

City of Key West

Policies and Procedures – Employee Manual



Department of Human Resources

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Part I

General Policies

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PART I – POLICIES

GENERAL POLICIES

SUBJECT: DISCLAIMERS

The enclosed pages on the subject of the City of Key West's Policies and Procedures are excerpts from the official Policy and Procedure Manual available for review from the Human Resources Department.

These policies and procedures shall apply to all City employees. In the event of a conflict between these policies and procedures and any collective bargaining agreement, City ordinance, state law, or federal law: the terms and conditions of the collective bargaining agreement or relevant ordinance or law shall apply.

The City reserves the right to repeal, modify, or amend these policies at any time. None of the provisions herein create a contractual right in any employee, a promise of specific treatment, nor limits the power of the City Manager or City Commission to repeal or modify these policies and procedures.

In all instances, benefits are governed by the applicable Master Plan.

The City of Key West, in accordance with the Key West Human Rights Ordinance and the spirit of inclusivity, respects each employee's right to individually identify their gender. We have decided to make our handbook as inclusive as possible by using the pronoun "they" in place of gender-specific singular pronouns. The use of they/their/them in the singular has gained acceptance in most major style guides.

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GENERAL POLICIES

SUBJECT: NONDISCRIMINATION

PURPOSE:

To establish guidelines for the promotion of fair practice and nondiscrimination in activities relating to all areas of employment and treatment of all employees.

STATEMENT OF POLICY:

The City of Key West shall promote and afford equal treatment and service to all citizens and ensures that all applicants and employees are provided equal employment opportunity in all terms and conditions of employment (hiring, transfer, classification, grading, discharge, discipline, compensation, etc.) without regard to the individual's race, color, sex, age, gender identity, religion, national origin, ancestry, sexual orientation, marital status, parental status, or source of income.

SCOPE:

The City shall operate within the principles of equal opportunity and affirmative action guidelines set forth in this manual and in federal, state, and local laws and regulations.

All activities relating to employment, recruitment, testing, selection, upward/downward transfer, training, and termination shall be conducted in accordance with the Key West Human Rights Ordinance.

Reports of discrimination will be treated confidentially to the extent possible, and no action will be taken against any employee because they report discrimination or harassment. Investigations are not public record until the final determination is made. All employees are assured that action will be taken to investigate and resolve complaints, and that the City is firm in its commitment to eliminate improper conduct from the workplace.

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GENERAL POLICIES

SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY

PURPOSE:

To establish a policy to ensure equal employment opportunity (EEO) with the City and to outline procedures for action in case of violation.

STATEMENT OF POLICY:

The City of Key West ensures equal employment opportunity for all employees.

SCOPE:

The City ensures EEO in compliance with the Key West Human Rights Ordinance, stated herein:

Section 72.26 Prohibited Conduct

No person shall directly or indirectly discriminate against any individual in hiring, classification, grading, discharge, discipline, compensation, or other term or condition of employment because of the individual's race, color, sex, religion, disability¹, national origin, ancestry, sexual orientation, marital status, parental status, or source of income. The prohibitions contained in this paragraph shall not apply to any of the following:

- (1) Using an individual's unfavorable discharge from military service as a valid employment criterion where the affected position of employment involves the exercise of fiduciary responsibilities and the reasons for the unfavorable discharge relate to [their] fiduciary capacity.*
- (2) Hiring or selecting between individuals for bona fide occupational qualifications.*
- (3) Giving preferential treatment to veterans and their relatives as required by federal or state law or regulation.*

1) GOALS AND OBJECTIVES

- A) Ensure fair treatment and nondiscrimination in City hiring and City employment
- B) Provide compliance with state and federal EEO requirements and regulations, and with the Key West Human Rights Ordinance
- C) Provide a basis for encouraging those who do business with the City to practice EEO

¹ Disability refers to a disabled individual as defined by the ADA: a person who is a "qualified individual with respect to employment if such individual can perform the essential functions of the job with or without reasonable accommodations."

2) PROGRAM RESPONSIBILITY – EQUAL EMPLOYMENT OPPORTUNITY OFFICER

- A) The HR Director shall serve as the EEO Officer to carry out the EEO Policy. The Officer shall be the point person for the City's equal opportunity efforts and shall advise and assist management in all matters regarding implementation of and compliance with the EEO Policy. The Officer shall be responsible for the successful execution of the policy, utilizing the assistance of appropriate state and community agencies. The officer shall have the responsibility of examining existing internal policies and/or procedures that may serve as barriers to implementing the EEO Policy.

3) EQUAL EMPLOYMENT OPPORTUNITY PRACTICES

The Officer shall undertake the following actions to assure equal employment opportunities in the City:

- A) Periodically review all position qualifications and job descriptions to ensure requirements² are relevant to the tasks to be performed.
- B) Make recommendations, as needed, to remove requirements not reasonably related to the tasks to be performed.
- C) Ensure that pay and benefits depend upon job responsibility and (along with overtime work) are administered on a nondiscriminatory basis.
- D) Inform and provide guidance to department heads to ensure that all applications for selections, transfers, and terminations are considered without discrimination, and given equal opportunity regardless of race, creed, color, national origin, sex, sexual orientation, marital status, parental status, age, or the presence of a sensory, mental, or physical disability, unless such disability effectively prevents the performance of the essential functions of the position.
- E) Encourage diversity and ensure equal employment opportunity in hiring. The practices for listing jobs as defined in this manual will be followed under the Officer's direction, and jobs must be advertised in the City's paper of record and in publications as designated by management – ensuring EEO practices are followed.
- F) Provide this policy to all new employees.

4) POLICY DISSEMINATION

The Equal Employment Opportunity policy shall be distributed and made known to all employees.

5) EMPLOYEE DEVELOPMENT

The following actions shall be undertaken to achieve fair treatment in employee training and development.

² Including essential functions, physical requirements, required knowledge, skills, abilities, and qualifications as specified in the appropriate job description

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- A) Assure that there shall be no discrimination with regard to training and development opportunities, reclassification, transfer, demotion, layoffs, and termination of employees. Any actions that might adversely affect employees will be brought to the attention of the Officer.
- B) Actively encourage employees to increase their skills and job potential through training, education, and development opportunities.

6) EEO GRIEVANCE PROCEDURES

The following steps shall be taken for any grievance arising from charges of unfair treatment in order to maintain the best possible employee/management and City/community relationships.

- A) Employees seeking relief from alleged discriminatory practices should present the problem to the Officer for resolution.
- B) The Officer will confer with the City Attorney, who is responsible for conducting interviews with both parties, conducting additional investigation as necessary, and after conferring with the Officer, recommending appropriate corrective action and settlement conditions. Responding to a complaint will be handled as a priority for both the Officer and the City Attorney.
- C) All reports, decisions, and other documentation generated during the grievance procedure will be confidential and shall be maintained by the Officer. Once a decision is finalized, it will become a matter of permanent public record.
- D) If the decision is not satisfactory, the employee may seek relief using the grievance procedure described in this manual.

7) CORRECTIVE ACTION

- A) Violations of this policy may be cause for the full range of disciplinary actions.

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GENERAL POLICIES

SUBJECT: SEXUAL HARASSMENT

PURPOSE:

To establish a policy to ensure a harassment free workplace.

STATEMENT OF POLICY:

All employees have a right to work in an environment free of harassment. The City of Key West strives to provide all employees with such a workplace. The City's policy on sexual harassment is part of a broader goal of ensuring that all employees are free from discrimination or harassment of any kind.

SCOPE:

The City has a commitment to provide a workplace free of job-related sex discrimination, including sexual harassment. The City does not condone and will not tolerate harassment of any kind against any employee by anyone including supervisors, coworkers, service providers, or citizens/the public. Sexual harassment includes but is not limited to:

- 1) Unwelcome verbal comments or jokes, and/or physical gestures or actions of a sexual nature towards an employee (i.e. leering or ogling, touching, patting, pinching, indecent exposure, telling vulgar jokes, making comments of a sexual nature)
- 2) Unwelcome demands or requests for sexual favors (implicit or explicit)
- 3) The promise of special treatment with regard to an individual's employment in exchange for sexual favors or activity
- 4) Any sexually related comments or conduct that has the purpose or effect of unreasonably interfering with an employee's work performance

If you believe you are being subjected to conduct or comments that violate this policy, you have a responsibility to immediately report these matters. You should report to:

- A) Your immediate supervisor
- B) Your department head
- C) HR Director (305-809-3716)
- D) City Attorney (305-809-3773)

Such reports will be treated confidentially to the extent possible, and no action will be taken against any employee because they report discrimination or harassment. Investigations are not public record until the final determination is made. All employees are assured that action will be taken to investigate and resolve complaints, and that the City is firm in its commitment to eliminate improper conduct from the workplace.

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All members of management are held accountable for the effective administration of this policy. Should a manager or supervisor be advised of an infraction of this policy (or have first- or secondhand knowledge of a potential infraction), the manager should immediately report the matter to the HR Director or the City Attorney. Failure to report conduct or comments that may be deemed an infraction of this policy will subject the manager to disciplinary action.

The City will not tolerate harassment or any other discriminatory conduct. Such conduct will result in disciplinary action in accordance with the severity and pervasiveness of the conduct³.

³ There are provisions in each Group I, II, and III reflecting severity and pervasiveness of sexual harassment.

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GENERAL POLICIES

SUBJECT: MANAGEMENT RIGHTS

PURPOSE:

To establish a policy for *Management Rights*.

STATEMENT OF POLICY:

The City retains the authority to exercise those Management Rights necessary to administer the City's policies in accordance with the City Charter.

SCOPE:

The City recognizes that Management retains certain rights in order to supervise employees, set and administer policy, and manage the City to minimize cost while maximize services to the Citizens of Key West in accordance with the City Charter:

The City shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.

In addition, the City Manager has the right to:

Direct and supervise the administration of all departments, offices, and agencies of the City, except as otherwise provided by this charter or by law.

This policy is inclusive of any Management or Employer Rights in any active or pending Collective Bargaining Agreement (CBA), Civil Service Rule and Regulation, or active personnel policy. These rights, by their very inclusion in these aforementioned documents, are considered as Management prerogatives and cannot be grieved. In addition, Management has the right to reassign any employee due to medical or emotional necessity, not subject to standard posting requirement, in order to comply with federal or state laws. This reassignment cannot be grieved.

The City retains any right not specifically addressed in this policy and its inclusions, if Management deems it necessary in order to exercise the rights of the City Charter to carry out the administration of the City.

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GENERAL POLICIES

SUBJECT: UNION RIGHTS

PURPOSE:

To establish a policy for union rights.

STATEMENT OF POLICY:

The City recognizes the following unions:

- A) Police Benevolent Association (PBA)
- B) International Association of Firefighters (IAFF)
- C) International Brotherhood of Teamsters Union Local No. 769 Public Service Workers (Teamsters)
- D) International Brotherhood of Teamsters Union Local No. 769 Office Clerical Workers (Teamsters)

City employees have a right to belong to an appropriate bargaining unit, unless they are exempt as defined by the Fair Labor Standards Act (FLSA) or excluded from the Collective Bargaining Agreement (CBA) according to the Public Employees Relation Commission (PERC). Additional conditions of membership are described in each CBA.

An employee covered by a union shall be represented by that union in any grievance that involves matters covered by the CBA. Grievances in regard to such matters shall be filed in accordance with the appropriate CBA procedure. Matters not covered by the CBA may be filed in accordance with the City's grievance policy following consultation with appropriate union officers.

If there is a disagreement between the policies in this manual and those of a CBA, the CBA prevails. The City reserves the right to issue a directive, policy, or procedure to clarify any provisions of the CBA policy when such clarification is necessary.

Part I

Employment Policies

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EMPLOYMENT POLICIES

SUBJECT: HOURS OF WORK

PURPOSE:

To establish a policy setting hours of work for employees.

STATEMENT OF POLICY:

All regular full-time employees work a forty (40) hour workweek. The workweek starts at 7:00AM Monday morning and ends at 6:59AM the following Monday, unless otherwise provided by a Collective Bargaining Agreement (CBA) or site-specific benefit package.

SCOPE:

All full-time employees shall work 8:00AM to 5:00PM, Monday through Friday, unless they work on a shift basis or the supervisor has scheduled alternate hours. The City shall provide each full-time employee with one (1) hour meal break and two (2) fifteen (15) minute rest breaks unless the supervisor has made other arrangements. All rest breaks are on a use-or-lose basis and shall be coordinated by the employee with the approval of the supervisor. Off-site breaks are at the discretion of the department head. No breaks shall be combined.

The standardization of working hours is necessary to provide:

1. Continuity in access by and services to the citizenry
2. Productivity
3. Facilitation of teamwork
4. Efficiency of operation

1) Adjustments

Occasions may arise when service to the citizens can be improved through the adjustment of an employee's work hours. The department head may change the work hours at their discretion with a 5-day notification, if change is necessary.

Individual request for adjustment of working hours for personal reasons must be evaluated in light of the effect on the four criteria enumerated above.

2) Tardiness

- A) An employee is considered tardy if they arrive at the workplace later than their scheduled work time. An employee must give advance notice to their supervisor, prior to scheduled work time, of anticipated tardiness. The employee is required to work to make up for time lost due to lateness.

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- B) Excessive tardiness is defined as more than three (3) occurrences of lateness in a rolling four (4) month period. Each occurrence in excess of the initial three constitutes an offense of excessive tardiness.
- C) Excessive tardiness during probation constitutes a reason for dismissal. Excessive tardiness after probation is subject to disciplinary action ranging from written warning up to and including termination, depending on the severity and pervasiveness of the offense. Excessive tardiness is classified as a Group I offense; for further information, consult Part II of this manual, under Code of Conduct – Rules.
- D) The City shall not grant reasonable accommodation by allowing an employee to be tardy for work.

3) Absenteeism

- A) Regular full-time and part-time employees are expected to be at work when scheduled. Regular attendance is an essential function and the City is not obligated to grant reasonable accommodation if a full-time employee is unable to work a 40-hour week or if a part-time employee is unable to work the scheduled number of hours for that position.
- B) An absence must be approved according to the procedure for that leave. An unapproved absence is considered absent without permission and is disciplined as such.
- C) Excessive absenteeism is subject to disciplinary action ranging from a written warning through termination, depending on the extent of the absence and its impact on the workplace. Although excessive absenteeism is determined on a case-by-case basis, this policy is applied in a neutral and consistent manner to all employees.
- D) If a full-time employee is consistently unable to work a 40-hour week due to excessive absenteeism, the City may change the employee to part-time or terminate the employee.
- E) Notification by another employee, friend, or relative of tardiness or absence is not considered proper except in an emergency situation when the employee is physically unable to make the notification.
- F) Employees shall record their time worked using attendance records as designated. Each department maintains these daily attendance records. All leave, approved and unapproved, shall be documented by a completed HRF-4.
- G) Attendance shall be consideration in determining job bidding eligibility, transfers, satisfactory completion of probation periods, performance evaluations, and continued employment with the City.
- H) Unauthorized absences from work for a period of three (3) consecutive days may be considered as the employee's voluntary resignation. An unauthorized absence is one that has neither been approved via HRF-4, nor by a call to the employee's supervisor prior to the time scheduled to begin work. If no notification is given to the City within four (4) hours of the employee's start time, it is considered an absence without permission.

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4) Overtime

According to the Fair Labor Standards Act (FLSA), all non-exempt employees are to be paid overtime for hours worked over forty (40) hours per week, at a pay rate of one and a half times the employee's rate of pay. Exceptions to this provision are:

- Employees retained in a secondary job with the City on a sporadic, occasional, and emergency basis, wherein the secondary job working time is not more than 10 hours per week
- Contract employees
- Exempt employees

5) Flex Time

It is the City's position that exempt employees have the responsibility of getting the job done regardless of the number of hours it takes to fulfill this responsibility per week. In return for an exempt employee working over forty (40) hours a week, the City will allow (within reason) the exempt employee to use hours during a scheduled workday for personal needs with a reduction in leave hours. These hours may be used under the following conditions:

- Prior approval from the supervisor
- In blocks of fewer than eight (8) hours
- No detrimental impact on the responsibilities of the employee's job

Flex time is made available as a privilege to be used when the exempt employee needs to perform a task or make an appointment that is not possible during off-duty hours. If this flex time impacts the employee's performance unfavorably, that employee is subject to disciplinary action.

EMPLOYMENT POLICIES

SUBJECT: PROBATIONARY PERIOD

PURPOSE:

To establish a policy and procedure for the probationary period for new employees and current employees who transfer to a new position.

STATEMENT OF POLICY:

All employees placed in new full-time and part-time positions must serve a probationary period. Police officers and fire fighters serve a probation of one year; all other employees serve a probation of one hundred and eighty (180) days unless otherwise defined by a collective bargaining agreement (CBA).

SCOPE:

The probationary period is designed to give the employee time to learn the position and to give the supervisor time to evaluate the employee's performance and potential.

1) Evaluations During Probation

Every probationary employee shall be evaluated in writing at least once during probation. Certified members of the Police Department have a separate form. Those probationary employees failing to maintain a satisfactory service rating may be reduced in rank or dismissed. The City reserves the right to reduce in rank or dismiss the probationary employee on the basis of unsatisfactory performance or on the basis of reduction in rank or dismissal cannot be grieved. Accordingly, no probationary employee may grieve or otherwise challenge any decision involving assignments, discipline, layoff, or discharge during probation for any reason.

2) Extension of Probation

The probationary period may be extended any time during the probation. This extension is at the discretion of the department head with the approval of the City Manager, and it will not be fewer than thirty (30) days or more than ninety (90) days. The notification of an extension must be given to the employee in writing prior to the end of the standard probation. The notification must be accompanied by an HRF-7 or a memorandum, stating the reason for the extension and setting forth the parameters of a successful completion of the extended probation period. Notification and evaluation must be signed and dated by the employee. All rights of the City may be exercised during a probationary extension.

3) Job Bidding During Probation

A probationary employee is not eligible to apply for another position as an in-house applicant. They may apply as an outside applicant. If successful, the probationary

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employee must serve a complete probation in the new position before being eligible for the benefits of a regular employee. Time served in the previous position will not be considered regarding benefits until probation for the new position is complete.

4) Successful Completion of Probation

If the employee successfully completes the probation period, they are now a regular employee. The appropriate department head will deliver this notification either verbally or in writing; the employee becomes a regular employee of the City regardless of whether they are notified. When an employee first becomes a regular staff member, they become eligible for vacation and other leave types accrued since their beginning date of employment. Leave types accrue during the probationary period but may only be used following completion of the probation period.

5) Probation for Transfer

If an individual has been transferred to a higher grade, they remain eligible for all benefits included with the previous position during the probation period of the transfer. If the position to which an employee has been transferred carries benefits different from those of the previous position, the employee becomes eligible for the new benefits upon successful completion of the probation period, which are then applied retroactively to the date of the transfer. Exceptions to this policy must be approved by the City Manager and must be in writing.

6) Incomplete Transfer

If a transferred employee fails to achieve satisfactory performance in the new position or they are not satisfied in the new position, the employee may bid for another job as an in-house applicant. If an employee did not perform satisfactorily in the previous position, termination from City employment may be considered.

7) Absence During Probation

If a need arises during an employee's probationary period that requires paid or unpaid leave, that time will not be considered as time worked. As such, time on leave will not count as probationary time served, which means that the probationary period will be extended to compensate for the time on leave. This section is applicable to all probations: new employee, in-house transfer, police/fire probation, etc.

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EMPLOYMENT POLICIES

SUBJECT: ELECTRONIC MAIL AND INTERNET ACCEPTABLE USE

PURPOSE:

To establish guidelines and procedures relating to the use of electronic email (email) and the internet for all City departments and employees.

STATEMENT OF POLICY:

Email has been provided to the City's employees to facilitate timely sharing of data and information. All information generated and disseminated by email is available for public access under Florida Public Records Law. Employees shall have no expectation of privacy when using their City email. Employees are encouraged to use email for business purposes only.

Internet access for the employees of the City of Key West has been established to further the goals and objectives of the City. Since access to the internet is allowed on City equipment with a City-authorized ID, employees have an obligation to use the internet in a responsible and informed manner.

SCOPE:

The email and internet policy applies to all City employees in all departments, whenever using City email and/or City-owned points of access to utilize the internet.

1) Permissible Use

- A) The City of Key West provides email and access to the internet to its employees for business purposes. All email messages are the property of the City and should not be considered private. Employees are expected to use the internet in support of organizational objectives and be consistent with the mission of the City of Key West.

2) Prohibited Use

- A) The following uses of the City's email system and internet access are prohibited and subject to the employee receiving disciplinary action up to discharge, depending on the severity of the violation.
- B) Use of the email system and/or internet to compromise the integrity of the City and its business
- C) Use of the email systems to send chain letters
- D) Use of the email system and/or internet for political endorsements
- E) Use of the email system and/or internet resulting in or relating to personal gain, for-profit enterprise, or commercial use
- F) Extensive personal use of email and/or internet resources

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- G) Intentional use of email and/or internet resources to access, transmit, or process obscene material, inappropriate text, graphic files, and/or sexual, racial, or ethnically inappropriate communications
- H) Use of the email system to send messages or visit internet sites containing language which is offensive, abusive, threatening, or otherwise deemed inappropriate in the City's Personnel Policy and Procedure Manual
- I) Use of the email system to send messages or visit internet sites that violate the City's Harassment Policy

3) User's Responsibilities

- A) Use of email and the internet must be supportive organizational objectives and be consistent with the mission of the City of Key West
- B) Users must abide by copyright, contract, local/state/federal laws, city directives/policies, and individual department guidelines
- C) Email and internet accounts are to be accessed only by the authorized user. Confidentiality of passwords and user ID's must be protected. Individual users are held accountable for the use of their accounts by others
- D) Users and their departments' management are jointly responsible for understanding the terms of this agreement and monitoring the need for email and/or internet access as part of the user's assigned duties and responsibilities
- E) Programs, applications, and the like are not to be downloaded from an email attachment or the internet to a City-owned device without written permission from the IT Department

4) Monitoring Email

All emails are the property of the City. As a matter of general policy, the City will not monitor messages. The City reserves the right to access messages for any legitimate business purpose, including but not limited to the following circumstances – or when it is determined by the City Manager that the reasons for doing so are consistent with the City's need for supervision, control, and efficiency in the workplace.

- a) If required to do so by law
 - b) In the course of an investigation for possible violation of City policies
 - c) In the event there is reasonable suspicion that a user has committed or is committing a crime against the City, or for which the City could be liable
 - d) Upon an employee leaving the employment of the City for any reason. The electronic mail may be accessed to retrieve messages pertaining to City business. This request must be made by the department head and approved by the IT Director
- Requests to review an employee's email, except in the case of their having left City employment, must be provided in writing by the department head to the City Manager. Approval of access is then forwarded from the City Manager to the IT Director for action.

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5) Access Violations

It is a violation of the City's policy for any user, including IT Department staff, to access the email of others without a written request from the department head and approval by the City Manager. Anyone found engaging in such practices will be subject to disciplinary action, which could result any combination of the following:

- a) Termination of system access
- b) Termination of employment
- c) Criminal prosecution.

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EMPLOYMENT POLICIES

SUBJECT: DRUG-FREE WORKPLACE

PURPOSE:

The City of Key West has a compelling obligation to eliminate alcohol and illegal drug use in its workplace because of its responsibility for the safe, effective, and efficient delivery of public services. Drug or alcohol use in the workplace may result in or contribute to on-the-job accidents, motor vehicle accidents, and personal injury to City employees or the public. The illegal use of drugs by City employees on- or off-duty and the state of being under the influence of alcohol while on duty are inconsistent with both the law-abiding behavior expected of all citizens and the special trust placed in City employees as public servants. Moreover, the illegal use of drugs leads to less productivity, less reliability, and greater absenteeism in employees. This impairs the efficiency of City departments, creates a greater burden on reliable employees, and undermines public confidence in all City employees.

STATEMENT OF POLICY:

It is the policy of the City to maintain a drug-free workplace. IT is a condition of employment with the City that employees refrain from reporting to work or working with the presence of drugs in their bodies, and for each City employee to abide by this policy. There is possible disciplinary action up to and including termination, as a result of any violation of this Drug-Free Workplace Policy. An employee injured in the course and scope of employment who refuses to submit to a test for drugs and/or alcohol, or is tested and has a positive confirmation of drug use or alcohol, forfeits their eligibility for medical and indemnity benefits under the Workers Compensation Act.

SCOPE:

1) Legal Authority

The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the workplace is prohibited. Sections 440.101 and 440.102 of the Florida Statutes set forth the requirements with which the City's Drug-Free Workplace Policy must comply. The City is also subject to the U.S. Department of Transportation's Federal Transit Authority (FTA) drug and alcohol testing requirements as applies to certain employees (Alcohol and Drug Testing Program for Commercial Motor Vehicle Drivers) and to the Drug-Free Workplace Act of 1988. The FTA program is separate from the City's Drug-Free Workplace Policy.

For the purposes of this policy, the term "drug" includes alcohol unless specified otherwise.

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2) Effective Date of Policy

The City's Drug-Free Workplace Policy is effective June 2, 1999. All new employees are provided this policy on their hire date. It shall be the responsibility of the employee to familiarize themselves with this policy.

3) City Authority to Test

The authority to order an applicant or employee to submit to a drug and/or alcohol test pursuant to this policy is vested in the City and its officials acting in the interests of the City.

4) Types of Drug Tests

A) Job Applicant Testing

- 1) There are positions for which pre-employment drug testing is required, called "mandatory-testing positions." These are safety-sensitive positions, and applicants must pass a 10-panel drug test before they are hired as an employee. This occurs as part of the City's orientation process. The list of safety-sensitive positions includes but is not limited to job assignments that require the employee to:
 - Carry a firearm or work closely with an employee who carries a firearm
 - Perform life-threatening procedures
 - Work with heavy or dangerous machinery
 - Work as a safety inspector
 - Work with children
 - Work with confidential information or documents pertaining to criminal investigations
 - Work with controlled substances
 - Pass a security background check prior to employment (pursuant to S. 110.1127)
 - Perform a job assignment in which a momentary lapse in attention could result in injury or death to another person

The applicants whom the City intends to hire are given a conditional offer of employment and are requested to submit to a drug and/or alcohol test. Refusal to submit to the test or a positive confirmed test results in the rejection of the applicant for employment at that time. The City may choose not to perform applicant alcohol testing for some classifications.

- 2) Job applicant drug testing does not require authorization from a City official or representative.

B) Reasonable Suspicion Testing

- 1) An employee may be required to submit to a drug and/or alcohol test when the City has a reasonable suspicion that an employee is using or has used drugs or alcohol in violation of City policy. "Reasonable suspicion" is determined from specific, objective, and articulable facts and reasonable inferences drawn from those facts.

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- 2) Among other things, such facts and inferences may be based upon:
- Observable phenomena while at work, such as direct observation of the drug and/or alcohol use, or the physical symptoms of being under the influence of a drug or alcohol
 - Abnormal conduct, irrational or incoherent mental state, or erratic behavior while at work, or a significant deterioration in work performance
 - Increased inattentiveness, absentmindedness, drowsiness, or mood swings
 - Increased unexplained absenteeism
 - Impairment of motor functions and lack of physical coordination
 - A report of drug and/or alcohol use, provided by a reliable and credible source
 - Evidence that an individual has tampered with a drug and/or alcohol test during their employment with the City
 - Information that the employee has caused, contributed to, or been involved in an accident while at work
 - Evidence that the employee has used, possessed sold, solicited, or transferred drugs and/or alcohol while working, while on the City's premises, or while operating City vehicle(s), machinery, or equipment
 - Discovery of drugs and/or alcohol in the workplace
 - Employee's confirmation of drug and/or alcohol use

The City may decide whether to test all employees involved in work-related accidents. If an employee is injured on the job, the employee shall submit to a drug test immediately upon notification, pursuant to Florida Statute 440.102. The decision is made as part of the reasonable suspicion determination by the Department Head, their designee, the Assistant City Manager, or the City Manager.

- 3) If an employee has information which may serve as the basis for reasonable suspicion of another employee's drug and/or alcohol use in violation of City policy, they must immediately report the information to an employee in a higher-ranking role than themselves. The following is a guideline for the hierarchy to follow for reporting:
- Immediate supervisor
 - Department head (Director)
 - Assistant City Manager
 - City Manager

The higher-ranking city employee must consider the information the employee, supervisor, and/or Department head reported when making their reasonable suspicion determination.

- 4) If the higher-ranking City employee concludes that reasonable suspicion testing is justified, they must consult with the HR Director, a City attorney, or both prior to the final reasonable suspicion determination. Reasonable suspicion testing may only be

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authorized by a Director, their designee, the Assistant City Manager, or the City Manager. The order for an employee to submit to reasonable suspicion testing may be delivered by any supervisory employee the City deems appropriate.

- 5) The City must document in writing the circumstances which formed the basis of reasonable suspicion testing within five (5) days of testing.
- 6) Employees shall be transported to the specimen collection site by their supervisor.

C) Routine Fitness-for-Duty Testing

- 1) An employee may be asked to submit to a drug and/or alcohol test as part of routinely scheduled fitness-for-duty medical examinations as established by City policy or otherwise routinely scheduled for all members of an employment classification or group.
- 2) Drug and/or alcohol testing which is conducted pursuant to a routine fitness-for-duty examination does not require a particular authorization form or input from any designated City official, beyond that required for the examination to be scheduled.

D) Follow-up Testing

- 1) If an employee enters an employee assistance program (such as through the Employee Assistance Plan, or EAP) or rehabilitation program for drug and/or alcohol related problems, the employee may be required to submit to a follow-up drug and/or alcohol test on a quarterly, semiannual, or annual basis for two (2) years thereafter, at the City's discretion. Advance notice of the follow-up testing will not be given to the employee.
- 2) With exception to the extent modified by other City policies or collective bargaining agreements, follow-up testing may be authorized by Directors, their designees, the Assistant City Manager, or the City Manager.

E) Random Testing

- 1) Employees in the following categories are subject to random, unannounced drug and/or alcohol testing:
 - Certified Firefighters and Sworn Police Officers
Public safety positions are subject to random drug testing pursuant to the procedures set forth in the Police Department and Fire Department Policies and Procedures. The illegal use of a controlled substance by a certified firefighter or a police officer sworn to enforce the law is a criminal act that directly threatens the integrity and effectiveness of the Police and Fire Departments. Certified firefighters and sworn police officers who test positive illegal drugs in a random test are subject to discharge.

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- **Commercial Drivers**

Employees subject to the drug and/or alcohol testing requirements of the Department of Transportation are subject to random drug and alcohol testing. Drug and/or alcohol use by employees in safety-sensitive positions is dangerous, illegal, and could result in or contribute to on-the-job accidents, motor vehicle accidents, and personal injury to City employees and the public. Covered commercial drivers who test positive for drugs and/or alcohol in a random test are subject to discharge.

F) Injury or Property Damage

- 1) If an employee is involved in any accident, incident, or occurrence when there is injury or damage to property, then the employee is required to submit to a drug test. This is irrespective of whether there previously existed reasonable suspicion and irrespective of whether a worker's compensation claim is filed or medical care is sought.

5) Drug Specimen Collection

A) Specimen Collection Site

- a) The collection site is subject to change, depending on contracts between facilities and the City.
- b) Current Collection Site Address:
Key West Urgent Care
1501 Government Road
Key West, FL 33040
(305) 295-7550

B) Testing Laboratory

The testing laboratory is subject to change, depending on contracts between laboratories and the City.

Testing of specimens for the presence of illegal drugs and/or alcohol is performed by the Quest Diagnostics laboratory, which is licensed by the Florida Agency of Health Care Administration.

Laboratory Address:
Quest Diagnostics
3175 Presidential Drive
Atlanta, GA 30340
(800) 877-7484

C) Methods of Testing

- a) Blood specimen: testing for the presence of alcohol

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- b) Urine specimen: testing for the presence of illegal drugs
- c) A split sample testing shall be taken by the drug specimen collection site. The primary specimen will be tested by the testing laboratory. The split specimen will be sealed and reserved in case of appeal.

D) Drugs Tested

The drug test is a 10-panel drug screen test. A sample may be tested for any or all of the following:

<u>DRUG</u>	<u>STREET / GENERIC NAMES</u>
<u>Alcohol</u>	Beer, Wine, Liquor, Distilled Spirits, Malt Beverages, etc.
<u>Amphetamines</u>	Speed, Uppers, Biphphetamine, Desoxyn, Dexedrine, etc.
<u>Cannabinoids</u>	Marijuana, Hashish, Hash, Hash Oil, Pot, Joint, Reefer, Spliff, Roach, Grass, Weed, etc.
<u>Cocaine</u>	Coke, Crack, Blow, Flake, Snow, etc.
<u>Opiates</u>	Heroin, Codeine, Morphine, Opium, Dover's Powder, Paregoric, Parepectolin, etc.
<u>Phencyclidine</u>	PCP, Angel Dust, Hog, etc. – Not legal by prescription and no longer legally manufactured
<u>Methaqualone</u>	Quaalude, Sopor, Mandrax – Not legal by prescription and no longer legally manufactured
<u>Barbiturates</u>	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad, etc.
<u>Benzodiazepines</u>	Ativan, Azene, Klonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax (Prazepam), etc.
<u>Methadone</u>	Dolophine, Metadose, etc.
<u>Propoxyphene</u>	Darvocet, Darvon N, Dolene, etc.

Threshold levels to be used in testing are established by Standard Industrial Drug Panel 10.

E) Reporting Use of Prescription and/or Non-Prescriptions Medications

- a) An employee or job applicant may confidentially report information concerning the use of prescription and/or non-prescription medications to the specimen collection site before testing and to the Medical Review Office (MRO) after testing. The presence of prescription and/or non-prescription medications in the body may affect the outcome of the test.
- b) Contact information for the City's MRO:
Dr. Seth Portnoy
3300 University Drive #903
Coral Springs, FL 33065

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(954) 341-2525

- c) The MRO is subject to change, depending on contracts between laboratories and the City.

F) Right to Consult Laboratory

All employees and applicants may consult with the testing laboratory or MRO for technical information regarding the effect(s) of prescription and non-prescription medication on drug testing. Any consultation by an employee or applicant with the testing laboratory or MRO for the purpose of gaining technical information shall be confidential. The MRO must supply technical information to any employee who fails a drug test.

G) Over the Counter and Prescription Drugs May Alter or Affect Drug Testing Results

The following is a list of many over the counter and prescription drugs which could alter or affect drug test results. With the constant innovation and marketing in the pharmaceutical industry, the below list is not meant to be all-inclusive or exhaustive.

DRUG

Alcohol

GENERIC NAMES

All liquid medications containing ethyl alcohol (ethanol).
Read labels for alcohol content. Vicks Nyquil 25% (50 proof), Comtrex 20% (40 proof), Contract Severe Cold Formula 25% (50 proof), Listerine 26.9% (54 proof)

Amphetamines

Obetrol, Biphetamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastin

Cannabinoids

Marinol (Dronabinol, THC)

Cocaine

Cocaine HCl topical solution (Roxanne)

Opiates

Paregoric, Parapectolin, Donnagel PG, Morphine, With Codeine: Tylenol/Empirin/APAP/Aspirin, Robitussin AC, Guaiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-Organidin

Barbiturates

Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad

Benzodiazepines

Ativan, Azene, Klonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax (Prazepam)

Methadone

Dolophine, Metadose

Propoxyphene

Darvocet, Darvon N, Dolene

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H) Test Results

a) Negative Test Results

If the applicant or employee's primary specimen tests negative, the MRO informs the City of the negative result.

b) Positive Test Results

- The applicant or employee whose primary specimen tests positive has the right to contest the positive result. The applicant or employee who receives a positive test result may explain or contest the result to the MRO within five (5) working days after receiving written notification of the positive result. If the applicant's or employee's explanation or challenge is unsatisfactory to the MRO, the MRO is required to report the positive confirmed test result back to both the City and the individual, including a copy of the positive test result.
- The City notifies the applicant or employee in writing of the positive confirmed test within five (5) days of receiving it from the MRO, including consequences of the result and options available to the applicant or employee.

I) Challenging a Positive Test Result

a) Notification of Challenge and Information Presented

- Any applicant or employee challenging a positive test must notify the City and the MRO of such challenge in writing within five (5) working days of receiving the City's notification letter. If the applicant or employee does not notify the City and the MRO of their challenge in writing within that period, the challenge is denied. The written challenge must include their request to have the split specimen tested at a different lab. The costs associated with the challenge and utilizing the split specimen are the applicant's or the employee's exclusive expense. The City shall be notified of the split specimen test result by the MRO in writing and the applicant or employee shall receive a copy of the result.
- If the primary specimen tests positive and the split specimen tests negative, the applicant or employee shall have five (5) working days to present information that contests the result of the primary specimen to the City, which may include the results of the split specimen. After the City's review of the information presented, the City advises the applicant or employee of its finding in writing.

b) Administrative Challenge

- If an employee is involved in an accident and is denied medical and/or indemnity benefits, they may administratively challenge the action by filing a Claim for Benefits with a Judge of Compensation Claims.

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J) Confidentiality of Drug Test Results

All drug and/or alcohol test results and information, interviews, reports, statements, and memoranda received or produced as a result of the drug and/or alcohol testing will be maintained in a confidential manner by the City. Further, information on drug and/or alcohol test results may not be used in any criminal proceeding against an applicant or employee. There are some exceptions to this confidentiality:

a) Written Consent

The City will release information concerning drug and/or alcohol test results if it receives a written consent form signed voluntarily by the person tested.

b) Compelled by Court Order

Drug and/or alcohol test results may be released without consent if compelled by a hearing officer or a court of competent jurisdiction pursuant to an appeal under this statute or if it is deemed appropriate for disciplinary proceedings.

c) Legal Actions

The City, its agents, MRO, and drug-testing laboratory may have access to employee drug and/or alcohol test information or use such information when consulting with legal counsel in connection with actions brought under this statute or when the information is relevant to a defense in a civil or administrative matter.

6) Enforcement of the Drug-Free Workplace Policy

A) Pending Test Results

An employee who undergoes reasonable suspicion testing, routine fitness-for-duty testing, follow-up testing, or random testing may be placed on administrative leave with pay pending confirmation of their test results. This decision is at the sole discretion of the City Manager or their designee.

B) Action the City May Take Based Upon a Positive Test Result

a) An applicant with a positive drug and/or alcohol test result will not be hired to the position(s) applied for at the time of the positive test.

b) An employee with a positive drug and/or alcohol test result is subject to disciplinary action up to and including dismissal. Employee disciplined pursuant to this policy are given reasonable notice of the right to a disciplinary hearing (by the Department head or HR Director) in writing. The City's Policy and Procedures Manual, Civil Service Rules, and collective bargaining agreements are observed where applicable.

The City may take one or more of the following actions:

- Require the employee to attend educational seminars and courses and/or participate in an employee assistance program
- Require the employee with be evaluated by a Substance Abuse Professional (SAP)

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- Require the employee to attend a rehabilitation program
 - Discipline – including but not limited to suspension (if permitted by the Fair Labor Standards Act), probationary employment, transfer to another or less hazardous position and/or reduction in compensation
 - Discharge from employment
- c) If an employee is injured in the scope of their employment and drug tests and/or other medical evidence indicate the presence of illegal drugs and/or alcohol in the employee's body at the time of the accident, the employee may be required to forfeit any medical or indemnity benefits available under the Florida Worker's Compensation statute and may also forfeit eligibility for unemployment benefits. These penalties are in addition to any other penalties that may apply either under this policy or applicable law(s).
- C) Refusal to Take Drug Test When Required
- a) Job Applicant Refusal
- Any job applicant who refuses to submit to drug and/or alcohol testing, or who alters, adulterates, or otherwise interferes with drug testing collection, samples, or analysis is immediately disqualified from City employment.
- b) Employee Refusal
- Any employee who refuses to submit to a drug and/or alcohol test when required under this policy, or who alters, adulterates, or otherwise interferes with drug testing collection, samples, or analysis is subject to termination and may forfeit eligibility for medical and/or indemnity benefits under the Florida Worker's Compensation statute.
- c) Injured Employee Refusal
- Any injured employee who refuses to submit to a drug and/or alcohol test when required under this policy, or who alters, adulterates, or otherwise interferes with drug testing collection, samples, or analysis is subject to termination and may forfeit eligibility for medical and/or indemnity benefits under the Florida Worker's Compensation statute.
- D) Conviction for violating Drug or Alcohol Statute
- It is a condition of employment with the City that any employee who pleads guilty, pleads "nolo contendere," or is convicted of any criminal drug and/or alcohol violation occurring either in the workplace or off-the-job, must report such conviction to their supervisor within five (5) calendar days of such conviction. Any employee who pleads guilty, pleads "nolo contendere," or is convicted of any criminal drug and/or alcohol violation may be disciplined or terminated.

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E) Off-Duty Hours

Any City employee who is called in to work during off-duty or unscheduled work hours must notify their supervisor if they are unable to perform job duties due to alcohol consumption prior to reporting to work. The City may accept the employee's admission of alcohol consumption during off-duty or unscheduled work hours and may not require attendance for work.

F) Voluntary Identification

The City will not discharge, discipline, or discriminate against an employee solely based on the fact of the employee voluntarily seeking treatment for a drug- and/or alcohol-related problem if the employee has not previously interacted with the Drug-Free Workplace Policy (i.e. tested positive for drug and/or alcohol use, entered an employee assistance program for drug and/or alcohol related problems, or entered a drug and/or alcohol rehabilitation program) while employed with the City. This does not apply to sworn law enforcement officers, nor firefighters.

If an employee voluntarily identifies a drug- and/or alcohol-related problem and the employee had not previously tested positive for drug and/or alcohol use, entered an employee assistance program, or drug rehabilitation program while employed with the City, they shall enter a licensed substance abuse program under the guidance of a Substance Abuse Professional (SAP). The employee is evaluated by the SAP for the purpose of determining what assistance, if any, the employee needs in resolving drug- and/or alcohol-related problems. Any treatment program the SAP prescribes shall be at the employee's expense unless covered by the City's insurance program. While undergoing treatment, the employee is placed on Family/Medical Leave (if eligible) and is allowed to use sick leave, annual leave, or any paid leave to maintain their compensation and benefits.

The SAP determines if and when the employee is fit to return to duty. Upon the SAP's fitness determination, the employee does the following:

- Pass a follow-up drug test
- Sign and comply with all requirements of a Re-Entry Contract

The employee is terminated if they executed a Re-Entry Contract within the previous twenty-four (24) months, they test positive for drugs and/or alcohol, and any of the following apply:

- Their challenge to the test (if any) is unsatisfactory
- They refuse to submit to follow-up testing

G) Rehabilitation/Substance Abuse Professionals

If you are experiencing problems with drugs and/or alcohol, you are encouraged to contact a rehabilitation facility and/or substance abuse professional, which provides

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confidential drug and/or alcohol counseling and referral to residential and support treatment centers for all City employees and their eligible family members. The following is a representative sampling of drug and/or alcohol abuse counseling treatment programs available in our area:

Key West / Lower Keys

WestCare Guidance/Care Center
1205 Fourth Street
Key West, FL 33040
(305) 434-7660 (option 4)

DePoo Behavioral Health Center
1200 Kennedy Drive
Key West, FL 33040
(305) 293-1249

Marathon / Middle Keys

WestCare Guidance/Care Center
3000 41st Street, Ocean
Marathon, FL 33050
(305) 434-7660 (option 5)

Key Largo / Upper Keys

WestCare Guidance/Care Center
99198 Overseas Highway, Ste. 3
Key Largo, FL 33037
(305) 434-7660 (option 6)

H) Administration and Oversight of Policy

a) Human Resources Department

The HR Department administers the City's Drug-Free Workplace Policy.

b) Drug-Free Workplace Steering Committee

A labor/management steering committee has been established under the direction of the HR Department. Participants include members from City management, City non-union employees, and one representative from each of the recognized bargaining units.

The purpose of the committee is to ensure consistent application of policy as appropriate to each work group (Police, Fire, Administrative, etc.). The committee shall operate in an advisory capacity to Human Resources and shall recommend policy and procedure changes when necessary. Recommendations from the committee are never binding on the City. The committee is a partnership between employees and the City to effectively implement the objectives of the Drug-Free Workplace Policy.

Part II

Procedures

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CODE OF CONDUCT

SUBJECT: CODE OF CONDUCT – GENERAL INFORMATION

PURPOSE:

It is important for employees of the City of Key West to project an authentic image of integrity and responsibility so that the community can take pride in the people who serve them in matters of municipal government. The Code of Conduct is intended to bring to the employees' attention certain rules that have been established on their behalf.

SCOPE:

The Code of Conduct includes general conduct, a code of ethics, conduct rules, disciplinary actions, and other policies as defined in this chapter. Strict adherence to the Code of Conduct is expected of all City Employees.

1) Code of Ethics

To avoid misunderstanding and conflicts of interest that could arise, employees of the City of Key West adhere to the following policy. Violations to this policy are disciplined as Group II Offenses.

A) General

- 1) No City employee shall accept any gift, favor, or service that might improperly influence or give the appearance of influencing them in discharge of official duties
- 2) No City employee shall use or attempt to use their position to secure special privileges or exemptions for themselves or others.
- 3) No City employee shall accept employment or engage in any business or professional activity which might reasonably expect them to disclose confidential information, acquired by reason of their employment with the City.
- 4) No City employee shall disclose confidential information gained by reason of their employment with the City, nor shall an employee otherwise use such information for personal gain or benefit.
- 5) If an employee of the City is an officer, director, agent, member, or owner of controlling interest in any corporation, firm, partnership, or other business entity which is subject to the regulation of (or which has substantial business commitments with) the City or other political subdivision of the county or the state, they must seek and ethics opinion from the City Attorney.
- 6) No City employee shall transact business in their official capacity with any business entity of which they are an officer, director, agent, member, or in which they hold a material interest.
- 7) No City employee shall have any personal investments in any enterprise which creates a conflict between their private interests and the public interest.

B) Prohibited Actions and Conduct

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1) Preferential Treatment

There is an obligation to treat all citizens equitably and fairly. The granting of any special consideration, treatment, or advantage beyond that which is available to every other citizen and the use of one's official position to obtain special favors for friends, relatives, business associates, or oneself is prohibited.

2) Confidential Information

No City employee shall accept employment or engage in any business or professional activity which might reasonably expect them to disclose confidential information, acquired by reason of their employment with the City. No City employee shall disclose confidential information gained by the reason of their employment with the City, nor shall otherwise use such information for personal gain or benefit.

3) Use of City Property

Use of City property is generally limited to the conduct of official business. City property includes vehicles, facilities (buildings, conference rooms, etc.), equipment (computers, telephones, cell phones, copy and fax machines, etc.), and supplies. There are some exceptions made for specific departments and agencies (see Fleet Policies and Procedures). The guiding principle is that using governmental resources for personal convenience or property is prohibited and a misuse of taxpayer dollars.

4) Political Activities

Citizens and City employees are encouraged to participate in the political process on their own time and outside of the City workplace. This prohibits the use of City properties for electioneering purposes, except if it is rented for such use (Florida Statute 106.15(4)). Furthermore, no citizen nor City employee may use City property including phones, email, or copy machines on behalf of political candidates or ballot issues, even during the lunch hour.

5) Acceptance of Gifts

Accepting any gift, favor, or service over the value of \$50.00, either directly or indirectly, from any person, business, group, or organization that does business or seeks to do business with the City, when such acceptance could reasonably be considered to influence professional and independent judgment is prohibited. If it would be awkward to return a gift valued over \$50.00, the gift must be disclosed.

C) Prohibited Employment and Business Relations

All actions by City employees must be in the best interests of all the citizens, not the individual employee, their family, or their friends. When employees of the City have any doubt concerning a conflict of interest, they should discuss the possibility of violation with their department head or the City Manager, who may then elect to address the question with the City Attorney.

1) Conflict of Interest

- A conflict of interest occurs when a City employee has a personal or financial interest in any matter in which they participate or have job responsibilities as a City employee. If these interests could influence or appear to influence one's professional judgment as to affect decision-making, it is a conflict of interest.

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- All employees and officials (appointed and elected) are expected to disclose possible conflicts of interest as they arise (Key West City Charter Article IV Section 10 and Florida Statute 112.31 et seq.).

2) Outside Interests

- If an employee of the City is an officer, director, agent, member, or owner of controlling interest in any corporation, firm, partnership, or other business entity which is subject to the regulation of (or which has substantial business commitments with) the City or other political subdivision of the county or state, they shall seek an ethics opinion from the City Attorney.
- Other conflicts that could arise from outside employment include: transacting business in their official capacity with any business entity of which they are officer, director, agent, member, or in which they hold a material interest.
- Having any personal investments in any enterprise which creates a conflict between the employee's private interests and the public interest.

3) Future Employment as Reward

It is prohibited to discuss an offer of future employment with anyone doing business or seeking to do business with the City if one has reason to suspect that the offer is intended in any way as compensation or reward for the performance or non-performance of your duties as a City employee.

4) Disclosure of Possible Future Employment

It is prohibited to discuss an offer of future employment with a citizen or person doing or seeking to do business with the City if one has job responsibilities related to that person unless one has first disclosed in writing to an appointing authority that they intent to discuss future employment with that person.

2) Political Activities

- A) Any person holding a classified or other position with the City of Key West shall have the same right to take part in political campaigns and to exercise rights of franchise as any other citizen, except that no officer or employee of the City except an elected official shall engage in any political activities during their hours of duty, service, or work with the City.
- B) The use of equipment, facilities, or building(s) for political activities by City employees on duty is prohibited.

3) Public Relations and Appearance

Employees shall remember that they represent the City as a whole. When serving the public, they shall conduct themselves so as to project an authentic image of trust and confidence. Traits of successful City employees include genuine smiles, neat appearance, competency, efficiency, accuracy of information, positive attitude about the City and its personnel, and consideration for the feelings of others.

- A) It shall be the responsibility of all employees to represent the City to the public in a manner that is courteous, efficient, and helpful.
- B) City employees are always well groomed. They dress in a manner that is suitable for the public service environment and that favorably reflects the City's image.

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- See the Dress Code for further details.

- C) The employee's supervisor discusses the subject of personal appearance with the employee if it is found to not positively reflect the image of the City. Refusal to follow supervisor instructions is subject to disciplinary action.
- D) Employees in the City maintain the proper dress code dictated by their particular work environment.

4) Borrowing City Equipment

The use of any City equipment outside of the jurisdiction of one's job duties without approval is prohibited. This includes borrowing office equipment, shovels, vehicles, etc.

5) Breaks

Breaks are authorized as a privilege that must be arranged so as not to interfere with City business. Misuse of the break privilege may subject the employee to disciplinary action. It shall be the responsibility of supervisors and department heads to enforce this provision.

6) Pecuniary Interest

If an employee of the City (or member of their immediate family) is an officer, director, agent, member, or owner of controlling interest in any corporation, firm, partnership, or other business entity which enters into contracts with the City of Key West, the employee must disclose this relationship. Failure to do so results in disciplinary action.

7) Statements by City Employees

- A) Any City employee, especially those in supervisory and managerial positions, may be requested or subpoenaed to make a statement about the City to an attorney or law firm.
- B) Any employee receiving either a request or subpoena immediately discusses the matter with their department head. The department head discusses the matter with the City Manager. Before an employee makes any oral or written statements, the City Attorney supervises the statement.
- C) Any employee who does not comply with this rule shall be subject to disciplinary action up to and including termination. Police personnel reporting on a police matter are exempt from this rule.

8) City Telephone Use

The telephones placed in City offices are present for the express purpose of conducting City business. Employees may require the use of the City telephones for brief discussion involving family or personal business of a serious nature. This is acceptable use so long as the privilege is not abused. The department head may suspend such use and/or take disciplinary action.

- A) Personal telephone calls received during business hours must be minimal in both frequency and length. Calls must not interfere with the employee's work. Individual department heads have the responsibility to determine the appropriate use of City telephones and personal cell phones in their departments.
- B) When a personal toll call must be placed, the call should be billed to the employee's home number or calling card, or placed using the employee's cell phone. Collect calls are not accepted by the City.

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- C) It is the employee's responsibility to reimburse the City for any cost that results from their personal telephone calls.
- D) Violation of this policy subjects the employee to disciplinary action.

9) City Email and Internet Use

- A) All employees should be aware that confidentiality of City email cannot be assured and that any communications which need to remain confidential should not be sent over the internet. All information generated and disseminated by email is available for public access under the Florida Public Records Law. Employees have no expectation of privacy when using City email.
- B) Use of email and the internet must be supportive of organizational objectives and be consistent with the mission of the City of Key West.
- C) Users must abide by copyright, contract, local/state/federal law, city directives/policies, and individual department guidelines.
- D) Use of email and/or the internet for commercial use or profit is prohibited.
- E) Extensive personal use of email and/or internet resources is prohibited.
- F) Email and internet accounts are to be accessed only by authorized account users.
- G) Confidentiality of passwords and user ID's must be protected. Individual users will be held accountable for use of their account by others.
- H) Intentional use of email and/or internet resources to access, transmit, or process obscene material, inappropriate text, graphic files, and/or sexual, racial, or ethnically inappropriate communications is prohibited.
- I) There are websites to which access has been blocked on City devices and internet due to their classification as social media, unsecured, explicit, and/or nonessential to City employee use while on the job.
- J) The City maintains the right to monitor and access all electronic communication which occurs using City devices, email accounts, or internet access.
- K) All City employees sign the Electronic Mail and Internet Acceptable Use Agreement upon beginning employment with the City.

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CODE OF CONDUCT

SUBJECT: CODE OF CONDUCT - RULES

PURPOSE:

To define the rules which, if violated, shall result in employee discipline

STATEMENT OF POLICY:

It shall be the policy of the City of Key West to follow progressive discipline in order to correct performance problems. Progressive discipline mean increasing the severity of the penalty as frequency or severity of the violations increases.

SCOPE:

- 1) *Managers and supervisors* are required to document all steps of disciplinary action, including verbal warnings, written notices, suspensions, demotions, and discharge. Failure to do so results in disciplinary action.
- 2) It shall be the duty of employees to maintain high standards of cooperation, efficiency, and integrity in their work with the City. If an employee's conduct falls below standard, they may be subject to disciplinary action.
- 3) In imposing disciplinary measures, the *managers and supervisors* do not take into consideration any prior infractions of City Policy/Procedure or Department Rules/Regulations subject to the terms of the collective bargaining agreement.
- 4) The Code of Conduct rules are not to be construed as a limitation on the retained rights of the City but serve as a guide, providing recommended standard responses for specific offenses. A more or less severe penalty may be issued than that which appears in the standard procedure, if it is found necessary by *management*.
- 5) The rules of the Code of Conduct are divided into three groups to reflect degrees of severity. In each group and for each rule, consideration is given to the severity of the offense, the cost incurred, the time interval between violations, and the length and quality of service records. In each case, whenever the response is modified from the recommended standard, the justification for such modification shall be documented in writing.
- 6) Should the employee violate a department rule which is also a City rule, the strictest penalty applies.

The three lists of offenses (in groups based on severity) are not all-inclusive but are to be used as a guide in determining the appropriate grouping for a particular offense. Similarly, the penalties are guides as to progressive disciplinary measures. The *managers and supervisors* should determine the severity of the particular offense, along with prior problems, agreements with the employee, and training or lack thereof when imposing a penalty.

The three groups of offenses and standard penalties are as follows:

GROUP I OFFENSES

FIRST OCCURRENCE	-	Verbal Instruction and Cautioning
SECOND OCCURRENCE	-	Written Notice of Violation
THIRD OCCURRENCE	-	Three-day Suspension Without Pay
FOURTH OCCURRENCE	-	Discharge

1. Failure to perform duties as assigned and/or failure to follow department rules.
2. Failure to notify supervisor or designee of leave before the start time of any scheduled workday, unless other arrangements are documented in writing.
3. Absence without permission in excess of four (4) hours.
4. Productivity or workmanship is not up to required standard of performance.
5. Regular mistakes due to carelessness.
6. Tardiness in excess of three (3) times in a rolling four (4) month period.
7. Operating, using, or possessing tools, equipment, or machines to which the employee has not been assigned or for non-work related activities; performing tasks other than those assigned, or being in an unassigned work area.
8. Disorderly or distracting conduct including but not limited to horseplay, wrestling, scuffling, throwing things, mischief, catcalls, demonstrations which may violate a safety rule.
9. Abusive and inconsiderate behavior towards other employees.
10. Reporting to work under the influence of alcohol or drugs.
11. Failure to report within seven (7) working days an accident or personal injury in which the employee was involved while on the job.
12. Failure to pay just debts due or failure to make reasonable provisions for future payment of such debts, thereby causing annoyance or embarrassment to the City or to supervisors.
13. Unwelcome comments of a sexual nature.
14. Changing clothes during working hours without specific permission of supervisor.
15. Failure to advance Grievance Forms according to the approved City grievance procedure without prior approval.
16. Taking more than specified time allowed for breaks.
17. Disregarding job duties by neglect during working hours.
18. Unauthorized posting or removal of any matter on bulletin boards or City property.
19. Where the operations are continuous, leaving an employee's post at the end of the scheduled shift before being relieved by the incoming shift or the supervisor in charge.
20. Creating or contributing to unsafe and unsanitary conditions or poor housekeeping in regard to one's work area or oneself.
21. Failure to keep Human Resources informed of address/telephone number changes.
22. Unauthorized distribution of materials of any description, vending, soliciting, or collecting contributions for any purpose whatsoever at any time on City premises.
23. Failure to report a request for information or a receipt of a subpoena from a law firm or an attorney, except police officers responding in normal course of duty.
24. Refusal to give testimony in investigations of accidents involving City equipment.

GROUP II OFFENSES

FIRST OCCURRENCE	- Verbal Instruction / One-day Suspension Without Pay
SECOND OCCURRENCE	- Five-day Suspension Without Pay
THIRD OCCURRENCE	- Discharge

1. Negligence in performing duties as assigned, causing lack of productivity and/or work stoppage. The exhibition of behavior that adversely affects the productivity of other employees. Failure to follow department's rules.
2. Failure to work overtime, special hours, or special shifts after being scheduled to overtime and standby duty policies.
3. Leaving the job without permission.
4. Continued inability to perform job duties.
5. Mistakes due to carelessness that affect the financial or physical safety of coworkers, equipment, resources, revenue, tools, or property.
6. Continued tardiness or absenteeism that detrimentally impacts productivity.
7. Use or possession of another employee's or the City's tools, equipment, or property without permission.
8. Threatening, intimidating, coercing, or interfering with fellow employees or supervisors at any time. Using abusive language, provoking, or instigating an altercation/fight, or fighting at any time on City property.
9. Making or publishing false, vicious, or malicious statements concerning any employee, supervisor, the City, or its operation.
10. Using drugs and/or alcohol while on duty or being unable to work due to drug and/or alcohol consumption.
11. Failure to report an accident or personal injury in which an employee was involved while on the job.
12. Mishandling of City funds causing financial loss or embarrassment to the City.
13. Creating a hostile work environment due to unwelcome sexual comments, gestures, or innuendoes, or unwarranted harassment of other employees.
14. Sleeping during working hours unless otherwise provided, as in the Fire Department.
15. Negligence or omission in relaying to the supervisor/department head any complaints or grievances brought to the attention of an employee by any member of the public.
16. Reporting to work or working while medically, mentally, or physically unfit for duty.
17. Knowingly providing misinformation or information that has a detrimental impact on personnel or a situation or making policy statements to the media without approval.
18. Accepting any gift, favor, or service over the value of \$50.00, either directly or indirectly, from any person, business, group, or organization that does business or seeks to do business with the City, whose intention is to receive a benefit or favor.
19. Knowingly making or publishing untrue statements or creating situations that initiate a grievance.

GROUP III OFFENSES

SUSPENSION not to exceed 30 days, or DISCHARGE

1. Wanton and willful refusal or perform duties as assigned: insubordination to a supervisor's instructions to follow procedures or perform a task.
2. Being absent from duty for a period of three (3) consecutive working days without proper notification (counts as voluntary resignation).
3. Abandonment of job: leaving work against instructions or failure to return from an authorized leave of absence without an acceptable reason for the delay.
4. Demonstrated incompetence or inefficiency in the job performance that detrimentally impacts the performance of other employees or the department's productivity.
5. Deliberate behavior that causes bodily harm to other people or destruction and damage to City equipment, tools, or property.
6. Unexcused tardiness or absence that has a demonstrated detrimental impact either on the employee's or coworkers' productivity.
7. Removal from the workplace or concealment of any City property or employee's property without the required authorization or approval.
8. Threatening, intimidating, coercing, or interfering with fellow employees or supervisors at any time during an inquiry or investigation.
9. Unlawful or improper conduct or indecency either on or off the job which would affect the employee's relationship to the job, their coworkers, or the employee's or City's reputation or good will in the community.
10. Use, sale, or possession of illegal drugs.
11. Making false claims or misrepresentations in an attempt to obtain benefits (sick leave, accident or worker's compensation).
12. Deliberate falsification or mishandling of personal, personnel, financial, or City records, including employment applications, accident reports, work records, purchase orders, attendance records, revenue receipts, or any other report, record, or document.
13. Continuous or severe harassment (sexual or otherwise) of an employee by another on the job or in connection with employment and employment advances.
14. Interference with work in or about the City's work stations, including but not limited to instigating, leading, or participating in any walkout, strike, sit-in, stand-in, slowdown, or refusal to return to work at the scheduled time for the scheduled shift.
15. Continuous use or attempted use of political influence or bribery to secure an advantage for any purpose or in any form.
16. Continued inability to perform the *essential functions* of the employee's job that poses a direct threat to the health, safety, or welfare of the employee, others, or City property.
17. Unauthorized possession of firearms, explosives, or weapons on City property.
18. Committing a felony or misdemeanor of the first degree.
19. Conviction of guilt in a felony or misdemeanor of the first degree as defined by the Florida Statutes, or any violation of City Ordinance involving moral turpitude, while on or off the job.

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CODE OF CONDUCT

SUBJECT: DISCIPLINARY ACTION

PURPOSE:

To establish policies and procedures related to disciplinary action for City employees.

STATEMENT OF POLICY:

It shall be the policy of the City to administer discipline fairly, reasonably, and impartially according to an established progressive discipline policy. Employees and the City are best served when discipline is administered to motivate and encourage good behavior rather than to punish poor behavior.

SCOPE:

1) Overview

- G) Employees may be disciplined for infractions included within, but not limited to the Code of Conduct.
- H) The tenure of City employees shall be based on reasonable standards of job performance, as well as personal and professional conduct. Failure or refusal to meet these standards shall constitute just cause for disciplinary action including oral warning, verbal instructions, written notices, demotions, suspensions, and/or discharge.
- I) Disciplinary action is not primarily intended to be punitive, but rather to maintain the effectiveness and integrity of City service. The pervasiveness and severity of the offense and the employee's prior record shall be considered.
- J) In any disciplinary action, the employee is given due process.
- K) The degree of discipline administered depends on the severity and pervasiveness of the violation and shall be in accordance with any applicable collective bargaining agreement (CBA), civil service rules, City policies/procedures, and local/state/federal laws.
- L) It is the responsibility of each manager, supervisor, and department head to thoroughly evaluate the circumstances and facts as objectively as possible and then apply the most suitable form of discipline.
- M) All disciplinary actions involving suspensions with or without pay, or recommendation of termination, require a predetermination hearing.
- N) In view of the fact that each instance differs in some respect from similar situations, the City retains the right to treat each occurrence on an individual basis without creating a precedent for other cases that may arise, whether increasing or decreasing penalties.

2) Manager and Supervisor Responsibility

- A) It is the responsibility of each manager and supervisor to thoroughly familiarize themselves with the rules of each Group Offense in the City's Code of Conduct and the appropriate CBA.

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- B) Managers and supervisors shall make every effort to provide employees with a positive, motivational environment and use discipline for behavior improvement, rather than for punishment.
- C) Discipline shall be timely, administered fairly, and never in anger.
- D) Disciplinary action involving anything more than a written may be administered with an impartial witness or union representative to ensure due process and to protect the liability of the manager or supervisor.
- E) Managers and supervisors shall maintain records of verbal instructions that can be viewed by the HR Director, City Manager, or employee upon request.

3) Progressive Disciplinary Process

Administering discipline in a consistent, fair, and objective manner is of primary importance. To ensure that the manager or supervisor has a clear method of discipline, each step of the process is identified and defined in this section. This method is predicated on the principles that:

- Discipline is administered in a manner that is understandable to both the employer and employee
 - The violation is stated and documented in a manner that can be supported
 - An employee shall never be disciplined without providing the employee an opportunity to present their case under due process.
- A) Step 1: Verbal Instruction – This type of discipline should be applied to infractions of a relatively minor degree or to situations where the employee's performance needs to be discussed. The verbal instruction should be given in private. The employee should be informed that the supervisor is issuing a verbal instruction, that the employee is being given an opportunity to correct the condition, and that (if the condition is not corrected) the employee may be subject to more severe disciplinary action.
 - B) Step 2: Written Notice – This notice is issued in the event the employee continues to disregard verbal instruction of a Group I Offense and repeats the offense. The notice shall state the nature of the infraction in detail and what corrective action is required of the employee to avoid further discipline. Written notices must be issued by the manager or supervisor within a reasonable time following the alleged occurrence of the violation unless there is cause for a reasonable delay due to employee or supervisor/manager unavailability. The notice shall be accompanied by a discussion session between the manager or supervisor and the employee. The employee shall be given an opportunity to bring a witness, such as a union representative.
 - C) Step 3: Suspension – A suspension requires a predetermination hearing before the suspension is approved. If the violation does not require that the employee be removed from their position to conduct an investigation or if the violation is not of such a serious nature that it would be detrimental to have the employee performing their duties, the employee may continue working after the violation is noted and stated.
 - a) Disciplinary Suspension – If the employee is cited with a third infraction of a Group I Offense or one infraction of a Group II or III, they are eligible for suspension. This disciplinary action is documented by completing a Notice of

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Disciplinary Action (HRF-14), citing the Group Offense, the Rule, the consequence of the employee's behavior, and documentation of the progressive discipline resulting in the recommendation for suspension. The HRF-14 requires the signature of the department head. The employee shall be notified for the disciplinary action and reasons by the department head. The employee may request a witness or union representative to be present. The department head and HR Director determine a date within the following forty-eight (48) hours – unless over a weekend – to hold the predetermination hearing. The employee and department head determine the attendees. The City Manager or their designee acts as the hearing officer.

- b) Administrative Suspension – Administrative suspensions may be used in cases where it is necessary to investigate a situation to determine what further disciplinary action may be justified, and/or where continued presence on the job would be a liability to the City, a danger to the public, or where continued presence on the job would hamper investigation. An administrative suspension includes pay.

The employee is notified of an administrative suspension and the reasons for the suspension in a meeting called by the department head or their designee. The employee may have a witness if requested. The suspension is documented by a memorandum which does not require written approval by the City Manager.

An employee who is suspended with pay during an investigation is required to be available during regularly scheduled work hours for meetings and to provide information upon request. If the employee is unavailable without notice, it is considered a violation of the Group II Offenses: Rule 3.

If, after investigation, it is determined that the employee is innocent of the alleged violation(s), they are restored to duty and a letter of exoneration is placed in their official personnel file in Human Resources. If the employee is found in violation, a predetermination hearing is scheduled, allowing the employee an opportunity for due process. If the violations are founded, disciplinary action will be in accordance with the nature of the offense. The City may recover salary and benefits paid to the employee during the suspension.

If the employee under investigation purposefully interferes with the investigation in any way, the employee is eligible for termination.

- c) Indefinite Suspension or Termination for Criminal Act – The City Manager or their designee is empowered by City Ordinance, Section 50.96:

The City Manager may authorize in their discretion the indefinite suspension or termination of any City employee charged with a criminal act; provided, however, that the City Manager may take such action if upon the preponderance of evidence the City Manager finds the employee's action violated the City's personnel policy and procedures

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manual. Accordingly, the City Manager shall conduct a hearing that conforms with due process.

This suspension gives the City the opportunity to review the problem and to determine an appropriate course of action when the situation is serious enough for the employee to be removed from the work environment. It is documented by completing the HRF-14.

Even if the employee is not convicted of a criminal act or enters into a pre-trial services intervention program, the employee is still subject to disciplinary action commensurate with their breaches of City policy.

D) Step 4: Demotion – Demotion may be used as a necessary action during probation and after probation in those instances where an employee has been promoted to a position where they are either unwilling or unable to perform the responsibilities of that position, including supervisory duties. Demotion may be used as a disciplinary action if there is a correlation between demotion and the violation committed by the employee. Demotion is not to be used as a substitute for discharge when discharge is warranted. Demotion is documented on HRF-13.

E) Step 5: Termination

- a) Probationary employees may be terminated at any time without cause and without the right of appeal. Notification in writing of termination shall be provided to the probationary employee on HRF-13 and a copy is filed in their personnel file. Dismissals of probationary employees require the completion of the HRF-13 process. Termination of a probationary employee is a management prerogative and cannot be grieved.
- b) Immediate removal of an employee from a job site is done at the discretion of the department head at the time the employee shall be placed on administrative suspension with termination recommendation. Recommendation for discharge may be warranted in instances involving serious insubordination, theft, serious illegal or destructive acts, or other substantial reasons deemed appropriate by the department head. An employee may be recommended for discharge after repeated offenses from Group I or II (if the offenses have been documented by the supervisor and appropriate behavioral changes have not resulted from progressive disciplinary action), or a single Group III offense. Termination is recommended by the department head on HRF-14. The method is the same as that for a suspension, excepting that the recommendation listed is termination rather than suspension.
- c) Predetermination Hearing
 1. A hearing notification shall be delivered to the employee. The hearing notification includes date/time/location of the hearing, the allegations, and the current evidence. The employee may bring a witness. If the employee intends to bring legal representation, the City shall be notified at least forty-eight (48) hours prior to the hearing, in order to respond accordingly. If the employee brings legal representation without

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- notification, the City reserves the right to reschedule the hearing at its convenience.
2. At the hearing, the employee shall be given an opportunity to respond to the charges, orally or in writing, as to why the recommended action should not be taken.
 3. The department and City shall present a more detailed and complete case at subsequent hearings and shall not be limited to the department's explanation of evidence presented at the predetermination hearing. This includes witnesses and documents not available at the time of the predetermination hearing. This information is made available to the employee as it is obtained.
 4. No termination is final until formally issued in writing and signed by the City Manager or their designee on HRF-14.
 5. The employee shall sign the HRF-14 or a witness shall verify that the employee received, read, and understood its contents.
 6. The original copy of the HRF-14 is placed in the employee's personnel form and a photocopy is given to the employee.
 7. Employee is terminated according to the effective date on the HRF-14.
 8. The department head shall prepare the HRF-13 and termination procedures are followed according to the Termination Policy.
- F) Step 6: Appeals – Upon receipt of HRF-14, the employee may follow the Grievance Process Policy if they believe the action is not justified. Both the HRF-14 and relevant collective bargaining agreement (CBA) contain information regarding the employee's right to appeal disciplinary action.
- a) If the employee is a member of a CBA, the employee shall file grievance according to the procedures stated in the CBA, unless the issue is not covered by the CBA.
 - b) If the issue is not covered by the CBA (per the CBA steward/officer) or the employee is not a member of the CBA, the employee follows the Grievance Process Policy.
 - c) The employee may bring a witness of their choosing to any disciplinary session.

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CODE OF CONDUCT

SUBJECT: GRIEVANCE PROCESS

PURPOSE:

To establish a standardized grievance process for non-represented employees and for issues not covered by collective bargaining agreements (CBA).

STATEMENT OF POLICY:

The policy of the City of Key West is to provide a procedure for the presentation and mutual adjustment of points of disagreement which arise between employees and their supervisors, and to assure employees that their problems and complaints shall be considered fairly, rapidly, and without reprisal.

SCOPE:

- 1) A “grievance” shall be defined as a complaint or dispute by an employee for the unfair application (or lack of application) of a City policy, procedure, or disciplinary action.
- 2) Often, employee discontent or dissatisfaction is due to misunderstanding or lack of knowledge, and an awareness of facts results in a different viewpoint. Similarly, managers and supervisors may have a misunderstanding of employee interests. As such, emphasis is placed on resolving issues prior to escalation to the grievance process.
- 3) It is the policy of the City of Key West to afford all employees a means of obtaining further consideration of problems when they remain unresolved at the supervisory level, and to establish policies and procedures that provide for timely resolution of grievances.
- 4) Immediate communication can be of great assistance in resolving such problems, and the City wishes to provide employees with a definite, understandable channel of communication by which they may express dissatisfaction or concern and seek redress for action considered to be unfair. Therefore, this grievance process is provided so that any employee may pursue their interests by using the chain of command to their advantage.
- 5) The grievance process is for individual employees to solve their problems regarding manager or supervisor application of administrative and disciplinary procedures. Grievances are unacceptable if filed by one employee on behalf of another or a group of employees. If multiple employees have the same concern they wish to pursue via grievance, each must pursue it individually.
- 6) Strict adherence to the procedure outlined in the next section of this policy is mandatory for all concerned (excepting that time limits may be extended at the discretion of the manager/supervisor) unless superseded by state or federal regulations.
- 7) “Days” shall mean workdays, not to include holidays or weekends unless otherwise specified.

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- 8) Attempts are made to resolve the grievance to mutual satisfaction of the employee and the City.
- 9) Meetings between parties involved shall be initiated at any or each step in the grievance process.
- 10) Employees may not submit grievances for actions undertaken in the exercise of management rights and/or prerogatives.

PROCEDURE:

Employees represented by a collective bargaining unit – Teamsters, IAFF, PBA – must comply with the steps and timeframes outlined in the respective agreement. Non-dues paying members of the Teamsters unit may use the City grievance form to advance a grievance subject to the terms of the collective bargaining agreement.

Employees not represented by a collective bargaining unit filing a grievance must follow the steps and meet the designated time limits as listed. Failure to meet the designated time limits results in the grievance being forfeited and disqualified from further consideration or arbitration. The process for grievances for non-represented employees is as follows:

1. Step 1: Employee must present a grievance to their manager/supervisor within three (3) days of its alleged occurrence or within three (3) days of having knowledge of the alleged occurrence. The manager/supervisor shall meet with the employee to discuss the issue and provide a verbal decision within three (3) days of the meeting. If the employee is not satisfied with this informal solution, the grievance shall be immediately documented in writing on HRF-9. The supervisor shall then document their decision in writing and return the form to the employee within three (3) days. HR shall be notified immediately and sent a copy of the HRF-9.
2. Step 2: If the employee is not satisfied with the decision rendered by the manager/supervisor, the employee may make an appeal to the department head. This appeal must be made within three (3) days of receiving the manager/supervisor's decision, by submitting the HRF-9 to the department head. The department head may or may not schedule a meeting with the employee and supervisor. The department head's written response to the employee is to be made within five (5) days of receiving the HRF-9. At this step, if the grievance is determined by a fair and just exercise of management prerogative, the grievance cannot be pursued further. Cited policy apropos of the determination must be included in the determination and a copy of this resolution (including cited policy) is forwarded to HR.
3. Step 3: The employee may appeal the department head's decision if it is not an exercise of management prerogative, by submitting the original HRF-9 to the City Manager within three (3) days of receiving the department head's decision. The City Manager may schedule a meeting within five (5) days with the employee and whomever they identify as appropriate to include. If such a meeting is held, the City Manager provides a written decision within ten (10) days of the meeting. If a meeting

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is not held, the City Manager is to render a written decision to the employee within fifteen (15) days of receiving the grievance.

Completion of the grievance procedure: The original HRF-9 with the primary documentation shall be placed in the employee's personnel file and a copy shall be sent to all parties involved.

A) General Provisions for Procedure

- 1) No part of the above procedure shall be in conflict with state or federal laws and regulations.
- 2) Questions or requests for additional guidance concerning procedural or substantial matters relating to the grievance should be directed to HR.
- 3) No punitive action shall be carried out against the employee for using the grievance procedure outlined above.
- 4) On request by either party, management, or the employee due to illness, vacations, or an emergency situation may extend the time limits of this grievance procedure. If an extension of time is granted, each party shall be notified in writing.
- 5) Under this grievance procedure, the employee and management have the opportunity to call witnesses at the second step and thereafter at each step in the procedure.
- 6) Any grievance shall be considered settled at the completion of any step, unless it is appealed within the time limits set forth. The goal is to satisfactorily settle grievances in the first or second step.
- 7) The respective department head shall file a copy of the grievance with HR on the day they receive the grievance.
- 8) All grievances, at their conclusion, shall be forwarded to HR.
- 9) If the response deadline falls on an employee's day off, the reply by management shall be given to the employee on their next working day.
- 10) Supervisors who fail to advance a grievance form shall be subject to disciplinary action as a Group I offense.

B) Appeal Procedure

- 1) If the employee is not satisfied with the decision of the City Manager, appeal may be made to the Civil Service Board (CSB). Such appeal must be filed within three (3) days following receipt of the City Manager's decision. To file an appeal, a copy of the completed HRF-9 must be submitted to the Clerk of the Board. The original HRF-9 remains in the employee's personnel file.
- 2) If the employee's grievance is covered by a collective bargaining agreement (CBA), the appeal shall be made using the process stated in the CBA.
- 3) Appeals to the CSB are processed according to the CSB Rules and Regulations. Appeals by employees covered by a CBA are processed according to the CBA.
- 4) The HR Director and union stewards are available to counsel employees regarding grievances as well as problems or questions that may result in a grievance situation. Reasonable efforts shall be made to keep an employee's concerns confidential, except where disclosure is required by law.

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CODE OF CONDUCT

SUBJECT: CONFLICT OF INTEREST

PURPOSE:

To establish a policy that specifies:

- 1) Personnel in a position of trust are not related to each other.
- 2) Employees are prohibited from having business dealings with companies affiliated with or acting as major customers or suppliers of the City.
- 3) Transactions with officials of the city are:
 - A) Adequately controlled
 - B) Disclosed in the records
 - C) Occurring only in the normal course of business
 - D) Legally authorized

STATEMENT OF POLICY:

The City of Key West ensures fairness in handling the employment of individuals and transacting with companies – whether they are the City’s customer or vendor. The City does not engage in unfairly or unevenly beneficial or disadvantageous practices with individuals or companies. Those found in violation of this practice of equity in decision-making are subject to disciplinary action in accordance with Group III offenses (Rules 12 and 15).

SCOPE:

1) Nepotism

The City of Key West adheres to Florida Statute 112.3135:

A public official (employee of a public agency) may not appoint, employ, promote, advance, or advocate for appointment, promotion, or advancement in or to a position in the agency in which the official is serving or over which the official exercises jurisdiction or control any individual who is a relative of the public individual. An individual may not be appointed, employed, promoted, or advanced in or to a position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official serving in or exercising jurisdiction or control over the agency, who is a relative of the individual or if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative of the individual is a member.

Grandfather exclusion – The above-described nepotism policy does not apply to employees who were working in the employment of the City before the implementation of this policy⁴.

⁴ October 26, 1989 – this statute was renumbered in legislation

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2) Other Employment

- A) Any employee desiring the pursue outside employment shall submit an Outside Employment Approval form (HRF-24) with approval from their department head to the City Manager's office for permission to engage in such employment. All information must be filled out on this form.
- B) The department head may approve or deny the request. If approved, the department head shall submit a copy of the approved request to the City Manager or their designee, who shall then make the final decision. The approval form, once completed with the City Manager or designee's signature, shall be then sent to HR where it is filed in the employee's personnel file.
- C) An employee accepting outside employment under the terms of this rule shall make arrangements with the outside employer to be relieve of their duties when called for emergency service by the City.

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CODE OF CONDUCT

SUBJECT: DRESS CODE

PURPOSE:

To establish guidelines dealing with the appropriate dress and appearance of all City employees.

STATEMENT OF POLICY:

The City of Key West, in service to the community and with respect for the professionalism owed to the taxpayers, provides the enclosed dress code for its employees. The guidelines included herein are intended to empower employees to present a favorable, well-groomed appearance to the citizens of Key West, and to ensure a safe, productive, and professional work environment for City employees. All employees are expected to dress in a manner which is appropriate for the type of work performed and for interactions with citizens, business visitors, and other employees.

SCOPE:

The appropriateness of an employee's specific attire and appearance is determined by the employee's supervisor, manager, department head, and/or the City Manager. Persons in positions of management as relates to an employee may make exceptions to the Dress Code policy at their discretion and based on specific circumstances. Department directors are responsible for notifying employees of the pertinent portions of this policy and for dispensing disciplinary action(s) if this policy is violated.

Complaints regarding violation of this policy are directed to the department director responsible for the employee. Employees who violate this policy may be required to return home to change their attire; the time they are gone from the job site is treated as unpaid leave. The employee may be subject to disciplinary action including reprimand, suspension, and (following repeat offenses) termination, in accordance with Group I disciplinary steps.

1) Attire Requirements – All Employees

- A) All employees must wear appropriate attire and present a neat and orderly appearance at all times during the work shift.
- B) Employees are prohibited from wearing items of clothing that display advertising (with exception to union insignias and designer/manufacturer logos), or offensive illustrations or verbiage during their scheduled work shift.
- C) Employees are prohibited from wearing revealing or provocative clothing.
- D) Employees are prohibited from wearing casual or recreational attire.
- E) Clothing is to be clean and free from visible damage such as holes or stains.

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- F) Undergarments are to be obscured from view at all times. This includes ensuring the waistline of clothing items which cover the legs is secured at an appropriate location on the torso, and upper-body undergarments are also fully covered.
- G) Out of consideration for others, self-care, and self-respect, care is to be taken with regard to personal hygiene.
- H) The use of strongly scented colognes, powders, perfumes, and aftershave is discouraged out of consideration for others, their comfort, health, and safety.

2) Attire Requirements – Office Personnel

- A) Office personnel are to wear appropriate business or business-casual attire at all times during the work shift.
- B) Shirts and other upper-body coverings are to conceal the midriff and chest.
- C) The hemline of clothing items which cover the legs is to fall no more than four (4) inches above the knee.
- D) Appropriate footwear is to be worn at all times during the work shift. Casual footwear and any which restricts an employee's ability to make safe egress in the event of an emergency (including navigating stairs, such as the fire escape) are prohibited.
- E) Employees may choose to participate in Casual Fridays, wherein clean, undamaged (in good condition and free from holes or stains) denim jeans may be worn. Employees may also wear casual shoes, providing they do not restrict an employee's mobility as outlined in the above requirement.

3) Attire Requirements – Field Personnel

- A) City-issued uniforms and shoes, if provided and mandated, must be worn at all times during the work shift.
- B) City-approved shorts may be worn by employees in jobs where such attire is deemed safe and suitable by the department director. The shorts must be hemmed and loose fitting around the legs, with inseams to reach no more than two (2) inches above or below the knee.
- C) Any office personnel required to work in the field more than 80% of their day may wear the above-described shorts on those days.

4) Attire Requirements – Uniformed Personnel

- A) All uniformed personnel are required to be in compliance with their respective departmental guidelines.

Part III

Benefits

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BENEFITS

SUBJECT: HOLIDAYS

PURPOSE:

To provide a policy for the administration of City holidays.

STATEMENT OF POLICY:

The City of Key West provides thirteen holidays to its staff (excepting Police and Fire, due to terms of their collective bargaining agreements) with pay for regular full-time and part-time employees. These are days which City buildings (excepting Police and Fire) are closed to the public.

SCOPE:

- 1) The following holidays shall be celebrated. If a holiday falls on a Saturday or Sunday, management decides whether it is to be observed the preceding Friday or following Monday. The paid holiday is not skipped because it falls on a weekend.

New Year's Day	Columbus Day
Martin Luther King Jr. Day	Veterans' Day
President's Day	Thanksgiving Day
Memorial Day	The Day After Thanksgiving
Independence Day	Christmas Day
Labor Day	

Floating Holidays:

- One to be selected by the City Manager
 - One to be selected by eligible employee to be taken each fiscal year. Must be full-time employee who started working on or before 9/30 to be eligible for following fiscal year.
- 2) A list of the holidays and the dates they will be celebrated is posted at the beginning of the fiscal year. The floating holidays may be determined at a later time. Floating holidays may not be carried over to the next fiscal year.
 - 3) Full-time employees will receive eight (8) hours pay for the above holidays, at their regular straight rate of pay whether or not they are required to work. Employees who are required to work on a holiday will receive regular straight time pay for all hours actually worked on that holiday unless otherwise determined by a collective bargaining agreement. Regular part-time employees shall receive the prorated share of compensation at their regular straight time hourly rate for each approved holiday.
 - 4) An employee who is absent without leave on the day last scheduled to work preceding or following a holiday may forfeit the holiday pay.
 - 5) Holiday leave is not used to compute overtime.

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BENEFITS

SUBJECT: ANNUAL LEAVE

PURPOSE:

To provide a policy for the accrual, approval, and use of annual leave.

STATEMENT OF POLICY:

Each regular employee with scheduled working hours shall accrue annual leave. Accrued annual leave may be used at the completion of probation. Leave requires prior approval from the department head.

SCOPE:

This policy covers the leave accrual rate and the method by which the leave may be used.

6) Accrual

- A) Full-time employees accrue leave based on the length of service (not applicable to Fire and Police, due to their collective bargaining agreements).

Length of Service	Accrual Rate
Less than 5 years	3.0769240 hours/pay period
5 years to 10 years	4.6153841 hours/pay period
10 years or more	6.1538460 hours/pay period

- B) Part-time employees accrue leave based on the length of service and number of scheduled hours per week. The formula is Accrual Rate x Percentage. The percentages used are based on scheduled hours:

Scheduled Hours	Percentage
10-19 hours	25%
20-29 hours	50%
30-39 hours	75%

- C) Annual leave shall not accrue during any leave without pay, including indefinite suspensions and Family and Medical Leave.

7) Use

- A) Annual leave must be used by the end of the fiscal year immediately following the fiscal year in which it was earned. Unused annual leave from the previous fiscal year is forfeited. At any time, the employee shall only the leave earned in the previous fiscal year and the leave earned in the current fiscal year. This subsection excludes grandfathered leave.

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- B) An employee shall submit a signed Leave Authorization form (HRF-4) for approval no less than two (2) weeks prior to taking annual leave. The department head may require more than two weeks notice.
- C) All annual leave is approved at the sole discretion of the department head and is granted in accordance with their requirements. Department heads make appropriate effort to accommodate employee leave requests.
- D) The HRF-4 requires the signatures of both the employee and the department head in order to be processed for payment.
- E) Annual leave taken without an approved HRF-4 is considered absence without permission and is disciplined as such.
- F) To remedy an absence without permission, the employee shall sign and submit the HRF-4 within forty-eight (48) hours of return to work.
- G) An employee who terminates their employment with the City may be paid for up to 240 hours of accrued annual leave.
- H) At the approach of the end of the fiscal year, an employee in danger of forfeiture of annual leave with a pattern of denial may either transfer the leave to sick leave or carry it over to the next fiscal year. A pattern of denial must include:
 - 1) Three or more disapproved HRF-4 requests (over the course of the entire fiscal year)
 - 2) A memorandum from the department head outlining the specific reasons why the employee cannot take leave during the current fiscal year
 - 3) Approval by the City Manager or their designee
 - 4) Agreement that the leave must be scheduled and taken in the subsequent fiscal year
 - 5) An assurance that this allowance is an exception and will not be extended to the same employee on a repetitive basis
- I) Emergency annual leave without the required two-week notice is at the sole discretion of the department head.

8) Grandfathered Leave Exception

Employees, depending on their date of hire and the number of leave hours accrued as of an established date, might have been grandfathered in at a level above the 240-hour cap on annual leave payout at the end of employment. That grandfathered level remains intact provided that the number of accrued annual leave hours never drops below the grandfathered level. If the hours are used, the level decreases according to use until it reaches the 240-hour cap, at which time the grandfathered exception is forfeited.

9) Procedures

A) Annual Leave Request

- 1) Employee completes HRF-4, signs it, and submits to their department head for approval at least two weeks before the leave is to begin, or within timeframes defined in the collective bargaining agreement.
- 2) Department head approves or denies the leave request.
 - (a) Approved and signed HRF-4 is forwarded to Payroll.

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- (b) Unapproved HRF-4 is to be maintained as documentation of a pattern of denial in the event an employee has to transfer unused annual leave to sick leave or roll unused annual leave into the next fiscal year.
- B) Before taking annual leave, the department head must designate who is in charge during their absence via memorandum prior to taking the leave.
- C) Annual leave may be canceled if a situation arises that causes the employee's absence to put the department in an emergency or non-productive status.
 - 1) If the employee suffers financial loss of non-refundable monies due to the cancellation, the employee has exhausted every effort to obtain refund (or reschedule so as to not "lose" the monies), and the employee has documentation that the monies were paid out and cannot be refunded or rescheduled, the City will reimburse the employee.
- D) An employee who terminates employment prior to completion of their probationary period is not entitled to payout of accrued annual leave.
- E) All annual leave shall be taken at such time as it is approved by the department head.
- F) Transfers: if an employee transfers from one department within the City to another, their accrued annual leave shall be transferred with them. Any leave approved by their previous department head is taken at the discretion of their new department head.
- G) The established period of determining annual leave accrued begins on the employee's date of hire.
- H) Annual leave accrued by an employee cannot be transferred to another employee.
- I) Temporary employees shall not accrue annual leave and are not entitled to annual leave upon separation, unless they are hired as regular employees with no break in employment.
- J) Accrued annual leave may be used to supplement sick leave if the employee has exhausted sick leave accruals and at the discretion of the department head.
- K) Paid holidays occurring during annual leave are not charged to annual leave.

BENEFITS

SUBJECT: MEDICAL LEAVE – SICK LEAVE

PURPOSE:

To establish guidelines for the use of sick leave for personal and family illness, injury (non-work related), or a medical condition.

STATEMENT OF POLICY:

All regular employees (not applicable to Police and Fire) shall be entitled to accrue sick leave to be used for an illness, injury, or medical condition of the employee and of the employee's immediate family (child, spouse, and parent by birth or by law).

SCOPE:

1) Accrual

- A) Regular full-time employees are entitled to ninety-six (96) hours sick pay per year accrued at the rate of 3.692307 hours per pay period.
- B) Regular part-time employees are entitled to the same accrual rate as specified in the Annual Leave Policy.
- C) Employees may accrue an unlimited amount of sick leave which will be available for their use during their employment with the City.

2) Use

- A) Sick leave may be used in increments of no less than fifteen (15) minutes by an employee who has successfully completed probation.
- B) Sick leave may be used for the employee's (or the employee's immediate family's) illness, injury, or medical condition.
- C) Sick leave may be used on an emergency basis requiring the employee to notify their supervisor/department head before the start of the workday. With prior notice, sick leave may be used by submitting an HRF-4 for approval. The employee may be subject to discipline for absence without permission and abuse of sick leave if proper notification is not made. Exception is made for emergency situations where best efforts are made to notify the supervisor/department head of sudden illness, injury, or medical condition following missed start time. If prior notice cannot be requested due to emergency situations, best practice is to alert the supervisor/department head at least fifteen (15) minutes prior to start time, or as soon as possible.
- D) Unless the employee is hospitalized or out of town, an employee on sick leave shall remain at home and available to their supervisor by phone during the employee's normal scheduled working hours. Exceptions to this include trips to the doctor, grocery store, and/or pharmacy. If the employee is too ill to answer the phone or leave the house, that is

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to be communicated to the supervisor/department head. Violators of this policy may be subject to discipline for absence without permission and abuse of sick leave.

3) Procedure

Employees who must take sick leave which is over 15 minutes directly related to an illness, injury, or medical condition (for themselves or their immediate family) must follow proper procedures in obtaining approval prior to the leave and supply certification following the leave in order to receive sick leave approval.

- a) Approval: all paperwork and signatures must be obtained prior to the leave
- b) Certification: documentation, releases, and authorizations ordinarily requiring the attending physician's signature, which must be submitted before the employee is allowed to return to work.

A) Scheduled Doctor's Appointment

- 1) Approval – Employee must obtain approval from their supervisor/department head at least 24 hours prior to the time of the appointment by submitting an HRF-4 for approval.
 - (a) Waiving these 24 hours would occur in those incidences where the appointment is set for fewer than 24 hours from the time it is scheduled, due to the emergency nature of the cause for the appointment.
- 2) Certification – If requested prior to appointment, employee must submit a note from their attending physician (physician's certification) regarding return-to-work conditions to the department head.

B) Sick Leave

- 1) Approval – Supervisor/department head shall be notified that the employee is on sick leave no later than the start time of the employee's scheduled workday. Failure to notify prior to the start time may result in forfeiture of the leave benefit. However, reasonable leniency regarding timing of notification is allowed at the discretion of the supervisor/department head in instances when the employee makes good faith efforts to notify as soon as possible.
- 2) Certification – HRF-4 must be signed within 48 hours of return to work for each leave period or risk forfeiture of leave benefit. For absences of three (3) or more days in a rolling two (2) week period, the City may require a doctor's note (physician's certification) to return to work. If this release is required, the employee may be placed on leave without pay until it is received.
- 3) If the employee fails to follow either the approval or the certification procedures, the absence will be considered as absence without permission and will be disciplined as such.
- 4) The City retains the right to:
 - (a) Question any excessive leave and demand additional certification
 - (b) Designate any leave over three (3) days related to a serious health condition as Family and Medical Leave under the FMLA, thereby requiring the completion of the paperwork required by the FMLA upon the employee's return to work.

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4) Sick Leave Transfer

- A) Sick leave may be transferred to a regular associate who meets the following criteria:
 - 1) Associate must have a minimum of one year of service with the City and be in good standing.
 - 2) Associate must provide a demonstrated need due to a catastrophic illness/injury as determined by the City Manager. A catastrophic illness could include a major life-threatening event, such as terminal disease, transplant surgery, extensive hospitalization, or long-term medical care, or disastrous injury.
 - 3) All leave (personal, annual, sick, Kelly, etc.) balances of the associate receiving the transfer must be exhausted before a transfer of hours can be completed.
- B) The associate transferring sick leave may not transfer more than 80 hours leave in a calendar year and may not transfer leave that would reduce their own sick leave balance below 160 hours.
- C) Once the leave has been transferred, the person transferring the leave loses all right to the hours transferred but may continue to accrue sick leave hours up to the 720 hours cap.
- D) The City Manager shall consider all transfer requests on an individual basis and the decision rendered is final. Any additional information needed may be requested by the City Manager on an individual basis in determining the request.
- E) Transfer of sick leave does not limit or waive the City's rights to require return to work as soon as possible, or the right to require physical examinations or a physician's note (physician's certification).
- F) To transfer sick leave, the employee completes the standard sick leave Transfer Donation Form available from the Human Resources department.
- G) Human Resources notifies the recipient of the transfer of hours and the name of the donor.

BENEFITS

SUBJECT: MEDICAL LEAVE – WORKERS’ COMPENSATION

PURPOSE:

To provide a policy for the administration of Workers’ Compensation (aka Workers’ Comp) benefits to each employee.

STATEMENT OF POLICY:

An employee who sustains an on-the-job injury must follow procedure to notify their supervisor/department head immediately after the injury, complete required paperwork, seek necessary medical attention in a timely manner, and reduce the detrimental impact on job performance.

SCOPE:

1) Notification and Documentation

- A) Employee shall notify their supervisor/department head immediately after the injury. Even if the injury seems small and not painful, every injury must be reported.
- B) Employee shall supply their supervisor/department head and the Risk Manager with all information pertinent to the injury: date, time, location, activity when injured, part of the body injured, and the result of the injury.
- C) Employee shall complete a Notice of Injury Form according to direction provided by the Risk Manager.
- D) Failure to notify the supervisor/department head or Risk Manager shall result in what is called a “controverted claim” – in which the employee is ineligible for workers’ compensation and may be subject to disciplinary action.
- E) Failure of the supervisor/department head to notify the Risk Manager results in disciplinary action.

2) Medical Attention

- A) All injured employees shall report to (or are transported to) an appropriate, authorized physician of the City’s choosing, as specified by the Risk Manager.
- B) Seriously injured employees shall be taken to the Lower Florida Keys Health Systems. Employees injured after operating hours of the authorized physician’s office are to go to the Lower Florida Keys Health Systems in the event they require immediate medical attention.

3) Documentation and Procedures

- A) Minor Injuries – Requiring doctor/outpatient care. After any necessary actions to address the emergency following an injury, the employee’s immediate supervisor/department head and the Risk Manager will conduct an investigation. This investigation of the injury includes collecting information from witnesses to determine the cause. The findings of

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the investigation shall be documented on an HRF-30, with copies issued to the Risk Manager, department head, and Human Resources.

- B) Major Injuries – Fatality or requiring immediate hospitalization or removal from duty. The City Manager, Risk Manager, and department head shall be notified immediately by the employee's immediate supervisor. Failure of the supervisor to report such an injury results in disciplinary action. An investigation under the direction of the Risk Manager is conducted, including assistance from the HR Director and the department head.

4) Follow Up

- A) Minor Injuries – If an injured employee returns to work, they may be required to submit a doctor's note (physician's certification) within 24 hours of returning to work to verify they have doctor's approval.
- 1) The injured employee shall report to the Risk Manager between 10 and 14 days after the date of injury to check in and verify that the injury is not ongoing and does not require further treatment.
 - 2) The employee will be asked to sign a statement of verification.
- B) Major Injuries – If an injured employee is unable to return to work and/or if the injury requires ongoing treatment, the employee shall submit a copy of their job description to their attending physician in order to receive a detailed physician's certification outlining the employee's capacity to return to work (or not). The employee shall not return to work without a physician's certification.
- 1) The employee must set up a reporting schedule with the Risk Manager and department head. The employee's department head and the employee are responsible for ensuring that the employee follows this schedule.
 - 2) The Risk Manager and the employee's department head are responsible for guiding the employee through the recovery period and protecting the liability of the City.
 - 3) An employee out on Workers' Comp is under the same restrictions as an employee on sick leave, as detailed in the Sick Leave Policy.
 - 4) If the injured employee is unable to perform the essential functions of their job or is a direct threat to themselves, coworkers, or citizens, refer to the Americans with Disabilities Act Policy with the Human Resources Department.

5) Compensation

- A) In the event it is determined that an employee has sustained an on-the-job injury, incurred while acting in the line of duty, the City agrees to:
- 1) Grant that employee one cumulative week (40 hours) of Workers' Comp pay at full salary per fiscal year employed with the City, to be used for any injury-related absence from the City. If not used, this compensation benefit does not roll over.
 - 2) Pay the employee 70% of their regular rate of pay for up to six months after the injury is sustained and permit the employee to use any accrued sick or annual leave to make up the balance (30%) of their pay.
- B) If an injured employee is absent from work for more than six months, whether receiving Workers' Comp or not, the City Manager may place the employee on a "medical leave of absence." The employee is placed on this "medical leave of absence" in the sole

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discretion of the City Manager, under whatever terms and conditions the City Manager (in their sole discretion) deems appropriate. Alternatively, if the employee is absent from work for more than six months and the City Manager determines the need to fill the employee's position, the employee may be terminated. The employee is then placed on a preferential hiring list for up to 12 months. Neither decision of the City Manager can be grieved.

- C) When directed by the City, any employee on disability leave shall report for examinations by City-designated physicians. These exams are scheduled with reasonable accommodation for the employee's time. The City bears the full expense of the examination. Failure of any employee to report for an exam as directed will automatically terminate disability leave.
- D) An employee must be able to perform 85% of the duties, tasks, and jobs detailed in the job description and the essential functions before being allowed to return to work. The department head shall make this determination with the advice of the HR Director.
- E) Whether an employee on disability leave becomes physically able to perform some useful light duty work for the City, they may be required to do so as a condition of receiving the benefits. However, the City is not obligated to provide light duty or create conditional employment.

BENEFITS

SUBJECT: MEDICAL LEAVE – FAMILY AND MEDICAL LEAVE ACT (FMLA) as amended January 16, 2009

PURPOSE:

To provide a policy for the administration and use of leave authorized by the Family and Medical Leave Act.

STATEMENT OF POLICY:

The City adheres to the FMLA, revising its policy to incorporate any amendments or changes in interpretation in as timely a manner as possible.

SCOPE:

1) Eligibility

A City employee is eligible for FMLA leave, if the employee has worked for at least one year, for 1,250 hours over the previous twelve (12) months.

2) FMLA Leave Entitlement

A) Basic Leave Entitlement

- 1) FMLA provides up to twelve (12) weeks of unpaid, job-protected leave in a twelve (12) month period to eligible employees for the following reasons:
 - Incapacity due to pregnancy, prenatal medical care, or childbirth.
 - To care for the employee's child after birth, or placement for adoption or foster care.
 - To care for the employee's spouse, child, or parent who has a serious health condition.
 - For a serious health condition that makes the employee unable to perform their job.

The twelve-month period is a rolling period measured backward from the date FMLA leave commences.

2) Twelve-Week Spousal Limitation

A married couple employed by the City is limited to a combined total of twelve workweeks of leave during the 12-month period if the leave is taken:

- For the birth of their child.
- For placement of a child with them for adoption or foster care.
- To care for a child during the twelve months following birth or placement.
- To care for the employee's parent (does not cover in-law care) with a serious condition.

B) Military Family Leave Entitlement

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Eligible employees with a spouse, child, or parent on active duty or call to active-duty status in the National Guard or Reserves in support of a contingency operation may use their twelve weeks of FMLA leave to address certain qualifying exigencies.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service member during a single twelve-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty while on active duty that may render the service member medically unfit to perform their duties and for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

C) Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a healthcare provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a healthcare provider or one visit and a regimen of continuing treatment, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

3) Use of FMLA Leave

An employee need not use leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary and documented. Employees must take reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt department operations.

4) Substitution of Paid Leave for Unpaid Leave

Employees must use accrued sick leave while taking FMLA. Employees may choose to use accrued annual leave during FMLA status once sick leave is exhausted. In order to use accrued leave, employees must comply with City, department, and FMLA guidelines and policies.

5) Employee / Employer Responsibilities

Employees must provide thirty days advanced notice of the need to take FMLA leave when the need is foreseeable. When thirty days' notice is not possible, the employee must provide notice as soon as practicable and generally must comply with the City and department rules on call-in procedures.

Employees must provide sufficient information for the City to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient

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information includes: documentation supporting that the employee is unable to perform daily activities, the need for hospitalization or continuing treatment by a healthcare provider, or circumstances supporting the need for military family leave. Employees also must inform their department head and the Human Resources office if the reason for the requested leave is the same as previously taken or certified FMLA leave.

Employees will be required to provide medical certification and periodic recertification supporting the need for leave. Human Resources informs employees requesting leave whether they are eligible under FMLA. Those employees requesting FMLA leave are notified of eligibility and required documentation. Those employees not meeting eligibility requirements are notified as to the reason for ineligibility. The appropriate forms are available from the Human Resources office.

6) Benefits and Protections

During FMLA leave, the City will maintain the employee's health coverage on the same terms and conditions as if the employee continued to work. Employees with dependent coverage must make arrangements with the Human Resources office to ensure sufficient payment of dependent coverage during FMLA leave. Upon return from FMLA leave, most employees will be restored to their original or equivalent position with equivalent pay, benefits, and other employment terms.

7) Return to Work

If the qualifying event is not related to the employee's health, no return to work documentation is required. If the qualifying event for the FMLA leave is the employee's serious health condition, the employee will not be allowed to return to work until the following has been submitted to Human Resources for placement in the employee's medical file:

- A) Physician's certification (doctor's note)
- B) A signed statement from the employee's treating physician or practitioner stating that the employee is able to perform the essential functions of the employee's position
- C) A fitness-for-duty examination, if required, at the City's expense.

The employee will not be allowed to return to work until the preceding has been submitted to HR for inclusion in the employee's medical file.

BENEFITS

SUBJECT: FUNERAL LEAVE, MILITARY LEAVE, & CIVIL LEAVE

PURPOSE:

To provide a policy for granting, administration, and use of funeral. Military, and civil leave

1) Funeral Leave

- A) Any full-time employee may be granted funeral leave in the event of a death in the employee's immediate family, upon approval by the department head. Total funeral leave with pay shall not exceed three days or twenty-four working hours. If the funeral is out of town, up to two additional days may be granted for travel time. Subject to approval, up to four hours leave with pay may be granted in the event of a death of a family member (to attend the funeral proceedings).
- B) The employee's immediate family shall be defined as spouse, parent, child, sibling, grandparents, and grandchildren by birth or by law (including in-laws and adopted individuals), and live-in dependents. If required, the employee shall provide the department head with proof of death in the family.
- C) If additional time is necessary, it shall be taken as annual leave. If annual leave has been exhausted, sick leave may be requested with advance authorization by the appropriate department head or the City Manager's office. The employee must notify their immediate supervisor upon determining that they need to take time off work.
- D) Employees who fail to return to work on the date specified by the department head, without receiving an extension, are subject to disciplinary action up to and including termination.

2) Military Leave

- A) Authority: The authority for this policy is derived from the provisions of Public Law 93-508 dated December 3, 1974, as amended by Public Law 94-286 dated May 14, 1976, and RCW 38.40.060.
- B) Application: This policy applies to all City employees who are affiliated with the United States Armed Forces, National Guard, or Coast Guard.
- C) Employer's Responsibilities:
 - 1) The City is obligated to release employees for services with the Armed Forces when the employee participates in:
 - (a) Annual Training (Summer Camp)
 - (b) Active Duty Training (School)
 - (c) Inactive Duty Training Assemblies (Weekend drills)
 - (d) Extended leave of absence for voluntary active duty service (Enlistment)
 - (e) Involuntary call-up
 - 2) Military leave of absence shall result in no loss of seniority status or benefits which would have normally accrued.

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- 3) The City is obligated to grant Military Leave with pay to the employee for absences not exceeding seventeen calendar days per year in accordance with RCW 38.40.060. The City will not require the employee to use normal annual leave for such purposes. The employee may, however, request use of annual leave or leave of absence to supplement absences exceeding those covered by the seventeen-day Military Leave allowance.
 - 4) An employee who is called to or volunteers for service with the Armed Forces of the United States or the National Guard is eligible for reinstatement in their position upon completion of service, providing that period of services is four years or less. Eligibility for and terms of reinstatement are administered in accordance with state or federal law.
 - 5) The City makes a reasonable effort to adjust work schedules and assignments to accommodate employees fulfilling military obligations.
 - 6) An employee promoted or hired to fill a vacancy created by a person on military leave is appointed to the position on a temporary basis subject to the return of the absent employee. Upon the return of the employee on military leave, that employee is restored to their original position and the temporary employees is returned to their previous position or is subject to termination.
- D) Employee's responsibilities
- 1) In accordance with the Uniformed Services Employment and Reemployment Rights Act, the City does not require the employee to provide the department head copies of all military orders which will result in a leave of absence for active military duty prior to leaving on said duty. Employees are required to notify their supervisor as soon as possible upon learning of scheduled military duty. As early as possible, the employee is to submit documentation of military orders to their department head which specify:
 - (a) Dates of absence
 - (b) Order-issuing authority
 - (c) Letter order number
 - (d) Signature of issuing authority

The City is aware that not all deployments can be announced to civilian employers and as such asks for as much courtesy notice as can be afforded.
 - 2) Employees who fail to return to work on the date specified in the leave authorization without receiving an extension in advance are subject to disciplinary action up to and including termination.
 - 3) Inactive duty training dates (weekend drills) should be provided to the department head as soon as available if the dates conflict with scheduled employment with the City.
 - 4) Extended leave of absence (exceeding the seventeen days allowance) will be pursuant to the Leave of Absence Policy.

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3) Civil Leave

- A) Any regular full-time or part-time employee who is required to serve on a jury or is required to appear before a court, legislative committee, or quasi-judicial body as a witness in response to a subpoena or other directive as a result of official City duties, shall be allowed authorized leave with pay less any compensation received for such service. The employee is paid for the time served if it is the same time that the employee is scheduled to work. If an employee is scheduled to work hours other than that time when the jury is in session, the employee is required to work those scheduled hours and will not be paid for the hours spent in jury duty. However, the employee may keep any court payment for services performed on the days not regularly scheduled to work or while on annual or personal leave.
- B) The employee is required to turn over jury or witness fees to the Finance Department, excluding mileage fees.
- C) A probationary employee will have their probationary period extended by the same amount of time required for serving on jury duty or witness service if over five (5) days.
- D) An employee who receives notice of jury duty or witness service must notify their supervisor immediately by submitting an HRF-4 to make arrangements to cover the position.
- E) Employees who appear in court as the plaintiff or defendant in any action not related to their official duties shall not be paid for time away from work unless using accrued annual leave. Court payments for travel expenses, in these instances, are retained by the employee.
- F) The City reserves the right to request that an employee who is called for jury duty be excused if their absence would create a hardship on the operational effectiveness of their department.
- G) If excused as a juror on any given day, the employee is expected to report to work as usual during their scheduled hours.

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BENEFITS

SUBJECT: EMPLOYEE ASSISTANCE PLAN

PURPOSE:

To provide City employees and their dependents with an organized program and facility to address personal issues and problems that might adversely affect their job performance and home life.

STATEMENT OF POLICY:

An employee experiencing personal problems may confidentially contact the City's Employee Assistance Plan (EAP) provider to schedule an appointment to discuss their situation.

SCOPE:

- 1) The City has an Employee Assistance Plan through insurance which is free for employees and members of their household to contact for help. For the most up-to-date contact information to initiate contact with the EAP, contact Human Resources.
- 2) Employees may call the EAP provider confidentially to discuss problems or issues. It is not necessary for an employee to get their supervisor's approval to use these services.
- 3) Once the provider is contacted, the type of service required will be determined by the employee and a counselor.
- 4) On occasion, it may be necessary for a department head or the HR Director to refer an employee to the EAP due to work-related interpersonal problems or substance abuse.
- 5) The EAP provides a variety of services depending on individual needs including: anger management, substance abuse, depression, sleep problems, family issues, relationship problems, and a variety of other mental health conditions. Programs offered include traditional mental health programs, individual/group/family counseling, psychiatric treatment, testing, and specialized substance abuse programs.
- 6) Employees may seek services under the EAP confidentially; no detailed reports are provided to the City unless the employee has been referred for treatment due to a specific work situation. Employees making appointments during normal work hours must schedule time through their supervisor, the same as a doctor's appointment.
- 7) The EAP program is offered at no cost to the employee and is not charged to the City-provided health insurance program.