCE

#### 14.01 BEREAVEMENT ~~FUNERAL~~ LEAVE

- A. All full-time regular employees may be granted bereavement leave up to three days ~~upon approval of the Department Head and Director of Administrative Services in the event of~~ for death in their immediate family ~~(See definition of Immediate Family.)~~, without charge to any other accrued leave time. For purposes of this policy, immediate family is defined as the employee's father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandfather, grandmother, grandson, granddaughter, great-grandparent, grandparent-in-law, step-grandparent, foster parent, and foster child.
- B. Employees must use the bereavement leave within 30 calendar days of the immediately family member's death.
- C. Bereavement Leave will not be considered as time worked for purposes of determining whether overtime is due.
- D. To request time off under this policy, the employee must complete a Bereavement Leave Form and obtain approval from their Department Head and the Human Resources Manager. The employee may be required to provide the department with proof of death in the immediate family before compensation is approved.
- F. If the employee wishes to attend the funeral of someone outside the ~~immediate family~~, familial relationships described in this policy, annual/vacation leave or leave without pay may be granted at the discretion of the Department Head.

#### 14.02 CIVIL LEAVE

- A. Employees attending court or a deposition as a witness on behalf of the City or for jury duty during their normal working hours shall be paid for the hours they attend court. This time shall be charged as leave with pay. For payroll purposes, jury duty and witness leave will not be considered as time worked for the purposes of determining whether overtime is due.
- B. All ~~regular full-time~~ employees subpoenaed to attend court or a deposition on behalf of the City are eligible for civil leave. Those employees who become plaintiffs or defendants in personal litigation are not eligible for civil leave. In such cases, annual/vacation leave or leave without pay may be granted at the discretion of the Department Head.

- C. Employees who attend court for only a portion of a regular scheduled workday are expected to report to their supervisors when excused or released by the Court.
- D. All court attendance must be verified before an employee is compensated. You must provide a copy of the jury duty summons or subpoena to Human Resources and your manager within one day of receiving the summons.
- E. All witness or jury duty fees received by the employee for such duty, while in a paid status, shall be turned over to the City.

#### 14.03 ADMINISTRATIVE LEAVE

The Appointing Authority may grant administrative leave with pay to employees to attend conventions, seminars, conferences, and similar affairs where the purpose of these meetings has a direct connection to the business and/or approved programs of the City. Administrative leave with or without pay, determined by the Appointing Authority, and may also be approved for placing employees on special assignments as during periods of investigation.

Administrative leave maybe approved for donating blood; however, employees shall return to work after completion of blood donation unless given within (1) hour at the end of the scheduled working hours.

#### 14.04 LEAVE OF ABSENCE WITHOUT PAY (For requests not covered by the Family and Medical Leave Act)

- A. Duration and Approval (some lines merged)
  - 1. An employee serving an initial probationary period may be granted an informal leave of absence without pay not to exceed thirty (30) calendar days. Such absence may only be extended upon approval by the Department Head and ~~Director of Administrative Services~~ Human Resources, but the probationary period shall be extended to allow for any approved absence. The employee will be returned to his or her job, or an equivalent position, at the expiration of the informal leave.
  - 2. An ~~full-time~~ employee may request an informal leave of absence without pay for up to thirty (30) calendar days or a formal leave of absence without pay for a specified duration in excess of thirty (30) consecutive calendar days if necessary for personal or non-FMLA qualifying reasons, and all accrued leave has been exhausted. When possible, such leave should be scheduled at least two (2) weeks in advance.
  - 3. The request for formal and informal leave must be approved by the employee's Department Head and the Director of Human Resources.
  - 4. The employee will be returned to his or her job, or an equivalent

position, at the expiration of the informal leave (30 day period). An employee on a formal leave of absence (longer than 30 days) is not guaranteed to be returned to his or her position, or an equivalent position. An employee on leave in excess of 30 days under this policy does not have job protection, unless otherwise required by law.

5. Extensions to authorized leaves of absence must be requested by the employee in writing and approved by the employee's Department Head and the Director of ~~Administrative Services~~ Human Resources.
6. Note: Extended illness leave, annual leave or holiday time or any type of seniority except as noted otherwise in this section, will *not* be earned or accrued by an employee for the time that he/she is on a leave of absence without pay.

#### B. Employee's Responsibility While on Leave

1. An employee granted a leave of absence shall keep his/her department informed periodically, or as stated in the leave, but at least every thirty (30) days of his/her current status (school, military, etc.) and intent to return to work.
2. An employee on a leave of absence shall keep his/her department advised of any change in his/her current address and telephone number.
3. An employee ~~who wishes~~ is not permitted to accept either part or full-time employment elsewhere where the hours worked would conflict with the hours the employee normally works for the City. Exceptions may be made to this policy in unusual circumstances. Any employee who wishes to apply for an exception must do so in writing to the employee's department prior to accepting such employment.
4. An employee who fails to comply with the above requirements may be removed from leave of absence status, in which case he/she must return to work or be terminated.
5. An employee who wishes to return to work before his/her leave period has expired shall be required to provide the department with at least two (2) weeks prior notice, absent special circumstances.

#### C. Return From Leave of Absence

1. ~~An employee granted a leave of absence in excess of twelve (12) weeks shall be permitted to return to work providing a vacancy exists in his/her prior position or classification. If such vacancy does not exist, the City shall make a reasonable effort to transfer him/her within thirty (30) calendar days to a position for which he/she is qualified and able to perform the essential functions of the job. If no transfer is accomplished, he/she shall be terminated and placed on an eligibility list for his/her classification for a period of six (6) months.~~  
An employee granted a leave of absence in excess of thirty (30) days is not guaranteed employment at the conclusion of the leave, unless required by law. Such employee shall be permitted to return to work providing a

vacancy exists in his/her prior position or classification. If such vacancy does not exist, the City shall make a reasonable effort to transfer him/her within thirty (30) calendar days to a position for which he/she is qualified and able to perform the essential functions of the job. If no transfer is accomplished, he/she shall be terminated and placed on an eligibility list for his/her classification for a period of six (6) months.

2. An employee reinstated to his/her prior classification from a leave without pay status shall be eligible to receive his/her prior rate of pay in addition to any general pay increases applicable to his/her classification.
3. A leave of absence without pay in excess of thirty (30) consecutive calendar days, other than as required by law, will result in a corresponding adjustment of the employee's anniversary date of employment and classification date.
4. Nothing in this policy is intended to or does conflict with the Americans With Disabilities Act. Any request for leave as an accommodation for a disability will be considered by the Department Head and Human Resources Department, and protected leave may be granted for periods in excess of 30 days if doing so is a reasonable accommodation in light of the individual circumstances.

D. Group Insurance Coverage During Leaves of Absence

1. Group health and life insurance coverage for an enrolled employee and eligible enrolled dependents may be continued as follows:
  - a. Medical leave of absence related to employee's own health condition – 12 months.
  - b. Other leave of absence – 6 months.
2. An employee shall notify the Finance Department in advance of his/her leave of absence to advise whether he/she wishes to retain or discontinue his/her group insurance coverage while on leave.
3. An employee who wishes to continue insurance coverage shall make payments to the Finance Department either on a monthly basis or a lump-sum payment, in advance equal to the authorized length of his/her leave of absence.
4. If a request to discontinue health and additional life insurance has been completed, coverage will be terminated on the last day of the month for which coverage has been paid.
5. If an employee's payments are not made after two months, thirty (30) calendar days after agreed upon payment date for leaves covered by the Family and Medical Leave Act, coverage will be canceled as of the last day for which coverage has been paid.
6. If health insurance under an indemnity plan is canceled during an approved leave of absence, it will be reinstated upon the employee's return to work in accordance with the coverage requirements of the insurance.
7. If health insurance is canceled during an approved leave of absence, it will be reinstated pursuant to the administrative procedures of the health

insurance program, as amended or in accordance with the provisions of the Family and Medical Leave Act.

8. If authorized leave exceeds six (6) months for unpaid leaves other than for a medical leave or twelve (12) months (see A-1) for a medical leave of absence, upon return, insurance will be reinstated after the completion of a waiting period of ninety (90) calendar days.
9. An authorized leave without pay shall not constitute a break in service, but the time will not be credited toward retirement.

#### 14.05 MILITARY LEAVES

It is the policy of the city to accommodate its employees when it is necessary that they be away from their jobs for military leave purposes.

##### A. Annual Military Leave

In accordance with ~~Florida Statutes, Chapter 115.07~~ applicable, as amended, and ~~applicable federal~~ law, a regular employee who is a commissioned reserve officer or reserve enlisted person ~~the United States military services or a member of the National Guard shall be entitled to a leave of absence without loss of pay for such time as he/she shall be ordered to active or inactive duty training for a period not to exceed seventeen (17) working days in any one fiscal year. The fiscal year is defined as October 1<sup>st</sup> through September 30<sup>th</sup>.~~ in a reserve component of the Armed Forces or the National Guard of the United States will be entitled to a leave of absence with full pay and without loss of benefits on all days during which they are engaged in training under the provisions of the U.S. military or naval training regulations up to a maximum of 240 hours any one calendar year.

A regular employee who is a member of the United States Armed Forces Reserve, including the National Guard, will be entitled to a leave of absence for active duty with full pay and without loss of benefits up to a maximum of 240 hours in any one calendar year. For this purpose, active duty shall include instances in which the employee is called up to serve during civil disobedience (riots) or hazardous materials incidents (hazardous waste/chemical gas leaks, etc.) or any other event during which the Governor is authorized to call up the state military (FSS 250.06(4)).

~~An employee shall be required to submit an order or statement from the appropriate military commander as evidence of any such duty. Such order or statement must accompany the formal request for military leave at least two (2) weeks in advance.~~

*In all cases, employees must provide copies of official orders prior to receiving benefits under these policies. Additionally, employees are required to notify the City of their military leave obligations as soon as possible, unless such notice is*

*prohibited or unreasonable.*

The number of hours of daily paid leave provided to each employee shall be based on the number of hours the employee was normally scheduled to work on each workday the employee is absent due to military training or active duty.

While on military leave, the employee's position is held for them until their return. Maintenance of benefits is governed by the Uniformed Services Employment and Reemployment Rights Act of 1994.

While on paid leave from employment resulting from training duty or active duty as defined above, each employee continues to earn both vacation and sick leave, accrue (and contributed to) retirement benefits, and continue eligibility for most employer provided benefits as though the employee was working his/her normal capacity.

Retirement rights for military veterans are governed by USERRA.

Employees who are called to active duty will qualify for benefits under the City's health insurance program for the shorter of a) 24 months or b) the period ending on the day after the employee fails to apply for a return to a position of employment after completing leave in accordance with the time frame set forth below (see "application for re-employment"). If on leave for 31 days or more, they may be required to pay up to 102% of the full cost of the premium (employee and employer shares). Employees called to active duty can convert their life insurance policy to an individual policy. This conversion must take place within 31 days of the call to active duty. During that 31 day period, life insurance coverage will continue. Arrangements for the conversion of life insurance coverage must be made with the City's life insurance carrier.

#### Recall to Active Military Duty

An employee ~~who is a member of a military reserve component or the National Guard who is ordered to active duty to fulfill his/her primary military obligation will be granted a military leave of absence without pay for this period of time. When the Governor of the State of Florida so orders for National Guard members, or the City Manager or his/her designee chooses to exercise the discretion given him/her by state law for military reservists, the employee's military pay may be supplemented by an amount determined by the City.~~ called to active duty may wish to retain coverage under the City's health insurance program for the purpose of providing continued coverage to dependents.

In these situations, the City will continue to pay the employer's share of the family coverage benefit while the employee is on paid leave. As an alternative, dependents may have the opportunity to select coverage under the military insurance program.

When an employee returns to work from active duty, they may reinstate their health and life insurance coverage without penalty.

In the case of an employee who is called to active military status (*not a voluntary enlistment*), the employee shall receive his regular salary for the first thirty (3) calendar days of leave in accordance with F.S. Chapter 115, followed by a supplement from the City to make up the difference (if any) between his military pay and his regular wages, for up to twenty-four (24) months following the first thirty (30) calendar days. As supplementation of military pay is voluntary, the City reserves the right to discontinue or modify the terms of this policy regarding supplemental pay. The City may also limit the amount and/or period of supplementation depending upon the length and/or frequency of military service.

B. Inactive Duty Training (Weekend Drills)

An employee who is a member of the Armed Forces Reserve or the National Guard shall be excused from work to attend inactive duty training as required. Evidence of membership in the applicable organization and training orders shall be provided to the department by the employee. Requests for such absences from work can be made either orally or in writing. The submission of the applicable Reserve or National Guard training schedule will satisfy this requirement. In the event scheduled inactive duty training falls on an employee's duty day(s) he/she may request the use of annual military leave, annual leave, trade time assignments in conformance with departmental procedures or leave without pay.

C. Recall to Active Military Duty

An employee who is a member of a military reserve component or the National Guard who is ordered to active duty to fulfill his/her primary military obligation will be granted a military leave of absence without pay for this period of time. When the Governor of the State of Florida so orders for National Guard members, or the City Manager or his/her designee chooses to exercise the discretion given him/her by state law for military reservists, the employee's military pay may be supplemented by an amount determined by the City.

D. Recall to Emergency Active Military Duty

Employees responding to emergency military orders shall be granted leave without pay for required absences as necessary, unless an exception to this policy has been approved by the City Manager.

E. Induction or Enlistment into Military Service

A full-time employee who enlists, is drafted or inducted into the armed services for active duty shall be granted a military leave of absence for the initial period of enlistment. This leave shall be without pay.

All monies due the employee (i.e., annual leave, etc.) shall be paid at the time of his/her leaving City employment to enter active military service.

F.

~~Reinstatement from Military Service~~ Application for Re-Employment

~~Upon termination from active military service, an employee who wishes to return to City employment shall contact the Director of Administrative Services in writing within ninety (90) calendar days from the date of military discharge. An employee shall not be considered eligible for reinstatement by the City if he/she received a dishonorable military discharge or voluntarily reenlisted in the military service beyond his/her initial military obligation. An employee requesting reinstatement with the City shall submit to a medical examination, at City expense, to determine if he/she is physically and mentally capable of performing the essential duties of his/her former position.~~

~~An employee returning to City employment in his/her classified position shall be reinstated at the salary he/she would have received, including any general wage adjustments or applicable automatic step increases, had he/she continuously been employed by the City instead of entering the armed services. The employee's date of hire and classification shall remain unchanged.~~

~~If the position vacated by an employee who entered the military service is reclassified or retitled during his/her period of military service, he/she shall be reinstated in the new or revised position, unless he/she is not capable of satisfactorily performing the duties of the position. If his/her former position has been abolished, or if he/she is incapable of satisfactorily performing the duties, he/she shall be reinstated in a position as nearly comparable as possible in salary and duties to the position he/she vacated.~~

~~G. Leave for the purpose of enlistment into the Armed Forces of the United States will be granted in accordance with the provisions of the Universal Military Training and Service Act and other applicable laws.~~

Under the Uniformed Services Employment and Reemployment Act, a deployed employee must report for duty at work after being released from the military obligation within a defined time period depending upon the amount of military time served. The time periods are as follows:

For periods of service of up to 30 consecutive days, the person must report back to work on the first full calendar day following the completion of the period of service and safe transportation home, plus an 8-hour period of rest. If reporting back within this deadline is "impossible or unreasonable" through no fault of the employee, he or she must report back as soon as possible after the expiration of the 8-hour period.

After a period of service of 31-180 days, the person must submit a written or verbal application for reemployment with the employer no later than 14 days after the completion of the period of service. If submitting the application within 14 days is impossible or unreasonable through no fault of the employee, he or she must submit the application as soon as possible thereafter.

After a period of service of 181 days or more, the person must submit an application for reemployment no later than 90 days after completion of the period of service. These deadlines to report to work or apply for reemployment can be extended up to two years to accommodate a period during which a person was hospitalized for or convalescing from an injury or illness that occurred or was aggravated during a period of military service.

In either case, the person does not automatically forfeit the right to reemployment, but will be “subject to the conduct rules, established policy, and general practices of the employer pertaining to explanations and discipline with respect to absence from scheduled work.” Re-employment rights under USERRA extends to employees for up to five year of military service (consecutive or intermittent).

~~An employee returning to City employment in his/her classified position shall be reinstated at the salary he/she would have received, including any general wage adjustments or applicable automatic step increases, had he/she continuously been employed by the City instead of entering the armed services. The employee’s date of hire and classification shall remain unchanged.~~

~~If the position vacated by an employee who entered the military service is reclassified or retitled during his/her period of military service, he/she shall be reinstated in the new or revised position, unless he/she is not capable of satisfactorily performing the duties of the position. If his/her former position has been abolished, or if he/she is incapable of satisfactorily performing the duties, he/she shall be reinstated in a position as nearly comparable as possible in salary and duties to the position he/she vacated.~~

~~G. Leave for the purpose of enlistment into the Armed Forces of the United States will be granted in accordance with the provisions of the Universal Military Training and Service Act and other applicable laws.~~

## 14.06 INJURY LEAVE

### ~~General~~

All City employees have a responsibility to practice safe working procedures at all times. All City efforts should accentuate the prevention of “on-the-job” injuries. In the event of an on-the-job injury, the following policy and procedures will be implemented.

### ~~Administrative Procedure~~

#### A. Light/Restricted Duty

1. For the purpose of this guideline, “light/restricted duty” is defined as

available temporary, productive work for which an employee who has been injured on the job is physically and mentally able to perform within the medical restrictions established by the primary treating physician.

2. When an employee is injured on the job, his/her Department Head will determine whether light/restricted duty, within the employee's medical limitations, is available in the Department where the employee was injured. All efforts will be made to provide light/restricted duty immediately for the employee.
3. If no light/restricted duty is available in the injured employee's Department, efforts will be made by the Department Head, ~~Administrative Services~~ Human Resources Department and Risk Management to find such work in other city Departments. If no light/restricted duty is immediately available in other City Departments, the injured employee will be ~~notified if~~ subject to "call to light/restricted duty" and will be notified if a light/restricted-duty situation subsequently arises or if the employee's medical condition changes.

~~For internal budgeting purposes, the expenses associated with any restricted duty within another Department will be charged to the injured employee's Department.~~

~~A Personnel Requisition must be approved for temporary help if temporary manpower is needed in the injured employee's Department and he/she is unable to work or while the employee is working on restricted/light duty in another Department.~~

#### B. Light/Restricted Duty-Time Limit

~~After the primary treating physician first notifies the City the injured employee is capable of performing restricted duty, the employee will have six (6) months from the date of this notice to return to his/her regular position without medical restrictions. If the injured employee does not receive a restricted duty clearance from the primary treating physician within six (6) months from the date of injury, reasonable accommodations will be considered for the performance of the employee's job duties. Reasonable accommodations must not impose a hardship on the City. Accommodations will be explored with the employee and the primary treating physician in accordance with ADA guidelines. If the injured employee can perform all of the essential job functions of his/her regular position with or without reasonable accommodations, the employee will be removed from restricted duty and returned to his/her regular position. If the employee cannot perform all of the essential job functions of his/her regular position with or without reasonable accommodations in accordance with ADA, then the injured employee may be terminated from City employment.~~

1. An employee may not perform light/restricted duty for more than six months, unless otherwise required by law.
2. If, while on light/restricted duty, the employee is able to return to his or

her regular position, with or without reasonable accommodation, the employee will be removed from light/restricted duty and returned to his/her regular position.

3. If the employee is not able to return to his or her regular position, with or without reasonable accommodation, within six months, the City will determine if there are any open positions for which the employee is qualified and is able to perform with or without reasonable accommodation. If no such open position exists, the employee may be terminated.

C. Injury Pay While on Light/Restricted Duty

The injured employee will be paid the hourly wage he/she was earning at the time of the injury while he/she is working on light/restricted duty, regardless of whether the restricted duty actually performed is paid at a rate higher or lower than his/her hourly wage rate at the time of the injury. If the primary treating physician limits the injured employee's restricted duty to less than eight (8) hours per day, the City will pay only for those hours actually worked. The injured employee may be eligible for temporary, partial worker's compensation benefits, which involve completion of required forms on a timely basis. Any annual wage increases or promotional increases earned by the injured employee while on light/restricted duty will be paid to the employee, in accordance with the applicable bargaining agreement. Non-represented employees will be entitled to a pay increase, provided his/her Department Head has evaluated and recommended a wage increase. If the Department Head cannot evaluate the employee for whatever reason, the injured employee will be evaluated, within a reasonable time, when and if he/she returns to regular duty.

D. Injury Leave Pay When No Light/Restricted Duty Available –(changed 2 renumbered)

1. If no light/restricted duty is available, or if the injured employee cannot physically or otherwise perform the available restricted duty, the employee may receive the worker's compensation benefits granted by law ~~approximately equal to two-thirds (2/3) gross pay, tax free, subject to the State of Florida maximum payment.~~
2. ~~In addition~~ The employee will have the option to use his/her accumulated sick and/or vacation time to supplement worker's compensation benefits, up to the maximum of the employee's weekly gross, straight time pay. ~~(It is the intension of this guideline to allow the injured employee an option to sue accumulated sick and/or vacation benefits only to the extent that when added to the worker's compensation benefits, the total will approximate the injured employee's gross, weekly straight time pay he/she was earning at the time of injury.)~~ At no time can

the total received by the employee through workers' compensation and leave pay exceed the employee's regular weekly pay.

~~Worker's compensation law does not provide compensation to the injured employee for the first seven (7) calendar days following an on-the-job injury unless the employee has been away from the job because of the injury for more than twenty-one (21) calendar days, in which case worker's compensation benefits retroactively compensate for the first seven (7) days of absence.~~

~~Worker's compensation law does not provide compensation to the injured employee for the first seven (7) calendar days following an on-the-job injury unless the employee has been away from the job because of the injury for more than twenty-one (21) calendar days, in which case worker's compensation benefits retroactively compensate for the first seven (7) days of absence.~~

E. Light/Restricted Duty Refused

If light/restricted duty offered to the injured employee is within the medical limitations established by the primary treating physician and the injured employee refuses to work, the payment of the employee's health care benefits (medical and dental) by the City will cease. Additionally, the affected employee may lose the option of supplementing his/her worker's compensation benefits with accrued sick and/or vacation pay. Note: This does not affect employees eligible under FMLA.

F. Primary Physician

The City retains the right to choose the primary treating physician for the injured employee. If the employee desires to be treated by another physician or desires a second opinion, the City will make reasonable accommodations to provide such service. Regular, straight time wages will be paid to an injured employee when he/she initially visits the physician for diagnostic evaluation. These wages will be paid only if the injured employee visits the physician immediately after the on-the-job injury. Any visits, after the initial visit, will be charged, at the employee's option, against the employee's accumulated sick or vacation leave balance or workers' compensation. All physician appointments will be made by an authorized City representative. Any physician appointments or medical treatment not authorized in advance by the City will be the financial responsibility of the employee. Any pre-paid scheduled medical visit not kept by the employee will be charged to the employee unless notification is provided to Risk Management the day before the scheduled appointment.

G. Fringe Benefits

All normal employee fringe benefits commonly granted to other regular employees

will be extended to employees while recovering from an “on-the-job” injury for a period of up to six (6) months, unless an injured employee refuses restricted duty (See Section E above). The date of fringe benefit expiration is calculated as six (6) months from the date of accident, if no restricted duty classification has been determined by the primary treating physician, or six (6) months from the date of the start of a restricted duty, whichever is greater. Normal employee contributions for dependent health and dental insurance care, as well as others that may be in existence, will continue to be the responsibility of the employee.

#### ~~H. Maximum Medical Improvement (MMI)~~

~~1. If the primary treating physician determines the injured employee has reached maximum medical improvement within the six (6) month time period from the date of accident and the employee has no medical limitations that would prevent him/her from performing all the essential job functions, the employee will be returned to his/her regular position.~~

~~2. If the primary treating physician determines the injured employee has reached maximum medical improvement and has medical limitations that would prevent the employee from performing all the essential job functions of his/her regular position, the employee, the primary treating physician, the Risk Manager, and the Department Head will explore accommodations to allow the employee to perform the essential job functions. Accommodations must be reasonable and not present an undue hardship on the City. If the employee cannot perform all of the essential job functions for the position in which he/she was injured with or without reasonable accommodations and the employee cannot qualify, medically and otherwise, for a regular position vacancy that is available within the City, his/her employment with the City may be terminated.~~

~~3. If a time period of six (6) months has elapsed since the Date of Accident or the last day worked on his/her regular job and the injured employee has not received a maximum medical improvement rating nor been given a “restricted duty” medical clearance from the primary treating physician, his/her employment with the City may be terminated.~~

### 14.07 EDUCATIONAL LEAVE

- A. A full-time, regular employee may be given educational leave with full pay or partial pay for the purpose of taking courses directly related to his/her work as determined by the appropriate department head and approved by the Appointing Authority. Requests for such leave must be authorized in advance and may not exceed a total of twenty (20) workdays in any one (1) calendar year, except as may be approved by the Appointing Authority.
- B. An employee may be granted leave with pay while taking examinations before a Federal, State, or other governmental agency, provided such examinations are pertinent to City employment and authorized by the City.

### 14.08 VOTING LEAVE

During a primary or general election, an employee who is registered to vote whose hours at work do not allow sufficient time for voting, may be allowed the necessary time off with pay for this purpose. When the polls are open two (2) hours before or two (2) hours after the regularly scheduled work period, it will be considered sufficient time for voting.

#### 14.09 ABSENCE WITHOUT LEAVE

An absence of an employee from duty, including any absence for a single day or part of a day, that is not authorized by specific grant of leave of absence under the provisions of these rules or through disciplinary action shall be deemed to be an absence without leave. In the absence of any disciplinary action, an employee who absents himself/herself for three (3) consecutive working days without leave shall be deemed to have resigned. Such action may be reconciled by a subsequent grant of leave if the conditions warrant and approval is given by the Appointing Authority.

#### ~~14.10 MEDICAL LEAVE OF ABSENCE~~

~~An employee may be placed on medical leave of absence for a specified period of time to seek rehabilitation for drug and/or alcohol abuse, or for an operation or serious illness indicated by a doctor's report, with the approval of the Appointing Authority. The employee may use sick and/or vacation leave during this period, but must furnish a release from the doctor or a negative drug screen before returning to work.~~

#### 14.10 ~~FAMILY MEDICAL LEAVE~~ FAMILY AND MEDICAL LEAVE POLICY (FMLA)

~~The City provides will comply with the Family and Medical Leave Act implementing Regulations as revised effective October 28, 2009. The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law~~ leave according to the Family and Medical Leave Act of 1993 (FMLA), which provides for unpaid, job-protected leave to covered employees in certain circumstances.

##### A. General Provisions

~~Under this policy, the City will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy~~

#### Eligibility

To qualify for FMLA leave, an employee must: ~~meet all of the following conditions:-~~  
~~1) The employee must have worked for the City for 12 months or 52 weeks.-~~

~~2) The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. The hours do not include time spent on paid or unpaid leave. Consequently, these hours of leave will not be counted in determining the 1,250 hours eligibility test for an employee under FMLA. (1) have worked for the City for at least 12 months, though it need not be consecutive; (2) worked at least 1,250 hours in the last 12 months; and (3) be employed at a work site that has 50 or more employees within 75 miles. If you have any questions about your eligibility for FMLA leave, please contact the Administrative Services Human Resources Department.~~

### ~~C. Type of Leave Covered-~~

~~To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:-~~

- ~~1) The birth of a child and in order to care for that child.-~~
- ~~2) The placement of a child for adoption or foster care and to care for the newly placed child.-~~
- ~~3) To care for a spouse, child or parent with a serious health condition (described below).-~~
- ~~4) The serious health condition (described below) of the employee.-~~

~~An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.-~~

~~A serious health condition is defined as a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a licensed health care provider.-~~

~~This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.-~~

~~Employees with questions about what illnesses are covered under this FMLA policy or under the City's sick leave policy are encouraged to consult with the Personnel Manager.-~~

~~If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the City may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.-~~

- ~~5) Qualifying exigency leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty.-~~

~~An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following: 1) short notice deployment, 2) military events and activities, 3) child care and school activities, 4) financial and legal arrangements, 5) counseling, 6)-~~

~~rest and recuperation, 7) post-deployment activities and 8) additional activities that arise out of active duty, provided that the City and employee agree, including agreement on timing and duration of the leave.~~

~~“Covered active duty” means:-~~

~~(a) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and~~

~~(b) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.~~

~~The leave may commence as soon as the individual receives the call up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor.) This type of leave would be counted toward the employee’s 12 week maximum of FMLA leave in a 12 month period.~~

~~6) Military caregiver leave (also known as covered service member leave) to care for an injured or ill service member or veteran.~~

~~An employee whose son, daughter, parent or next of kin is a covered service member may take up to 26 weeks in a single 12 month period to take care of leave to care for that service member.~~

~~Next of kin is defined as the closest blood relative of the injured or recovering service member.~~

~~The term “covered service member” means:~~

~~(a) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or~~

~~(b) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.~~

~~The term “serious injury or illness”:-~~

~~(a) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; and~~

~~(b) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered service member, means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on an active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.~~

#### ~~D. Amount of Leave-~~

~~An eligible employee can take up to 12 weeks for the FMLA circumstances (1) through (5) above under this policy during any 12 month period. The City will measure the 12 month period as a rolling 12 month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the City will compute the amount of leave the employee~~

~~has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.~~

~~An eligible employee can take up to 26 weeks for the FMLA circumstance (6) above (military caregiver leave) during a single 12-month period. For this military caregiver leave, the City will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.~~

~~If a husband and wife both work for the City and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for the City and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave.~~

#### ~~E. Employee Status and Benefits During Leave~~

~~While an employee is on leave, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.~~

~~If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the leave period.~~

~~Under current City policy, the employee pays a portion of the health care premium. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the City shall pay the employee's contribution, but the employee must make payment for dependent coverage, either in person or by mail. The payment must be received in the Accounting Department by the 15<sup>th</sup> day of each month. If the payment is more than 30 days late, the dependent's health care coverage may be dropped for the duration of the leave. The City will provide 15 days' notification prior to the employee's loss of coverage.~~

~~After the expiration of the unpaid FMLA leave, the employee shall make payment for his or her coverage and dependent coverage, either in person or by mail, if such employee remains on the City's payroll. The payment must be received in the Accounting Department by the 15<sup>th</sup> day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped. The City will provide 15 days' notification prior to the employee's loss of coverage. Nothing in this paragraph shall be construed to guarantee any employee's employment beyond the duration of the legally required FMLA leave.~~

~~If the employee contributes to a life insurance or disability plan, the City will continue making payroll deductions while the employee is on leave.~~

#### ~~F. Employee Status After Leave~~

~~An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider. This requirement will be included in the City's response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions. The City may choose to exempt certain key employees from this requirement and not return them to the same or similar position.~~

#### ~~G. Use of Paid and Unpaid Leave~~

~~An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid vacation, personal or sick leave prior to being eligible for unpaid leave. Sick leave shall run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established sick leave policy.~~

~~Disability leave for the birth of the child and for an employee's serious health condition, including workers' compensation leave (to the extent that it qualifies), will be designated as FMLA leave and shall run concurrently with FMLA.~~

~~An employee who is using military FMLA leave for a qualifying exigency must use all paid vacation and personal leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid vacation, personal leave or sick leave (as long as the reason for the absence is covered by the City's sick leave policy) prior to being eligible for unpaid leave.~~

#### ~~H. Intermittent Leave or a Reduced Work Schedule~~

~~The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period).~~

~~The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances of when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.~~

~~For the birth, adoption or foster care of a child, the City and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule.~~

~~Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.~~

~~If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the City before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.~~

#### ~~I. Certification for the Employee's Serious Health Condition~~

~~The City will require certification for the employee's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.~~

~~The City may directly contact the employee's health care provider for verification or clarification purposes using a health care professional, an HR manager or designee, leave administrator or management official. The City will not use the employee's direct supervisor for this contact. Before the City makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, the City will obtain the employee's permission for clarification of individually identifiable health information.~~

~~The City has the right to ask for a second opinion if it has reason to doubt the certification. The City will pay for the employee to get a certification from a second doctor, which the City will select. The City may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the City will require the opinion of a third doctor. The City and the employee will mutually select the third doctor, and the City will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.~~

#### ~~J. Certification for the Family Member's Serious Health Condition~~

~~The City will require certification for the family member's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.~~

~~The City may directly contact the employee's family member's health care provider for verification or clarification purposes using a health care professional, an HR professional, leave administrator or management official. The City will not use the employee's direct supervisor for this contact. Before the City makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, the City will obtain the employee's family member's permission for clarification of individually identifiable health information.~~

~~The City has the right to ask for a second opinion if it has reason to doubt the certification. The City will pay for the employee's family member to get a certification from a second doctor, which the City will select. The City may deny FMLA leave to an employee whose family member refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the City will require the opinion of a third doctor. The City and the employee will mutually select the third doctor, and the City will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.~~

#### ~~K. Certification of Qualifying Exigency for Military Family Leave 70~~

~~The City will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.~~

~~L. Certification for Serious Injury or Illness of Covered Service member for Military Family Leave  
The City will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.~~

#### ~~M. Recertification~~

~~The City may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days and only when circumstances have changed significantly, or if the employee receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, the City may request recertification for the serious health condition of the employee or the employee's family member every six months in connection with an FMLA absence. The City may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.~~

#### ~~N. Procedure for Requesting FMLA Leave~~

~~All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the HR manager. Within five business days after the employee has provided this notice, the HR manager will provide the employee with a Notice of Eligibility and Rights.~~

~~When the need for the leave is foreseeable, the employee must provide the City with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with the City's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.~~

#### ~~O. Designation of FMLA Leave~~

~~Within five business days after the employee has submitted the appropriate certification form, the HR manager will complete and provide the employee with a written response to the employee's request for FMLA leave.~~

#### ~~P. Intent to Return to Work From FMLA Leave 71~~

~~On a basis that does not discriminate against employees on FMLA leave, the City may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.~~

## Leave Policy

If eligible, an employee may take up to 12 or 26 weeks of family or medical leave, whichever is applicable (as explained below), within the relevant 12-month period defined below. While an employee is on FMLA leave, the City will maintain the employee's group health insurance coverage at the same level and under the same circumstances as when the employee was actively working, as explained more fully under the section titled, Medical and Other Benefits. Upon returning from approved FMLA leave, the employee has the right to be restored to the same job or an equivalent position, subject to the terms, limitations and exceptions provided by law.

## Leave Entitlement

An employee may take up to 12 weeks of unpaid FMLA leave in a 12-month period, which is defined using a "rolling" method that is measured backward from the date the employee uses any FMLA leave for any of the following reasons:

1. the birth of a son or daughter and in order to care for such son or daughter (leave to be completed within one year of the child's birth);

2. the placement of a son or daughter with the employee for adoption or foster care and in order to care for the newly placed son or daughter (leave to be completed within one year of the child's placement);

3. to care for a spouse, son, daughter or parent with a serious health condition;

4. to care for the employee's own serious health condition, which renders the employee unable to perform any of the essential functions of his or her position; or

5. "qualifying exigencies" related to, or affected by a family member's call to "covered active duty" (see definitions below);

An employee may take up to 26 weeks of unpaid FMLA leave in a single 12-month period, beginning on the first day that the employee takes FMLA leave, for the employee to care for a "covered service member" who is the employee's spouse, son or daughter, parent or next of kin, and who has a "serious injury or illness" incurred or aggravated in the line of duty while on active duty (see definitions below). "Next of kin" is defined as the closest blood relative to the injured or recovering service member. This type of leave, called "Military Caregiver" or "Covered Service Member Leave," may extend up to 26 weeks in a single 12-month period. Any unused portion of the 26 weeks will be forfeited at the end of the 12 month period. The leave entitlement is available one time per-covered-service member and per-injury. Furthermore, an eligible employee is only entitled to a combined total of 26 workweeks of leave for any family medical leave qualifying reason during the single 12 month period, and no more than 12 weeks of leave may be used for leave which would normally be entitled to a maximum of 12 weeks in a 12 month period. Unless otherwise specified, all procedures and terms applicable to 12 weeks of FMLA leave above also apply to Military Caregiver Leave.

## Both Spouses Employed by the City

Spouses who are both employed by the City and eligible for FMLA leave may be limited to a:

Combined total of 12 weeks of leave during the 12-month period if leave is requested:

for the birth of a son or daughter and in order to care for such son or daughter; \_\_\_\_\_

for the placement of a son or daughter with the employee for adoption or foster care and in order to care for the newly placed son or daughter; or

to care for an employee's parent with a serious health condition.

Combined total of 26 weeks in a single 12-month period if the leave is either for:

military caregiver leave; or

a combination of military caregiver leave and leave for other FMLA-qualifying reasons.

#### Notice of Leave

If an employee's need for FMLA leave is foreseeable, the employee must give the City at least 30 days' prior written notice. If this is not possible, the employee must at least give notice as soon as practicable (within one to two business days of learning of the need for leave). Failure to provide such notice may be grounds for delaying FMLA-protected leave, depending on the particular facts and circumstances.

Additionally, if an employee is planning a medical treatment or a series of treatments or taking military caregiver leave, the employee must consult with the City first regarding the dates of such treatment to work out a schedule that best suits the needs of both the employee or the covered military member, if applicable, and the City.

Where the need for leave is not foreseeable, the employee is expected to notify the City within one to two business days of learning of the need for leave, except in extraordinary circumstances. The City has Family and Medical Leave Act request forms available from the Human Resources Department. Please submit a written request, using this form, when requesting leave.

#### Certification of Need for Leave

If an employee is requesting leave because of the employee's own or a covered relation's serious health condition, the employee and the relevant health care provider must supply appropriate medical certification. An employee may obtain Medical Certification forms from the Human Resources Department. When an employee requests leave, the City will notify him or her of the requirement for medical certification and when it is due (at least 15 days after the request for leave). If the employee provides at least 30 days' notice of medical leave, the employee should also provide the medical certification before leave begins. Failure to provide requested medical certification in a timely manner may result in denial of FMLA-covered leave until it is provided.

The City, at its expense, may require an examination by a second health care provider designated by the City. If the second health care provider's opinion conflicts with the original medical certification, the City, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion. The City may require subsequent medical recertification. Failure to provide requested certification within 15 days, if such is practicable, may result in delay of further leave until it is provided.

The City also reserves the right to require certification from a covered military member's health care provider if an employee is requesting military caregiver leave and certification in connection with military exigency leave.

### Reporting While on Leave

If an employee takes leave because of his or her own serious health condition or to care for a covered relation, the employee must contact the City at least every 30 days regarding the status of the condition and the employee's intention to return to work. In addition, the employee must give notice as soon as practicable (within two business days if feasible) if the dates of leave change or are extended or initially were unknown.

### Leave Is Unpaid

FMLA leave is unpaid. An employee may substitute any accrued and unused vacation, personal leave or sick leave for unpaid FMLA leave as described below:

If an employee requests leave because of a birth, adoption or foster care placement of a child, any accrued and unused paid leave will first be substituted for unpaid family/medical leave and run concurrently with your FMLA leave.

If an employee requests leave because of his or her own serious health condition, or to care for a covered relation with a serious health condition, any accrued paid vacation, personal leave or sick leave will substituted for any unpaid family/medical leave and run concurrently with your FMLA leave.

The substitution of paid leave time for unpaid FMLA leave time does not extend the 12 or 26 weeks (whichever is applicable) of the FMLA leave period. In no case can the substitution of paid leave time for unpaid leave time result in the employee's receipt of more than 100% of his or her salary. FMLA leave runs concurrently with other types of leave, for example, accrued vacation time that is substituted for unpaid FMLA leave.

### Medical and Other Benefits

During approved FMLA leave, the City will maintain the employee's health benefits as if he or she continued to be actively employed. If paid leave is substituted for unpaid FMLA leave, the City will pay the employee's contribution, but the employee must make payment for dependent coverage, either in person or by mail. The payment must be received in the Accounting Department by the 15th day of each month. If the payment is more than 30 days late, the dependent's health care coverage may be dropped for the duration of the leave. The City will provide 15 days notification prior to the employee's loss of coverage.

After the expiration of the unpaid FMLA leave, the employee shall make payment for his or her coverage and dependent coverage, either in person or by mail, if the employee remains on the City's payroll. The payment must be received in the Accounting Department by the 15th day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped. The City will provide 15 days notification prior to the loss of coverage. Nothing in this paragraph shall be construed to guarantee any employee's employment beyond the duration of the legally required FMLA leave.

If the employee chooses not to return to work for any reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the leave period.

#### Exemption for Key Employees

Key employees, defined as salaried and FMLA-eligible employees who are among the highest paid 10% of all employees at a worksite or within 75 miles of that worksite, may not be returned to their former or an equivalent position following FMLA leave if restoration of employment will cause substantial and serious economic injury to the operations of the City. This fact-specific determination will be made by the City on a case-by-case basis. The City will notify the employee if the employee qualifies as a key employee, if the City intends to deny reinstatement and of your rights in such instances.

#### Intermittent and Reduced Schedule Leave

If medically necessary, FMLA leave occasioned by a serious health condition may be taken intermittently (in separate blocks of time due to a serious health condition) or on a reduced leave schedule (reducing the usual number of hours the employee works per workweek or workday). FMLA leave may also be taken intermittently or on a reduced leave schedule for a qualifying exigency relating to covered military service.

If leave is unpaid, the City will reduce the employee's salary based on the amount of time actually worked. In addition, while an employee is on an intermittent or reduced schedule leave, the City may temporarily transfer the employee to an available alternative position that better accommodates the employee's leave schedule and has equivalent pay and benefits.

#### Returning From Leave

If an employee takes leave because of the employee's own serious health condition (except if the employee is taking intermittent leave), the employee is required, as are all employees returning from other types of medical leave, to provide medical certification that the employee is fit to resume work. Otherwise, the employee will not be permitted to resume work until it is provided.

#### Definitions

For purposes of this policy:

A “**serious medical condition**” means an illness, injury or impairment or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents you from performing the functions of your job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to

pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

A “serious injury or illness” as it relates to military caregiver leave means:

(A) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; and

(B) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period described in paragraph (15)(B), means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

“Covered active duty” means:

(A) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and

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

A “covered service member” is:

(A) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

(B) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

A “qualifying exigency” is leave for employees who is the spouse, son, daughter or parent of a member of the regular Armed Services, the National Guard, or the Reserves, or retired military or the Reserves, who is on “covered active duty,” or who has been notified of an impending call or order to covered active duty. The “qualifying exigency” covers needed leave for any of the following issues related to a family member’s covered active duty or call to covered active duty:

Short-notice deployment occurring seven or less days after notice

Military events and activities

Child care and school activities

Financial and legal arrangements

Counseling

Rest and recuperation (maximum of 5 days for each instance)

Post-deployment activities

Additional activities that arise out of covered active duty, provided that the Company and you agree, including agreement on timing and duration of the leave.

An employee is eligible for exigency leave as soon as the employee's family member receives the deployment or call-up notice.

A "son or daughter," for purposes of both Military Caregiver and Qualified Exigency leave related to a "son or daughter," the son or daughter does not have to be a minor.

#### 14.11 DOMESTIC VIOLENCE LEAVE

Purpose: To comply with Florida Law (F.S. §741.313) requiring employers to provide leave to victims of domestic violence.

##### A. Policy

Employees who have been employed three or more months, may take up to three working days of leave within a 12-month period if the employee or a family or household member is the victim of domestic violence which includes assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in the physical injury or death of one family or household member by another family or household member and if the leave is sought for specific reasons related to the domestic violence.

##### B. Leave Requirements

Leave may be taken to:

a. Seek an injunction for protection against domestic violence, repeated violence, dating violence, or sexual violence;

b. Obtain medical care or mental health counseling for the employee or family member to address physical or psychological injuries resulting from the domestic violence;

c. Make the employee's home secure from the domestic violence perpetrator or to seek new housing to escape the perpetrator; or

d. Seek legal assistance to address issues arising from the domestic violence and to attend and prepare for court-related proceedings arising from the domestic violence.

### C. Employee Requirements

You must give 24 hours advance notice of the need for leave unless there is imminent danger perceived by the employee or the employee's family or household member. All employees using leave under this section must provide sufficient documentation of the need for leave at the time of notice. Employees seeking leave when imminent danger is present must provide sufficient documentation within three work days of the employee's return from leave.

Examples of documentation include: copy of police report, order of protection, injunction, medical report or receipt for services or goods received.

An employee seeking leave under this section must, before receiving leave, exhaust all annual (vacation) leave, personal leave, and sick leave, if applicable, which is available to the employee.

## SECTION 15

### PHYSICAL EXAMINATION/TESTING PROCEDURES

#### 15.01 PRE-EMPLOYMENT PHYSICAL EXAMINATIONS

Qualification standards shall be established for all positions in the Classified and Unclassified Service. All offers of employment may be conditioned upon a medical examination if the City determines such examination to be job-related and consistent with business necessity.

#### 15.02 PRE-EMPLOYMENT DRUG TESTING

The City reserves the right to require any employee, at the City's expense, to have a medical examination by a doctor of the City's choice which may include, at the City's discretion, drug and controlled substance screening. One of the purposes of such medical examinations is to determine the use and/or abuse of controlled drugs or other substances. Medical examinations may also be used to determine the physical capabilities of the employee relative to the position held or applied for.

#### 15.03 DRUG-FREE WORKPLACE

~~The City re-affirms its intent to maintain a workplace that is free from drugs and other forms of substance abuse.~~

~~No employee shall use, possess, manufacture, distribute, or be under the influence of controlled substances or alcohol while on duty or on City property, except when he/she is using a controlled substance in conformance with the instructions of a physician.~~

~~Possession of a controlled substance or alcohol while on duty may result in a recommendation to terminate the employee. Employees on duty shall not use or take prescription drugs above the level recommended by the prescribing physician, and shall not use prescribed drugs for purposes other than that for which they were intended.~~

The City is a drug-free workplace, and conducts drug testing in accordance with applicable law. The City of Fort Pierce conducts the following types of drug/alcohol testing, in accordance with the provisions of the Florida Drug-Free Workplace Act and Florida Drug-Free Workplace Program requirements (F.S. §112.0455 and §440.102 et seq) and the United States Department of Transportation regulations governing drivers of commercial motor vehicles, as follows:

**A. Applicants for Part-Time, Temporary, or Full-Time Positions** who have been made an offer of employment conditioned upon successfully passing an employment screening examination, will be tested for the presence of alcohol and illegal drugs, as part of the post-offer requirements. Final employment offers will not be made until the drug/alcohol test has been administered and the results are known. Candidates who have a confirmed positive test for alcohol or illegal drugs will not be hired by the City.

**B. Reasonable-Suspicion Testing:** ~~Reasonable Suspicion testing is based upon a belief that an employee is using or has used alcohol or drugs in violation of this policy. Reasonable~~

~~suspicion testing must be based on specific, contemporaneous documented objective and articulable observations and circumstances which are consistent with the long and short term effects of alcohol or substance abuse; including, but not limited to, physical signs and symptoms, appearance, behavior, speech and/or odor on the person. Reasonable suspicion testing must be based on specific, contemporaneous documented objective and articulable observations and circumstances which are consistent with the long and short term effects of alcohol or substance abuse; including, but not limited to, physical signs and symptoms, appearance, behavior, speech and/or odor on the person. Supervisors who have Reasonable Suspicion that an employee may be under the influence while on duty are required to immediately direct the employee to the Human Resources Director, who shall arrange testing. Reasonable Suspicion shall be in accordance with training provided to managers. A refusal to submit to testing will result in a recommendation to terminate the employee —~~

The City may require an employee to undergo testing when there is a reasonable suspicion to believe that the employee has possessed, used, distributed, or been under the influence of illegal drugs or alcohol in violation of this policy. A reasonable suspicion is suspicion which is based on facts derived from the surrounding circumstances from which it is reasonable to infer that further investigation is required. A supervisor may suspect that an employee is using or is under the influence of illegal drugs or alcohol by observing certain symptoms or behavior, including, but not limited to:

~~The observation checklist includes, but is not limited to:~~

1. Excessive absenteeism or chronic lateness.
2. Drowsiness or sleepiness.
3. Alcohol on breath.
4. Slurred or incoherent speech.
5. Aggressive behavior.
6. Unexplained change in mood.
7. Lack of manual dexterity or coordination.
8. Arrest for drug or alcohol related crime.
9. Documented trustworthy information received from a third party.
10. Abnormal behavior while at work or a significant deterioration in work performance.
11. Evidence that the employee has tampered with a drug test.

- ~~▪ Slurred speech~~
- ~~▪ Confusion/disorientation~~
- ~~▪ Odor of alcohol on breath or person~~
- ~~▪ Unsteady gait or lack of balance~~
- ~~▪ Glassy eyes~~
- ~~▪ Rapid/continuous eye movement or inability to focus~~
- ~~▪ Drowsiness~~
- ~~▪ Inattentiveness~~
- ~~▪ Apparent intoxicated behavior (without odor)~~
- ~~▪ Physical injury~~
- ~~▪ Tremors or bodily shaking~~

- ~~Poor coordination~~
- ~~Runny nose or sores around nostrils~~
- ~~Very large or small pupils~~
- ~~Slow or inappropriate reactions~~
- ~~Inability to respond to questions~~
- ~~Complaints of racing or irregular heartbeat~~
- ~~Marked Irritability~~
- ~~Aggressiveness~~
- ~~Inappropriate laughter or crying~~
- ~~Fainting or loss of consciousness~~
- ~~Improper job performance and/or violation of authority~~

**~~B. Positive Findings for Controlled Substances or Alcohol~~**

~~Except in extraordinary circumstances, it shall be the policy of the City to consistently recommend termination for positive findings of controlled substances or alcohol, except when he/she is using a controlled substance under, and in accordance with, the direction of a physician. A test result for alcohol at or above .02 will be considered a positive finding for the purpose of discipline; however, a negative result for alcohol will not be the sole determinant of whether or not alcohol was present.~~

**C. On-the-Job Injury/On-the-Job Motor Vehicle Collision Testing:** Employees who cause, contribute, or are involved in an on-the-job injury will undergo a Urine Drug Screen at the time medical treatment is administered. Additionally, an alcohol screen may be required, as deemed necessary by the City’s Human Resources Director based upon the facts relating to the incident.

Employees operating a City vehicle involved in a motor vehicle collision will be tested as follows:

Drivers of commercial motor vehicles that require a commercial driver license, will undergo drug and alcohol testing in accordance with controlling law if involved in an on-the job motor vehicle collision while operating a city vehicle.

Drivers of non-commercial vehicles will undergo drug and alcohol testing pursuant to controlling law and criteria established by the United States Department of Health and Human Services if involved in an on-the-job motor vehicle collision while operating a City vehicle. This may include: testing of urine, hair, blood and other body specimens that are appropriate for drug and alcohol testing at the time of the accident.

All testing will be administered immediately following the motor vehicle collision, or as soon as possible. Employees shall not drive a City vehicle until results from the drug/alcohol screening facility are received and the City is notified of the employee’s cleared status. The employee may return to work prior to the receipt of the results of the drug/alcohol screen but are not allowed to drive or operate a City vehicle.

**D. Testing for Drivers of Commercial Motor Vehicles Involved in Accidents:** Drivers of commercial motor vehicles who are charged with a traffic citation for an accident or who are operating a commercial motor vehicle involved in an accident in which a fatality occurs (whether charged or not) are subject to drug/alcohol testing.

**E. Random Testing for Operators of Commercial Motor Vehicles:** Employees whose job duties require a Commercial Driver's License (CDL) for operation of a commercial motor vehicle will be selected in an unbiased manner, randomly throughout the year, for drug and alcohol testing, as follows: 10% of the operators of commercial motor vehicles will be tested for alcohol annually and 50% of the operators of commercial motor vehicles will be tested for drugs annually.

**F. Routine Fitness-for-Duty Testing:** Employees may be drug tested as part of any routinely scheduled employee fitness-for-duty medical examination.

**G. Follow-up and Return to Duty Testing:** Employees who have failed a drug/alcohol test and are permitted by the City to return to work after completing treatment for alcohol or drug abuse will be tested prior to returning to work and will be subject to unannounced follow-up testing on a quarterly, semi-annual, or annual basis for a period up to two years, or for a period of up to sixty months for drivers of commercial motor vehicles (with at least six tests conducted within the first twelve months following return to work).

**H. Additional Testing:** Additional testing may also be conducted as required by applicable state or federal laws, rules, or regulations, or as deemed necessary by the City.

## SECTION 16

### SAFETY

#### 16.01 ACCIDENT PREVENTION

Department Heads, supervisors, and employees must 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 operational economies. Inadequate safety training and improper equipment handling and neglect can increase costs, cause accidents, and reduce available manpower.

#### 16.02 ACCIDENT REPORTING

- A. Employees are required to immediately report to their supervisor all injuries that occur on the job. Delay in reporting injury can cause complication of the injury and delayed recovery.

~~Accident reports must be submitted by the injured employee's supervisor within twenty four (24) hours from the time of the accident to Risk Management 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 to Risk Management. This applies to industrial accidents and first aid injuries, as well as to injuries resulting from vehicular accidents involving City vehicles. A vehicle accident report will be submitted; if an employee is injured, a report of injury to employee will also be required.~~

- B. In the case of vehicular accidents, the appropriate law enforcement agency shall be notified immediately. A copy of the police report will be obtained and forwarded to the Risk Manager within 24 hours.
- C. Employees who comply with this policy by reporting injuries to themselves or their co-employees shall not be subject to discipline or other adverse action as a result of making such report. Employees who believe they have been subject to adverse action as a result of making a First Report of Injury under this Section may utilize the procedures set forth in Section 24.02 of these Rules and Regulations, Employee Grievances and Appeals, to the extent applicable. Nothing in this paragraph shall alter or limit the City's right to issue discipline consistent with Section 10. Code of Conduct and Disciplinary Actions, on the basis of any employee conduct other than the reporting of the first notice of injury, including but not limited to failure to adequately observe safety procedures, failure to remain diligent during the performance of employment-related duties and horseplay which resulted in such injury.

### 16.03 WORKER'S COMPENSATION

Payment of Worker's Compensation to employees who are disabled because of an injury arising out of and in the course of performing their duties with the City will be governed by the Florida State Worker's Compensation Law procedures and the City's Policy of Injury Leave. (Section 14.06)

## 16.04 SAFETY INCENTIVE PROGRAM

City employees shall be encouraged to participate in a Safety Incentive Awards Program that may vary from year to year, depending upon the funds available, and approval by the Appointing Authority, on recommendation of the Risk Manager and ~~Director of Administrative Services~~ Human Resources Manager.

## 16.05 WORKPLACE VIOLENCE PREVENTION POLICY OBJECTIVE:

A. The City of Fort Pierce is committed to preventing workplace violence and to maintaining a safe work environment and has adopted the following rules to deal with intimidation, harassment, or other threats of violence or acts of violence that may occur during business hours or on City premises. This policy applies to all City employees, of any type or status, including temporary employees.

### B. PROHIBITED CONDUCT:

1. The City does not tolerate any type of workplace violence committed by or against employees or any other individual on City premises. Employees are prohibited from making threats or engaging in violent activities.
2. All employees shall be treated with courtesy and respect at all times. Employees are expected to refrain from fighting, "horseplay," or other conduct that may be dangerous to others. Firearms, weapons, and other dangerous or hazardous devices or substances are prohibited on City premises without proper authorization, such as the firearms of sworn law enforcement personnel. Employees with a **valid** concealed weapons permit may carry a weapon in their vehicle, but under no circumstances is the employee allowed to bring the weapon into City buildings or display/remove it from their vehicle while on City premises.
3. Conduct that threatens, intimidates, or coerces another employee, a customer/vendor, or a member of the public will not be tolerated. This prohibition includes all acts of harassment, including harassment that is based upon an individual's gender, race, religion, age, or any characteristic protected by federal, state, or local law.
4. Firearms, weapons, and other dangerous or hazardous devices or substances are prohibited on City premises without proper authorization, such as in the case of sworn police officers in connection with their official duties. Employees may keep a lawfully possessed weapon or firearm locked inside their private vehicle in a City parking lot in accordance with controlling law. Employees are not permitted to bring weapons into any City vehicle at any time (even if an employee has a valid concealed weapons permit), excluding sworn police officers who carry weapons in connection with their official duties. Employees are prohibited from carrying or having in their possession a weapon at any time while performing services on behalf of the City whether on or off City property, excluding sworn police officers who carry weapons in connection with their official duties.

5. The following list of behaviors, while not inclusive, provides examples of prohibited conduct:

- Causing physical injury to another person;
- Making threatening remarks;

Aggressive or hostile behavior that creates a reasonable fear of injury to a person, or subjects a person to emotional distress;

- Intentionally damaging employer property or property of another employee; or a member of the public while on City property;
- Display or use of a weapon while on City premises or possession of a weapon at any time while performing services on behalf of the City; except sworn police officers in connection with their official duties or as allowed in accordance with controlling law;
- Committing acts of sexual harassment or domestic violence.

## SECTION 17

### RECORDS AND REPORTS

#### 17.01 RESPONSIBILITY

All official personnel records shall be maintained and controlled under the supervision and direction of the Human Resources Manager.

#### 17.02 RECORDS

- A. All personnel records and all other records and materials relating to the administration of the Personnel Management System shall be considered the property of the City. Consistent with the Public Records Act, the Appointing Authority is vested with discretion relating to the use, maintenance, and disposition of such records and material and as to whether or not any information contained therein may be disclosed, in accordance with court rulings.
- B. Employees must keep their personnel records current. This means notifying the ~~Administrative Services Department~~ Human Resources Department of any change of telephone number, change of beneficiary, number of dependents, divorce, marriage or any change not previously reported. This is the responsibility of the employee and failure to comply may result in loss of employee benefits and disciplinary action.
- C. The City should be informed of any special training course completed by an employee. Copies of diplomas or certificates should be forwarded to become a permanent addition to the employee's personnel file. Each employee is responsible for ensuring that the ~~Personnel~~ Human Resources Manager is aware of and receives commendations, diplomas, certificates, license and other documents the employee wishes to have placed in his or her personnel file.
- D. Employees shall have access to their Personnel files on the City's premises when in the presence of an authorized representative of the City.

## SECTION 18

### ATTENDANCE AND OVERTIME

#### 18.01 HOURS OF WORK

The Appointing Authority shall establish the hours of work in accordance with the needs of the City service and the needs of the public. Employees are responsible for accurately recording all hours worked, including any time spent working remotely. Employees must accurately record their start and stop time, and the time spent on unpaid meal breaks each day. Employees may not perform any work before clocking in or after clocking out, and should not arrive at their work station prior to the start of their shift, absent supervisory permission. Employees are strictly forbidden from performing work “off the clock”.

#### 18.02 ATTENDANCE

An employee shall be in attendance at regular work in accordance with these rules and general departmental regulations. ~~All departments shall keep daily attendance records of its employees which shall be reported to the Director of Finance and/or the Director of Administrative Services on the date specified~~ Employees must accurately record their start and stop time, and time spent on unpaid meal breaks each day.

#### 18.03 OVERTIME

Employees may not work overtime without approval from their department head. In any department, overtime will be authorized or directed only when it is in the interest of the City and is the most practicable and economical way of meeting unusual workloads or deadlines ~~Overtime may be directed and authorized by Department Heads~~ in accordance with guidelines approved by the Appointing Authority.

#### 18.04 COMPENSATION FOR OVERTIME – (renumbered)

- A. All overtime shall be at the rate of one and one half (1 ½) times the employee’s regular wage rate. If an employee works overtime without supervisory permission, the employee will still be paid for that time, however, will be subject to disciplinary action for working without permission.
- B. Overtime is computed as time worked over forty (40) hours in a work week or hours worked over the number declared in the work cycle by the Appointing Authority, with the exception of part-time police work.

#### 18.05 EXEMPT EMPLOYEES

- A. The Classified and Pay Plan shall prescribe groups of classes or types of

positions which are exempt from overtime provisions.

- B. Any employee who is filling an executive, administrative, professional, or supervisory position as designated in the Classification and Pay Plan, and in accordance with Fair Labor Standards Act, shall not be eligible for overtime.
- C. Exempt employees are paid a salary for all hours worked, including those worked in excess of 40 during a work week. Exempt employees are not required to record their hours worked, but are required to adhere to their scheduled hours of work. Exempt employees may not be absent from work or any portion of their shift, without supervisory permission.

#### 18.06 PAYROLL ERRORS

---

The City is committed to complying with all federal and state laws regarding payment of wages. If the City makes a mistake in calculating an employee's pay or withholdings, or improperly deducting pay, any such mistake is inadvertent and not intentional. The City wishes to correct any errors in calculating pay and making deductions. If an employee is or becomes aware of any such mistake or error, the employee should contact Human Resources immediately. The employee will be required to put his/her concerns in writing so that the City can investigate the possible error and make any corrections required by law.

#### 18.07 STANDBY DUTY

- A. Standby duty shall be granted only upon the request of the Department Head and approval of the Appointing Authority.
- B. An employee on standby duty will be required to be available for call at any time during this standby duty period.
- C. Employees assigned to standby duty shall be compensated as defined by the employee's respective bargaining agreement.

## SECTION 19

### MISCELLANEOUS RULES & BENEFITS

#### 19.01 VEHICLES

Some employees, because of the nature of their work, may be issued and are responsible for a vehicle, which they are authorized to drive solely to and from work, to conduct official business and to drive during their lunch period. Such vehicles shall not be used for personal pleasure or private business. The purpose of this policy is to enable the employee in question to respond to emergency conditions promptly. Abuse of this policy will result in withdrawal of the vehicle and appropriate disciplinary action may be taken.

#### Use of City Vehicles or Privately Owned Vehicles on City Business

- A. ~~It is necessary for some employees to have City-owned vehicles at their disposal in other to carry out their official duties. When so assigned, under no circumstances is the vehicle to~~ City-owned vehicles shall not be used for personal business or pleasure. No City vehicle shall be used to transport passengers who are non-employees without prior supervisory approval.
- B. An employee driving a City vehicle, or a personal vehicle for City business, shall have in his/her possession a valid Florida driver's license with appropriate endorsements for the type of vehicle or equipment being operated. An employee who operates a vehicle on behalf of the City has a responsibility to immediately report the loss or suspension of his/her driver's license to his/her supervisor.
- C. For those City vehicles assigned to an employee on a 24-hour basis, off-street parking should be provided when the vehicle is taken to a place of residence. Before a City vehicle can be driven to and from work, an employee shall obtain approval from his/her Department Head.
- D. If a City vehicle is involved in an accident, the employee shall immediately notify the ~~Police Department~~ appropriate law enforcement agency and the employee's Department Head or designee. The Departmental Head or designee will contact and forward the vehicle accident report to Risk Management within twenty-four (24) hours of the accident or the first business day after the accident.
- E. An employee operating a City vehicle or a personal vehicle in the performance of duties is expected to drive safely and comply with all traffic laws of the State of Florida Department of Transportation, including the use of seat belts when the vehicle is so equipped. All employees riding as

passengers are also expected to use seat belts at all times. The use of cellular phones, personal digital assistant devices (PDA), personal computers, MP3 players, compact disc players, radios and other electronic devices while operating a vehicle or equipment is prohibited except in the performance of required job duties.

~~An employee operating a City vehicle or a personal vehicle in the performance of duties is prohibited from carrying passengers unless prior approval is sought and obtained from a supervisor.~~

F. Employees who are in classifications or positions that require the use of their personal vehicle to carry out assigned duties and who qualify for “dedicated” vehicle and mileage allowance, are responsible for maintaining \$100,000 automobile liability, \$50,000 property damage, and personal injury insurance coverage.

G. The City may provide take-home vehicles, whenever fiscally or administratively feasible, to staff as needed. In order to be eligible for a take-home vehicle, employees must reside within ten (10) miles of the City Limits of the City of Fort Pierce and all points within St. Lucie County.

H. An employee who receives a car allowance from the City may not also use a City vehicle to conduct City business. An employee who is assigned a City vehicle to conduct City business may not also receive a car allowance. If an employee has a temporary change in usage, the department head must be notified so any appropriate payroll adjustments can be made.

## 19.02 PENSION PLAN – (re-numbered)

The City will provide a pension plan for all qualified employees to guarantee a monthly life income after their retirement. Details of the plan are maintained by the Finance Director.

### DEFERRED RETIREMENT OPTION PROGRAM (DROP)

The deferred retirement option program, hereinafter referred to as the DROP, is a program under which an eligible member of the retirement system may elect to retire, participate, and become a retirant of the retirement system, deferring receipt of retirement benefits while continuing employment with the participating employer.

Any member who is eligible to receive a normal retirement annuity and is employed by a participating employer may participate in the DROP and there is no break in service between the member’s last working day as an employee and first day as a

retire member and DROP participant. Details of the plan are maintained by the Finance Director.

The total years of participation in the DROP shall not exceed five (5) years.

~~19.03 UNEMPLOYMENT COMPENSATION~~

~~The City is registered with the State of Florida Bureau of Unemployment Compensation. Terminated employees who file a claim and are determined qualified under the Florida Unemployment Compensation Law may be eligible to receive unemployment compensation benefits. Further information may be obtained from the Director of Administrative Services.~~

19.03 INSURANCE BENEFITS

Hospitalization and medical insurance are available at the completion of a required waiting period of ninety (90) calendar days from the first of the following month after employment, for all employees working twenty-five (25) hours or more each week. The City pays the majority of the cost (90%) of the employee's coverage; optional coverage for dependents is shared by the City and employee. Life and accidental death insurance are also available for City employees. Please refer to the summary plan description for details.

19.04 DEDUCTIONS

Federal withholding tax, retirement, garnishments and Social Security are deducted from paychecks in accordance with law. Any other deductions, including group insurance, United Way, Credit Union deductions, etc., are made only by written request of the employee.

19.05 USE OF ELECTRONIC EQUIPMENT, TELEPHONE CALLS AND CALLERS

The City is committed to providing the best possible service to our citizens. The City provides this service by making use of the most modern office equipment available including faxes, electronic mail systems (E-Mail), voice mail systems and computer generated Internet access. Office equipment has been installed solely for the purpose of promoting the business interests of the City and all office equipment is the property of the City of Fort Pierce. Use of a password for entrance into any electronic system does not mean the information is limited to personal use, but rather all such information remains City property and is at all times accessible to the City. Accordingly, it is the City's policy that any and all office equipment, including, but not limited to, data processing, computer information, E-mail and voice mail systems, is to be used for business purposes only. This equipment should not be put to personal use.

The use of all office equipment including, but not limited to data processing devices, computer information systems, E-Mail systems and voice mail systems is subject to monitoring at any time, with or without notice, at management's sole discretion. The City's computer system is set up so that E-Mail messages may not be destroyed upon deletion. Deleted E-Mail messages may be stored in another electronic location upon deletion. E-Mail messages may be read by management for quality assurance purposes or other legitimate reasons and should only be used for business purposes.

As with all office communication devices, employees are prohibited from using the Internet or the E-Mail system to communicate any improper communication, including but not limited to personal messages, inappropriate comments or jokes, cartoons, or any other communications which are derogatory, obscene or offensive. Additionally, employees are prohibited from using the E-Mail system or other office equipment for the purpose of soliciting or distributing for any cause, group, enterprise or organization. Persons not employed by the City are prohibited from using the City's office equipment for any purpose.

Employees are not expected to receive personal visitors or telephone calls at the office, except in the case of an emergency; if a personal call is necessary, the time must be limited. A violation of any provision of this policy will result in disciplinary action up to and including discharge.

#### 19.06 REMOTE ACCESS AND CELL PHONES

Employees may not remotely access the City's computer or email system without prior approval. Employees who are given access to the City's computer or email system must take all reasonable steps necessary to secure such information and access.

Employee who access information must not do so when off-the-clock or otherwise not being paid. Non-exempt employees who are granted remote access to the computer or email system must record all time the employee spends performing work, including reading and responding to emails.

If an employee uses his/her own device to access the computer or email system and conduct City business, the employee's personal device may be subject to review and monitoring. Employees do not have an expectation of privacy in any communication made in the course of the City's business even if such communication is made from a personal device.

If an employee is provided a cell phone, tablet, pager, lap top or other device as part of their employment, such device remains the property of the City and is subject to

monitoring at any time. Employees do not have an expectation of privacy as to any information stored on a City device or equipment, including any personal information. If an employee uses a City device or equipment for personal use, the employee's personal information on that device or equipment may be subject to review or monitoring.

#### 19.07 REST PERIODS

Two (2) fifteen (15) minute rest periods (a.m. and p.m.) may be authorized if they do not disturb the normal operations of the City. These rest periods will be taken, if authorized, at the work site. Leaving the work site requires prior approval. Time for rest periods is not cumulative and will be considered lost if not taken at the proper time.

#### 19.08 TRAVEL AND OTHER EXPENSES

- A. Travel: Out of town travel on business by employees of the City must be approved by the Appointing Authority. Local attendance at conferences, conventions, and meetings shall be limited to the number of persons necessary to cover the meeting adequately and must also be approved by the Department Head.
- B. Transportation: Expenses for transportation will be paid upon presentation of a paid receipt or invoice from the carrier. The type of transportation used shall be that which is most beneficial to the City, considering the length of travel, time to travel, destination, and mission to be performed. Time away from the job shall be an important consideration. Travel by private vehicles may be used for travel, provided it is in the best interest of the City. Reimbursement for use of personal car shall be at the rate established per mile; provided however, that such reimbursement shall not exceed the cost of a round trip tourist rate airplane ticket. The reimbursement rate represents the total payment for the use of private vehicles. Additional payments for such items as insurance and gasoline will not be approved. If an employee has the use of a City vehicle, the employee will not be reimbursed for using his or her personal vehicle unless required to do so by the employee's department head.
- C. Registration Fees: Expenses for registration fees for conferences, short courses, school, etc., will be paid upon presentation of a paid receipt or invoice from the sponsoring agency.
- D. Meals, Lodging, and Miscellaneous Expenses: Reimbursement will be made for all necessary out-of-pocket expenses as follows:
  - 1. Lodging: Actual expenses for lodging at a single occupancy rate. Paid receipts must be obtained and submitted for all lodging expenses.
  - 2. Meals: Reimbursement will be made for meals in accordance with City

- policy.
3. Incidental Expenses: Some incidental expenses will also be paid in accordance with city policy, such as taxi, bus, tolls, baggage handling, etc.
- E. Cash Allowance: Persons traveling may secure an advance cash allowance to assist in meeting travel expenses, provided a proper authorization is presented with the approval of the Appointing Authority.
  - F. Family Travel: In the event an employee's spouse and/or children accompany the traveler on an official business trip, the employee can only receive reimbursement for those charges incurred by him/her. Any additional charges for accommodations, meals, and travel for family members are not reimbursable by the City.
  - G. Expense Statements: Employees traveling shall file an appropriate expense statement as soon as practicable, but not later than five (5) working days after returning. Receipts are to be presented for designated expense items. Other documentation must be presented. The expense statement is subject to review by the Appointing Authority.

#### 19.09 SMOKING AND E-CIGARETTES

Smoking cigarettes, cloves or cigars, use of e-cigarettes or vaping is prohibited in a City vehicle or within 50 feet of the entrance to any City building or outdoor elevator while on duty.

## SECTION 20

### POSITION CLASSIFICATION PLAN

#### 20.01 PURPOSE

~~The Position Classification Plan is a systematic arrangement and inventory of the City's positions. The Plan groups the various positions into classes indicative of the range of duties, responsibilities, and nature of work performed.~~

The City maintains a Position Classification Plan. The City has the authority and discretion to reclassify positions as necessary.

- A. If an employee's position is reclassified to a higher level class, the employee may be required to undergo prescribed testing.
- B. If an employee's position is reclassified within the same pay grade, the employee shall receive a new change in title.
- C. If an employee's position is reclassified to a lower pay grade, the employee will have the opportunity to transfer to a vacancy in the same original classification in the same or other department, if a vacancy exists.

#### ~~20.02 USES-~~

~~The Classification Plan will be used to:-~~

- ~~A. Determine qualifications and prepare job announcements.-~~
- ~~B. Establish lines of promotion and career ladders.-~~
- ~~C. Assist in developing employee training programs.-~~
- ~~D. Provide uniform job terminology.-~~

#### ~~20.03 CONTENT~~

~~The Classification Plan consists of:-~~

- ~~A. A grouping of positions into classes on the basis of approximately equal difficulty and responsibility, which require the same general qualifications and which can be compensated within the same pay grade.-~~
- ~~B. A Class Title, indicative of the work of the class, which shall be used on all personnel, accounting, budget, and related official records.-~~
- ~~C. Written Class Descriptions for each job classification containing the major function and illustrative duties found in the class. Also included are the-~~

~~knowledge, abilities, and skills required for performance of the work and the minimum qualifications (training and experience) needed.~~

#### ~~20.04 ADMINISTRATION AND MAINTENANCE~~

~~The Director of Administrative Services is charged with the maintenance of the Classification Plan so that it will reflect the duties performed by each employee and the class to which each position is allocated.~~

#### ~~20.05 ALLOCATION OF POSITION~~

~~Whenever a new position is established or duties of an existing position change, the Department Head shall prepare a class description describing the duties of the position. The Director of Administrative Services shall have the position assigned to an existing class or establish a new class for the position.~~

#### ~~20.06 RECLASSIFICATION~~

~~A. When the incumbent of a position is officially assigned more difficult and significant responsibilities and duties so that it appears that the position warrants re-allocation to a higher pay grade, the Director of Administrative Services shall authorize a study of the duties and responsibilities of the position.~~

~~B. If it is determined that the position should be re-allocated to a higher level class, the Director of Administrative Services may require the incumbent to undergo prescribed testing depending on the conditions of the reclassification.~~

~~C. Should any position be reclassified to a job classification with the same pay grade as that of the original classification, the incumbent shall receive a corresponding change in title.~~

~~D. Should any position be reclassified to a job classification with lower pay grade than that of the original classification, the incumbent shall be offered transfer to a vacancy in the original classification in the same or other department, if a vacancy exists.~~

#### ~~20.07 POSITION CONTROL~~

~~All positions are established and maintained through a personnel budget each fiscal year in accordance with established accounting procedures.~~

## SECTION 21

### COMPENSATION PLAN-SALARY SCHEDULE

#### 21.01 PURPOSE

The Compensation Plan is directly related to the Classification Plan and provides the basis of compensation for employees of the City. The Salary Schedule is constructed to reflect the following:

- A. Relative difficulty and responsibility existing between the classes of work within the City.
- B. Prevailing rates of pay for similar types of work in the labor market from which the City's employees are recruited.

#### ~~21.02 USES~~

~~The Salary Schedule is used to reward employees for job performance, to develop incentives, and to improve their productivity.~~

#### 21.02 ADOPTION AND AMENDMENT

The Compensation Plan shall be approved by the Appointing Authority and the City Commission. Amendments to the Plan shall be considered when changes of responsibilities of work or classes, availability of labor, prevailing rates or pay, the City's financial condition and policies, or other pertinent economic considerations warrant such action.

#### ~~21.03 CONTENT~~

~~The Salary Schedule includes salary ranges and the compensation attached to the ranges. Each class title in the Classification Plan is assigned a salary range.~~

#### 21.03 PERFORMANCE SALARY AND SPECIAL INCREASES

- A. Salary increases are not intended to be automatic, but are to be earned and based upon job performance.
- B. Employees will become eligible for consideration for a salary increase at one (1) year intervals. In unusual circumstances, the Appointing Authority may approve a salary increase at less than one year intervals to reward extraordinary performance.
- C. Approved salary increases will be effective at the beginning of the next pay

period after the employee has been approved for an increase.

- D. The Appointing Authority may approve special increases to correct pay inequities.

#### ~~21.04 ADOPTION AND AMENDMENT~~

~~The Compensation Plan shall be approved by the Appointing Authority and the City Commission. Amendments to the Plan shall be considered when changes of responsibilities of work or classes, availability of labor, prevailing rates or pay, the City's financial condition and policies, or other pertinent economic considerations warrant such action.~~

#### 21.04 PROMOTIONAL INCREASES

- A. A promotion occurs when an employee is moved from one position in one class to another position in a different class which has a higher maximum salary.
- B. A promoted employee will receive a salary increase to the minimum rate of the new pay grade or up to 10% of his/her prior salary, whichever is greater, within a period of sixty (60) days from the date of promotion as approved by the Appointing Authority, absent special circumstances.

#### ~~21.05 APPOINTMENTS AND STARTING RATES~~

~~A. The minimum salary established for a position is considered the normal starting rate for new employees.~~

~~B. Starting salaries above the minimum and below the minimum salary range may be authorized by the Appointing Authority in the following situations:~~

~~1. In the event an applicant does not meet the minimum qualifications, but is otherwise qualified for the position, the Appointing Authority may request the appointment as a TRAINEE. In such cases, the employee would be hired at a rate 10% to 20% below the minimum salary, until the minimum qualifications have been satisfied.~~

~~2. If the applicant's training, experience, or other qualifications are substantially above those required for the position, and there are no equally qualified individuals applying for the same position who are willing to accept the minimum rate, the Director of Administrative Services may approve employment at a rate of up to 10% above the minimum established for the position.~~

~~3. If a position cannot be filled with a qualified applicant at a rate of up to 10% above the minimum established for the position, the Director of Administrative Services shall report such fact to the Appointing Authority. If the Appointing Authority shall determine that advertisement and outside recruitment, reasonable to the position and pay scale, have failed to yield a suitable candidate, the Appointing Authority may authorize initial employment of a qualified individual~~

~~at a salary up to the mid-point of the pay grade established for the position being filled.~~

#### 21.05 DEMOTION

- A. An employee may be demoted to a position of lower grade for any of the following reasons:
  - 1. When an employee would otherwise be laid off because the position is being abolished; because the position is being reclassified to a lower pay grade, or due to lack of work or funds.
  - 2. When an employee does not possess the necessary qualifications to render satisfactory service in the position currently held.
  - 3. When the employee demonstrates unsatisfactory performance during the probationary period following a promotion.
  - 4. When the employee voluntarily requests the demotion.
  
- B. The effect of demotion on pay shall be as follows:
  - 1. Demotion will not result in a pay increase.
  - 2. Pay will not exceed the maximum rate of the pay grade designated for the lower position.

#### ~~21.06 PERFORMANCE SALARY AND SPECIAL INCREASES~~

~~A. Salary increases are not intended to be automatic, but are to be earned and based upon job performance.~~

~~B. Employees will become eligible for consideration for a salary increase at one (1) year intervals. In unusual circumstances, the Appointing Authority may approve a salary increase at less than one year intervals to reward extraordinary performance.~~

~~C. Approved salary increases will be effective at the beginning of the next pay period after the employee has been approved for an increase.~~

~~D. The Appointing Authority may approve special increases to correct pay inequities.~~

#### 21.06 TRANSFERS

- A. All transfers shall be made only with the approval of the Department Heads concerned.
  
- B. Transfers shall be made as follows:

1. An employee may be transferred to another department with the same job classification and such transfer will not change the employee's pay grade, rate, or anniversary date.
  2. If, after a fair trial, 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 Appointing Authority, if a vacancy exists.
- C. When an employee becomes unable to perform the essential functions of the job with reasonable accommodation due to a disability, the Appointing Authority may transfer the employee to an open position in the same or a lower class which the employee has the ability to fill.

#### ~~21.07 PROMOTIONAL INCREASES~~

~~A. A promotion occurs when an employee is moved from one position in one class to another position in a different class which has a higher maximum salary.~~

~~B. A promoted employee will receive a salary increase to the minimum rate of the new pay grade or up to 10% of his/her prior salary, whichever is greater, within a period of sixty (60) days from the date of promotion as approved by the Appointing Authority.~~

~~C. The Appointing Authority shall have the authority to waive any part or all of the sixty (60) day review period prior to the expiration thereof and authorize early commencement of the salary increase upon submission of evidence that the same is not necessary and in the best interest of the City.~~

~~D. The Appointing Authority shall have authority to grant an increase in salary of a promoted employee within sixty (60) days of the approval of such promotion, if it is determined that: 1) the duties being performed by the employee; or 2) the exemplary nature of such performance by the employee; or 3) the nature of the position; or 4) at comparable pay for similar positions within the general locale both in governmental and private sections is greater; or 5) inequalities and inequity in the pay plan currently in effect in that employees with lesser position or duties, or less time of service with the City are earning comparable or greater amounts than the newly promoted employee. The Appointing Authority shall have the authority to authorize a salary increase of such employee up to and including the mid point of the pay grade for the position to which the employee has been promoted.~~

## 21.07 TRAINEE CATEGORY

- A. In the event an applicant for any position does not meet the minimum qualifications, but is otherwise qualified for the position, the City may authorize appointment as a TRAINEE. In such cases, the employee will be hired at a rate below the minimum salary, until the minimum qualifications have been satisfied.
- B. This category is used to train people on the job who have the potential to do the work but lack some of the skills or experience needed.
- C. The usual time a person remains in a trainee category depends upon the skills or experience needed in individual cases, but should not exceed a maximum of twenty-four (24) months. If, after a reasonable period of time, the employee does not meet the necessary qualifications or acquires the needed skills, he/she will be demoted (if a vacancy is available) or dismissed. An employee in a trainee category will not be placed in a regular status until successful completion of the trainee period.

## ~~21.08 DEMOTION~~

~~A. An employee may be demoted to a position of lower grade for any of the following reasons:-~~

- ~~1. When an employee would otherwise be laid off because the position is being abolished; because the position is being reclassified to a lower pay grade, or due to lack of work or funds.-~~
- ~~2. When an employee does not possess the necessary qualifications to render satisfactory service in the position currently held.-~~
- ~~3. When the employee demonstrates unsatisfactory performance during the probationary period following a promotion.-~~
- ~~4. When the employee voluntarily requests the demotion.-~~

~~B. The effect of demotion on pay shall be as follows:-~~

- ~~1. Demotion will not result in a pay increase.-~~
- ~~2. Pay will not exceed the maximum rate of the pay grade designated for the lower position.-~~

## 21.08 LEAD WORKER CATEGORY

A lead worker position is defined as a position where duties of a supervisory nature are assigned over a group of positions classified as the same as that of the lead worker. Recommendations from the Department Head to the Human Resources Manager will be in writing stating the duties and responsibilities this individual will have and the estimated duration this assignment will last. The Human Resources Manager will

review all lead worker assignments periodically to insure the functions are still present. When assigned as lead worker, the employee will receive a five percent (5%) increase above the present pay while on the assignment. When the assignment is removed, the special day provision will be removed.

#### ~~21.09 PAY GRADE ADJUSTMENTS~~

~~A. Where the pay grade of an existing job classification is changed, all employees in such job classification shall receive the minimum rate in the new pay grade or the salary in the new pay grade which is equivalent to their current rate, whichever is greater, if funds are available.~~

~~B. In instances where the total Pay Plan is being revised, adjustments and implementation will be at the discretion of the City Commission, upon recommendations submitted by the Appointing Authority.~~

~~C. The Appointing Authority shall have authority to grant increases in salary to any employee in the Classified Service based upon any one or more of the following criteria: 1) upon finding that the established salary for similar positions, duties, responsibilities, and work performance in governmental bodies generally and in particular in St. Lucie County and surrounding counties and municipalities or in the private sector within the same locale is greater than that currently paid to the employee of such position; 2) market conditions and demand for individuals, with such skills and experience cause such individuals to be in great demand; 3) that the Pay Plan has not been able to adequately and fully compensate an outstanding employee with rapid and continuous advancement, leaving such employee in a position with great responsibility and demands, but little compensation increases with each promotion pursuant to Rule 21.07 as previously written. Upon finding of any of the foregoing upon established and acknowledged documentary evidence and surveys, and finding that it is in the best interest of the City, the Appointing Authority may authorize salary increases to such an employee to a level equal to the mid-point of the pay grade for the position currently held by such employee.~~

#### 21.09 CALL BACK

Employees required to come to work on off-duty time, due to emergency recall or other urgent situations, shall be paid at the rate of one-and-one-half (1 ½) times the normal hourly rate for all time actually worked in excess of the normal forty (40) hour working cycle, or in accordance with the applicable bargaining agreement.

#### ~~21.10 TRANSFERS~~

~~A. All transfers shall be made only with the approval of the Department Heads concerned.~~

~~B. Transfers shall be made as follows:~~

~~1. An employee may be transferred to another department with the same job classification and such transfer will not change the employee's pay grade, rate, or anniversary date.~~

~~2. If, after a fair trial, 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 Appointing Authority, if a vacancy exists.~~

~~C. When an employee becomes physically incapacitated for the performance of the essential function of the job duties, the Appointing Authority may, with the consent of the employee and the Department Head, authorize a transfer to a position in the same or a lower class which the employee has the ability to fill.~~

## 21.10 BUDGET LIMITATIONS

All actions concerned with the payment of salaries in accordance with these rules are subject to adequate funds being available.

## ~~21.11 TRAINEE CATEGORY~~

~~A. In the event an applicant for any position does not meet the minimum qualifications, but is otherwise qualified for the position, the City may authorize appointment as a TRAINEE. In such cases, the employee will be hired at a rate below the minimum salary, until the minimum qualifications have been satisfied.~~

~~B. This category is used to train people on the job who have the potential to do the work but lack some of the skills or experience needed.~~

~~C. The usual time a person remains in a trainee category depends upon the skills or experience needed in individual cases, but should not exceed a maximum of twenty four (24) months. If, after a reasonable period of time, the employee does not meet the necessary qualifications or acquires the needed skills, he/she will be demoted (if a vacancy is available) or dismissed. An employee in a trainee category will not be placed in a regular status until successful completion of the trainee period.~~

## 21.11 REIMBURSEMENT FOR PERSONAL PROPERTY DAMAGES

The Appointing Authority shall review the circumstances under which claims for personal property damages occurred, and may compensate an employee for said damages sustained when not due to any negligence or contributory negligence on his/her part while working within the scope of his/her assignment, in the amount not to exceed one hundred dollars (\$100.00) per item. Proper evaluation of the item(s) being replaced must be documented to the satisfaction of the Appointing Authority.

## ~~21.12 LEAD WORKER CATEGORY~~

~~A lead worker position is defined as a position where duties of a supervisory nature are assigned over a group of positions classified as the same as that of the lead worker. Recommendations from the Department Head to the Director of Administrative Services will be in writing stating the duties and responsibilities this individual will have and the estimated duration this assignment will last. The Director of Administrative Services will review all lead worker assignments periodically to insure the functions are still present. When assigned as lead worker, the employee will receive five percent (5%) increase above the present pay while on the assignment. When the assignment is removed, the special day provision will be removed.~~

## 21.12 SALARY ADVANCES

After one (1) week of employment, employees may be granted a lump sum salary advance of time earned a minimum of one week, not to exceed one (1) week's pay. Employees taking vacation may be advanced their next regular pay check, if eighty (80) hours of vacation leave is accumulated and used. All advances must be recommended by the Department Head and approved by the Finance Director.

## ~~21.13 CALL-BACK~~

~~Employees required to come to work on off duty time, due to emergency recall or other urgent situations, shall be paid at the rate of one and one half (1 ½) times the normal hourly rate for all time actually worked in excess of the normal forty (40) hour working cycle, or in accordance with the applicable bargaining agreement.~~

## 21.13 TEMPORARY WORK AT A HIGHER CLASSIFICATION

An employee may be required to work in a higher classification on a temporary, incidental, or emergency basis and shall do so at no increase in pay unless provided for otherwise in a collective bargaining agreement. If the employee is required to perform the duties for a period exceeding eleven (11) consecutive working days, the Human Resources Manager shall recommend to the Appointing Authority a temporary transfer to the higher classification, or the employee may be paid the appropriate rate for the higher classification, if approved. At the conclusion of the assignment, the employee's pay shall revert to the authorized rate established for the regular position and any such

temporary increase granted shall not affect the employee's eligibility for normal merit advancements. This provision is not intended for those cases where employees are assigned duties on a training basis or in supervisory positions.

#### ~~21.15 REIMBURSEMENT FOR MOVING EXPENSES~~

~~Employees being appointed to certain positions requiring professional and/or technical training or experience may be reimbursed for a part of their transportation and/or moving expenses when, in the judgment of the City Commission, such expenditure is required to recruit qualified employees. Such maximum reimbursable expenses shall be established by the City Commission. Employees shall be required to sign an agreement to reimburse the City for all or part of such expenditures should they leave the service of the City as a result of their own action prior to the completion of two (2) years of service.~~

#### ~~21.17 PAY FOR PART TIME WORK~~

~~Whenever an employee works for a period of less than the regular established number of hours per week, the amount of pay shall be proportioned to the time actually worked.~~

#### ~~21.19 WAGES DUE DECEASED EMPLOYEES~~

~~The City, in case of death of an employee where no beneficiary has been named, shall pay to the wife or husband, and in case there is no wife or husband, then to the child or children of their legally appointed guardian; and in case there is no child or children, then to the father or mother, any wages, vacation or sick leave pay, compensation and other benefits that may be due the employee at the time of the employee's death.~~

#### ~~21.20 TEMPORARY WORK AT A HIGHER CLASSIFICATION~~

~~An employee may be required to work in a higher classification on a temporary, incidental, or emergency basis and shall do so at no increase in pay. If the employee is required to perform the duties for a period exceeding eleven (11) consecutive working days, the Director of Administrative Services shall recommend to the Appointing Authority a temporary transfer to the higher classification, or the employee may be paid the appropriate rate for the higher classification, if approved. At the conclusion of the assignment, the employee's pay shall revert to the authorized rate established for the regular position and any such temporary increase granted shall not affect the employee's eligibility for normal merit advancements. This provision is not intended for those cases where employees are assigned duties on a training basis or in supervisory positions.~~

## SECTION 22

### SEPARATIONS

#### 22.01 TYPES OF SEPARATIONS

Separation and/or terminations from employment in the City's service are designated as one of the following types:

- A. Resignation
- B. Retirement
- C. Disability
- D. Death
- E. Reduction in Force (Lay-Off)
- F. Dismissal or Discharge
- G. End of Temporary Assignment
- H. Deferred Retirement Option Program (DROP)

#### 22.02 RESIGNATION

##### A. Resignation in good standing.

- i. An employee voluntarily leaves the City's service.
- ii. An employee wishing to leave the City's service in good standing shall submit a written resignation to the Human Resources Department through his or her immediate supervisor, stating the date of separation. Such notice must be given two (2) weeks prior to the date of separation. The City has the right to immediately accept the resignation of any such employee and forgo the two week notice.

##### B. Resignation not in good standing.

- i. If an employee fails to give two weeks' notice prior to his or her resignation, the employee will be considered to have resigned not in good standing.

ii. If an employee resigns while under investigation by the City, or any state or federal agency, the employee will be considered to have resigned not in good standing.

iii. Unauthorized absences from work for a period of three (3) consecutive days shall be considered a resignation not in good standing.

iv. An employee who resigns not in good standing will not be eligible for re-employment with the City. Further, an employee who resigns not in good standing is not eligible to receive sick leave at the time of separation of employment.

### 22.03 RETIREMENT

- A. A procedure whereby an employee is separated from the City's service by means of retirement in accordance with the City's Retirement Plans.
- B. Retirement regulations and benefits shall conform with the provisions of the Retirement Plans in effect.

### 22.04 DISABILITY

- A. The City will provide reasonable accommodations to disabled employees provided such accommodations do not create an undue hardship. To request an accommodation, an employee should contact the Human Resources Department.

~~An employee may be terminated when medical evidence indicates he/she is unable to perform the essential functions of his/her job because of a physical, mental, or emotional impairment. Separations based on the employee's inability to perform the essential functions of his/her job under the provisions of this section will not be considered disciplinary terminations. If it appears that an employee is unable to perform the essential functions of his/her employment, the Appointing Authority may request that the employee be subject to a functional assessment by a physician designated by the City at the City's expense. Such functional assessment may be of an employee's physical, psychological, or emotional health, whether chronic, acute, temporary, or permanent. Any employee who refuses to appear for such examination shall be subject to suspension, loss of benefits or termination.~~

- B. If the City is unable to provide a reasonable accommodation to enable the employee to perform the essential functions of his or her current position, the City will consider other possible reasonable accommodations, including transfer to an open position for which the employee is qualified. If no reasonable accommodation exists, the employee may be terminated.

~~If the inability to perform the job occurs due to an on the job injury, the employee must reach maximum medical improvement (MMI) as stated by the Workers' Compensation doctor before he/she will be evaluated for discharge. The point of time at which an employee is considered for discharge for an illness or off duty injury will be dependent upon the availability of a definitive prognosis.~~

- C. Separations based on the employee's inability to perform the essential functions of his/her job under the provisions of this section will not be considered disciplinary terminations.

~~When the City receives information from a physician that the employee has been issued medical restrictions or limitations which appear to prevent the employee from performing the essential functions of his/her job and the department and employee cannot identify reasonable accommodations(s) which would allow the employee to perform his/her essential job functions, the Department Head shall submit a memorandum to the Director of Administrative Services Manager indicating the medical restrictions and how those restrictions prevent the employee from performing the essential functions of his/her current position. The Department Head shall also indicate that, in consultation with the employee, no reasonable accommodations have been identified or if some accommodation has been suggested, shall list the reason(s) why providing the accommodation for the employee would create an undue hardship. The Director of Administrative Services Manager will determine if the available medical information and the department's undue hardship rationale are sufficient; if not, an independent medical and/or vocational evaluation will be arranged. If the employee fails or refuses to appear or fails to submit to such examination, these procedures will be conducted in reliance on the existing medical information then known to the City.~~

- D. If the employee should recuperate to the extent that he/she can perform the essential functions of his/her job with or without reasonable accommodations within nine (9) months of his/her termination, he/she may contact the Human Resources Department, and the Department Head may authorize reinstatement upon receipt of acceptable evidence that he/she can satisfactorily perform the job, providing there is a vacancy. The employee may continue to check the City job line and may apply for other open positions within the City as they occur.

~~After the Director of Administrative Services Manager receives sufficient notice from a physician and/or vocational rehabilitation counselor and the department that the employee is restricted in such a manner that he/she can no longer perform the essential functions of his/her job, the Director of Administrative Services Manager will meet with the employee and over a sixty (60) day period assist in the search for suitable alternate employment of the employee. The sixty (60) day period shall be consecutive calendar days from the time the Administrative-~~

93-

~~Services Department advises the employee in writing. Where deemed necessary by the Director of Administrative Services, a vocational rehabilitation counselor may be utilized in the search for alternate employment.~~

- ~~E. The Director of Administrative Services Manager shall maintain a list of all vacancies which occur during the (60) day period and evaluate the requirements for each vacant position relative to the individual's qualifications and capabilities. Four areas will be considered in determining if the employee can be considered for any vacant position: a) whether the current budget allows for the position to be filled, b) the educational requirements for the position, c) the prior work experience of the employee, and d) the employee's ability to perform the duties of the position. The Administrative Services Department will meet with the employee and refer the employee to the department where an opening exists for an interview, provided the employee meets the qualifications for the position and satisfies all requirements with respect to testing and certification.~~
- ~~F. If suitable alternate employment has not been arranged by the conclusion of the sixty (60) day period following the employee's entrance into the Alternative Employment Program, the Director of Administrative Services Manager will notify the Department Head that there is no suitable alternate position available. The Director of Administrative Services Manager will notify the employee's Department Head that the employee may be discharged after an exit interview.~~
- ~~G. The department, if at all possible, shall schedule an exit interview with the employee in order to inform the employee that the discharge is not a disciplinary termination, that all vacancies in the City have been examined and there is no suitable alternate employment available at this time. If the employee should recuperate to the extent that he/she can perform the essential functions of his/her job within nine (9) months of his/her termination, he/she may contact the Administrative Services Department, and the Department Head may authorize reinstatement upon receipt of acceptable evidence that he/she can satisfactorily perform the job, providing there is a vacancy. The employee may continue to check the City job line and may apply for other open positions within the City as they occur.~~

## 22.05 DEATH

For record keeping purposes, separation shall be effective as of the date of death. All compensation and benefits due to the employee as of the effective date of separation shall be paid to the beneficiary, surviving spouse, or the estate of the employee, as determined by law or by executed forms in the employee's personnel file.

The City, in case of death of an employee where no beneficiary has been named, shall pay to the wife or husband, and in case there is no wife or husband, then to the child or children of their legally appointed guardian; and in case there is no child or children, then to the father or mother, any wages, vacation or sick leave pay, compensation and other benefits that may be due the employee at the time of the employee's death.

## 22.06 REDUCTION IN FORCE (LAY-OFF)

- A. When it becomes necessary to reduce the number of employees because of lack of funds, shortage of work, the elimination of a position, or other causes, which do not reflect discredit on the service of the employee, employees shall be laid off at the sole determination and discretion of the City. No regular employee shall be laid off while another person in a classified position is employed on a temporary basis.
- B. The order of lay-off shall be determined by the City considering past performance, ability to perform, seniority, and the needs of the City.
- C. A laid-off employee shall be paid for all annual/vacation leave credits for which eligible.
- D. Employees laid-off may request to be placed on a Reinstatement List. The order of this list will be determined by the City using the same criteria as in the lay-off procedure. The Reinstatement List will be valid for one (1) year.

## 22.07 DISMISSAL OR DISCHARGE

A discharge is the involuntary separation of an employee from the City's service. Employees discharged for disciplinary reasons, including poor performance, will not be eligible for rehire and shall lose all seniority and reinstatement privileges.

## 22.08 DEFERRED RETIREMENT OPTION PROGRAM (DROP)

- A. A procedure whereby an employee is separated from the City's service by means of retirement in accordance with the City's Deferred Retirement Option Program Plan.
- B. Retirement regulations and benefits shall conform with the provisions of the Deferred Retirement Option Program Plan in effect.

## 22.09 RETURN OF PROPERTY AND FINANCIAL OBLIGATION

- A. Prior to receiving final monies due, all items of City property in the employee's custody shall be returned to the Department. Certification to this effect shall be made by the employee's supervisor. Any monies due because of shortages shall be collected through appropriate action.
- B. Any outstanding debts incurred by an employee, such as shortages in leave accounts, deductions for the loss or abuse of City property, or other financial

obligations, which are due the City, shall be deducted from the employee's final pay check to the extent permitted under the Fair Labor Standards Act and other applicable federal and state laws and regulations.

#### 22.10 EXIT INTERVIEW

An exit interview shall be conducted of all employees separated from the City's service. This will be conducted by the ~~Director of Administrative Services~~ Human Resources Manager or designee.

## SECTION 23                      ACCOMMODATIONS

Any employee who believes he or she needs an accommodation as a result of a disability, pregnancy or religious belief, must contact Human Resources. Human Resources will work with the individual to determine what reasonable accommodations are available, and take the necessary steps to implement the appropriate reasonable accommodation(s), if any, as required by law.

### ~~CERTIFICATION OF PAYROLLS-~~

#### ~~23.01 PAYROLL CHANGES-~~

~~A payroll change shall not take effect until the personnel action notification has been approved by the Appointing Authority in writing on an approved form.-~~

#### ~~23.02 REVIEW OF PAYROLLS-~~

~~A. The Administrative Services Department shall be supplied with the required payroll date and other information needed to examine names, salaries, dates of appointment, and other data to enable the Personnel Manager to determine that all actions listed on a given payroll have been taken in accordance with the provisions of the Personnel Rules and Regulations.-~~

~~B. After the Administrative Services Department Manager or designee has examined a given payroll, has corrected irregularities, and is satisfied that all employees contained thereon have been appointed in accordance with the provisions of the rules, the Administrative Services Department Manager or designee shall so certify, recording such certification on the payroll involved, and return it for processing.-~~

## SECTION 24

### EMPLOYEE GRIEVANCES, APPEALS, AND COMPLAINTS OF DISCRIMINATION, HARASSMENT, AND RETALIATION

#### 24.01 GRIEVANCES

##### A. Purpose

1. Eliminate or correct causes of employee dissatisfaction and complaints.
2. Provide a systematic and orderly method for adjusting complaints and differences of opinion between employees and supervisory or management personnel.
3. Ensure all employees are afforded fair, equitable, and expeditious review of their grievances without fear of retaliation, coercion, or discrimination.
4. Set forth a procedure governing the presentation of charges, hearing rights and appeals.

##### B. Definitions

Immediate Supervisor – The individual who normally has the responsibility for scheduling, assignment, and reviewing the work of the employee; and to whom the employee customarily reports to for direction and instruction concerned with work assignments on a regular basis, such supervisors would normally exercise discretionary powers, or have authority to recommend disciplinary actions or other changes in employee status.

Conditions of Employment – Conditions of employment are to be broadly construed to include employees' physical working environment, interactions with the public, elected officials and co-employees, and perceived violations of these Rules and Regulations, Departmental Rules, operating procedures or General Orders.

##### C. Right of Grievance

Any employee who has achieved regular status in the Classified Service shall have the right to use the grievance procedure provided herein to address complaints regarding conditions of employment, which are not otherwise governed by Sections 24.02 or 24.03.

##### D. Supervisors and Management Responsibilities

1. It shall be the responsibility of supervisory and management personnel to hear and consider all employee grievances and take necessary and appropriate corrective action, or provide a reasonable explanation as to why the grievance is not valid.

2. No supervisor shall deny any employee the right to take the complaint to the next step in the grievance procedure when it cannot be settled to the satisfaction of the employee at the lower level. Should such a denial occur, the employee shall be entitled to file a new grievance, based on the denial, to the next level of supervision.

E. Management Prerogatives

The resolution of grievances shall be resolved in consideration of the prerogatives of management which include the following:

1. The City retains the sole right to determine and from time to time to redetermine how to manage its operations and direct the working force, including the rights to decide the scope of service to be performed, the method of service, the schedule of work time, the size and composition or work force; to contract and subcontract existing and future work; to determine whether and to what extent the work required in its operations or jobs shall be performed by employees covered by the Union Contract; to maintain order and efficiency in its work locations; to curtail or discontinue temporarily or permanently, in whole or in part operations whenever in the opinion of the City's good business judgment makes such curtailment or discontinuance advisable; to hire, lay off, assign, transfer, classify, reclassify, promote, demote, and determine the qualifications of employees; and to determine the starting and quitting time and the number of hours to be worked.
2. The exercise of the above rights does not preclude employees or their representatives from conferring or raising questions about the practical consequences that decisions on these matters may have on terms and conditions of employment. However, the exercise of these rights are not subject to review by the Grievance Committee or hearing before an Arbitrator.
3. The above rights of the City are not all-inclusive but indicate the type of matters or rights which belong to and are inherent to the City in its capacity to manage the services of the City of Fort Pierce.
4. The City retains the sole right to discipline, suspend, and discharge employees for just cause, including violations of any term of an effective Collective Bargaining Agreement to which the City is a party.
5. If the City determines that a civil emergency condition exists, including but not limited to riots, civil disorders, hurricane conditions, or similar catastrophes, the provisions of the Union Contract may be suspended during the time of the declared emergency.

## F. Grievance Procedure - Steps

### 1. Step 1 – Supervisor Review of Verbal Grievance

- a. If an employee feels he/she has a grievance, he/she shall first discuss it with his/her immediate supervisor within five (5) days of the occurrence of the event or within five (5) calendar days from the date the employee could reasonably be expected to have knowledge of the existence of the condition of employment.
- b. Upon being informed of the complaint, the immediate supervisor shall make appropriate inquiries and take necessary actions to resolve the problem. The supervisor's resolution shall be discussed with the employee within seven (7) calendar days from the date the grievance was first presented.

### 2. Step 2 – Supervisor Review of Written Grievance

- a. In the event the grievance is not resolved in Step 1, the immediate supervisor does not respond, or the employee is dissatisfied with the immediate supervisor's resolution, the employee may submit a written grievance to their immediate supervisor within three (3) calendar days following the seven (7) calendar days allowed for the supervisor to respond in Step 1.
- b. A written reply shall be furnished to the employee within ten (10) calendar days after the written grievance is received by the immediate supervisor.

### 3. Step 3 – Department Head Review

- a. In the event the grievance is not resolved in Step 2, the immediate supervisor does not respond, or the employee is dissatisfied with the immediate supervisor's resolution, the employee may submit a written grievance to their Department Head within three (3) calendar days following the ten (10) calendar days allowed for the supervisor to respond in Step 2.
- b. A written response indicating the outcome of the department head's review shall be furnished to the employee within fifteen (15) calendar days after the written grievance is received by the department head.

### 4. Step 4 – Grievance Committee Review

If the employee is dissatisfied with the department head's determination, he

or she may, within five (5) calendar days following the 15 calendar days allowed for the department head to respond, submit a written request to the Human Resources Department Head for a review of the grievance by the Grievance Committee. Such written request shall be accompanied by facts and information relevant to the complaint. Copies of the written request for review shall also be sent by the employee to the Appointing Authority.

G. Grievance Submission Requirements

1. Written grievances shall be submitted on the forms prescribed by the City.
2. It is the employee's responsibility to advance grievances as provided herein. If any employee fails to advance his/her grievance to the next step within the time frames provided within each step, the grievance shall be deemed to have been withdrawn or waived.

H. Grievance Committee Composition

1. The Grievance Committee shall be composed of three (3) members.
2. Grievance Committee members shall be appointed in accordance with the following procedure.
  - a. The aggrieved employee shall appoint one (1) member when requesting review. The Department Head shall appoint one (1) member within two (2) days of the request for review.
  - b. The third member shall be appointed by the other two members within two (2) days of appointment in subparagraph 1;
  - c. If the two (2) members fail to agree on the third member, the Appointing Authority shall appoint the third member within seven (7) days of the employee's original request.

I. Hearing before a Grievance Committee

1. Within fifteen (15) calendar days after the receipt of a written request to review a grievance, the ~~Administrative Services~~ Human Resources Department Director shall schedule a hearing before the Grievance Committee.
2. The Human Resources Department Director shall act as permanent secretary to the Grievance Committee and is responsible for notifying interested parties, keeping the official minutes, and rendering advice on Personnel Rules and Regulations.
3. All meetings, investigations, and hearings related to grievance reviews shall be scheduled during normal business hours whenever possible. All participants in grievance committee activities shall be granted administrative leave with pay.

4. Employees, supervisors, their representatives, and witnesses shall have the right to appear before the committee for the purpose of presenting relevant facts, documents and information. Additional witnesses may be called, at the discretion of the Committee, when necessary to resolve the grievance.

J. Findings of the Grievance Committee

1. The Grievance Committee shall, within ten (10) calendar days following a hearing, render its findings and advisory recommendations. Written copies of the findings shall be furnished to the employee and the Human Resources Department Director.
2. The City Manager shall review the findings and recommendations of the Grievance Committee and may sustain, modify or reject such recommendations.
3. The decision of the City Manager's review of the Grievance Committee's recommendations shall be final.
4. The summary report of the grievance proceedings shall be maintained in the ~~Administrative Services~~ Human Resources Department.

24.02 APPEALS

A. Right of Appeal

1. Any employee who has achieved regular status in the Classified Service shall have the right to appeal to the Civil Service Appeals Board any suspension, demotion, reduction in pay, or dismissal by the appointing authority by whom he/she is employed.
2. Exceptions:
  - a. Any employee who is promoted and subsequently demoted, or receives a reduction in pay prior to one year in the higher classification, shall not have the right of appeal unless the demotion is to a lower class than that in which he/she was serving prior to promotion, or unless the action results in a lower rate of pay than the employee was receiving prior to promotion.
  - b. Any employee accepting a demotion or reduction in pay as being a voluntary action shall not have the right of appeal.

B. Notice of Action

1. Each employee of the Classified Service shall be provided written notice by the Appointing Authority involving any action of suspension, demotion, reduction in pay, or dismissal.

2. Such notice shall advise the employee of his/her right to appeal as provided under this section.
3. A copy of all such notices shall also be provided to the ~~Administrative Services~~ Human Resources Department Head.

C. Procedures for Filing Appeals

1. An employee wishing to appeal to the Civil Service Appeals Board shall, within seven (7) calendar days after the effective date of a suspension, demotion, reduction in pay, or dismissal, advise the ~~Administrative Services~~ Human Resources Department Head in writing of the desire to appeal.
2. The notice of appeal shall contain a concise and brief statement of facts showing why the appellant is entitled to relief.
3. The ~~Administrative Services~~ Human Resources Department shall prepare a summary of the available facts and information for review by the Civil Service Appeals Board prior to the scheduling of a formal hearing. The Civil Service Appeals Board may deny a hearing on an appeal based upon the summary report, if it appears on its face that the Board has no jurisdiction or authority to hear the matter or such report is not filed in conformance with these Rules and Regulations.
4. When a hearing has been scheduled by the Board, the ~~Administrative Services~~ Human Resources Department shall notify the appellant, the Appointing Authority, and the Department Head involved.
5. The ~~Administrative Services~~ Human Resources Department shall make all necessary arrangements for the appeal to be heard by the Civil Service Appeals Board.

Procedures for Hearing Appeals

- A. Hearing Dates – The Civil Service Appeals Board shall establish a time, date and place for hearings and provide appropriate written notices to the parties concerned.
- B. Postponements
  1. Once the date for the proceedings has been fixed, the appellant or Appointing Authority may file a written request for postponement with the Chairperson of the Civil Service Appeals Board, through the Human Resources Department, citing circumstances which prevent attendance on the scheduled date.
  2. The Chairman of the Civil Service Appeals Board shall consider the request on its merit, and may grant a postponement if extenuating circumstances are present.
- C. Quorum

A quorum shall consist of no less than three (3) Civil Service Appeals Board members. No hearing shall take place in the absence of a quorum.

D. Conduct of a Hearing

1. The Chairperson of the Civil Service Appeals Board, or in his/her absence, the Vice Chairperson, shall preside at all hearings.
2. All parties shall abide by the decisions of the Chairperson, except in the event another member of the Civil Service Appeals Board objects to a decision concerning the admission of evidence; the issue will be settled by majority vote of the Civil Service Appeals Board.
3. The Chairperson shall open the Hearing by:
  - a. Stating the nature and purpose of the proceedings.
  - b. Introducing and identifying for the record all interested parties.
  - c. Defining the issue or issues.
  - d. Explaining the manner in which the hearing will be conducted.
4. Each party shall have the right to be accompanied by, or represented by, counsel.
5. Each party shall be given an opportunity to make an opening statement if they desire. Such opening statement shall be restricted solely to the facts the party expects to prove.
6. Any member of the Board may direct questions to any party at any time during the proceedings.
7. Each party may object to clearly irrelevant material and shall have the right to examine witnesses.
8. The Chairperson shall allow the appellant and the Appointing Authority, or their representative, to make a closing statement if they desire.

E. Rules of Evidence

1. Each party shall be responsible for proving their case by competent, substantial evidence.
2. Evidence may be in the form of oral testimony from witnesses, signed affidavits or statements, or introduction of pertinent documents, materials, or equipment.
3. Testimony of witnesses may be under oath or affirmation.
4. The Chairperson shall be responsible for admittance of evidence and control of testimony.
5. The Chairperson may request additional documentary evidence, which it considers relevant, or the recall of witnesses when the need for additional testimony is indicated.
6. Documentary evidence introduced and accepted by the Board will be

labeled or numbered for proper identification into the record.

F. Record of the Hearing

1. Stenographic notes and/or mechanical record shall be kept of all hearing procedures.
2. A verbatim account of the hearing will not be transcribed unless requested by one of the parties, and if paid for by the requesting party.
3. Either party shall have the right to have the proceedings recorded by the court reporter at their own expense.

G. Decisions and Orders of the Board

1. The Board may affirm, modify, or reverse the decision of the Appointing Authority. The decisions and orders of the Board may include, but are not necessarily limited to, the reinstatement of an employee, with or without back pay, modification of imposed penalties, removal of part or all references of charges from the employee's personnel file, or any other decision considered equitable, based upon the findings.
2. The Civil Service Appeals Board may order the reinstatement of a Classified Service employee who was suspended, demoted, or dismissed only if it appears after a proper public hearing that the suspension, demotion, or dismissal was made for reasons other than good cause.
3. The Civil Service Appeals Board may order the appointment or promotions of any candidate in the Classified Service, or the reinstatement of any employee in the Classified Service who has been suspended, demoted, or dismissed, if it appears after a public hearing that the denial of or action taken was because of the employee's political opinion or affiliation, religious belief, race, color, sex, national origin, age, or disability, if such age or disability is not related to job performance.
4. The Civil Service Appeals Board may direct that any employee who has been wrongfully suspended, demoted, or dismissed, shall be entitled to back pay and other compensation, if the circumstances warrant such an order.
5. After the hearing, the Civil Service Appeals Board shall render a decision within thirty (30) calendar days. Such a decision shall contain findings of fact and a granting or denial in whole or in part of the relief requested. The decision of the Civil Service Appeals Board shall be final.

## 24.03 COMPLAINTS OF DISCRIMINATION, HARASSMENT AND RETALIATION:

### A. Original Complaints

1. All City employees share the responsibility of understanding and assisting the City in preventing discrimination, retaliation, and harassment. Individuals who believe that they have observed or have been subject to discrimination, retaliation, or harassment have the responsibility to inform the City that such conduct has occurred. Individuals who believe that they have observed or been subjected to discrimination, retaliation or harassment are encouraged to promptly advise the offender that his or her behavior is unwelcome and request that it be discontinued. Whether or not an individual addresses the offender directly, he or she must report all incidents of discrimination, retaliation or harassment in compliance with the procedures set forth herein.
2. All instances of discrimination, retaliation or harassment must be reported to the Human Resources Manager ~~victim or observer's immediate supervisor or to any supervisor within the victim or observer's chain of command up to and including the Department Head. If no such supervisor is available to receive the report or, if reporting to such supervisor or Department Head would be inappropriate, the victim or observer must report the incident to the Personnel Manager or the Appointing Authority.~~
3. In order to conduct an effective investigation, the report must be complete and accurate. To facilitate this goal, the City prefers that all reports of discrimination, retaliation and harassment be reduced to a written complaint signed by the victim or observers; however, the complaint may be oral or written. In the event such employee refuses to draft such a complaint, ~~the complaint shall be drafted by the supervisor, department head, or Personnel Manager who receives the initial complaint.~~ the Human Resources Manager shall draft a complaint, which will be provided to the complainant with a request to review and verify its accuracy. Once the written complaint is verified as accurate, the employee will need to sign the complaint.

### B. Investigations

1. The following procedures shall apply to all complaints of discrimination, retaliation or harassment unless stricter procedural requirements are mandated by federal or state statutes or regulations. *See e.g.*, F.S. §§112-Part VI (Police Officers' Bill of Rights); 112-Part VIII(Firefighters' Bill of Rights); and 468.619 (Building Officials' Bill of Rights).
2. Complaints of discrimination, retaliation or harassment shall be investigated by the Human Resources Manager or the Chief of Police's designated internal affairs officer, if such claim arises from within the Police Department, whether or not the complaint is signed by the complainant.

In order to protect the privacy of the parties involved, the investigation shall remain as confidential as the circumstances allow. ~~However, all investigations shall involve interviews of the complainant, the alleged victim of discrimination, retaliation or harassment, the alleged perpetrator of the prohibited conduct, and all witnesses to the incident. In order to promptly remedy incidents of discrimination, retaliation and harassment, it is imperative that all employees participate in such investigations when the investigator determines such participation is necessary. Therefore, any employee's failure to participate in such an investigation may be determined to be a violation of the City's Code of Conduct.~~

3. Employees who are determined to be witnesses may be interviewed as part of the investigation and must participate in the investigation as deemed necessary.

4. The investigation shall conclude within ninety (90) business days of the original complaint or one hundred eighty (180) days, if conducted pursuant to Police Department procedures for administrative investigations, unless circumstances require a longer period of time. ~~The purpose of the investigation shall be to determine whether an alleged instance of conduct violates the City's policies prohibiting discrimination, retaliation or harassment. At the conclusion of the investigation, the investigator shall generate a report recounting the accusation, a summary of interviews with witnesses relevant to the investigation, a description of other materials relied upon, and specific findings of fact. The report shall also make conclusions including whether the original allegations are sustained or not sustained, whether the investigation revealed additional infractions of City Rules and Regulations and, the identity of all employees found to have violated a policy, identification of the policies violated and the group offense to which the policy belongs, if applicable. The report shall also make recommendations. The recommendations may include suggested formal discipline for any policy infraction, counseling to specific individuals, groups of individuals or departments; suggestions for further supervisory or employee training; and any other recommendation the investigator believes will prevent future complaints of discrimination, harassment or retaliation and which will remedy any remaining interpersonal conflicts.~~

### C. Resolution of Investigation

1. The Appointing Authority will notify the complainant of the findings of the investigation in writing.

2. The Appointing Authority will notify the alleged wrongdoer of the findings of the investigation and any disciplinary action. Any employee in the classified service who is disciplined as a result of the investigation may seek review following the City's grievance procedures (§24.01) or appellate procedures (§24.02) as may be applicable.

~~The investigator's report shall be submitted to the Appointing Authority for final review. The Appointing Authority, in his or her sole discretion, may adopt, modify or reject the report's recommendations. Within fifteen (15) days following the conclusion of the report, the Appointing Authority shall meet separately with the complainant, the respondent, and any other individuals found in the report to have violated a City policy. The Appointing Authority shall notify each such person of the findings of the investigation and his or her ultimate resolution of the recommendations set forth in the report. The notice to the Complainant shall be in writing. The investigation of discrimination and retaliation shall be concluded upon the Appointing Authority's notice to employees in compliance with this paragraph and no further review shall be provided by the City. However, any employee in the classified service who is disciplined as a result of the investigation may seek review following the City's grievance procedures (§24.01) or appellate procedures (§24.032) as may be applicable.~~

D. Prohibition Against Retaliation

1. In accordance with applicable law, no employee will be disciplined or retaliated against because that employee: (i) opposed an unlawful employment action; (ii) filed a complaint of harassment, discrimination or retaliation with the City; (iii) filed a complaint or charge with any federal, state, or local agency authorized to receive such complaints or charges, or filed such complaints or charges prior to or without using the City's grievance procedures; (iv) participated in an investigation initiated under City procedures or (v) participated in an investigation conducted by federal, state, or local agencies authorized to receive such complaints or charges. Nothing in this paragraph shall stay an adverse action taken against an employee for any reason other than making a complaint of discrimination.
2. If an employee who has filed a complaint of harassment, discrimination or retaliation, or who has participated in an investigation believes he or she has been retaliated against, the employee must notify the Human Resources Department.
3. The procedure provided for by this subsection assumes that submitted complaints are objectively reasonable and made in good-faith. Nothing within this subsection shall be construed to prevent the City from disciplining employees who submit false allegations in complaints or provide false information during investigations.

## SECTION 25

### TUITION REIMBURSEMENT PROGRAM

It is the intention of this policy to provide funds to employees for educational reimbursement. This policy is exclusive of other City training.

#### A. Reimbursement

1. The City may, in its sole discretion and as budgetary conditions permit, provide funding to support this program and to assist employees with accredited educational tuition costs. An attempt will be made to distribute said funds to departments so they will be available for each school term.
2. The use of these funds will be restricted to tuition and will be limited to 100% tuition reimbursement for no more than fifteen (15) credit hours per employee each calendar year. This reimbursement will be for employees who achieve a minimum grade of "C" or above. The amount reimbursed shall not exceed the State credit hour rate for undergraduate or graduate courses.

#### B. Eligibility Requirements

City employees appointed to permanent positions who have completed their initial probation period will be eligible to participate in this program. Permanent part-time employees will be eligible for a proportionate share of the tuition reimbursement.

#### C. Conditions for Approval and Payment

1. The City will participate in the cost of those course, both correspondence and classroom, which are determined as follows:
  - a. Directly related to the duties of the position held by the employee applying for tuition reimbursement; and/or
  - b. Must be a valid elective for a degree program approved by the Director of ~~Administrative Services~~ Human Resources and the Department Head; and/or
  - c. Would contribute to the upward mobility of the employee.
2. Classes must be from a recognized or accredited institution in order to qualify for this program.
3. The City will pay the cost of tuition for each course, as referenced in Section B-2, including books in connection with the courses to be taken.

This does not include taxes, extra fees such as online fees, administrative fees, lab fees, etc.

4. The City will not pay tuition fees which have been advanced from other sources such as scholarships, grants, or other subsidies.
5. To be eligible for a refund, an employee must successfully pass the course and present a certificate to the ~~Administrative Services~~ Human Resources Department. A passing grade shall be considered a grade of "C" or equivalent.

#### D. Application Procedure

1. Each application must be signed by the employee, applicant's Department Head or designee, and approved by the Human Resources Department.
2. Requests for refund of tuition must be made on the Tuition Reimbursement Form. These forms can be obtained in the employee's department or the ~~Administrative Services~~ Human Resources Department.
3. The request shall be submitted with a copy of an official fee card attached and forwarded to the ~~Administrative Services~~ Human Resources Department.
4. Upon receipt of the Tuition Reimbursement Form from the employee, the ~~Administrative Services~~ Human Resources Department will indicate approval or disapproval, based upon the considerations set forth in paragraph C above. A copy shall be returned to the employee.

#### E. Method of Payment

It shall be the responsibility of the employee to obtain a certificate from the institution indicating the course grades. These grades shall be presented to the Human Resources Department for tuition reimbursement within thirty (30) days of completion of the course. If conditions for reimbursement have been met, the Director of ~~Administrative Services~~ Human Resources shall request a refund payment.

#### F. Required Courses

If an employee is required as part of his/her job to take either a correspondence course or attend classes, the employee's department shall pay 100% of the cost of the charges except as provided herein. Payment shall be made at the time the employee enrolls in the program. All required courses shall first be approved by the employee's Department Head or designee as appropriate.

#### G. Classes on City Time

1. The only time that an employee may be permitted to take approved courses during City work hours will be when the course is not offered at any other time and an employee submits a request in writing to the appropriate

Department Head and the employee has received written permission to take the class during City work hours. Once permission has been granted, the employee will be offered one of the following three alternatives: (1) leave without pay in accordance with leave provisions; (2) use of paid annual vacation; or (3) make-up time if work environment permits this flexibility. All such arrangements shall be approved in advance by the appropriate Department Head or designee.

2. When a situation arises in which more than one employee in a work area has been approved to take a specific required or voluntary class and only one employee may be permitted to leave the work area at a time, the Department Head or designee will decide which employee will attend.

#### H. General Provisions

1. An employee who receives tuition reimbursement shall be obligated to remain in the employ of the City for ~~one~~ two years after receiving the tuition reimbursement. Failure to remain for one year for any reasons, save death or disability, shall obligate the employee to reimburse the City for the tuition reimbursement received during the last year of employment.
2. An employee who has completed an approved course and who is on leave of absence at the time for tuition reimbursement will be eligible for a refund upon return to active employment.
3. An employee cannot approve his/her own tuition refund request.

~~4. Course grades are to be submitted to the Administrative Services Department within thirty (30) days after completion of course.~~

## SECTION 26

### EMERGENCY PERSONNEL POLICIES

If it is determined that a civil emergency condition exists, including, but not limited to, riots, civil disorders, hurricane conditions, or similar conditions, all provisions of the City's Personnel Rules and Regulations and Collective Bargaining Agreements shall be suspended, to the extent permitted by law. Notwithstanding this paragraph, Sections 3, 10, 16 and 21 governing Standards of Conduct, Code of Conduct and Disciplinary Action, Safety, and Compensation Plan – Salary Schedule, respectively, shall not be suspended under any circumstances.

- A. Department Heads shall, prior to the declaration of a civil emergency, select “essential” and “non-essential” personnel. All personnel shall be advised of their status. Individual employee status may change, as needs of the City change during the civil emergency, at the discretion of the Department Head.
- B. Non-essential employees sent home shall be paid for the remainder of their Shift. If the City remains closed for the following day(s), employees shall be eligible for accrued leave benefits.
- C. All classified employees shall be paid for at least one shift. Seasonal, non- exempt contractual, and other temporary workers shall be paid for hours worked.
- D. All “essential” employees shall be paid time and one-half (1.5 X) for all hours worked during civil emergency, except for Department Heads. The City Manager may authorize additional compensation for Department Heads who work over twenty-four (24) hours straight. No compensatory time shall accrue during civil emergencies. The City Manager shall receive no additional compensation unless authorized by the City Commission.
- E. All hours of additional compensation will be paid the second pay period after a civil emergency, if possible.
- F. All other policies concerning remuneration shall comply with the City's Personnel Rules and Regulations and the Fair Labor Standards Act.

## **SECTION 27**

### **SEVERABILITY**

Nothing contained or expressed in any rule or rules set forth herein shall be construed to limit, abrogate, or repeal the provisions of the Charter of the City of Fort Pierce.

If any rule, or part of rules, should be declared unconstitutional or of no force or effect in any court, the same shall not affect the remaining rules which shall be in full force and effect.

These rules supersede any previous rules approved by the City Commission. Any Resolutions, or part of Resolutions, previously approved by the City Commission, which are in conflict with these rules are hereby repealed.