

# Personnel Manual



## **INTRODUCTION**

The Town of Indian Shores, Florida, welcomes you as a member of its municipal staff. As a Town employee, you are an important part of a group of professional individuals dedicated to providing the most efficient service possible for our Town's citizens, property owners and visitors. As public employees in the State of Florida, you are also responsible for carrying out your duties in accordance with Florida's Code of Ethics for Public Officials and Employees, and the Florida Constitution.

These personnel policies have been developed to establish a consistent and equitable basis for administering matters affecting the working environment in which the Town's staff functions. The policies contained in this manual are administered by the Department Head. Please direct any questions to your immediate supervisor or Department Head. In no way should this personnel manual be construed as a contract of employment for any definite period of time between you and the Town or to vest entitlement in you to any of the benefits contained herein. Further, the Town specifically reserves the right to modify any provision contained in this personnel manual at any time, with or without notice to our employees. For those of our employees of our police department represented by a union, the collective bargaining agreement prevails over any conflicting provisions contained in this manual. Similarly, for those of our employees whose terms of employment are established by a written individual employment contract, signed by both the employee and an authorized representative of the Town, such contract shall prevail over any conflicting provisions contained here.

Both the Town Council and other staff personnel are pleased to have you as a member of the Town's staff and join with me in the hope that you will enjoy both your work and the new friends you will make while associated with our Town.

Mayor, Town of Indian Shores

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## **TABLE OF CONTENTS**

	<b><u>PAGE</u></b>
SECTION 1: HISTORY AND ORGANIZATION OF THE TOWN OF INDIAN SHORES .....	1
SECTION 2: DEFINITIONS .....	2
SECTION 3: EQUAL EMPLOYMENT / ANTI-HARASSMENT POLICY .....	4
A. Equal Employment Opportunity .....	4
B. Anti-Harassment Policy.....	4
C. Investigation and Discipline .....	5
1. Non-Exempt Employees.....	5
2. Exempt Employees .....	6
3. Council Members and Committee Members.....	6
SECTION 4: WORKPLACE SAFETY .....	8
A. Commitment to Safety .....	8
B. Drug-Free and Alcohol-Free Workplace .....	8
C. Workplace Violence Prevention .....	9
SECTION 5: EMPLOYMENT .....	9
A. Recruitment and Hiring of Exempt Employees.....	9
B. Recruitment of Non-exempt Employees .....	9
C. Selection .....	10
D. Hiring.....	10
E. Probationary Period.....	10
1. Part-time, Temporary, and Exempt Employees.....	10
2. Newly Hired .....	11
3. Newly Promoted .....	11
4. Evaluation.....	11
5. Tenure.....	11
F. Promotions .....	11
G. Part-time and Temporary Employees .....	12
H. Resignation .....	12
I. Termination.....	12
J. Reduction in Force .....	12
K. Severance Pay for Exempt Employees .....	13
L. Demotion.....	13
M. Nepotism .....	13
N. Evaluations .....	14
O. Personnel Files .....	14
P. Performance Standards .....	15
1. Code of Ethics .....	15
2. Conflict of Interest .....	15

Q. Use of Town Vehicles or Equipment (Other than Law Enforcement Vehicles or Equipment).....	15
R. Use of Town Computer Resources.....	16
1. General Provisions .....	16
2. No Expectation of Privacy .....	16
3. Public Records .....	17
4. Passwords .....	17
5. Home Use of Town Computers .....	17
6. Prohibited Activities .....	17
S. Use of Personal Electronic Devices for Town Business .....	17
T. Social Media .....	18
U. Outside Employment.....	19
V. Political Activity .....	19
W. Possession of Firearms .....	19
X. Tattoos .....	20
SECTION 6: DISCIPLINE AND GRIEVANCES.....	20
A. Disciplinary Action.....	20
B. Offenses.....	20
1. Class I Offenses .....	20
2. Class II Offenses .....	21
C. Pre-Disciplinary Hearings and Other Pre-Disciplinary Procedures .....	22
1. Unpaid Suspensions, Demotions and Discharges for Full-Time, Non-Probationary, Non-exempt Employees .....	22
2. Discipline of Exempt Employees .....	23
D. Appeals to the Town Council .....	24
E. Name Clearing Hearing .....	24
F. Written Rebuttal by Employee .....	24
SECTION 7: HOLIDAYS .....	24
SECTION 8: LEAVE.....	25
A. Annual Leave .....	25
B. Sick Leave .....	27
C. Sick Leave Pool .....	28
D. Unpaid Leave .....	29
E. Emergency Leave/Bereavement .....	30
F. Military Leave .....	30
1. General Provisions .....	31
2. Pay and Benefits While on Military Leave .....	31
3. Reemployment .....	31
4. Required Documentation.....	32
G. Civil Duty Absence .....	32
H. Other Absences .....	33
I. Compensatory Time.....	33

J. Compulsory Absence.....	33
SECTION 9: INSURANCE/RETIREMENT BENEFITS.....	33
A. Health and Life Insurance .....	34
B. Other Fringe Benefits.....	34
C. 401(a) Plan .....	34
D. Disability Insurance .....	34
E. Employee Assistance Program.....	34
SECTION 10: TUITION REIMBURSEMENT POLICY.....	34
SECTION 11: WORKER'S COMPENSATION .....	35
SECTION 12: CREDIT UNION .....	36
SECTION 13: ORGANIZATIONAL CHANGES .....	36
A. Layoff .....	36
SECTION 14: TRANSFERS .....	36
SECTION 15: HOURS OF WORK AND PAY .....	37
A. Improper Deductions from Salary .....	37
B. Hours of Work .....	38
C. Timekeeping and Overtime.....	38
1. Time Records.....	38
D. Training and Off-Site Work .....	38
E. Overtime.....	39
F. Emergency Conditions.....	39
1. Required to Report to Work .....	39
2. Emergency Pay Procedures .....	39
SECTION 16: TRAVEL AND PER DIEM .....	41

## **SECTION 1: HISTORY AND ORGANIZATION OF THE TOWN OF INDIAN SHORES**

The voting citizens of Indian Shores originally adopted the Mayor-Council form of government in 1949. Under that form of government, the Town had a nine (9) member council. In December of 1984, a special referendum was held which revised the Town Charter and reduced the Council from nine (9) to seven (7) members for 1985 and then to a Council of five (5) consisting of a Mayor and four (4) Council members, beginning March, 1986.

Until March 2000, each Council member, including the Mayor, was elected for a two (2) year term, with the Mayor and two (2) Council members being elected in March of even numbered years and two (2) Council members being elected in March of odd numbered years.

In March 2000, the citizens of the Town approved an amendment to the Town Charter to change the terms of office for the Mayor and Council Members from two to three years, beginning for the Mayor after the March 2000 mayoral election, and for the two Council Members to be elected in March 2001, after the March 2001 election and for the two Council Members to be elected in March 2002, after the March 2002 election.

In November, 2022, the citizens of the Town approved an amendment to the Town Charter Section IV, Article 4.02 to provide for a Town Administrator rather than an Auditor.

The Town Council (consisting of the Mayor and four council members) constitutes the governing body of the Town of Indian Shores. There are four positions who report directly to the Town Council: (1) Town Administrator; (2) Police Chief; (3) Town Clerk; and (4) Town Attorney. Other than these four positions, the employees of the Town report to one of two Department Heads. The employees of the Police Department ultimately report to the Police Chief. All other employees ultimately report to the Town Administrator. In this manual, the term "Department Head" is used to refer to the Town Administrator or the Police Chief depending on which Department Head is applicable to your employment.

There are several other managerial positions within the Town who are responsible for divisions within the Town (Finance and Personnel, Building, and Public Services) and report to one of the two Department Heads. For example, the Director of Finance and Personnel is responsible for the Finance and Personnel Division and supervises any personnel in the division. The Director of Finance and Personnel reports to the Town Administrator. Another example is the Building Official who likewise reports to the Town Administrator and is responsible for supervising any employees of the Building division.

The job duties and responsibilities for Town employees are outlined in written job descriptions or contracts for those positions held by contractors. Should you want further information on these positions, please refer to those job descriptions. If you have further questions about the role of any position or employee in the Town, please direct your questions to your immediate supervisor or the applicable Department Head.

## **SECTION 2: DEFINITIONS**

The meanings of the terms given below are intended to be direct and definitive and are furnished for the purposes of precision and clarity.

**Absence** - The period of time an employee is not at work and is not paid full compensation by the Town. For exempt employees, no absence of less than a day shall result in a deduction in pay, except as provided in Section 15 of this manual.

**Accrued Leave (or other non-working time)** - The amount of leave or time remaining after the amount of leave or time taken has been subtracted from the amount of leave or time earned.

**Appeal** - The request by a tenured employee to review and/or modify an action taken by a Department Head to suspend without pay, demote, or terminate the affected employee.

**Benefits** - Perquisites voluntarily provided at the sole discretion of the Town to employees to enhance their well-being. Perquisites may include, but are not necessarily limited to paid holidays, annual leave, sick leave, dental insurance, life, accident, and health insurance, a qualified retirement plan and emergency leave with pay. All benefits may be modified or withdrawn at any time at the discretion of the Town Council, with or without notice to the employees.

**Bi-Weekly Pay Period** - One of twenty-six (26) periods in a year consisting of fourteen (14) consecutive calendar days (beginning at 12:01 a.m. on a Saturday morning and ending at midnight Friday) which constitutes the basis for distribution of 1/26 of an employee's annual compensation.

**Calendar Day** - A twenty-four (24) hour period of time beginning at 12:01 a.m. and ending at 12:00 midnight.

**Compensation** - The total monetary payment given an employee for services rendered. Compensation consists of the sum of salary plus, where appropriate, the cash value of the unused portion of appropriate benefits.

**Compensatory Time** - Effective April 16, 1986, the amount of paid time credited to any non-exempt employee at the rate of one and one-half (1½) times the employee's regular rate of pay in lieu of monetary payment as the result of the non-exempt employee having worked overtime.

**Department Head** - The Town Administrator or the Police Chief. Department Heads are expected and required to work both when necessary and for whatever time is necessary in order to fulfill their assigned responsibilities. Unless otherwise set forth in a written agreement approved by the Town Council, all Department Heads are compensated on a salary basis and are exempt from overtime. Department Heads shall not be awarded tenure, except that, in the event of discharge for a disciplinary reason or poor performance, the employee shall be entitled to a name-clearing hearing unless the employee has received an adequate hearing prior to the discharge.

**Earned Leave** - The total amount of leave an employee has been awarded within a given period of time.

**Full-Time Employee** - Any non-exempt employee who is employed to work at least eighty (80) hours in any given bi-weekly period as well as any exempt employee.

**Grievance** - A formal, written complaint about an alleged unfair working condition, involving any work-related matter other than extension of probationary period, suspension, demotion, or discharge.

**Hours Worked** - Time an employee is actually engaged in work on behalf of the Town for which compensation is owed. The use of paid holidays, compensatory time, or other types of leave shall not

count as "hours worked" for purposes of computing overtime.

**Immediate Family** - Person having one (1) of the following relationships to the employee: spouse or domestic partner, child, (biological, adopted, or step), parent, stepparent, sister, brother, father-in-law, mother-in-law, grandmother, grandfather, or grandchild or similar relatives of spouse or domestic partner.

**Incentive Pay** - Pay provided to full-time police officers, in accordance with the provisions of the appropriate Florida Statutes, who complete salary incentive advanced training requirements established by the Police Minimum Standards Council of the State of Florida. Incentive pay for full-time Public Services employees who complete certain training requirements and receive certification related to town duties.

**Leave** - A period of authorized non-working time determined on the basis of either an accumulation at a precise rate or a specified total amount. A leave is distinguished from an absence by the fact that a leave involves both the employee's use of an explicitly authorized amount of time and his or her continued receipt of full compensation during the entire period of the leave.

**Managerial Employees** – These employees supervise or manage employees or divisions within the Town and include the Director of Finance and Personnel, Director of Public Services, the Major of the Police Department, and any other managerial employees recognized by the Town Council. Managerial employees are expected and required to work both when necessary and for whatever time is necessary in order to fulfill their assigned responsibilities. Unless otherwise set forth in a written agreement approved by the Town Council, all managerial employees are compensated on a salary basis and are exempt from overtime. Managerial employees shall not be awarded tenure, except that, in the event of discharge for a disciplinary reason or poor performance, the employee shall be entitled to a name-clearing hearing unless the employee has received an adequate hearing prior to the discharge.

**Overtime** - The amount of time, in excess of the normal working period, which a non-exempt employee works for the Town. Hours worked will be computed on the basis of fifteen (15) minute increments or quarter of an hour and will be compensated at the rate of one and one-half (1½) times the employee's regular rate of pay for non-exempt employees only.

**Part-Time Employee** - A person employed by the Town to work in an authorized position, for which the scheduled working period is less than forty (40) hours and for which no tenure is awarded. Part-time employees will not receive any benefits and shall be paid only for time actually worked for the Town. All part-time employees are hired on an hourly basis, are "at will," and may be discharged from employment at any time and for any reason not prohibited by law.

**Partial Workday** - Any regular workday or shift where a full-time non-exempt employee works less than eight (8) hours.

**Salary** - That component of total compensation paid on a regular basis whereby an employee is paid at a given amount for all hours worked in the workweek. All exempt employees are considered to be salaried and are paid bi-weekly on the basis of an annual rate- i.e., the annual salary divided by 26 bi-weekly pay periods in a year and shall not receive overtime.

**Tenure** - Status as an employee which is awarded to a full-time non-exempt employee after successful completion of the required probationary period. Full-time non-exempt employees who have successfully completed their probationary period are tenured employees. Department Heads, Town Clerk, contractors, Managerial Employees, part-time employees, temporary employees, and full-time probationary employees are non-tenured employees. Tenured employees only may be disciplined or discharged for cause. Non-tenured employees serve at the will of the Town.

**Temporary Employee** - An employee hired for a period of six (6) months or less to work in a



Department. A temporary employee is on continuous probation, and is not considered to be a full-time employee. Temporary employees shall not be granted tenure or receive any benefits and shall be paid only for time actually worked for the Town.

**Termination with Prejudice** - An employee is terminated with prejudice when he or she is terminated and not eligible for rehire.

**Town Clerk** – This position is a Charter position that reports directly to the Town Council. The Town Clerk is expected and required to work both when necessary and for whatever time is necessary in order to fulfill his or her assigned responsibilities. Unless otherwise set forth in a written agreement approved by the Town Council. The Town Clerk is compensated on a salary basis and is exempt from overtime. The Town Clerk shall not be awarded tenure, except that, in the event of discharge for a disciplinary reason or poor performance, the employee shall be entitled to a name-clearing hearing unless the employee has received an adequate hearing prior to the discharge.

**Town Attorney** – This position is a Charter position, appointed by Resolution that reports directly to the Town Council and is a contracted position held by an individual or firm that contracts with the Town. The Town Attorney serves at the pleasure of the Town Council.

**Work Day/Work Shift** - The period of time out of the calendar day, usually eight (8) hours for non-supervisory positions, that an employee is assigned to be present for duty and to perform the service functions for which he or she was employed. The "normal" work day is from 8:00 a.m. to 4:00 p.m. for administrative employees and from 7:00 a.m. to 3:00 p.m. for Public Services employees although in order to provide better "on-the-job" coverage or to perform tasks that can best be done during other than normal duty hours, the Department Head or his/her designee, may authorize variations in starting and ending hours for a limited number of selected personnel. The work day includes a thirty (30) minute paid lunch period.

**Working Period/ Work Week** - The "normal" working period or work week (as applicable) that is set by the Department Head or the Town Council (for those positions reporting directly to the Town Council).

### **SECTION 3: EQUAL EMPLOYMENT / ANTI-HARASSMENT POLICY**

#### **A. Equal Employment Opportunity**

It is the policy of the Town of Indian Shores to fill all vacant positions with the best qualified applicant available. Personnel will be selected on the basis of professional experience, educational background, and other job-related factors. Consideration of race, religion, age, sex, marital status, national origin, or any other status protected by law shall not be permitted or used in any unlawful manner, nor shall an employee either be favored or discriminated against because of those factors, except to the extent allowable by law, such as veteran's preference. The Town further states its commitment that it and its employees will make reasonable accommodations for disabled individuals as required by law.

#### **B. Anti-Harassment Policy**

The Town of Indian Shores will not tolerate harassment of Town employees or officials, of persons seeking employment with the Town, of persons dealing with Town employees or officials in connection with Town matters or business, or of citizens or visitors to the Town by Town employees or officials.

"Harassment" includes, but is not limited to, slurs, jokes, and other verbal, graphic, or physical conduct relating to an individual's race, color, sex, religion, national origin, citizenship, age, disability, or any other status or characteristic protected by law. "Harassment" also includes sexual

advances, requests for sexual favors, offensive touching, and other verbal, graphic or physical conduct of a sexual nature.

For the purposes of this policy, the term "official" shall refer to committee members and councilmembers.

Violation of this policy will subject Town employees to disciplinary action, up to and including immediate discharge. Violations of this policy by Town officials, vendors, or contractors will be dealt with in accordance with applicable law.

An employee or official should immediately notify his or her supervisor, Department Head, or the Director of Finance and Personnel if he or she believes that he or she is being harassed in violation of this policy; or if he or she believes that he or she has witnessed harassment in violation of this policy.

All harassment complaints will be thoroughly investigated, and where appropriate, remedial measures and disciplinary action will be taken.

No Town official or employee has the authority to suggest to any employee, official, or applicant that the individual's employment, continued employment, or future advancement will be affected in any way by the individual entering into (or refusing to enter into) any form of personal relationship with any Town official or employee. Such conduct is a direct violation of this policy. Any employee, official or applicant who believes that a Town official or employee has acted inconsistent with this policy should immediately bring this matter to the attention of the Mayor, the Town Administrator, Chief of Police, or the Town Attorney.

If any employee, official, or applicant believes that his or her complaint regarding harassment has not been handled to his or her satisfaction, the employee, official, or applicant should immediately contact the Department Head, Director of Finance and Personnel, or Town Attorney.

Employees, officials, or applicants will not be penalized in any way for reporting in good faith such improper conduct. Retaliation in response to a good faith complaint is strictly prohibited and will result in disciplinary action.

Employees, officials, or applicants should not assume that the Town is aware of any harassment which they believe they have experienced or witnessed. Employees, officials, or applicants are strongly encouraged to bring their complaints and concerns to the attention of the Town so that the Town can investigate and resolve them.

### **C. Investigation and Discipline**

This section shall apply to the investigation of complaints against Town employees and officials for alleged or suspected violations of the Town's Equal Opportunity or Anti-harassment policies; to the discipline of Town employees for substantiated violations of the Town's Equal Opportunity or Anti-Harassment policies; and to measures to be taken by the Town in the event of substantiated violations of the Town's Equal Opportunity or Anti-Harassment policies by Town officials. In all cases, the Department Head shall have the authority to take whatever temporary immediate measures as are necessary to protect the alleged victim during the course of the investigation including, but not limited to, placing the alleged victim on leave with pay; suspending the alleged violator with pay; requiring the alleged victim or alleged violator or both to perform their duties in a different way or at a different location; assigning the alleged victim or alleged violator to different duties; or directing that the alleged victim and the alleged violator have no further interaction with each other.

#### **1. Non-Exempt Employees**

- (a) Full-time tenured employees: The disciplinary scheme and process set forth in Section 6 of the manual shall apply to the investigation of complaints against full-time tenured employees for alleged or suspected violations of the Town's Equal Opportunity or Anti-Harassment policies.
- (b) Part-time, Temporary, and Probationary Full-Time Employees: Allegations or suspected violations of the Town's Equal Opportunity or Anti-Harassment policies by a part-time, temporary or probationary full-time employee shall be investigated and the Town may use, at its sole discretion, the procedures set forth in Section 6 of this manual. However, if those procedures are used, any restriction in Section 6 on the type of discipline which may be imposed does not apply to part-time, temporary or probationary full-time employees. Nothing in this section shall be construed to alter the "at-will" status of part-time, temporary or probationary full-time employees or to create an interest, right, or expectation of continued employment on the part of part-time, temporary, or probationary employees.
- (c) Upon becoming aware of an alleged or suspected violation of the Town's Equal Opportunity or Anti-Harassment policies by a non-exempt employee, the employee's supervisor shall discuss the matter with the Department Head who may, at their discretion, request that the Town Attorney conduct or assist in the investigation of the alleged or suspected violation. The Town Attorney, with the permission of Town Council, may refer the investigation to any other outside entity or individual to conduct and provide a report to the Department Head for further action.

## **2. Exempt Employees**

- (a) Alleged or suspected violations of the Town's Equal Opportunity or Anti-Harassment policies by exempt employees shall be investigated by the Department Head who shall have the authority to request that the Town Attorney conduct or assist in the investigation of the alleged or suspected violation. If the alleged violation is by the Department Head, the Town Attorney shall conduct the investigation. The Town Attorney, with the permission of Town Council, may refer the investigation to any other outside entity or individual to conduct and provide a report to the decision maker for further action.
- (b) All investigations of alleged or suspected violation by exempt employees of the Town's Equal Opportunity or Anti-Harassment policies shall be documented in writing, which writing shall include a summary of the allegations against the exempt employee, a summary of the investigations, a factual conclusion, and a recommended action.
- (c) If the Department Head finds that an exempt employee has violated the Town's Equal Opportunity or Anti-Harassment policies, the Department Head is authorized to impose appropriate remedial action. Specifically, the Department Head is authorized to take the following action: verbal counseling of the employee, written warning to the employee, written reprimand of the employee, suspension without pay, ordering the employee to undergo appropriate training or counseling, and termination. This is not an exhaustive list. The employee may appeal the discipline to Town Council in accordance with Section 6 of this manual. If the Department Head is the subject of the investigation, the Town Council will impose appropriate remedial action.

## **3. Council Members and Committee Members**

Alleged or suspected violations of the Town's Equal Opportunity or Anti-Harassment policies by Council members or Committee members shall be conducted by the Town Council, as appropriate, who shall have the authority to request that the Town Attorney conduct or assist in the investigation of the alleged or suspected violation. The Town Attorney, with the permission of Town Council, may refer the investigation to any other outside entity or individual to conduct and provide a report to the decision maker for further action. If the investigation

concludes that a violation has occurred, the investigation and findings shall be referred to the Town Council for consideration and action. This section is additional to and does not supersede other remedies for improper conduct by elected or appointed officials which may be contained in the Town Charter or Florida Statutes.

#### **SECTION 4: WORKPLACE SAFETY**

##### **A. Commitment to Safety**

Protecting the safety of our employees and visitors is the most important aspect of serving the citizens of the Town.

All employees have the opportunity and responsibility to contribute to a safe work environment by using common sense, rules and safe practices and by notifying management when any health or safety issues are present. All employees are encouraged to partner with management to ensure maximum safety for all.

In the event of an emergency, notify the appropriate emergency personnel dialing 911 to activate the medical emergency services.

Any workplace injury, accident, or illness must be reported to the employee's supervisor as soon as possible, regardless of the severity of the injury or accident.

##### **B. Drug-Free and Alcohol-Free Workplace**

It is the policy of the Town of Indian Shores to maintain a drug- and alcohol-free work environment that is safe and productive for employees and others having business with the Town. For more information, please see the Town's comprehensive drug-free and alcohol-free workplace policy.

The unlawful use, possession, purchase, sale, or distribution of or being under the influence of any illegal drug or controlled substance (including medical marijuana) while on Town premises or while performing services for the Town is strictly prohibited. Indian Shores also prohibits reporting to work or performing services under the influence of alcohol or consuming alcohol while on duty or during work hours. In addition, Indian Shores prohibits off-premises abuse of alcohol and use of illegal controlled substances (including medical marijuana), as well as the possession, use, or sale of illegal drugs.

To ensure compliance with this policy, substance abuse screening may be conducted in the following situations:

**Pre-employment:** as required by the Town and authorized by law for all prospective employees who receive a conditional offer of employment and are in safety-sensitive positions.

**Post-Accident:** as required by the Town and authorized by law after the employee has been involved in an injury or accident while on duty

**Random:** as authorized or required by federal or state law

**Reasonable suspicion:** upon reasonable suspicion that the employee is under the influence of alcohol or drugs or impaired while on duty

**Return to Duty:** as required by the Town and authorized by law for employees who are returning to duty

Compliance with this policy is a condition of employment. Employees who receive a verified positive result or who refuse to submit to substance abuse screening will be subject to termination. Notwithstanding any provision herein, this policy will be enforced at all times in accordance with applicable state and local law.

Any employee violating this policy is subject to discipline, up to and including termination, for the first offense.

### **C. Workplace Violence Prevention**

The Town of Indian Shores is committed to providing a safe, violence-free workplace for our employees. Due to this commitment, we discourage employees from engaging in any physical confrontation with a violent or potentially violent individual or from behaving in a threatening or violent manner. Threats, threatening language, or any other acts of aggression or violence made toward or by any employee will not be tolerated. A threat may include any verbal or physical harassment or abuse; attempts to intimidate others; menacing gestures; stalking; or any other hostile, aggressive, and/or destructive actions taken for the purposes of intimidation. This policy covers any violent or potentially violent behavior that occurs in the workplace or at Town sponsored functions.

All Town of Indian Shores employees bear the responsibility of keeping our work environment free from violence or potential violence. Any employee who witnesses or is the recipient of violent behavior should promptly inform their supervisor, manager, or Department Head. All threats will be promptly investigated. No employee will be subject to retaliation, intimidation, or discipline as a result of reporting a threat in good faith under this guideline.

Any individual engaging in violence against the Town, its employees, or its property will be prosecuted to the full extent of the law. All acts will be investigated, and the appropriate action will be taken. Any such act or threatening behavior may result in disciplinary action up to and including termination.

The Town reserves the right to inspect all belongings of employees on its premises, including packages, briefcases, purses and handbags, gym bags, and personal vehicles on company property. In addition, the Town of Indian Shores may inspect the contents of lockers, storage areas, file cabinets, desks, and workstations at any time and may remove all Town property and other items that are in violation of Town rules and policies.

## **SECTION 5: EMPLOYMENT**

### **A. Recruitment and Hiring of Exempt Employees**

The Department Heads have the sole authority to hire exempt employees, except for those employees who report directly to the Town Council. The Department Heads shall decide the manner in which these exempt employees shall be recruited and the qualifications necessary for an exempt position. The Town Council will decide the manner, qualifications, and method for recruiting and employing the positions that report directly to it.

### **B. Recruitment of Non-exempt Employees**

All supervisors or managerial employees shall notify the Department Head and the Director of Finance and Personnel upon learning of a projected vacancy. The Director of Finance and Personnel will initiate procedures to attract qualified applicants. Applications will be accepted during normal working hours, and each applicant will be considered for any position for which he

or she is qualified and has applied. The Director of Finance and Personnel shall be responsible for maintaining a file of applications from qualified applicants. The file of applications shall be available for review by the Department Heads.

### **C. Selection**

The final selection of the person to fill each position (except for Department Heads who are selected by the Town Council), whether full-time, part-time, or temporary shall be made by the applicable Department Head. In accordance with all applicable laws, the Town may require applicants to provide certain information or documents, undergo background checks, and satisfactorily complete any post-offer testing or inquiries as a condition of employment and prior to final selection by the Town. Falsification of any document is grounds for discharge upon discovery of that act by the Town, regardless of when discovery occurs.

### **D. Hiring**

Each new employee of the Town will be given an appropriate position title based upon his or her responsibilities and duties. Further, each new employee will be required to read and acknowledge this personnel manual (together with any changes or modifications) within seven (7) days of the initial date of hiring and whenever the personnel manual is amended or revised in the future. Employees' salaries are commensurate with assigned responsibilities and job performance, in accordance with the adopted salary plan for Town employees.

### **E. Probationary Period**

#### **1. Part-time, Temporary, and Exempt Employees**

Since all part-time, temporary, and exempt employees have no tenure with the Town, they may be terminated at any time, with or without cause. If such an employee is terminated for a disciplinary reason or for poor performance, the employee shall have the option of a "name-clearing" hearing in accordance with the provisions of this personnel manual, unless the employee has been provided an adequate pre-disciplinary hearing. The employee may also submit a written rebuttal to any discipline decision as provided in Section 6 of this manual. These employees also are subject to an initial employment period of ninety (90) calendar days during which they may be terminated at any time, with or without cause. This initial employment period does not alter the at-will nature of their employment nor is it a guarantee of employment for any period.

#### **2. Newly Hired**

All new employees hired for full-time and non-exempt positions shall be in a probationary status for a minimum of twelve (12) months, during which time they can be removed at any time at the pleasure of the Town for any reason or for no reason. The probationary period may be extended at the sole discretion of the applicable Department Head for a maximum of six (6) additional months. As with part-time, temporary, and exempt employees, newly hired non-exempt employees who are discharged for a disciplinary reason or for poor performance shall have the option of a "name-clearing" hearing in accordance with the provisions of this personnel manual, unless the employee has been provided an adequate pre-disciplinary hearing. The employee may also submit a written rebuttal to any discipline decision as provided in Section 6 of this manual.

#### **3. Newly Promoted**

Personnel who are promoted will serve a probationary period of at least six (6) months in the position to which the employee was promoted. The probationary period may be extended for a

maximum of six (6) additional months at the sole discretion of the appropriate Department Head. As with other probationary employees of the Town, probationary promoted employees serve at the will of the Town and can be terminated at any time and for any legal reason. At the end of the probationary period, the employee will either be confirmed in the position to which he or she was promoted, demoted to his/her prior position or another available position, or terminated, at the sole discretion of the Town. If the employee was promoted to an exempt position from a non-exempt position, the employee will no longer have tenure, serves at-will and at the pleasure of the Town, and can be terminated at any time for any lawful reason. If an employee with tenure is promoted to another non-exempt position, he or she shall be granted tenure only after the employee successfully completes the probationary period. Terminated probationary promoted employees who are discharged for a disciplinary reason or for poor performance shall have the option of a "name-clearing" hearing in accordance with the provisions of this personnel manual unless the employee has been provided an adequate pre-disciplinary hearing. The employee may also submit a written rebuttal to any discipline decision as provided in Section 6 of this manual.

#### **4. Evaluation**

The employee's performance will be evaluated during the probationary period. If an employee's performance of assigned duties is unsatisfactory, he or she may be demoted, transferred, or discharged at any time. This provision in no way changes the status of employees as "at will" employees. Probationary full-time employees are eligible for benefits and allowances from the date of employment and/or promotion in accordance with the applicable plan or policy. Probationary employees may accrue both annual leave and sick leave but may not take annual leave until after having completed satisfactory performance for a minimum of six (6) consecutive months in his or her position.

#### **5. Tenure**

All full-time, non-exempt employees who successfully complete the required probationary period shall be granted tenure for that position. While an exempt employee shall not receive tenure, he or she shall have the right to a name-clearing hearing in accordance with the provisions of this personnel manual if he or she is discharged for a disciplinary reason or for poor performance, unless the employee has been provided an adequate pre-disciplinary hearing. The employee may also submit a written rebuttal to any discipline decision as provided in Section 6 of this manual.

#### **F. Promotions**

It is the Town's policy to attempt to promote qualified individuals from among those of the Town's staff having tenure when that employee is the most qualified candidate for the position.

#### **G. Part-time and Temporary Employees**

Part-time and temporary employees are at-will employees hired on an hourly basis and paid only for hours actually worked. Temporary employees are not eligible for any benefits, including those contained in this personnel manual. Part-time employees may be eligible for limited benefits at the discretion of the Town. With the approval of the appropriate Department Head, part-time or temporary employees may be granted an "absence without pay" for personal reasons up to a maximum of fifty-six (56) hours per calendar year (exclusive of any hours not worked because of approved holidays).

#### **H. Resignation**

1. Exempt employees are required, as a condition of employment, to give the Town a minimum of two (2) complete bi-weekly periods written advance notice of voluntary termination of employment

in order that appropriate arrangements may be made for uninterrupted performance of assigned duties. If the employee fails to provide the required notice, the employee waives the right to the pay out of annual or sick leave as provided in this manual and his or her termination will be with prejudice.

2. All non-exempt employees are required, as a condition of their employment, to give the applicable Department Head a minimum of one (1) complete bi-weekly period written advance notice of voluntary termination of employment in order that appropriate arrangements may be made for uninterrupted performance of assigned duties. If the employee fails to provide the required notice, the employee waives the right to the pay out of annual or sick leave as provided in this manual and his or her termination will be with prejudice.
3. Unauthorized absence from work for a period of two (2) consecutive working days shall be considered by the Town to be the employee's voluntary resignation. The effective date of termination for the resignation will be either the date specified in the employee's resignation, or (if no advance notice is given) the last day the employee reported for duty or the last day of an authorized absence or leave, whichever is appropriate as determined by the Department Head.
4. Nothing in this provision shall obligate the Town to maintain an employee on the payroll once an employee has given notice of resignation. Rather, the Town, at its sole discretion, may exercise the option of moving up the effective date of resignation. The employee will only be paid through that effective date. The Town, in its sole discretion, can elect, but is not required, to pay the employee for the minimum notice period set forth in paragraphs 1 and 2 of this part if the employee has complied with his or her notice obligation.

#### **I. Termination**

Any employee who does not satisfactorily perform the job duties of his or her position, who is separated for misconduct, poor attendance, or any other violation of Town policy, or who fails to provide notice as set forth in Section 5H, will be terminated "with prejudice" and shall not be eligible for rehire by the Town.

#### **J. Reduction in Force**

1. Any non-exempt employee who is terminated as a result of a reduction in force will be paid for accrued annual leave in accordance with the provisions of this manual.
2. Any full-time tenured employee with at least eighteen (18) months of service who is separated as a result of a reduction in force is entitled to a minimum of two (2) complete bi-weekly periods of advance notice of the termination; twelve (12) hours of paid leave, which must be used prior to the termination date for the purpose of attending job interviews; and a severance payment based on length of service in accordance with the following formula:

40 hours at the employee's current hourly rate X years of service =  
severance benefit (subject to any applicable and normal withholding  
determined in the sole discretion of the Town)

The maximum payout of severance under this provision shall be six (6) weeks' compensation. In exchange for payment of the severance, the employee must execute a general release of all known and unknown claims. If the employee does not execute a general release, no severance payment will be made. For purposes of calculating years of service, the date of hire shall be the initial date. Employment for more than six months in a given year shall be counted as one year.



3. No employee has a right to continued employment in his or her classification or position as against a reduction in force and shall not be entitled to a hearing or to "bump" another employee to avoid a layoff, reduction in force, or demotion as a part of a reduction in force.

**K. Severance Pay for Exempt Employees**

The Town shall have the absolute right to remove any exempt employee for any reason or for no reason with or without notice at any time. Any exempt employee removed by act of the Town shall receive accrued annual leave and sick leave in accordance with the provisions of this manual. Additionally, such employees, when terminated without cause, shall be granted severance benefits as follows:

One week of base salary X years of service = severance benefit (subject to any applicable and normal withholding determined in the sole discretion of the Town)

The maximum payout of severance under this provision shall be six (6) weeks' compensation. In exchange for payment of the severance, the employee must execute a general release of all known and unknown claims. If the employee does not execute a general release, no severance payment will be made.

For purposes of calculating years of service, the date of hire into the exempt classification shall be the initial date. Service in the exempt position for more than six months in a given year shall be counted as one year.

**L. Demotion**

Any employee may be demoted at any time as a result of:

1. A reduction in the authorized size of the Town's staff;
2. A reversal of an advancement or promotion while in a probationary status;
3. As part of a disciplinary action;
4. For any reason or no reason if the employee is in an exempt position.

**M. Nepotism**

Two (2) or more members of an immediate family shall not be employed full-time by the Town if such employment could or would result in an employee supervising a member of his or her immediate family. In accordance with Fla. Stat. § 112.3135, no employee may "appoint, employ, promote, or advance, or advocate for appointment, employment, promotion or advancement, in or to a position in the agency in which the [employee] is serving or over which the [employee] exercises jurisdiction or control any individual who is a relative" of the employee. Any questions regarding implementation or the efficacy of this provision should be referred to the Town Attorney.

**N. Evaluations**

Employees may be evaluated periodically during their employment. Employees may review any written evaluation conducted and have the opportunity to make appropriate written comments. The evaluations and any written response will be maintained in the employee's personnel file.

**O. Personnel Files**

1. Personnel files for any employee in the Police Department are maintained by the Police Chief

or his/her designee. For all other employees, the Director of Finance and Personnel shall maintain the personnel files.

2. No employee shall have the right to place any document in an employee's personnel file, including their own personnel file, without the consent of the applicable Department Head.
3. Uninvestigated and unsubstantiated allegations and complaints regarding an exempt or non-exempt employee, including complaints or allegations by Council Members or statements or documents created as part of the disciplinary process detailed in Section 6, which do not result in discipline, will not be maintained in an employee's personnel file, but will be maintained in a separate employee file.

**P. Performance Standards**

**1. Code of Ethics**

The following standards have been adopted by the Town Council of Indian Shores and are designed to assist Town staff members when uncertainty exists about the proper course of action. These provisions in no way limit the application of Chapter 112, Florida Statutes, Part III Code of Ethics for Public Officials and Employees. The provisions set forth in this manual should be considered in addition to and not in lieu of the applicable statutory and Constitutional requirements administered by the Florida Commission on Ethics.

**2. Conflict of Interest**

- (a) No Town employee shall accept any favor, gift, or service which would in any way result in, or could be reasonably construed as causing special consideration, treatment, or advantage to any person, business or activity beyond that available to every other person, or activity. Further, no Town employee shall accept any favor, gift, or service if it can be reasonably inferred that the favor, gift, or service was intended to influence him or her in the performance of his or her official duties as a reward for any official action.
- (b) No Town employee shall represent the Town in any matter with any person, organization, or business where either that, or any other, Town employee stands to benefit because of the employee's personal or financial interest with that person, organization, or business without the prior written consent of the applicable Department Head (or the Town Council when it involves the Department Head).
- (c) Violation of either of the above two (2) sections constitutes grounds for disciplinary action, up to and including termination, and could result in suspension without compensation or benefits, demotion, or termination with prejudice from Town employment.

**Q. Use of Town Vehicles or Equipment (Other than Law Enforcement Vehicles or Equipment)**

The following policies will apply to all Town employees operating a Town vehicle or other equipment (other than law enforcement vehicles or equipment):

1. Town vehicles and other equipment may be used only in the performance of official Town business required while an employee is on duty, which includes, but is not necessarily limited to, the following:
  - (a) Authorized attendance at professional and/or work-related meetings, conferences, classes, seminars, and other officially sanctioned functions.

- (b) Travel to and from duty assignments during working hours, or to other locations after normal duty hours where the presence of a representative of the Town is officially required or invited.
- 2. Employees who have been assigned Town vehicles are not permitted personal use of those vehicles. The following personal errands are allowed enroute between home and the work location when an employee is authorized to use a Town vehicle for the performance of official Town business:
  - (a) Minor retail shopping;
  - (b) Personal appointments with health care providers, dentists, ophthalmologists, optometrists, osteopaths, or chiropractors, or to obtain medicine or medical supplies from a pharmacy or drug store;
  - (c) Lunch breaks within a reasonable distance of the assigned work location;
  - (d) Other limited uses which do not violate the spirit or intent of this policy and which are specifically authorized by the applicable Department Head on an individual basis.
- 3. No Town equipment, vehicle, or employee is authorized for use on private property, other than use in the normal scope of the employee's job duties, without the written consent of the applicable Department Head.
- 4. Employees are prohibited from use electronic devices while operating any motorized equipment for Town business or owned or leased by the Town unless operationally required. Cell phones equipped with "Hands free" devices (e.g.: Bluetooth) may be allowed at the discretion of the Department Head or his/her designee for safety or emergency purposes or to facilitate effective Town operations. Employees will discontinue their use of any motorized equipment prior to using an electronic device for any necessary non-operational reasons.
- 5. The use of tobacco products in a motor vehicle or equipment owned or leased by the Town or used for Town business is prohibited.
- 6. Any Town employee violating the foregoing policies will be subject to immediate disciplinary action up to and including termination with prejudice from Town employment.
- 7. Law Enforcement vehicles or equipment are governed by the Police Department Standard Operating Procedures.

**R. Use of Town Computer Resources and Town owned mobile electronic devices and cell phones**

**1. General Provisions**

All computer resources including mobile electronic devices and cell phones are the property of the Town and are intended to be used for approved Town business purposes. Users are permitted access to these computer systems and devices to assist them in the performance of their jobs. Limited personal use of the systems and devices is permitted when the use does not (1) interfere with the user's work performance; (2) interfere with any other user's work performance; (3) have undue impact on the operation of the system or device; or (4) violate any other provision of this policy or any other policy, guideline, or standard of the Town. At all times, users have the responsibility to use these resources in a professional, ethical, and lawful manner. Personal use

of these resources systems and devices is a privilege that may be monitored, restricted, or revoked at any time.

## **2. No Expectation of Privacy**

The computers and computer mobile device accounts given to users are to assist them in the performance of their jobs. Users should not have an expectation of privacy in anything they create, store, send, or receive on these resources. These computer resources belong to the Town and are intended for business purposes. Users expressly waive any right of privacy in anything they create, store, send, or receive on the Town's computers or computer network, or on Town-issued electronic devices. Users consent to allowing personnel of the Town to access and review all such materials. Users understand that the Town may use human or automated means to monitor use of its computer resources.

## **3. Public Records**

Generally, documents that are created to formalize knowledge or transact business of the Town are considered public records open to the review and copying of the general public. This includes, but is not limited to, all such records created, stored, sent, or received on any computer system, and created, stored, sent or received on a cell phone or similar personal electronic device, whether the device belongs to the employee or is issued by the Town. Records of e-mail messages, text messages, and records of inbound and outbound calls must be retained in accordance with the provisions of Chapter 119, Florida Statutes, and are available to the public pursuant to Art. I, sec. 24, Florida Constitution. Do not delete a public record! If you have any question about whether a particular item is a public record or how to respond to a public records request, please consult the Town Clerk or Town Attorney.

## **4. Passwords**

Users are responsible for safeguarding their passwords. Individual passwords may not be printed, stored online, or given to others. Users are responsible for all transactions made using their User Identification. No user may access the computer system with another user's password or account. Use of passwords to gain access to the computer system or to encode particular files or messages does not imply that users have an expectation of privacy in the material they create or receive on the computer system.

## **5. Home Use of Town Computers**

Department Heads have the discretion to allow the Town's computer resources to be used or accessed by employees at home for Town-related work purposes. Before any non-exempt employee accesses the Town's computers or network from home, he or she must obtain the express written permission of his or her Department Head.

## **6. Prohibited Activities**

- (a) Material that is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory, or otherwise unlawful or inappropriate may not be sent by email or other form of electronic communication or displayed on or stored in the Town's computers, mobile electronic devices, or cell phones.
- (b) The Town's computer resources may not be used for dissemination or storage of commercial or personal advertisements or solicitations, promotions, destructive programs (that is, viruses or self-replicating code), political material, or any unauthorized use deemed inappropriate by the Town.

- (c) Users may not deliberately perform acts that waste computer resources or unfairly monopolize resources to the exclusion of others.
- (d) Users must not alter the attribution-of-origin information, or "From:" line, in e-mail messages or postings. Anonymous or pseudonymous electronic communications are forbidden.  
(Users may not, under any circumstances, use "spoofing" or other means to disguise their identity in sending e-mail.)

Violations of this policy constitutes grounds for disciplinary action, up to and including termination, and could result in suspension without compensation or benefits, demotion, or termination with prejudice from Town employment.

#### **S. Use of Personal Electronic Devices for Town Business**

Generally, under Florida's Public Records Law, documents created to formalize knowledge or transact business of the Town are considered public records open to review and copying by members of the general public. This includes all records created, stored, sent, or received on the Town's computer system, but also includes any Town-related documents or other records which an employee creates, edits, receives or stores on a personal laptop or desktop computer, smart phone, or other personal electronic device, whether the work in question is done at home, or at the Town's facilities. To effect compliance with the Public Records Law, all Town-related work done on a personal electronic device, including but not limited to documents, e-mails, and text messages, must be saved, transferred to the employee's office computer, or produced in another medium where the public may have access (e.g., on paper). Failure to maintain public records in accordance with this policy may result in civil or criminal liability for which the employee will be personally liable if the records are lost or destroyed, or if the employee fails to produce the records in response to a public records request.

#### **T. Social Media**

The Town appreciates that social media can be a rewarding way for employees to share information about themselves, and to interact with people in the community and around the world. Because Town employees serve the public, however, and potentially are subject to public scrutiny of their on and off-duty conduct, use of social media carries with it risks and responsibilities of which employees must be aware. This is especially true for those employees who are employed as Department Heads or managerial employees, although it applies to everyone. Social media posts regarding Town business are likewise considered public records in accordance with the law and must be preserved as such. This policy sets forth the Town's guidelines on employee social media usage.

1. "Social media" shall include all ways of communicating with others via internet, including, but not limited to, use of Facebook, YouTube, Twitter, or Instagram; communications on blogs, bulletin boards, wikis, chat rooms and on-line journals; file-sharing; and items posted in comment sections to stories published on-line by traditional media outlets such as newspapers and television stations.
2. Employees are solely responsible for what they post on social media. Remember that many postings can be viewed worldwide and are archived "forever," meaning that they cannot be deleted once posted, or are archived even if deleted.
3. Unless communications via social media are part of an employee's regular job duties, employees are not to represent themselves as spokespeople for the Town. Similarly, if commenting about the Town or its policies or services, employees whose job duties do not include social media communications must make clear that they are speaking in a personal capacity, rather than in an official capacity, and that their views do not represent those of the

Town, its elected officials, or other Town employees. Employees may not post something about the Town, or about Town employees, that they know to be false.

4. In general, while employees have the right to comment freely on social media about matters of public concern—issues or events of political, social, or other importance to our community—during their off-duty time, the comments must not be unduly disruptive to the Town's operations or interfere with the employee's job duties.
5. Whether a comment is on a matter of public concern or not, employees must always be courteous when interacting on social media with citizens and fellow employees. The Town's policies on employee conduct apply to employee posts on social media.
6. Employees are not prohibited from using social media to communicate with each other about pay and working conditions. However, employees must avoid posting material about work that reasonably could be construed as malicious, obscene, or threatening, or that might constitute harassment or bullying. An example of prohibited conduct would be offensive or obscene posts deliberately intended to harm a co-worker's reputation, or the use of racial, ethnic, or gender slurs to refer to other employees or Town officials. Do not engage in conduct on-line that would be prohibited in the workplace.
7. Employees may not use Town e-mail addresses to register on social networks or blogs.
8. Employees may not use social media to evade the requirements of Florida's Public Records Law, or the Government-in-the-Sunshine Law, or to reveal information which is confidential or exempt from disclosure under the Public Records Law.
9. Unless social media postings are part of an employee's regular job duties, employees may not post to social media while on duty.
10. Employees may not evade these guidelines by posting anonymously or under a screen name.

#### **U. Outside Employment**

Any employee, regardless of whether full-time, part-time, or temporary, probationary, or exempt, who intends to perform work for another employer or engage in a "sideline" business has the obligation to ensure that such employment does not conflict with his or her Town duties. Such outside employment must be reported to the applicable Department Head (or the Town Council if it involves the Department Head). Such work cannot be conducted during duty hours or on Town property. Any outside employment which in any way impairs or interferes with an employee's performance of duty for the Town shall result in the employee being required to cease such outside employment or resign from his or her position with the Town. Off duty employment may not violate the provisions of Chapter 112, Florida Statutes, including dual public employment (Fla. Stat. § 112.3125), doing business with one's own agency (Fla. Stat. § 112.313(3)), or conflicting employment and contractual relationships (Fla. Stat. § 112.313(7)). Questions regarding the applicability of these provisions should be resolved by the Town Attorney, or the Florida Commission on Ethics accordingly.

#### **V. Political Activity**

Town employees shall not take an active part in any political activity or campaign while on duty or during any period of time when an employee has been assigned to perform services at work and is receiving compensation from the Town. The prohibition against any political activity while on duty

includes, but is not necessarily limited to, seeking signatures for any petition provided for by election law, acting as a poll worker, distributing election materials (including campaign literature), displaying campaign signs, emblems, or other materials advertising the candidacy of any particular person or group of persons for any municipal office or any other political office. Nothing contained in this section shall be construed to limit or prohibit any employee from expressing his or her opinion on any candidate or issue, or from participating in any political campaign during off-duty hours or break or lunch times insofar as those off-duty activities do not violate the provisions of Florida law. Any employee violating the provisions of this section shall be terminated with prejudice from the Town.

#### **W. Possession of Firearms**

The possession of firearms or weapons on Town premises by employees other than sworn law enforcement officers is prohibited, with the following exception: an employee may keep a legally-owned, lawfully-possessed firearm, together with ammunition and accoutrements for the firearm, out of sight inside a locked motor vehicle parked in a Town-owned or Town-leased parking lot.

#### **X. Tattoos**

Employees may not have tattoos anywhere on the body that promote racism or other forms of discrimination, supremacist or anti-government philosophy, lawlessness, or violence; or which glorify drug culture or use, or which are indecent or sexually explicit.

Employees may be permitted to have other visible tattoos upon consent of the Department Head.

### **SECTION 6: DISCIPLINE AND GRIEVANCES**

#### **A. Disciplinary Action**

The following section applies to all Town employees, unless otherwise indicated. Nothing in this section shall be construed to alter the at-will employment status of part-time, temporary, probationary full-time, or exempt employees, or to confer any right, interest, or expectation of continued employment on such employees. The Town reserves the right to administer disciplinary action in any manner it sees fit and to modify or delete these procedures depending upon the situation and in its sole discretion.

Discipline of sworn personnel in the Town's Police Department will be governed by departmental standards of conduct, the Law Enforcement Officer's Bill of Rights, and the terms and conditions of the Collective Bargaining Agreement, when any or all of the foregoing are required by law and/or are in conflict with this section.

#### **B. Offenses**

Offenses which will result in disciplinary action include, but are not limited to, those listed below. Class I offenses are those for which discipline ranging from a verbal warning to discharge may be issued for the first occurrence, depending on the situation. The second occurrence of a Class I offense typically shall result in a suspension without compensation, demotion, or termination with or without prejudice. Class II offenses typically shall result in discipline up to and including discharge for a first offense.

##### **1. Class I Offenses**

- (a) Failure to follow oral and/or written instructions.

- (b) Incompetency or inefficiency in the performance of assigned duties.
- (c) Unauthorized absence from work for any period of time less than two (2) consecutive days, or a total of three (3) days within any six (6) month period.
- (d) Failure to give appropriate notice to the Department Head or his/her designee of the employee's inability to report for duty/shift at the scheduled time.
- (e) Improperly attempting to influence elected Town officials, Department Heads, or managerial employees concerning personnel matters.
- (f) Failure to report for duty at the assigned time and/or place.
- (g) Leaving assigned duty prior to scheduled release time and/or without justification.
- (h) Suspension or revocation of a driver's license when it affects the employee's ability to perform his or her duties.
- (i) Conduct unbecoming a Town employee.
- (j) Malingering.
- (k) Neglecting to maintain standards of appearance while on duty as specified by the appropriate Department Head.
- (l) Careless, negligent, or improper use of Town vehicles, property or equipment, including the internet.
- (m) Conduct which endangers others or results in minor property damage of less than \$300.00.
- (n) Failure to maintain satisfactory and/or harmonious working relationships with the public, Town officials, other government officials and employees and/or other Town employees.
- (o) Creating or contributing to unsafe and/or unsanitary conditions.
- (p) Unprofessional conduct.
- (q) Being refused a surety bond when applied for as a condition of employment.
- (r) Conviction (including any form of deferred or withheld adjudication), guilty plea, or plea of nolo contendere to any misdemeanor (other than one involving moral turpitude which is a Class II offense) or any other criminal infraction during the course of an employee's employment with the Town.
- (s) Any employee conduct similar in severity to the above which, in the Town's judgment, is contrary to the best interest of the Town, or which violates Town policy.

## **2. Class II Offenses**

- (a) Reporting for duty while under the influence of intoxicants, illegal drugs, or other controlled substances and/or consuming intoxicants while on duty.



- (b) Conviction (including any form of deferred or withheld adjudication), guilty plea, or plea of nolo contendere to a felony, or of a misdemeanor involving moral turpitude.
  - (c) Making any false written or verbal statements.
  - (d) Failure of non-exempt employee to accurately record all hours worked.
  - (e) Performance of any work by a non-exempt employee outside of the employee's normal working hours without supervisory permission.
  - (f) Misappropriation or misuse of Town funds, property, equipment or employees.
  - (g) Violation of any statute, rule, or policy regarding conflict of interest or participation in political activities.
  - (h) Engaging in a strike, slowdown, or any other activity prohibited by Chapter 447, Florida Statutes, or any other applicable laws or ordinances.
  - (i) Use of threats or unnecessary force in the performance of duties.
  - (j) Disobedience of orders and/or instructions.
  - (k) Abuse of sick leave.
  - (l) Failure to use safety equipment or failure to comply with safety rules.
  - (m) Gambling either on duty or on Town property.
  - (n) Conduct which results in injuries to others and/or in property damage in excess of \$300.00.
  - (o) Improper use and/or disclosure of Town records or documents.
  - (p) Causing damage or destruction of equipment and property belonging to citizens, the Town, businesses, or other Town employees.
  - (q) Stealing or thievery.
  - (r) Insubordination.
  - (s) Giving or taking a bribe.
  - (t) Failure to notify the Town, as soon as possible, of an arrest or notice to appear or citation for any criminal violation.
  - (u) Failure to report to work as directed during any declared state of emergency.
  - (v) Repeat violation of any Class I Offense.
  - (w) Any employee conduct similar in severity to the above which, in the Town's judgment, is contrary to the best interest of the Town, or which violates Town policy.
3. For Class I Offenses, while the discipline remains a part of the employee's personnel file, such discipline shall not be considered for purposes of progressive discipline after three (3) years from the date of the violation. There is no time limit on the use of Class II Offenses as part of a

progressive discipline policy.

### **C. Pre-Disciplinary Hearings and Other Pre-Disciplinary Procedures**

For full-time, non-probationary non-exempt employees, certain types of discipline typically will be preceded by a pre-disciplinary hearing and other procedures, as set forth below:

#### **1. Unpaid Suspensions, Demotions and Discharges for Full-Time, Non-Probationary, Non-exempt Employees**

When it may be necessary to suspend without pay, demote, or discharge a full-time, non-probationary, non-exempt employee, the following procedures will typically apply unless otherwise provided in this manual or the Town's policies or procedures:

- (a) Prior to the Town's imposition of discipline—unless the circumstances require immediate action, or otherwise are incompatible with a delay—the employee shall receive a pre-disciplinary hearing opportunity before the employee's immediate supervisor or manager. The employee shall receive a minimum of twenty-four (24) hours' written notice of the hearing. The written notice briefly will summarize the facts as the Town believes them to exist, and the type of discipline being contemplated. The Town may suspend the employee, with or without pay, pending the hearing and its outcome.
- (b) At the pre-disciplinary hearing, which shall be informal and without the participation or presence of attorneys or other representatives, the employee will be permitted to tell his or her side of the story. The purpose of the pre-disciplinary hearing is to provide an initial check against a mistaken decision.
- (c) Within a reasonable time, following completion of the pre-disciplinary hearing, the supervisor or manager shall recommend discipline in writing directed to the applicable Department Head (unless the Department Head, was the employee's supervisor or manager before whom the hearing was conducted, in which case no recommendation is needed). The Department Head may accept the recommendation, approve a lesser or greater form of discipline, or determine that no discipline is warranted.
- (d) On behalf of the Town, the Department Head promptly shall communicate to the employee, in writing, the Town's disciplinary decision. The date of this writing shall be the date, for appeal and written rebuttal purposes, of the discipline. If the disciplinary decision is reduced to the level of a written warning or below, or if no discipline is imposed, the Town will pay the employee for any period of unpaid suspension served in connection with the pre-disciplinary hearing.
- (e) Following the decision to impose an unpaid suspension, a demotion, or a discharge, the employee has the option of requesting a post-disciplinary hearing before the Town Council to review the discipline in accordance with the procedures set forth in this section.

#### **2. Discipline of Exempt Employees**

The Department Head (or the Town Council when the Department Head is the subject employee) shall have the authority to discipline exempt employees. In the Town's sole discretion, it may elect to use the following procedures when disciplining exempt employees. Nothing herein shall be construed to alter the status of an exempt employee as an "at-will" employee terminable without cause, or to confer any right or interest upon an exempt employee to continued employment. Furthermore, nothing in this section shall limit the authority of the Town Council to discipline, suspend, terminate, or take any other employment action against an exempt employee.

- (a) Unless the circumstances require immediate action, are incompatible with a delay, or the Town elects not to use this procedure, the employee shall receive a pre-disciplinary hearing opportunity before the Department Head (or the Town Council when the Department Head is the subject employee). The employee will be provided a minimum of twenty-four (24) hours' written notice of the hearing. The written notice briefly will summarize the facts as the Town believes them to exist and the type of discipline being contemplated. In the discretion of the Department Head or Town Council, as applicable, the Town may suspend the exempt employee, with or without pay, pending the hearing and its outcome.
- (b) At the pre-disciplinary hearing, which shall be informal, the employee will be permitted to tell his or her side of the story. The purpose of the pre-disciplinary hearing is to provide an initial check against a mistaken decision.
- (c) Should the Department Head or the Town Council, as applicable, at the conclusion of the hearing believe that discipline remains warranted, the Department Head or Town Council, as applicable, shall set forth in a writing to the employee a statement of the discipline to be imposed. The Department Head or Town Council, as applicable, shall have the authority to impose any level of discipline, bearing in mind that, under regulations interpreting the Fair Labor Standards Act, a partial-workweek unpaid suspension only is appropriate in response to a safety violation of major significance, or the violation of conduct rules applicable to all employees as set forth in the Town's Improper Deductions from Salary policy in Section 15 of this manual.
- (d) Once the Department Head or the Town Council, as applicable, has determined the discipline, the decision shall be communicated in writing to the exempt employee, which writing shall be the date of the discipline for appeal and written rebuttal purposes. If the disciplinary decision is reduced to the level of a written warning or below, or if no discipline is imposed, the Town will pay the exempt employee for any period of unpaid suspension served in connection with the pre-disciplinary hearing.

#### **D. Appeals to the Town Council**

Following the imposition of a suspension without pay of any duration, a demotion, or a discharge, any full-time, non-probationary employee shall have the option of requesting a post-disciplinary hearing before the Town Council. The Town Council, by a majority vote and in its sole discretion, may place a time limit on the hearing. During the hearing, both the Town and the employee may be represented by legal counsel and shall be allowed to present witness testimony and evidence in support of their respective positions, with Town proceeding first. If either party desires the hearing to be recorded, it shall be that party's responsibility to provide a certified court reporter and bear the reporter's appearance fee. Any transcript preparation cost shall be borne by the party requesting the transcript. Immediately following the hearing, the Town Council shall render a decision, based on the evidence and by majority vote, to sustain, reduce, or reverse the discipline. The Council shall have the authority to reinstate a terminated employee and to award back pay. The Council will not award compensatory damages of any kind, attorney's fees, or costs of the proceeding.

The employee must request a post-disciplinary hearing before the Council within five (5) working days of the date of the disciplinary decision being appealed. Failure to request a hearing or to appear at a hearing after requesting it shall result in the dismissal of the employee's appeal.

#### **E. Name Clearing Hearing**

Any employee discharged for a disciplinary reason, or for poor performance, may request a name-clearing hearing, unless the employee has received an adequate hearing prior to discharge. The

hearing shall be non-adversarial, with the purpose of allowing the employee to rebut any allegations regarding his or her discharge.

**F. Written Rebuttal by Employee**

Following any disciplinary decision, any employee may include in his or her personnel file a brief written statement as to why he or she believes discipline is unwarranted. Such a statement must be submitted to the Department Head within five (5) working days of the date of the disciplinary decision.

**SECTION 7:  
HOLIDAYS**

- A.** The following days shall be observed as official paid holidays for all full-time Town employees, except those on a leave of absence without pay, those on suspension, and those on any other non-paid status, such as those receiving Worker's Compensation or disability benefits:
1. - New Year's Day
  2. - Martin Luther King Jr. Day
  3. - Memorial Day
  4. - Independence Day
  5. - Labor Day
  6. - Veterans' Day
  7. - Thanksgiving Day
  8. - Day following Thanksgiving
  9. - Christmas Eve
  10. - Christmas Day
  11. - Two (2) "Personal Days" (credited at 16 hours) (Any working day in a calendar year, i.e., any day at the option of the employee and with the approval of the Department Head, other than an authorized holiday, day of accrued annual leave, sick leave, or for personnel working shifts, scheduled non-working days. Any personal days not used during a calendar year shall be forfeited and shall not carry over nor be compensated for under this policy).
- B.** When a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday. When a holiday falls on a Sunday, the following Monday shall be observed as the holiday.
- C.** Full-time non-exempt employees who are required to work as part of their regular schedule on a holiday will be compensated at a shift premium rate of two (2) times their regular hourly rate of pay for each hour worked. Such premium rate shall not be included in an employee's regular rate of pay for purposes of computing overtime pay.
- D.** An employee must be on active pay status immediately prior to the holiday and the regularly scheduled working day immediately following a holiday in order to qualify for a paid holiday as set forth in paragraph A.
- E.** Full-time non-exempt employees shall receive eight (8) hours of pay for all official paid holidays as described in this manual on which the employee does not work. However, such holidays shall not be counted as "hours worked" for purposes of computing overtime pay.
- F.** Part-time, non-exempt employees will receive two (2) personal days (credited at 16 hours) in January if the employee has satisfactorily completed at least 12 months of service as of that date.

**SECTION 8:  
LEAVE**

**A. Annual Leave**

1. Part-time employees who are regularly scheduled to work more than thirty (30) hours per week shall be allowed to earn and accrue annual leave on a pro-rated basis. Annual leave shall be earned by full-time Town employees on the basis of continuous length of service with the Town at the rates given below:

<u>YEAR OF COMPLETED SERVICE</u>	<u>LEAVE EARNED – HOURLY RATE PER BI- WEEKLY PERIOD</u>
Less than 5	4 Hours
At least 5 but less than 10	5 Hours
At least 10 but less than 15	6 Hours
At least 15 but less than 20	7 Hours
20 years and over	8 Hours

2. The Department Heads and other exempt employees shall earn annual leave at the rate of six (6) hours per bi-weekly period, or in accordance with the appropriate rate based on length of service, whichever is greater.
3. Employees may not take annual leave with pay until they have satisfactorily completed at least six (6) months of service with the Town. This restriction may be waived for cause at the sole discretion of the applicable Department Head.
4. No more than four hundred and eighty (480) hours of annual leave may be carried forward from one fiscal year to the next. Any accumulation over the maximum of four hundred and eighty (480) hours shall be transferred to sick leave at the end of the fiscal year. This transfer will occur on the last day of the last payroll cycle of the fiscal year. Any employee who has exhausted all of his or her sick leave shall be allowed to convert annual leave to sick leave, although such conversions shall not be allowed more than once a month.
5. Full-time employees shall begin to accrue annual leave on the employee's date of hire by the Town in a full-time capacity. Part-time employees shall begin to accrue annual leave on the employee's date of hire, transfer, or assignment to a position where it is contemplated by the Town in its sole discretion that the employee will be regularly scheduled to work at least thirty (30) hours per week. No annual leave shall be taken until accrued.
6. No more than one hundred twenty (120) hours of annual leave may be taken within any ninety (90) consecutive day period. This may be waived at the sole discretion of the Department Head upon request and for good cause shown. However, employees with sufficient accumulated annual leave are strongly encouraged to take at least eighty (80) contiguous hours of annual leave. Employees may be required to take at least sixty-four (64) hours of annual leave per year, with at least forty (40) hours being contiguous. All leaves by must be pre-approved by the applicable Department Head (or for leaves exceeding 40 hours by Department Heads, notice of the leave and designee must be provided to Town Council).
7. When an employee is terminated from employment with the Town other than for cause or resigns his or her employment with notice, the employee shall be paid in a lump sum for all accrued and unused annual leave, up to but not exceeding four hundred and eighty (480) hours, except:
  - (a) If the employee has less than one (1) year of continuous service with the Town, he or she shall receive no payment;
  - (b) If the non-exempt employee fails to give notice of one complete bi-weekly period in the event of a resignation as provided in Section 5 of this manual, he or she shall lose eight (8) hours of

annual leave for each day short of the required notice period.

- (c) If an exempt employee fails to give notice of two complete bi-weekly periods in the event of a resignation as provided in Section 5 of this manual, he or she shall lose eight (8) hours of annual leave for each day short of the required notice period.
  - (d) Except as provided in this section, any employee who separates employment with the Town for any reason loses and shall not be compensated for all accrued and unused annual leave. Additionally, except as expressly provided herein, no employee shall have the right to receive pay in lieu of leave (i.e. "cash-in" leave time) of any type, including annual or sick leave.
- 8. Annual leave shall not be taken in increments of less than four (4) consecutive hours. Annual leave shall be charged in one (1) hour increments and no fractional parts of an hour will be charged or accrued. Additionally, all employees must take sufficient annual leave to cover all hours of his or her regularly scheduled shift if he or she does not work that shift and does not take any other paid leave for that shift.
  - 9. Annual leave shall not be earned or accrued by an employee during a leave of absence without pay, a suspension during which the employee does not receive full compensation, or when the employee is otherwise in a non-paid status, such as those receiving Worker's Compensation or disability benefits. An employee must be in active pay status or work his or her normal schedule of hours during the bi-weekly period to earn annual leave for that period. Notwithstanding any provision of this manual, the Department Head shall have the right to reschedule vacations to prevent interference with the operation of the Town.

#### **B. Sick Leave**

- 1. Part-time employees who are regularly scheduled to work more than thirty (30) hours per week shall earn sick leave on a pro-rated basis. Sick leave will be earned by full-time employees on the basis of continuous length of service at the following rates:

<b><u>YEARS OF COMPLETED SERVICE</u></b>	<b><u>LEAVE EARNED AT THE RATE OF PER BI-WEEKLY PERIOD</u></b>
Less than 15	4 hours = 13 working days per year
15 years and over	6 hours = 18 working days per year

- 2. The Department Heads and other exempt employees shall earn sick leave at the rate of six hours per bi-weekly period, or in accordance with the appropriate rate based on length of service, whichever is greater.
- 3. Employees shall notify their Department Head or his or her designee at least two (2) hours before the start of their shift that the employee will be absent due to illness in order to qualify for sick leave. Additionally, the employee must take sufficient sick leave to cover all hours of his or her regularly scheduled shift if he or she does not work that shift and does not take any other paid leave for that shift.
- 4. At the sole discretion of the Department Head, an employee who is absent from work and requests the non-working time be charged as sick leave, may be required to furnish a statement/certificate from a licensed health care provider concerning the employee's medical condition; the employee's ability to perform the essential functions, with or without a reasonable accommodation, of the employee's position; and when he or she is expected to return to work before the employee returns

to work. Additionally, if it appears that the employee will be unable to resume the duties of his or her position, even with a reasonable accommodation, within a reasonable period of time, the employee may be terminated. Any employee so terminated shall be eligible to reapply for employment if and when the person is able to perform the essential functions of the position sought, with or without a reasonable accommodation.

5. No employee shall accrue or earn sick leave during a leave of absence without pay, a suspension, or when the employee is otherwise in a non-paid status, such as those receiving Workers' Compensation or disability benefits. An employee must be on active pay status or work his or her normal schedule of hours during the bi-weekly period to earn sick leave for that period. An employee shall be allowed to use sick leave to supplement Workers' Compensation payments up to the employee's net salary.
6. Any time required to attend appointments with health care providers, dentists, ophthalmologists, and optometrists for non-job connected injuries, illnesses, check-ups or the like will be charged as sick leave.
7. An employee who does not use all of his or her accrued sick leave by the end of the twenty-sixth (26th) bi-weekly period in any fiscal year may carry forward to the next fiscal year up to eight hundred (800) hours of unused sick leave, plus one year of accrued sick leave for potential use during the next fiscal year, to allow the employee the chance to remain at the 800 hours level for cash-out purposes.
8. Any employee who is terminated from employment other than for cause or who resigns with the required notice and who, at the time of separation has at least 800 accrued hours of sick leave, will be paid for one hundred and forty (140) hours of accrued and unused leave.
9. Except as provided in paragraph 8 (above), any employee who separates employment with the Town for any reason loses, and shall not be compensated for, all accrued and unused sick leave. Additionally, except as expressly provided herein, no employee shall have the right to receive pay in lieu of leave (i.e. "cash-in" leave time) of any type, including annual or sick leave.

### **C. Sick Leave Pool**

A joint leave pool has been established for members of the bargaining unit and all other full-time Town employees subject to the following provisions:

1. The Sick Leave Pool is voluntary. Use of the leave from the pool requires the employee to use all other available paid leave he or she has accrued (including all sick and annual leave). Only full-time employees are eligible to participate.
2. The purpose of the leave pool is to provide leave to full-time employees who face significant time off without pay due to a serious illness or injury, whether job-connected or non-job-connected. The leave pool may not be used for short term periods where an employee may be without pay. Short term shall be defined as less than thirty (30) calendar days.
3. The Department Head shall determine use of the leave pool days, subject to the above purpose and limitations.
4. The Department Head shall review an employee's request for use of the leave pool, including the employee's needs and circumstances, consistent with the provisions of the leave pool and they shall determine eligibility for, and the amount of pool leave time that may be provided to employees. The Department Head may establish procedures, forms, and other rules necessary for the pool's effective operation, provided they are consistent with the provisions of this section.

5. The Department Head's decisions are final.
6. Town employees may donate leave at 100% value from their annual or sick leave to the leave pool one time per year effective April 1 of each calendar year. The donating employee must have at least 40 hours remaining of sick or annual leave after the donation.
7. No employee shall be permitted to donate more than 40 hours of leave per year to the pool. In the event that the number of days in the leave pool becomes less than fifty leave days, the Director of Finance and Personnel may open up the opportunity for additional donations to be made during the calendar year. The 40-hour donation limit may be modified by the Department Head.
8. All donations of leave pool time must be in full-day increments based on the employee's full-time, regularly scheduled day (i.e., an eight-hour or eleven and one half-hour day is a full day).
9. Donations of leave pool time are final and irrevocable. The donation is subtracted from the employee's leave balance and will not be returned or paid out if the employee's employment ends.
10. No dollar value shall be placed on leave donations. All donations and all authorized usage shall be computed as day for day.
11. In order to be eligible to receive leave time from the joint leave pool, employees must have donated a minimum of one (1) day to the joint leave pool within the past twelve months prior to making application for leave from the pool. Newly hired employees shall be exempt from the requirement to donate a minimum of one day to the leave pool prior to requesting time from the leave pool for a period of one (1) year from the date of their employment with the Town. Employees must be in good standing and not received any corrective action for attendance in the year prior to requesting use of the sick pool hours.
12. When leave pool time is authorized by the Department Head for use by an employee, it shall be on a day-for-day basis. Any employee using leave pool time shall receive regular base pay and his/her regular shift pay; however, other pay shall not be provided with the leave pool days (e.g., lead pay, acting pay, special assignment pay, etc.). Leave pool time granted shall be limited to 60 days in any 12-month period for each leave pool time recipient, except that requests for time in excess of the 60 days to be granted from the leave pool to a recipient may be approved, at the sole discretion of the Department Head. Pool time must be taken consecutively and not intermittently. There must be available time in the pool before a request can be granted and the request also will be limited by the available time in pool.
13. Once leave pool time has been approved, it will be allocated by pay period to/by pay period by the Director of Finance and Personnel. No donated leave pool time will be refunded to the donor.

**D. Unpaid Leave**

1. At the completion of six (6) months of employment with the Town, any full-time employee who has exhausted all accrued annual and sick leave may at the sole discretion of the Department Head be granted up to four (4) months of unpaid leave for personal or health reasons, including maternity.
2. To qualify for such leave (if taken for a health-related reason), the employee must submit in writing to his or her Department Head a request accompanied by a statement from the employee's health care provider. An employee requesting leave shall request such leave as far as possible in



advance of the anticipated beginning date of the leave.

3. If, at the expiration of all of an employee's annual and sick leave and any leave granted by the Town pursuant this manual, the employee is unable to perform the essential functions his or her position, with or without a reasonable accommodation, the employee shall be terminated. A termination arising under this section shall not follow the disciplinary process in Section 6 of this manual. Any employee so terminated shall be eligible to reapply for employment if and when the person is able to perform the essential functions of the position sought, with or without a reasonable accommodation.
4. An employee may return to work at any time during this period of unpaid leave except that no employee whose leave was taken for a health-related reason shall be allowed to return until the employee has submitted to the Department Head a health care provider's statement that the employee is able to perform the essential functions of the employee's position, with or without a reasonable accommodation.
5. The employee must notify the Department Head three (3) days prior to returning from leave under this section. For leaves attributable to a health reason, if the employee's health care provider releases the employee prior to the expiration of leave granted under the section, the employee is expected to return to work immediately following the release.
6. Pregnancy shall be considered as any other temporary disability of a non-occupational nature and shall be governed by the provisions of this section.
7. Upon learning of a temporary disability of any type, including pregnancy, and receiving a confirming medical opinion documenting the employee's condition and his or her need for leave, the employee shall immediately notify the employee's Department Head. Consistent with business necessity, the Department Head may require the employee to have a job-related medical examination by the health care provider of his or her choice. The health care provider, after being informed of the complete scope of the employee's duties, shall render an opinion in writing as to how long the employee may remain in his or her position with no danger to the employee or the general public. If the employee is no longer able to perform the essential functions of his or her job, with or without an accommodation, the Department Head shall have the option of reassigning the employee to light duty if available.
8. An employee on leave under any paragraph of this Section or Section 5G shall not accrue any type of paid leave, including annual, sick, paid holidays, or personal leave while on leave. The Town shall provide health and life insurance under the same terms as it is provided to Town employees while the employee is in active pay status, such as taking annual or sick leave. An employee in a non-paid status, such as taking unpaid leave under this section, shall be responsible for paying all insurance premiums.
9. Except as provided in this section, the Town shall make reasonable effort to reinstate an employee returning to work after the birth of a child either to the same position or the most nearly equivalent position with no loss of seniority. If an employee is returning to work after any other temporary disability covered under this section, reasonable effort shall be made to reinstate that employee to the next available equivalent position.
10. Failure to return to work at the expiration of all allowable leave under this section shall be construed as abandonment of the employee's position and shall be treated as a voluntary resignation. The employee's employment will be terminated, and the disciplinary process in Section 6 shall not apply.
11. Nothing in this section shall prohibit the Town from hiring a temporary replacement for any employee on unpaid leave. Further, nothing in this section shall prohibit the Town from

permanently replacing an employee on unpaid leave if necessary to the efficient operation of the Town.

#### **E. Emergency Leave/Bereavement**

1. Every full-time, non-probationary employee is authorized three (3) days of bereavement leave with pay, subject to the approval of and at the sole discretion of the Department Head for a death in the employee's immediate family. All full-time, non-probationary employees may take up to 1 day off with pay to attend the funeral of an extended family member (aunts, uncles, and cousins). Bereavement leave may not be accrued and/or carried forward, if unused, to a subsequent calendar year and no pay shall be offered or owed in lieu of bereavement leave. When bereavement leave is taken, the time used will not count toward the limitation of 120 hours of annual leave as set forth in Section 8 of this manual.
2. Every full-time, non-probationary employee is authorized three (3) days of emergency leave with pay per calendar year, subject to the approval of and at the sole discretion of the Department Head for emergencies involving an employee's immediate family member. Emergency leave may not be accrued and/or carried forward, if unused, to a subsequent calendar year and no pay shall be offered or owed in lieu of emergency leave. When emergency leave is taken, the time used will not count toward the limitation of 120 hours of annual leave as set forth in Section 8 of this manual.
3. At the sole discretion of the Department Head, the employee requesting leave under this section may be required to submit verification of the emergency situation, need for bereavement, familial connection, and/or proof of travel.

#### **F. Military Leave**

##### **1. General Provisions**

In accordance with law, the Town provides military leave to employees who are members of the U.S. Armed Services Active Reserve, the National Guard, or the Coast Guard, or who are officers of the U.S. Public Health Service and who have been detailed for duty with the U.S. Armed Services. Unless an employee is unable to reasonably do so, upon receipt of military orders for active or reserve duty, the employee must notify his or her Department Head as soon as possible and provide the Department Head with a copy of his or her orders.

In addition to military leave for active duty, employees also will be granted military leave for military training and other related obligations, such as an examination to determine fitness to perform military service. Where reasonably possible, an employee should advise his or her Department Head of the employee's training schedule and other related obligations well in advance.

##### **2. Pay and Benefits While on Military Leave**

In any calendar year, an employee is entitled to receive full pay, and continuing annual and sick leave accruals as if employed on his or her existing schedule, for the first thirty (30) days of military leave (or up to 240 working hours in one annual period) taken for purposes of military Reserve or National Guard training and obligations related to the training. An employee additionally is entitled to receive full pay and continuing annual and sick leave accruals as if employed on his or her existing schedule, for the first thirty (30) days of any military leave taken when the employee has been called to active-duty military service. In both instances, any military leave beyond thirty (30) days shall be unpaid, but an employee may, in his or her discretion, choose to substitute any available accrued annual leave. Once the leave becomes unpaid, annual and sick leave accruals will cease.

During a military leave of thirty (30) or fewer days in duration, and for any subsequent period of accrued annual leave substitution, an employee is entitled to health benefits with the Town under the same conditions as if he or she had continued to work. For longer military leaves, an employee may elect to continue health coverage for up to twenty-four (24) months of uniformed service, but he or she may be required to pay the entire premium for the continuation coverage.

Any time spent by an employee on paid or unpaid military leave shall be counted as time spent in the Town's employ when calculating seniority, determining years of service for retirement purposes, and determining the rates at which annual and sick leave accrue.

### **3. Reemployment**

If an employee's cumulative period of military service during his or her employment with the Town has not exceeded (with certain exceptions provided by law) five (5) years, and if the employee was honorably or generally discharged, he or she is entitled to reemployment upon return from service unless the Town's circumstances make reemployment impossible or unreasonable, or an undue hardship. If the employee is qualified, or reasonably can be qualified, reemployment will be in the job that the employee would have occupied with the Town had employment with the Town not been interrupted by military service; otherwise, the reemployment will be in the employee's previous job. Note that in either of these two alternative situations, for leaves longer than ninety (90) days, in the Town's discretion the reemployment may be another position of like status and pay to the position described. Additionally, in cases where the employee has incurred a service-related illness or disability that prevents performance of the jobs outlined in this paragraph, the placement will be in the position that is the nearest approximation in terms of status and pay.

Upon return from military service, an employee must provide notice of reemployment, or submit an application for reemployment, in accordance with the following schedule:

- (a) An employee who served for less than thirty-one (31) days, or who reported for a military fitness examination, must provide notice of reemployment at the beginning of the first full regularly scheduled work period that starts at least eight (8) hours after the employee has returned from the location of service.
- (b) An employee who served for more than thirty (30) days, but for less than 181 days, must submit an application for reemployment no later than fourteen (14) days after completing his or her period of service, or, if this deadline is impossible or unreasonable through no fault of the employee, then on the next calendar day when submission becomes possible.
- (c) An employee who served for more than 180 days must submit an application for reemployment no later than ninety (90) days after the completion of the uniformed service.
- (d) An employee who has been hospitalized or is recovering from an injury or illness incurred or aggravated while serving must report to the Director of Finance and Personnel (if the service was less than thirty-one (31) days), or submit an application for reemployment (if the service was greater than thirty (30) days), at the end of the necessary recovery period, which may not exceed two (2) years.

### **4. Required Documentation**

If the military service was for more than thirty (30) days, the employee must provide documentation within two (2) weeks of his or her return (unless such documentation does not yet exist or is not readily available) showing the following:

- (a) That the application for reemployment is timely (i.e., submitted within the required time period);
- (b) That the cumulative period of military service during the employee's employment with the Town has not exceeded five years; and
- (c) That the employee received an honorable or general discharge.

**G. Civil Duty Absence**

A full-time employee called for jury duty, serving on a jury, or testifying as a witness pursuant to subpoena (unconnected to the employee's job duties), may take a civil duty absence of up to five (5) days. The absence will be paid, less any amount the employee receives as compensation for serving as a juror or witness. Any absence in excess of five (5) working days shall be unpaid, but the employee has the option of using accrued annual leave and the Department Head has the discretion to grant additional paid leave.

**H. Other Absences**

Upon advance approval of the Department Head, other absences with pay may be authorized if deemed in the best interests of the Town.

All absences with pay authorized by this section must be approved by the employee's Department Head.

**I. Compensatory Time**

- 1. At the sole discretion of the Department Head, the Town may elect to compensate any non-exempt employee through the use of compensatory time off (hereafter called "comp time") at a maximum rate of one and one-half (1½) hours of comp time for each hour of overtime up to a maximum of 40 hours.
- 2. Accrued comp time shall be converted to a monetary payment by the end of the fiscal year in which it is earned.
- 3. Comp time may be taken separately, or in conjunction with annual leave and/or sick leave, with the approval of the Department Head, so long as the absence does not interfere with the efficient operation of the Town. Comp time must be used first prior to other paid leave. The Town may, in its discretion, compel the use of accrued comp time.
- 4. The Department Heads and all exempt employees are not eligible to earn any comp time.

**J. Compulsory Absence**

- 1. If, in the judgment of the Department Head, a reasonable question exists whether an employee is physically (or mentally) fit to perform the essential functions of his or her job, the employee may be required to undergo an examination by a licensed health care provider (or psychologist/psychiatrist) designated by the Town and have the results of that exam released to the Town. Such tests may include drug or alcohol screening, if a reasonable suspicion exists that the employee is impaired, or has used drugs or alcohol, while at work. If the results of the examination indicate the employee is temporarily incapable of performing the essential functions

of his or her job in a safe and satisfactory manner, the Department Head may require an absence without pay, until the employee is evaluated again by the provider and found to be fit for duty. Any employee sent for an initial exam under this section shall be placed on administrative leave with pay pending the transmission of the initial exam results to the Town.

2. A medical/psychological examination required by the Town will be performed at the Town's expense. Refusal to participate or complete the examination or to release the results shall be considered insubordination and typically shall result in discipline up to and including termination with prejudice.

## **SECTION 9: INSURANCE/RETIREMENT BENEFITS**

### **A. Health and Life Insurance**

1. At the election of any full-time employee, the employee shall have the option of single employee health and life insurance or single employee life insurance. Such employees may purchase full family health insurance coverage at the employee's expense. The full-time employees, through payroll deduction, shall be required to bear any premium costs above the maximum Town contribution as established by the Town Council.
2. The Town may change carriers or alter or delete coverage at any time

### **B. Other Fringe Benefits**

All full-time employees shall be eligible for single coverage dental and vision insurance but shall be required to pay any premium costs above the maximum Town contribution as established by the Town Council. Such employees may purchase full family dental and vision insurance coverage at the employee's expense. The Town may change carriers or alter or delete coverage at any time.

### **C. 401(a) Plan**

The Town of Indian Shores recognizes the importance of saving for retirement and offers eligible employees a 401(a) plan.

Eligibility, vesting, and all other matters relating to these plans are set forth in the plans, which can be obtained by contacting the Director of Finance and Personnel.

For full-time employees, except sworn Police Officers who are provided with a Chapter 185 plan, a contribution will be made in the employee's name to the agency managing the Town's 401(a) plan in an amount equal to a percentage of the employee's salary approved by the Town Council. The employee is required to make a mandatory contribution from his or her base salary or pay.

### **D. Disability Insurance**

All full-time employees shall be eligible for disability insurance effective the first day of the month following 180 days of employment and in accordance with the terms of the plan. The Town shall provide coverage and may change carriers, alter, or delete coverage at any time. Employees are required to comply with the terms of the plan.

### **E. Employee Assistance Program**

Resources for Living is a comprehensive employee assistance program provided through the Town's health insurance plan at no cost to employees and their dependents. This confidential program provides employees and their eligible dependents access to nurses, counselors, financial consultants and attorneys, twenty-four hours a day, seven days a week.

#### **SECTION 10: TUITION REIMBURSEMENT POLICY**

The Town has a tuition reimbursement policy for full-time employees which was established to encourage employees to further their education. Complete guidelines for eligibility are listed in the Tuition Reimbursement Policy. In no event shall the Town pay more per credit hour than the prevailing rate for in-state residents within the state university system. An employee receiving tuition reimbursement may be required to sign an agreement obligating him or her to repay the reimbursed amount to the Town if the employee separates employment for any reason, other than a reduction-in-force, within eighteen (18) months of the payment made by the Town.

#### **SECTION 11: WORKER'S COMPENSATION**

- A.** Workers' compensation is a "no-fault" system that provides compensation for medical expenses and wage losses to employees who are injured or who become ill because of employment. The Town of Indian Shores pays the entire cost of workers' compensation insurance. In accordance with the law, the insurance provides coverage for related medical and rehabilitation expenses and a portion of lost wages to employees who sustain an injury on the job.
- B.** The Town abides by all applicable state workers' compensation laws and regulations. If an employee sustains a job-related injury or illness, the employee is required to notify his or her supervisor and the Department Head immediately (no later than eight (8) hours after the injury or incident unless there are extenuating circumstances). The supervisor or Department Head will complete an injury report with input from the employee and return the form to the Director of Finance and Personnel. In cases of a medical emergency, the employee should call 911 or report to the nearest emergency room. He or she should notify his or her supervisor as soon as practicable. Failure of an employee, supervisor, or Department Head to report a work-related injury or illness will result in disciplinary action, up to and including termination with prejudice.
- C.** Medical treatment for an employment-connected injury is furnished by the Town. Treatment may be provided by a physician authorized by the Town or (if approved in advance by the insurance carrier) the employee's personal physician.
- D.** Upon approval by the carrier, weekly indemnity is payable to a disabled employee beginning after the first week of disability. If the disability lasts for more than two (2) weeks, the employee also will be paid for the first week of disability.
- E.** An employee will not accrue annual, sick, or any other paid leave during the period Worker's Compensation payments/benefits are being received. No paid or unpaid leave shall be provided to an individual who incurred an employment-connected injury other than as provided in this manual.
- F.** Employees may supplement their worker's compensation benefits with accrued sick leave up to the employee's net salary.
- G.** If the employee reaches maximum medical improvement and is unable to resume the essential functions of his or her position with or without a reasonable accommodation or it otherwise appears that the employee will be unable to return to work within a reasonable period of time, the employee may be terminated. At any point during the employee's recovery, the Town may require the

employee to submit a written medical physician's statement stating the full status of the employee's condition and when he or she is expected to return to work.

- H. If necessary to ensure the smooth and efficient operation of the Town, the Town shall have the right to hire temporary replacements to serve while an employee is unable to work due to a workers' compensation injury.
- I. Any employee released to return to work following an injury in the line of duty shall report such fact to the Town within twenty-four (24) hours of receiving such release and shall thereafter hold himself or herself ready and available to work.

## **SECTION 12: CREDIT UNION**

- A. Full-time and exempt employees are eligible to join the Florida Central Federal Credit Union.
- B. Deposits may be made through payroll deduction.

## **SECTION 13: ORGANIZATIONAL CHANGES**

### **A. Layoff**

- 1. The Town may lay off an employee whenever deemed necessary, including for the following reasons:
  - (a) Shortage of work required to be performed.
  - (b) Shortage of budgeted funds.
  - (c) Abolition of organizational position.
  - (d) Significant change in the duties required and/or organizational structure.
  - (e) Other related reasons that are outside the employee's control and which do not reflect discredit on the service performed by the employee.
- 2. The order in which layoffs occur (when compatible with the best interests of the Town and the organizational positions affected) will be:
  - (a) Temporary employees
  - (b) Part-time employees
  - (c) Probationary employees
  - (d) Tenured employees
- 3. In every case of a layoff, the Director of Finance and Personnel shall give written notification to each employee affected at least fifteen (15) calendar days in advance of the projected date the layoff is scheduled to be effective. The notification shall contain a statement to the effect that the

layoff is for reasons that do not reflect discredit either on the employee or on the employee's performance of duties.

4. All employees who are terminated by layoff will have their names placed on the "Qualified for Employment" register for one (1) year from the date their layoff is effective, unless an employee indicates in writing that he/she is not interested in future employment with the Town. Any employee hired from the register shall be treated as a new probationary employee.
5. Order of priority for consideration for subsequent employment by the Town shall be the inverse of the order given in (2) above. Qualification for a position will be a significant consideration in hiring any employee. In no event shall any provision in this section require the Town to hire other than the best qualified applicant for any vacancy as determined in the Town's sole discretion nor shall this policy require the Town to fill any vacancy.

#### **SECTION 14: TRANSFERS**

- A. A position may be filled by transferring an employee from one department or division to another, subject to the requirements of the position and the qualifications of the employee. Preference for filling a vacancy will not necessarily be given to a current or former employee over a new applicant because of seniority with the Town.
- B. An employee who is transferred to another position typically will be compensated in that position at its initial step for a new employee, but this determination shall be made by the Department Head, as applicable.
- C. Any lateral transfer between Departments must be approved by the Department Head.

#### **SECTION 15: HOURS OF WORK AND PAY**

##### **A. Improper Deductions from Salary**

1. Unless deductions from salary are permitted by applicable law, an exempt employee shall receive his or her full salary in any week in which any work is performed, without regard to the number of days or hours worked.
2. Deductions from salary specifically will not be made when an exempt employee's absence is directed by the Town, or by Town operations, for less than a full workweek; when an employee has served as a juror or witness for less than a full workweek (although salary may be adjusted to account for the employee's receipt of juror or witness pay); or when an exempt employee is absent for less than one full day for any reason.
3. A non-exclusive list of deductions permitted by law is as follows:
  - (a) An exempt employee's salary may be prorated for the initial or terminal week of employment, and proportionally adjusted to correspond to time actually worked if the employee takes intermittent leave or leave on a reduced schedule under the FMLA.
  - (b) Deductions may be made when an exempt employee is absent from work for one or more full days for personal reasons, and the employee has exhausted applicable paid leave.
  - (c) Deductions may be made when an exempt employee is absent from work for one or more full days for reasons of sickness or disability, when the employee has exhausted sick leave, or has not yet accrued sick leave.



- (d) Deductions may be made when imposed by the Town in good faith in response to an employee's violation of safety rules of major significance.
  - (e) Deductions may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of workplace conduct rules, such as the violation of the Town's policy prohibiting unlawful harassment.
- 4. Deductions from an exempt employee's sick or annual leave accruals are not "deductions from salary" under this policy.
  - 5. Any exempt employee believing that his or her salary has been subject to an unlawful deduction is to bring the matter to the attention of the Department Head or the Director of Finance and Personnel as soon as possible. The Department Head or Director of Finance and Personnel will investigate promptly and will ensure that the employee promptly is reimbursed for any improper deductions.

## **B. Hours of Work**

- 1. The "normal" workweek for employees other than Police Officers on shift is from 8:00 a.m. to 4:00 p.m. Monday through Friday. The work hours for Public Services employees are 7:00 a.m. to 3:00 p.m. Monday through Friday. The workweek for purposes of the Fair Labor Standards Act is from 12:01 a.m. Saturday to midnight Friday.
- 2. The working hours for Police Department personnel will be established by the Police Chief, with a schedule furnished to the Director of Finance and Personnel. The work period in a fourteen (14) day period is in accordance with the Collective Bargaining Agreement.
- 3. The applicable Department Head may adjust (either temporarily or permanently) the working hours for selected personnel in order to promote efficiency and effectiveness and/or for expanded operating hours for the Town.

## **C. Timekeeping and Overtime**

### **1. Time Records**

Non-exempt employees are required to complete an individual time record showing daily hours worked. The following apply to time records:

- (a) A non-exempt employee is not permitted to commence work before his or her normal starting time or to continue work after his or her normal quitting time without prior approval of the employee's Department Head or his/her designee. Any non-exempt employee working outside of the employee's normal working hours, without supervisory permission, will be disciplined, up to and including termination with prejudice.
- (b) Non-exempt employees are to record all hours worked, including any time worked at home or remotely via computer, cell phone, or other electronic device.
- (c) Employee time records are to be checked and signed by the Department Head or his/her designee. Unworked time for which an employee is entitled to be paid (paid absences and paid holidays) must be entered by the Department Head or his/her designee on the time record. Authorized overtime also must be identified by the Department Head or his/her designee.
- (d) Falsifying any time record is prohibited and may be grounds for disciplinary action, up to and including termination with prejudice.

## 2. Meal and Break Periods

All full-time, non-exempt employees working forty hours per week may be allowed two fifteen-minute breaks during the day, the timing of which shall be at the discretion of the employees' Department Head. Such breaks shall be paid. Unpaid meal periods for non-exempt employees must be for a minimum of one-half hour, during which no work is to be done.

### **D. Training and Off-Site Work**

Employee attendance at lectures, meetings and training programs will be considered hours of work if such attendance is requested by the Town, or attendance occurs during normal work hours, or if the employee performs work while in attendance, or if the subject matter is job-related.

Town-related business done by full-time employees from home, or any other offsite location will be considered hours of work and will be paid accordingly.

### **E. Overtime**

All non-exempt Town employees, including temporary and part-time employees, are paid bi-weekly on an hourly basis for all hours worked. Holidays, annual, sick leave, comp time, and other paid or permitted absences shall not be counted as "hours worked" for purposes of computing overtime. As set forth in this manual, the Town may elect to compensate non-exempt employees with compensatory time off rather than with overtime pay.

All Town employees are expected to expend however much time is necessary to perform their assigned tasks and responsibilities without regard for "clock watching."

Employees shall be required to work overtime when directed unless excused by the Department Head or his/her designee. Mandatory overtime is overtime that has been pre-approved and designated as mandatory by the Department Head or his/her designee. Mandatory overtime does not include an employee's recall to work to complete or correct daily work product, to administer disciplinary action, to attend court (when required to do so as part of the employee's job duties), or to answer routine telephone inquiries from a supervisor related to work the employee performed. It also does not include voluntary overtime work, whether offered by a supervisor or the Department Head or his/her designee or requested by the employee. For mandatory overtime, employees shall be paid for actual time worked at one and one-half (1.5) times their regular rate of pay if the employee voluntarily agrees to work in response to the Department Head's request for mandatory overtime or if the employee is required to work mandatory overtime by the Department because there was no volunteer. It shall be within the Department Head's sole discretion whether to designate overtime as mandatory overtime.

Non-exempt employees are not permitted to work overtime without the prior approval of their Department Head or his/her designee.

### **F. Emergency Conditions**

#### **1. Required to Report to Work**

Employees are expected to report for work during inclement weather conditions or any state of emergency declared by the Town Council unless otherwise directed by the applicable Department Head. Failure to report to work as directed during any state of emergency declared by the Town Council may result in termination. If an employee is excused from reporting to work during any state of emergency, he or she may be required to use accrued annual or sick leave for the missed time.

In order to provide coverage for services during a state of emergency, it may be necessary to assign and schedule employees for stand-by duties. During these stand-by duties, employees are waiting to be engaged to work. Town employees in non-exempt positions who are on stand-by duty and are restricted to a designated location or premises are eligible for stand-by pay. The non-exempt employees will receive pay for all hours actually worked during stand-by status. In addition, the employee will be paid time for a minimum of two hours if an employee is called to duty during their stand-by status, regardless of the hours actually worked. Only hours actually worked will be counted for purpose of computing overtime pay. In addition, the employee will receive stand-by pay in the amount of 8 hours of pay for each workweek in which the employee is assigned stand-by duties.

## **2. Emergency Pay Procedures**

Whenever a state of emergency is declared within the Town by a majority vote of the Town Council, the pay procedures provided below may be implemented. For purposes of this policy, the Department Heads, unless otherwise established by a majority vote of the Town Council, shall determine the length of time, if any, in which these pay procedures shall be in effect. The term "Declared Emergency" as used in this policy refers to this period of time.

The following are the emergency pay procedures:

- (a) All full-time and exempt employees in active pay status, whose regular work schedule occurs during the Declared Emergency, who are instructed to not report to work or who are released from work will be paid their regular wages for all hours not worked during their regular work schedule. If an employee is on a paid leave status, which has not been cancelled, he or she will not receive any additional compensation or paid time off and will be paid in accordance with the original leave request. No pay will be provided to temporary, probationary, part-time, or any other employees.
- (b) During the Declared Emergency, all full-time, non-exempt employees who work their regularly scheduled work period shall be paid their regular rate of pay for any hour(s) worked during this period. Additionally, such employees will be credited with one (1) hour of annual leave for each hour worked within their regularly scheduled work period that falls within the Declared Emergency. No annual leave credit will be provided for hours worked beyond the employee's regular work schedule. Additionally, no annual leave credit or additional compensation will be provided to temporary, probationary, part-time, or any other employees.
- (c) During the Declared Emergency, all full-time, non-exempt employees shall be paid overtime pay for each hour worked beyond 40 hours in their regular workweek as defined in this manual. No daily overtime will be paid. The Town may elect to compensate hourly employees in compensatory time-off rather than with overtime pay as provided in this manual.
- (d) All exempt employees shall be paid their regular salary for any hour(s) worked during the Declared Emergency. Additionally, such employees will be provided extra compensation in addition to their salary for each hour worked outside their typical work schedule during the Declared Emergency. This emergency pay shall be determined by taking the weekly salary and dividing it by the number of hours worked during the workweek and then multiplying that result by 1.5 and then by the number of hours worked outside of the employee's typical work schedule for that workweek. At the Town's discretion, it may elect to provide this emergency pay in the form of annual leave instead of pay.
- (e) Temporary, probationary, and part-time employees will be paid for work performed during

the Declared Emergency at their regular rate of pay and at the applicable overtime rate if the employee is a non-exempt employee who worked more than 40 hours in their regular workweek as defined in this manual. No daily overtime will be paid. The Town may elect to compensate the non-exempt employees in compensatory time-off rather than with overtime pay as provided in the personnel manual.

- (f) Except upon express written permission of the Department Head, no requests for annual leave will be approved and all previously approved requests for annual leave will be cancelled during any period of time that the Town Council has declared a state of emergency.
- (g) The Department Heads reserve the right to consider unique pay situations as they arise throughout a Declared Emergency. In situations deemed appropriate by the Department Heads, and after receiving the recommendation of the Director of Finance and Personnel, adjustments to this Policy may be made during the Declared Emergency.

#### **SECTION 16: TRAVEL AND PER DIEM**

- A. The applicable Department Head, may approve travel and per diem expenses for the purpose of an employee's attending official functions (such as those described herein) providing that:
  - 1. There are enough funds both budgeted and remaining in the budget to cover the estimated expenditures.
  - 2. The period of the absence will not exceed seven (7) working days. (Accrued annual leave and/or compensatory time may be taken in conjunction with attendance at the function/event if the absence is not otherwise paid.)
- B. Attendance at functions/events lasting longer than seven (7) working days must be approved by the Department Head.
- C. When an employee is authorized by the Department Head to use his/her private vehicle to perform travel related to the accomplishment of assigned duties or attendance at approved functions/events, the currently approved IRS mileage rate will be paid – with mileage determined on the basis of the shortest practical route that can be traveled.
- D. If travel is authorized by common carrier, reimbursement shall not exceed the cost of a coach ticket. (No first-class travel accommodations are authorized.) Typically, travel by common carrier will not be authorized unless the fare is less expensive than the total of the estimated mileage and enroute per diem costs.
- E. In addition to the travel allowance, reimbursement is authorized for reasonable per diem expenses in accordance with Florida statutes. Per diem expenses shall consist of the expense of lodging for the employee only. The determination of the reasonableness of the per diem expenses shall be within the sole direction of the Director of Finance and Personnel. Where an employee uses a common carrier to attend a function/event, reimbursement will also be made for reasonable taxi/bus/subway fares related to traveling between the employee's temporary lodging and the location where the function is being held.
- F. Advance payment for per diem and travel is authorized if approved by the Department Head and is in accordance with IRS mileage and Florida statutes.
- G. Upon completion of the authorized travel, the employee must submit an itemized listing supported by receipts of all expenses incurred for which reimbursement is claimed to the Director of Finance and

Personnel. Reimbursement may be withheld without itemized receipts.

- H.** Claims for reimbursement for travel and/or per diem shall contain the following two paragraphs appended to the bottom of the request:

"All expenses for which advance payment was received or incurred by the undersigned as necessary expenses directly related solely to the performance of any official duties."

"I do hereby declare under the penalty of perjury all expenses listed and statements made in this claim are true and correct."

- I.** Persons making fraudulent or false claims shall be guilty of a misdemeanor, punishable as provided by law. Such persons shall also be subject to disciplinary action up to and including termination with prejudice.