

RESOLUTION NUMBER 07-12

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING REVISIONS TO THE TOWN PERSONNEL RULES AND REGULATIONS MANUAL AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the measures set forth in this Ordinance are necessary to provide for the protection of public health, safety, and welfare and to preserve the lives and property of the people of the Town.

IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. Incorporation of Whereas Clauses. The above "Whereas" clauses are hereby incorporated by reference as though fully set forth herein.

Section 2. Approval of Personnel Rules and Regulations Manual. The Personnel Rules and Regulations Manual which is attached hereto as Exhibit "A" and hereby incorporated by reference is hereby adopted in its entirety as the official Town Personnel Rules and Regulations Manual and any previous versions of such Manual are hereby declared null and void.

Section 3. Effective Date. This resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was adopted by the Town Council upon a motion by Councilmember Shenko and seconded by Councilmember Meador, and upon being put to a vote, the result was as follows:

Dennis C. Boback, Mayor	aye	Garr Reynolds	nay
Don Massucco, Vice Mayor	aye	William Shenko, Jr.	aye
Charles Meador, Jr.	aye		

TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: 
Dennis C. Boback, Mayor

Approved as to legal sufficiency:

By: 
Anne Dalton, Esquire
Town Attorney

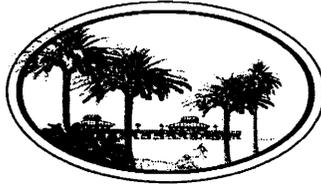
ATTEST:

By: 
Michelle Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

MANUAL OF

PERSONNEL POLICIES



Updated February 2007

SECTION 1: ADMINISTRATIVE PROVISIONS

1.1 PURPOSE

- a. It is the purpose of these rules and regulations to establish normal procedures that will serve as a guide to administrative actions concerning the various personnel activities and transactions. They are intended to indicate the customary and most reasonable methods whereby the aims of the personnel program can be carried out.

- b. However, these rules and regulations shall not be construed as a contract of employment, expressed or implied, and the Town retains the right to revise, amend, or eliminate these rules and regulations at any time, without the approval of any employee.
- c. No employee, except the Town Manager, is authorized to enter into any contract of employment with any employee, whether written, expressed or implied; and the Town Manager is not authorized to enter into oral contracts or any implied contracts for employment.
- d. Therefore, no applicant or employee is entitled to rely on any oral promises of employment or continued employment, or employment for any definite duration. Involuntary terminations of employment will not be done for an illegal cause.
- e. Employment with the Town of Fort Myers Beach is at-will. This at-will employment relationship cannot be changed orally or by any conduct, unless such change is specifically enacted by the Town Council.

1.2 SCOPE.

The terms of this Manual shall apply to all employees of the Town.

1.3 POSITIONS COVERED

These rules and regulations shall cover all employees in the executive, exempt and non-exempt classes. The Town Manager and Town Attorney shall be entitled to the same benefits unless otherwise provided for in a separate agreement. These rules and regulations do not apply to volunteers providing services to the Town.

1.4 ADMINISTRATION

The Town Manager shall be responsible for the administration and technical direction of the Town Personnel Management System. He or she may appoint a designee to maintain the day-to-day responsibility for the operation of this system.

1.5 AMENDMENTS, CHANGES OR REVISIONS OF THE RULES AND REGULATIONS

- a. The Town Manager or designee shall prepare changes to these rules and regulations as necessary for the effective administration of the personnel system.
- b. Substantial amendments or revisions of these rules and regulations shall be by Council resolution, and shall be distributed to all employees.

- c. The Town manager and Directors may establish, modify and enforce operational rules, regulations and procedures in addition to the regulations contained herein, provided, however, that any such rules, regulations and procedures shall not be inconsistent with the regulations contained herein.

SECTION 2: DEFINITIONS

2.1 DEFINITIONS OF TERMS USED IN THE PERSONNEL MANAGEMENT SYSTEM OF THE TOWN OF FORT MYERS BEACH.

Active Military Service: Active duty in the Florida defense force or federal service with any branch of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard. The period of active military service shall commence with the date of entering upon active military service, and shall terminate with death, or a date thirty days immediately next succeeding the date of release or discharge from active military service, or upon return from military service whichever shall occur first. Active military service shall include the period during which a person in military service is absent from duty on account of illness, wounds, leave, or other lawful cause.

Allocation. The assignment of a position to its appropriate classification in relation to duties and responsibilities performed.

Anniversary Date. That date which designates each successive year after the employee's most recent date of hire as a regular employee. If an employee is upgraded or downgraded through a promotion, reclassification, demotion, transfer or any other similar action, the anniversary date will not change. Former employees who are re-hired begin a new anniversary date.

Applicant. An individual who has completed and submitted an application for employment with the Town.

Appointment. The offer and acceptance by a person to a position either as a regular or temporary employee.

Break In Service. An interruption in continuity of employment by the Town, created by financial exigencies or natural disasters, following a legal termination of such employment. Reductions in work force for periods of less than eighteen (18) months shall not constitute a break in service.

Job Description. A general statement of the nature and level of work, the distinguishing features of work, examples of duties and responsibilities, knowledge, skills and abilities, and the minimum qualifications for the class.

Classification. The occupational title assigned to a position or group of similar positions based on a common position evaluation.

Classification Plan: A plan for the classification of all Town employment positions which includes, but is not limited to, the official list of classifications, the assigned pay Grade for each classification, the specification for each classification, the arrangement of classifications into occupational series (if appropriate), and the General Salary Schedule.

Compensation. The standard rates of pay, which have been established for the respective positions.

Conditional Probationary Period. Normally, a period of six months of conditional probation, immediately following promotion. This period may be extended for an additional period of up to six months. Such period of employment does not affect the employee's rights as a regular employee.

Demotion. The voluntary or involuntary movement of an employee into a classification having a lower pay grade than the employee's previous classification. The term does not include the reclassification of a position or the reallocation of a classification.

Department Director. The director of each Town department established pursuant to the Town Ordinances and Charter.

Discipline Or Disciplinary Action. The dismissal, suspension, demotion, or reprimand of an employee.

Dismissal. An involuntary separation from employment, except by expiration of term, suspension or retirement.

Designee. That person designated by the Town Manager to administer duties on his/her behalf. The term "Town Manager" throughout this document is to be construed as "Town Manager or designee".

Eligible Applicant. A person who has successfully met required qualifications for a particular position.

Eligibility List. A roster of all the applicants who meet the minimum qualifications of the classification for which recruitment is being done.

Eligibility List Announcement. A form of notice to be used to apprise interested persons of the creation of an Eligibility List.

Examination. Any device, including but not limited to evaluation of education and experience, oral interview, assessment center, performance test or written examination, which is used to evaluate the relevant qualifications of an applicant for a position.

Employee. An individual who is legally employed by the Town and is compensated through the Town payroll for their services. Individuals or groups compensated on a fee basis are not included.

Executive Class. All classifications included in the executive pay plan. This has the same meaning as that set forth in Section 213(a) of the Fair Labor Standards Act as amended.

Exempt Class. All classifications included in the Town's exempt pay plans. This has the same meaning as that set forth in Section 213(a) of the Fair Labor Standards Act as amended, including the executive, administrative, and professional classes. The exemption is from the wage and hour provisions of the Act.

Fiscal Year. The period of time which begins on October 1st of each year and continues through September 30th of the following year.

Full Time. Appointment to a position that requires an employee to work forty (40) hours or more per week.

Immediate Family. Includes spouse, children, step-children, parent, step-parent, grandmother, grandfather, brother, half-brother, sister, half-sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, legal guardian, grandchildren, foster child, aunt, uncle, nephew, niece and persons serving in loco parentis. Any other relative living in the same household is also considered immediate family.

Initial Probationary Period. A period of probational employment, in the same position, immediately following the original date of employment by the Town, or following a break in service.

Lateral Transfer. The movement of an employee from one position to another position having the same pay grade and the same degree of responsibility. Lateral transfers may be within the department or from one department to another.

Legal Holidays. Those holidays specified in Article 10.2 A1 of this ordinance.

Leave. An approved type of absence from work as provided by these rules.

Merit Pay Bonuses. An increase in compensation or bonus award which may be granted to an employee or group of employees for meritorious service.

Non-exempt Class. All classifications included in the nonexempt pay-plans. This has the same meaning as that set forth in the Fair Labor Standards Act as amended.

Offense. Any infraction, material failure to follow rules, material inability or failure to meet a standard of conduct or competency, or any other reason for taking disciplinary action.

Overtime. All hours worked by employees assigned to nonexempt classes in excess of forty (40) hours per week. (Except those employees in classifications as qualified under the Fair Labor Standards Act who are scheduled to work over forty (40) hours per week, but less than eighty (80) hours in a pay period (two weeks), who then receive overtime for hours worked in excess of eighty (80) hours for that pay period.)

Part-time. Appointment to a position that requires the employee to work less than forty (40) hours per week.

Pay Rate. A specific dollar amount, expressed as an annual rate, a monthly rate, a bi-weekly rate, or an hourly rate, as shown in the compensation/pay plan of the Town.

Pay Grade. One of the hierarchical steps on the General Salary Schedule, including a minimum, mid-point and maximum, that define the wage or salary range for that step.

Personnel Director. As referenced throughout this manual, the Town's Personnel Director is the Town Manager, or his/her designee.

Position. A grouping of duties and responsibilities to be performed by an individual.

Probationary Employee. A person who occupies a position in a classification included in the Town's Classification Plan who has not yet successfully completed his/her probationary period.

Rate of Pay. An employee's wage or salary, which ever is appropriate to an employee's status under the Fair Labor Standard Act 929 U.S.C., Sections 201-219).

Reclassification. The non-competitive movement of an employee to a classification in the same or a different (higher or lower) pay grade due to a change in that employee's job duties and responsibilities.

Reduction In Force (Layoff). The involuntary separation, through no fault of the employee, e.g., by reason of lack of work, lack of funds, changes in organization, or similar reasons.

Regular Employee. Any employee who has successfully completed the initial probationary period.

Rehire. The re-engagement of a person for labor or personal services in return for a wage or salary. Persons who are rehired are considered to be newly-hired for all purposes of this Manual.

Resignation. The voluntary termination of employment by an employee.

Salary Step Adjustment. An annual adjustment in salary granted for satisfactory job performance ratings and intended to advance an employee through a salary range.

Seniority. Preferential position which is based on length of continuous employment with the Town and which is one of the criteria applied in determining order of layoff.

Specification. The written description of a classification. A specification shall contain: (1) a description of the scope of assigned duties and responsibilities for the classification; (2) a description of superior and subordinate if any, relationships; (3) examples of duties and responsibilities normally assigned; (4) the minimum qualifications required of the classification (including the education, experience, knowledge, skills and abilities required of the classification); and (5) the date of the specification's creation or last review.

Suspension. Involuntary separation from employment during a limited period of time for disciplinary or administrative purposes.

Termination. A separation from Town employment other than resignation, retirement, death, or layoff.

Town. The Town of Fort Myers Beach, Florida.

Transfer. The voluntary or involuntary movement of an employee from one position to another in the same classification within the Town Department to which he/she is assigned.

Volunteer. A person who performs services for the Town of his/her own free will, without compensation. For purposes of this manual "volunteer" has the same meaning as that contained in Section 203(e) 4(a) of the Fair Labor Standards Act, as amended.

Working Days. When computing any time periods with this Manual, the term “working days” shall not include legal holidays.

SECTION 3: GENERAL PROVISIONS

3.1 POLICIES OF THE TOWN

A. PERSONNEL MANAGEMENT SYSTEM

1. One objective of the Town is to establish and administer a system of Personnel Management consistent with the goal of providing superior service to the community by employing and retaining individuals of the highest caliber whom display pride and dignity in the performance of their duties.
2. It is the policy of the Town to expect from its employees' compliance with all State statutes and Federal regulations in the performance of duties, as well as compliance with all safety rules and standards. An employee who violates any of the rules and regulations may be subject to disciplinary action.

B. MANAGEMENT RIGHTS

The Town shall have the exclusive right to manage the facilities, services and business of the Town and direct the working forces. These rights include but are not limited to: The right to determine the organization of Town government; to determine the purpose of each of its constituent agencies; to exercise control and discretion over the organization and efficiency of operations of the Town; to set standards for services to be offered to the public; to establish, change or modify dates, tasks, responsibilities or requirements within class specification (job descriptions) in the interest of efficiency, economy, technological changes or operating requests; to plan, direct and control operations; to assign work and schedule the working hours; to determine the extent to which Town services will be performed by Town employees or by contract providers; to hire, train, promote, demote and transfer employees; to suspend, discipline or terminate and to lay off employees for lack of work or for other reasons; to make and enforce rules and regulations in the Personnel Manual; to introduce new methods, materials, or facilities; to establish new job classifications and eliminate job classifications; to assign overtime work; and to establish benefits and rates of pay.

C. LABOR UNIONS

1. The Town's policy is an open door policy under which all employees have the right to deal directly with their supervisor with reference to all working conditions. The Town is opposed to an outside third party, a union, in its working relationship with Town employees.

2. It is the Town's position that a union would not benefit employees, the Town nor the public it serves. It is, therefore, the Town's intention, as permitted by state law, to oppose by lawful means any union, which may seek to organize employees of the Town.

3.2 EQUAL OPPORTUNITY

A. POLICY

1. The Town recognizes its responsibility to the public as an employer to ensure equal employment opportunities for all qualified persons and to prohibit discrimination in employment and in the work place. Therefore, in accordance with the Civil Rights Act of 1964, as amended, and the Rehabilitation Act of 1973, Section 504, as amended, it shall be the policy of the Town to recruit, employ, provide benefits, compensation, training, advancement opportunities, layoff and recall, working conditions and application of all personnel rules and regulations to all persons without regard to race, creed, color, sex, religion, national origin, age, handicap or marital status, except situations where a bona fide occupational qualification exists. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, or any other personnel action because of race, religion, national origin, color, sex, age, political affiliation, marital status or disability is prohibited . The Town is an equal opportunity employer.

2. The Town, its manager and staff, will make good faith efforts to identify, recruit, hire, train and promote qualified persons including women, minorities, individuals with a disability, veterans and older workers.

B. PROGRAM ADMINISTRATION

1. The Town Manager shall have the overall responsibility for the administration, direction and implementation of the Town's Equal Employment opportunities. The Manager may appoint a designee to manage the programs.

2. The Town Manager will:

a. Ensure all required local, state and federal reports are completed.

b. Monitor and evaluate all employees' compliance and progress in management of the program.

C. RECRUITMENT/SELECTION/APPOINTMENT

Hiring, promotion, transfer, layoffs and recalls will be based on job-related criteria. All notices of position vacancies to be filled, as regular employees will be posted at all major work locations for a minimum of five (5) working days. Job vacancy announcements to be filled as regular employees by other than current Town employees also may be distributed to minority and professional organizations, state agencies, community organizations, colleges and universities, and other associations that will enhance recruitment efforts for women, minorities, disabled individuals, veterans, and older workers. Advertisements may be placed in newspapers, journals, periodicals, newsletters and other publications to further enhance such recruitment efforts.

D. DISABILITY

1. An individual with a disability is one who:
 - a. Has a physical or mental impairment, which substantially limits a major life activity,
 - b. Has a record of such impairment, or
 - c. Is regarded as having such impairment.
2. The Town will work to ensure the elimination of access and employment barriers and to make reasonable accommodations for a qualified individual with a disability unless such accommodations would impose an undue hardship on the conduct of the Town's business.
3. The Florida Comprehensive AIDS Act establishes a legislative finding that the HIV infection is spread in three ways: by sexual activity, by intravenous drug use, and from an infected mother to her fetus. Additionally, the legislation finds and recognizes that the disease is not spread by casual contact and that any scientific evidence does not support public fear of contagion from casual contact.

Under Section 45(l) of the AIDS Act, protection from employers' acts of discrimination is extended to any person with AIDS or AIDS-related complex (ARC) as well as to HIV virus asymptomatic carriers.

It is the Town's policy that employees who are infected or believed to be infected with AIDS, ARC or HIV virus should not suffer discrimination in the work place.

It is the policy of the Town not to permit discrimination in employment against such employees or employees mistakenly believed to be infected.

It is the policy of the Town to maintain confidentiality, as permitted by law, of records and information related to the medical condition or status of employees covered under the Town's health or life insurance benefits program.

Any employee who refuses to work with an HIV-infected employee or one who has been diagnosed with AIDS or ARC may be subject to discipline where there is no medically proven significant risk of transmission or health hazard to the employee.

E. PREFERENCE IN EMPLOYMENT

1. Veteran's Preference

As required by Chapter 295, Florida Statutes, it is the policy of the Town to provide Veteran's Preference to eligible applicants. Applicants claiming Veteran's Preference shall indicate same on the Town's application for employment and the application must be accompanied by a completed preference form and a copy of the applicant's discharge papers. For positions in which an examination is used to evaluate applicants, veterans who qualify for preference under Section 295.07, Florida Statutes, shall be entitled to additional points in accordance with Section 295.08, Florida Statutes. For positions in which no examination is used to evaluate applicants, persons entitled to veteran's preference shall be entitled to participate in all steps of the selection process. An individual's veteran's employment preference shall be deemed to have expired when that person has been employed by any state or any agency of a political subdivision of the State.

2. Minority Preference

In the event two (2) or more persons are equally qualified for a classification, the Town shall give preference to the minority candidate. For purposes of this section, the term "minority candidate" shall mean that the person is a female and/or is a member of a racial and/or ethnic group that is generally afforded minority status under the laws of the United States(e.g., including but not limited to Asian, Afro American, Hispanic, Latin American, Native American, Pacific Islander.)

F. SEXUAL HARASSMENT

1. Sexual harassment is defined as follows:

- a. Quid pro quo. Unwelcome sexual conduct (sexual advances, requests for sexual favors and other verbal or physical conduct of sexual nature):

- i. Submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment; or
 - ii. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - b. Hostile work environment. Unwelcome sexual or gender-based conduct that has the purpose or effect of:
 - i. Creating an intimidating, hostile or offensive working environment, or
 - ii. Unreasonably interfering with an individual's work performance.
2. Sexual harassment, a violation of Section 703 of Title VII of the Civil Rights Act and applicable state statutes, is illegal and contrary to Town policy and may result in disciplinary action. Any Town employee who feels he/she is the victim of sexual harassment should either orally or in writing report the problem to the Town Manager or the Town Finance Director.
3. False accusations of sexual harassment may have a serious effect on one or more individuals. Therefore, false accusations can result in termination of the employee making the false accusation.

3.3 CODE OF ETHICS / CONFLICT OF INTEREST

1. Employment with the Town is governed by Chapter 112, Florida Statutes, the Code of Ethics for Public Officers and Employees, which sets forth general standards of conduct for public employees, and the Town Charter and Ordinances, as they may be amended.
- a. Employees may not accept anything of value when they know, or should know, that it is given to influence their decision as a Town employee.
 - b. Employees shall not solicit or accept any gift, including Christmas gifts, loan, reward, promise of future employment, favor or service based upon any understanding that their judgment would be influenced thereby, or that might reasonably tend to improperly influence them in the discharge of their official duties. This includes the acceptance of free gifts, tickets, services, memberships, etc. that are not also offered to the general public.
 - c. Employees shall not use or attempt to use their position to secure special privileges or exemptions for themselves or others, except as may be provided by policy and/or law.

- d. Employees are restricted from having other business relationships with the Town. No employee who can authorize purchases may obtain goods or services for the Town from any company in which the employee or a relative of the employee has a financial interest of five (5%) percent or greater. No employee may sell goods or services to the Town.
 - e. Employees shall not accept employment or engage in any business or professional activity, which they might reasonably expect, would require or induce them to disclose confidential information acquired by them by reason of their official position.
 - f. Employees shall not disclose confidential information gained by reason of their official position, nor shall they otherwise use such information for their personal gain or benefit.
2. Employees shall avoid conflict of interest, and to the extent reasonably possible, avoid the appearance of conflicts of interest. If any questions exist, the employee must discuss the issue with the Town Manager.

3.4 POLITICAL ACTIVITY

The political activity of any Town employee shall be governed by Section 104.31, Florida Statutes as amended.

- 1. All employees are encouraged to register to vote and to exercise this privilege at each opportunity afforded.
- 2. No employee shall be required to make a contribution of any kind to any political party or any candidate for public office. The solicitation during working time of any assessment, subscription or contribution of any kind and in any manner for any political party, purpose or candidate is prohibited and constitutes grounds for immediate discharge.
- 3. Employees are permitted to take part in political campaigns, but only to extent permitted by Florida Statues cited above. In particular, employees are prohibited from utilizing his or her official authority, influence of position for the purpose of interfering with an election or nomination or for the purpose of coercing or improperly influencing another person's vote.
- 4. Employees are permitted to engage in political activities during non-duty time so long as their activities do not interfere with the operation of Town business and are not otherwise prohibited. Employees are not permitted to engage in political activities during on-duty time.

5 Employees shall not wear or display political badges, buttons, stickers or other insignia, when on duty, wearing a Town insignia or uniform or riding in or on Town equipment or vehicles.

6. Employees may run for elected office so long as the office is unrelated to the Town, does not interfere with their position or responsibilities as a Town employee, and is in compliance with applicable law, including Chapter 99, Florida Statutes.

3.5 EMPLOYMENT OF RELATIVES

In accordance with Section 112.3135, Florida Statutes a public official or Town employee may not appoint, employ, promote or advance, or advocate for appointment, employment, promotion or advancement in or to a position in the Town or over which he/she exercises jurisdiction or control, any individual who is a relative of the public official or employee. An individual may not be appointed, employed, promoted or advanced in or to a position in the Town if such appointment, employment, promotion or advancement has been advocated by a public official serving in or exercising jurisdiction or control over the Town, who is a relative of the individual.

3.6 OUTSIDE EMPLOYMENT

1. Full time employment with the Town is considered primary employment. No full time Town employee shall have or hold any other employment without the prior written consent of the Town Manager. Such consent shall not be unreasonably withheld.
2. Any employee desiring to pursue outside employment shall notify the Town Manager in writing for approval to engage in outside employment and the hours of work, the name of the prospective employer and the place of employment.
3. Employees engaged in outside employment shall not use equipment, facilities, vehicles or property of the Town, except upon prior written approval of the Town Manager.
4. Outside employment is also subject to the conflict of interest provisions contained in Section 3.3 above.
6. If the secondary employment subsequently affects the full time employee's performance or attendance, or if a conflict of interest is subsequently discovered, the Town Manager shall, in writing, revoke his/her prior written consent and order the employee to cease the secondary employment. An employee's failure or refusal to cease secondary employment, within a reasonable period after such revocation of consent, shall constitute grounds for disciplinary action.

3.7 PECUNIARY INTEREST

No officer or employee of the Town shall have any financial interests in the profits of any contract, service or other work performed by the Town; or shall personally profit directly or indirectly from any contract, purchase, sale or service between the Town and any person or company, except as provided in Section 3.3 above.

3.8 RELEASE OF INFORMATION

1. The employee shall at all times be courteous and helpful to those members of the public who seek information.
2. Employees are cautioned that information concerning subjects under discussion or consideration by the Town often change in content and meaning before becoming an accomplished fact. Any release of such information before final decisions or disposition of the matter often causes misunderstanding and confusion resulting in waste of time and money.
3. Unless release of information is normal part of his or her duties, an employee will decline courteously to reveal information and shall direct such inquiry to the Town Manager. It is not the intent of the Town to be secretive, or to withhold valid information, but to assure that all information released is true, complete and accurate.
4. From time to time Town employees, especially those in supervisory and managerial positions, may be requested or subpoenaed to make a statement to an attorney or law firm regarding Town business. Should an employee receive either a request for information or subpoena, he or she must immediately notify the Town Manager.

3.9 PERSONNEL RECORDS - INSPECTION

1. Personnel records of employees are open to inspection pursuant to the requirements set forth in Chapter 119, Florida Statutes; except for certain other exemptions provided by law, including but not limited to information relating to the medical condition or medical status of employees, which is not relevant to the employee's capacity to perform his or her duties, such as, but not limited to, information relating to worker's compensation, insurance benefits and retirement and disability benefits. Inspection of Personnel Records shall be in accordance with the Florida Public Records Law. The Custodian of the Records shall furnish a copy or copies of any item(s) requested from the records upon payment of the fee required by Town policy. A duplicate copy of any copies made and released will be provided to the employee involved.

2. The Public Records law of the State of Florida contains specific exemptions from disclosure of personnel records under specific circumstances. For example, a former law enforcement officer may have his home address redacted from disclosure under the Public Records Law. It shall be the responsibility of each employee to advise the Town Manager of the existence of any such specific exemption.
3. The Town Manager shall ensure that all information in an employee's personnel file which is exempt from disclosure under the public records law is segregated from the employee's regular personnel file and shall take appropriate action to ensure it is not disclosed.
4. All requests for inspection or release of personnel records shall be brought to the attention of the Town Manager or Town Attorney prior to allowing the requested inspection or release of information, in order to ensure that protected information is not compromised.

3.10 SOLICITATION AND DISTRIBUTION

1. Employee contributions to social, fraternal, or charitable organizations or causes are purely voluntary. No coercion of an employee to make contributions shall be permitted.
2. Town employees are prohibited from soliciting any other employee of the Town on behalf of any organization, including any charitable organization, labor union, labor organization or employee organization, during their working hours or the working hours of the employee sought to be solicited. Working hours shall not include meals and break times.
5. Town employees are prohibited from distributing literature, which promotes any organization, including any labor union, labor organization or employee organization, during working hours in any area where Town work is performed.

3.12 USE OF ALCOHOL OR UNAUTHORIZED CONTROLLED SUBSTANCES.

1. Prohibition. The use, possession, transportation, or sale of unauthorized controlled substances or the use of alcohol by any Town employee during working hours is prohibited. Employees are further prohibited from being at work while under the influence of alcohol or unauthorized controlled substances. A violation of this policy shall be grounds for disciplinary action up to and including dismissal.

2. Investigation

a. Right to Search. The Town reserves the right, upon reasonable suspicion, to carry out reasonable searches of employees and their personal effects, including, but not limited to, lockers, lunch boxes, purses, and private vehicles parked on Town property. Such searches may be initiated by the Town without prior announcement, provided, however, that all searches shall be conducted in accordance with outlined procedures. The Town Manager or Town Attorney shall be consulted prior to any search of employees or their personal effects in order to ensure that reasonable suspicious criteria have been met.

b. Pre-employment Drug Screening. The Town requires an applicant seeking employment with the Town to submit to a pre-employment drug screen. Any applicant who tests positive for illegal substances shall not be employed by the Town.

c. Reasonable Suspicion Drug Testing. The Town may demand that an employee submit to blood, urine or other medical testing to screen for the presence of unauthorized controlled substances or alcohol whenever the Town has reasonable suspicion that the employee is under the influence of alcohol during hours of employment or unauthorized controlled substances. For purposes of this paragraph, "reasonable suspicion" shall mean a belief that an employee is using or has used unauthorized controlled substances or alcohol in violation of the Town's policy based on specific objective and articulable facts and reasonable inferences drawn from those facts. Such facts and inferences may include, but not be limited to the following:

(1) Observable phenomena at work, such as direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of alcohol or unauthorized controlled substances;

(2) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;

(3) A report of drug use, provided by a reliable and credible source, which has been independently corroborated;

(4) Evidence that an individual has tampered with a drug test during his/her employment with the Town;

(5) Information that an employee has caused, or contributed to, an accident while at work;

(6) Evidence that an employee has used, possessed, sold, solicited, or transferred alcohol or unauthorized controlled substances while working or while on the Town's premises or while operating the Town's vehicle, machinery, or equipment.

d. Safety Sensitive Drug Testing. Persons employed in safety-sensitive positions may be required to submit to one or more drug tests at the discretion of the Town. For purposes of this paragraph, the term "safety-sensitive position" means any position, including a supervisory or management position, in which a drug or alcohol impairment would constitute an immediate and direct threat to public health and safety.

e. Disciplinary Action. Refusal of any employee to submit to searches or to submit urine or blood samples will result in appropriate disciplinary action, up to and including dismissal.

f. Referral. The Town encourages any employee with a substance abuse problem to contact the Finance Director or the Town Manager for assistance. All records and communications shall be treated as confidential medical information and shall be maintained separately from the employee's personnel file. The refusal of an employee to seek treatment for a substance abuse problem may be cause for disciplinary action, up to and including dismissal, in accordance with the provisions of state statute.

SECTION 4. RECRUITMENT

4.1 RECRUITMENT

Vacancies to be filled as a regular employee that are not filled internally will be posted on job vacancy announcements for at least five (5) working days and may be distributed to professional and community organizations, minority organizations, local government offices, vocational schools, colleges and universities and may be advertised in newspapers, journals, newsletters and/or other publications as determined by the Town Manager.

4.2 ACCEPTANCE OF APPLICANTS

Applications for employment shall only be accepted when position vacancies are posted. Each candidate for Town employment shall make application in the manner prescribed by the Town Manager. Such information may be required as is deemed necessary in order to judge the applicant's qualifications.

SECTION 5: APPOINTMENTS

5.1 APPOINTMENTS

1. The Town Council shall appoint the Town Manager and Town Attorney. All other employees shall be appointed either at the approval of or by the Town Manager.
2. Offers of employment are not to be made until all necessary or required pre-employment actions have been completed. There shall be no offers of employment that imply or indicate any terms or conditions of employment other than those specifically indicated in the policies and procedures unless approved in writing by the Town Manager. The Town Council, in the cases of the Town Manager and Town Attorney's contract, must approve any written agreements relating to employment. Prior to the appointment of any Town employee, the Town Manager or Department Director shall verify that the appointee meets the minimum qualifications for the position; has completed a criminal background search; is a United States citizen or is otherwise legally eligible to be employed by the Town; and has passed the Town's drug screening.

5.2 METHODS OF FILLING VACANCIES

1. All vacancies shall be filled by regular or temporary appointment, promotion, transfer, demotion, or as needed.
2. Established positions may be reclassified by the Town Manager to an existing higher or lower classification when changes in duties and responsibilities of the positions warrant a reclassification.

5.3 ORIGINAL APPOINTMENTS

- (a) CONTRACT WORKER. Contract workers shall have only those rights and privileges as specified in their written contract for employment.
- (b) PROBATIONARY PERIOD. An employee appointed to fill a position on a regular, full time or part time basis shall serve an initial probationary period. The initial probationary period shall be for six (6) months from the original date of employment. An employee's initial probationary period may be extended for an additional six (6) months. Decisions on whether to extend an employee's probation shall be made by the Department Director or, in the case of a Director, by the Town Manager. An employee who is promoted or transferred shall be required to serve a six (6) month conditional probationary period.

(1) Termination of Employment. The Department Director may terminate a probationary employee at any time during the probationary period and the employee shall have no right to appeal said termination. An employee whose performance does not improve to a satisfactory level during the extended probationary period shall be terminated from employment of the Town.

(2) Paid Leave. An employee shall not be entitled to use accrued leave during the first six (6) months of the probationary period, unless it is leave without pay agreed to prior to hiring; however, in the case of illness, an employee may use accrued leave. An employee who is terminated during the initial probationary period shall not receive payment for any unused leave.

(c) Promotion. Upon promotion to a new or higher grade, the employee will receive the entry level salary of the higher grade or a five (5) percent increase above existing salary, whichever is greater. No employee may receive a salary that exceeds the maximum for the pay grade.

(d) Transfer. When transferred to the same grade position, the employee shall not receive a pay increase at the time of transfer. The evaluation date stays the same as the original hire, with the first evaluation being jointly done by the prior and present supervisors.

5.3 STUDENT APPOINTMENTS

With the approval of the Town Manager, students majoring in fields of value to the City from accredited universities or high schools may be employed on an "internship" basis for a specified period of time.

5.4 TEMPORARY APPOINTMENTS

Temporary appointments may be made for a period not in excess of six months with the approval of the Town Manager when services are required for a special job or project. Temporary appointments may also be made to fill vacancies resulting from regular employees on authorized leave of absence. Duration of temporary appointments shall be for the period of absence in which the regular employee is on such leave of absence.

Any employee who assumes the duties normally performed by an employee of a higher pay grade shall receive additional, temporary compensation when the performance of the duties extends beyond 28 consecutive calendar days. Pay shall be retroactive to the first day the employee was temporarily placed in the position of a higher pay grade. Temporary compensation shall be at least a five (5) percent increase or the minimum of the pay grade, whichever is greater. When the temporary assignment is completed, the employee's salary shall be returned to its previous level.

5.5 AS-NEEDED APPOINTMENTS

The Town Manager may appoint individuals "as needed" to fill a budgeted position designated as part-time temporary/as-needed. Such individuals shall be considered temporary with their names maintained on an as-needed roster being available for work on an as-needed temporary basis. Such rosters should contain more than one individual with as many names necessary for proper operations. Assignment of work shall be at the Town Manager's discretion. Individuals may be added or deleted from the roster at the Town Manager's discretion.

5.6 DEMOTIONS

An employee is demoted when the employee is voluntarily or involuntarily moved into a classification which has a lower pay grade. An employee who is demoted shall be required to complete a probationary period in the lower classification.

5.7 TRANSFERS

An employee may be voluntary or involuntarily transferred from one position to another position in the same classification within the Town Department to which he/she is assigned. An employee may be transferred from a classification in one Department to the same classification in another Department only with the approval of the Town Manager.

A transfer of a probationary employee shall not affect that employee's initial probationary period. A regular employee who is laterally transferred shall not be required to serve any probationary period.

SECTION 6: EDUCATIONAL ASSISTANCE

6.1 EDUCATIONAL ASSISTANCE

It is the policy of the Town of Fort Myers Beach to provide educational assistance to its employees to allow them to enhance their ability to serve the public interest of the citizens of Fort Myers Beach.

General Provisions:

1. Coursework must be designed to enhance the knowledge, skills and abilities relating to the official duties that the employees perform, and must be taken for credit at an accredited college or university.
2. No reimbursement will be made for coursework or training required as a minimum qualification for employment.

3. All regular full-time employees are eligible for educational assistance once they have completed any required probationary periods.
4. Employees should seek approval prior to enrollment. The Town Manager must approve requests for educational assistance no later than the second week of coursework following enrollment. The Town Manager will consider the following factors in evaluating requests for educational assistance:
 - a) The nature, content and purpose of the course of study;
 - b) The benefits to be derived by the enhanced ability of the employee to serve the public trust;
 - c) Availability of funds for such reimbursement in the current fiscal year;
 - d) The number of courses the employee has submitted for reimbursement in the calendar year;
 - e) The employee's level of responsibility
 - f) The estimate of costs involved; and
 - g) Any potential lost time or productivity while the employee attends the program.

REIMBURSEMENT REQUIREMENTS:

1. The Town will authorize the appropriate reimbursement of tuition, books, lab fees, and registration fees based upon the rate that local public universities and/or colleges would charge a student with Florida resident status for a similar course.
2. Reimbursement will be based on the following schedule:

Grade	Reimbursement
“A”	100%
“B”	85%
“C”	70%
Below “C”	0%

3. Non-graded courses shall be reimbursed at a rate of 70% upon satisfactory completion of the course.
4. Employees receiving educational reimbursement from other sources must inform the Town Manager and reimbursement will be adjusted accordingly.
5. Classes and assignments are to be completed outside of regular working hours, and should not interfere with the employee's work unless previously approved by the Town Manager. Unsatisfactory job performance during enrollment may result in forfeiture of educational assistance.
6. Employees shall not use any space, personnel, equipment, or supplies of the Town in the process of fulfilling any of the requirements of the coursework for which they are being reimbursed.
7. Employees shall not be given any bonus or additional incentive pay for completion of a degree for which any costs were reimbursed under this Policy.

APPROVAL/REIMBURSEMENT PROCESS

1. An employee applying for educational reimbursement shall submit a copy of the course description with the request for approval of coursework to the Town Manager.
2. Upon completion of coursework previously approved for educational assistance, the employee must submit a copy of an official grade report and original receipts to the Finance Director upon which time they will receive a Fort Myers Beach Agreement for Reimbursement of Educational Expenses. By signing the Agreement the employee agrees to repay any educational reimbursements received in the twelve (12) months preceding his/her ceasing to be a full-time employee of the Town of Fort Myers Beach. Upon receipt of this documents a check will be issued to the employee.

SECTION 7: COMPENSATION

7.1 GENERAL

The Town shall maintain fair, equitable and competitive wages and salaries for its employees and shall assure equal pay for work of substantially equal value performed under essentially similar conditions.

7.2 GENERAL SALARY SCHEDULE

The Town Council shall approve the General Salary Schedule each fiscal year as part of the budget process. The General Salary Schedule shall consist of a hierarchical series of Pay Grades, including a minimum, mid-point and maximum that shall define the wage or salary range for each Pay Grade. Factors such as cost-of-living and competing wages and salaries in the public and private sectors shall be considered in establishing the General Salary Schedule. No employee's wage or salary shall be less than the minimum or more than the maximum of the Pay Grade to which her/his classification is assigned.

7.3 RATE OF PAY UPON HIRE

A. General. Except as may be otherwise provided in this Resolution, the rate of pay for a newly-hire or re-hired person shall be the minimum of the Pay Grade to which her/his classification is assigned unless approved by the Department Director and the Town Manager.

B Exceptions.

1. Upon completing the initial probationary period, an employee hired or re-hired at the minimum of her/his Pay Grade may receive an increase in pay of not more than five (5) percent, provided that such increase is requested in writing by the employee's Department Director and the Town Manager.

2. A highly qualified, newly-hired or re-hired employee may be employed at a rate of pay which exceeds the minimum of the Pay Grade by not more than ten (10) percent provided, that such rate of pay shall first be requested in writing by the Department Director and approved by the Finance Director.

3. Under exceptional circumstances, a newly-hired or re-hired employee may be employed at a rate of pay which exceeds the minimum of the Pay Grade, but which does not exceed the sixth-five (65) per cent of the Pay Grade, provide that such rate of pay shall first be requested in writing with justification by the Department Director and approved by the Town Manager. Such a hire would be to bring an experienced person into the organization at a competitive salary for that person.

7.4 UNIFORM COMPENSATION INCREASES:

In order to maintain a competitive and fair pay plan, which enables the Town to attract top quality employees, and allows those employees to keep pace with inflation, the Town Council, as part of its annual budget deliberations, may establish a uniform, across-the-board cost-of-living increase for all Town employees who have received an Average rating or above on their annual performance evaluations. The Uniform Increases are based on the Southeast United States Consumer Price Increases for that year.

The Uniform Increase will be applied to the appropriate employee's base salary, and to the minimum, maximum and step levels of every salary range starting with the beginning of the first full pay period on or after October 1st of each year. An exemplary employee may receive a Merit Increase in addition to the Uniform Increase.

7.5 MERIT INCREASES

The Town Council, as part of its annual budget deliberations, may establish a merit increase amount for Town employees. The Town Manager shall determine the allocation of such increase among the Town employees, and any such increase shall be based on the employee's meritorious performance as indicated in the annual performance evaluation. A merit increase is given for : (a) Above Average or (b) Exemplary Performance as determined by an annual evaluation process approved by the Town Manager. The merit increase shall be effective as of the first bi-weekly payroll period following the employees anniversary evaluation date. A merit increase shall not increase an employee's rate of pay beyond the maximum of her/his Pay Grade. If a merit increase is awarded that places the employees base salary above the maximum of his/her Pay Grade, that increase will be given as a one time bonus, not be to added to the base pay. This is in addition to the Uniform Increases for Average performance. Merit Increases are approved by the Finance Director and Town Manager.

7.6 OUTSTANDING SERVICE AWARD

Where extraordinary circumstances merit such consideration, and subject to approval by the Town Manager, a Department Director may recommend a bonus of not more than \$1000.00 for an employee whose work has been of critical importance in the accomplishment of a specific goal deemed to be in the Town's best interest, or has saved the Town substantial funds by innovative improvements. This may be a special project, a one time occurrence that took extraordinary time and/or effort or a cost saving idea for the Town operations. Such Outstanding Service Award shall be paid in a lump sum and shall not change an employee's rate of pay. The Outstanding Service Award shall not be awarded to the same employee more than once in a fiscal year.

7.7 RATE OF PAY UPON PROMOTION

An employee who is promoted shall receive a rate of pay increase of five (5) percent for each Pay Grade(s) into which she/he is promoted. The employee's rate of pay after promotion shall not be less than the minimum or more than the maximum of his/her new Pay Grade.

7.8 RATE OF PAY UPON DEMOTION

In the event that an employee is either voluntarily or involuntarily demoted, that employee's rate of pay shall be decreased by five (5) percent for each Pay Grade that she/he is demoted. In no event shall a demoted employee's rate of pay exceed the maximum of the Pay Grade into which he/she is demoted.

7.2 SPECIAL PAY

Regular full-time and regularly scheduled part-time employees may receive a Holiday Bonus payable in a lump sum amount in November or December of each fiscal year. If an employee was not employed by the Town for the full prior twelve (12) months, the amount of the lump sum will be pro-rated on a monthly basis for each full month the employee was employed during the calendar year. Regular part-time employees who are assigned regularly scheduled work shifts and work at least sixteen (16) hours per week shall be paid a pro-rata amount of Holiday Bonus. Council will establish the amount, if any, annually during budget hearings.

SECTION 8: SEPARATIONS

8.1 TYPES OF SEPARATIONS

Separations from Town service are designated as one of the following types:

- (a) Resignation
- (b) Retirement
- (c) Disability
- (d) Termination During Original Probationary Period

- (e) Reduction in Force (Lay off)
- (f) Termination

8.2 VOLUNTARY SEPARATIONS

(a) Resignation.

A Director who intends to resign, shall present the reason in writing to the Town not less than thirty (30) days prior to leaving employment. Other regular employees shall give a minimum of fourteen (14) calendar days notice. Once an employee's notice of resignation has been accepted by the Town, the employee shall not have the right to withdraw the resignation, unless the Department Director, in consultation with the Town Manager, consents to the withdrawal of the resignation in writing.

(b) Retirement

An employee who intends to retire from Town employment shall provide the Town with written notice of such intent not less than sixty (60) calendar days prior to the effective date of the retirement. Once an employee's notice of retirement has been accepted by the Town, the employee shall not have the right to withdraw the decision to retire, unless the Department Director, in consultation with the Town Manager, consents to the withdrawal of the decision to retire in writing.

8.3 INVOLUNTARY SEPARATION

Personnel actions in this section are those which result in an employee's separation, either permanently or temporarily, from Town employment and shall be pursuant to applicable state statutes. These actions include termination during initial probationary period, reduction in force, suspension with or without pay, demotion for cause, and dismissal from employment.

(a) Termination During Initial Probationary Period

Probationary employees may be dismissed at any time without advance notice during the initial probationary period.

(b) Reduction In Force (Layoff)

1. The Town Manager may reduce the number of employees for the following reasons: shortage of funds or work, abolishment of a position, inefficient or unproductive position, or a material change in the duties or organization of the department or any component thereof. If an affected position or classification is re-established or re-staffed within eighteen (18) months of the date of layoff, the laid off employees shall be recalled as provide herein.

2. After the positions or classification to be laid off have been determined, the following shall apply in determining which employees will be laid off:

 - i. The order of layoff shall be in reverse order to the total continuous years of service with the Town.
 - ii. An employee entitled to veterans' preference shall have five (5) day added to his/her continuous years of service for each full year of employment with the Town.
 - iii. In the event that multiple employees have the same number of total continuous years of service with the Town, the order of layoffs shall be in reverse order of total continuous years of service with the Town Department where the layoff is to occur.
 - iv. In the event that multiple employees have the same number of total continuous years of service within the Town Department, the order of layoffs shall be in the reverse order of total continuous years of service in the position where the layoff is to occur.
 - v. Prior to the layoff of any regular employee, the Director shall certify in writing that the above procedure was correctly followed by the Town.
3. A regular employee shall receive written notice of layoff at least thirty (30) calendar days prior to the effective date of the layoff. Town Council shall fund any position in which a layoff occurs to provide for the thirty (30) day notice.
4. Recall to a position shall be in reverse order of layoff. An employee shall be deemed to have been recalled to employment when the town has sent a written Notice of Recall to the employee's last known address. Such Notice of Recall shall be sent by certified mail, return receipt requested. It shall be the responsibility of the employee to notify the Town of any changes in address and to maintain a current address with the Town at all time.
5. No benefits or seniority shall accrue during the actual period that an employee is laid off, regardless of whether the employee is later recalled. However, in the event a regular employee is recalled following layoff, all benefits and seniority to which such regular employee was entitled on the date of layoff and for which the employee was not otherwise compensated at the time of layoff shall be reestablished on the date of reemployment.
6. A laid off Regular Employee shall be paid for all leave to which he/she is entitled upon leaving the Town's employment, and shall be permitted to continue health care coverage under the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

7. A laid off Regular Employee shall retain recall rights for up to a maximum of eighteen (18) months. A laid off Regular Employee shall forfeit all recall rights if she/he fails to return to work within five (5) working days after receipt of a written recall notice. If the Notice of Recall is returned to the Town as undeliverable to the employee or if the employee fails or refuses to claim the Notice of Recall sent to the employee by the Town, then the employee shall be deemed to have automatically forfeited all recall rights.

8. An employee who has been laid off and who is re-employed in the same classification or position, pursuant to the recall provision of this Resolution, shall be reemployed at the same rate of pay she/he was receiving at the time of layoff, or the minimum of the pay range for the classification, whichever is higher.

9. Under no circumstances shall a layoff be considered a disciplinary action.

(c) Suspensions

An employee may be suspended from employment with the Town as follows:

1. Disciplinary reasons;
2. Pending an investigation of possible disciplinary action against the employee;
3. Pending the disposition of Felony Charges against the employee;
4. Pending the disposition of misdemeanor charges against the employee directly related to the employee's job duties; or
5. Impairment of the employee, after reasonable accommodation(s), which affects her/his ability to safely and effectively perform her/his job.

a. Suspension With Pay. An employee may be suspended with pay as follows:

- i. Prior to suspending an employee with pay, the Department Director or Town Manager (in the event that the Director is suspended) shall provide written notice of such suspension to the employee. Such notice shall state the reason(s) for the suspension with pay and the effective date of the suspension. The notice of suspension shall be either hand delivered to the affected employee or sent to the affected employee by certified mail, return receipt requested.
- ii. An employee may be suspended immediately with pay, but without the benefit of written notice, upon determination by the Department Director (or Town Manager, as the case may be) that such suspension is in the best interest of the public. The employee will be provided written notice of the reason(s) for the suspension as soon as practicable.

iii. An employee suspended with pay must stay at their place of residence during normal business hours or have an easily contacted site agreed upon by the Department Director or the Town Manager, as the case may be.

b. Suspension Without Pay. Prior to suspending an employee without pay, the Department Director or Town Manager, as the case may be, shall comply with the procedures prescribed in Section 11.

(d) Dismissals

Prior to dismissing an employee, the Department Director shall comply with the procedure prescribe under Section 11.

8.3 RETURN OF TOWN PROPERTY

At the time of separation and prior to receiving final monies due, all records, books, assets, uniforms, keys, tools, and other items of Town property in the employee's custody, shall be transferred to the Department and certification to this effect shall be by the Office Manager. Any monies due the Town because of any shortages shall be collected through appropriate action.

8.4 FINAL PAY

The Finance Director will issue all final paychecks to the employee.

SECTION 9: SAFETY

9.1 ACCIDENT PREVENTION AND SAFETY

An aggressive, comprehensive Town-wide safety program has been instituted. All aspects of the working environment and all work-associated activities will receive attention.

9.2 ACCIDENT REPORTING

- (a) All employees shall report all job-related injuries and illnesses to the Town Manager immediately.
- (b) Accident reports shall be submitted to the Town Manager within twenty-four (24) hours after the date of the accident or the report of injury or illness. If the accident occurs over a holiday or weekend, the accident report should then be submitted within twenty-four (24) hours from the time the work period starts after the

weekend or holiday. This applies to industrial accidents and first aid injuries as well as vehicular accidents.

9.3 COMPENSATION TO INJURED EMPLOYEES

- (a) Payment of workers compensation to all employees who are disabled because of an injury or illness arising out of, and in the course of, performing their duties with the Town, will be governed by the Florida State Workers Compensation Law.
- (b) An employee sustaining a lost-time injury or illness with sick and vacation leave credited to his/her account may request the Town Manager to apply sick and vacation hours in order to obtain pay while absent from duty due to an injury or illness. In no case shall the amount of workers compensation and the amount of sick and vacation leave be more than equal to the employee's base pay for that period.
 - (1) Full wages will be paid for the day of the injury or illness if disability results, or for that part of the day spent receiving medical treatment.
 - (2) If the injured or ill employee cannot return to work on his/her normal workday, the injury or illness will be considered a disability with the disability starting immediately following the day of the injury whether it be a weekday, weekend, or holiday. Disability shall be counted by calendar days.
 - (3) Any employee who has experienced disability resulting from a compensable injury or illness may request and receive, in addition to his or her worker's compensation, an additional payment of accrued vacation and/or sick benefits in order for the employee to receive up to 100% of his or her regular pay.

The payment of such benefits shall not be made until the injured employee returns to work or until he or she reaches the twenty-second (22nd) day, of disability, whichever comes first. The Office Manager will calculate the employee's time and charge it to the appropriate categories.

SECTION 10: LEAVES

10.1 GENERAL POLICY

- (a) The following types of leaves are officially established: Holidays, vacation, medical leave, personal leave, bereavement leave, worker's compensation leave, military leave, court leave, disability/maternity leave, paternity leave, time-off to vote, training leave, administrative leave, and leave without pay.

10.2 HOLIDAYS

A. DAYS OBSERVED

1. The Town of Fort Myers Beach shall observe the following holidays and any such other days as the Town Council and/or Town Manager may declare:

January 1	New Year's Day
As designated in January	Martin Luther King's Birthday
Third Monday in February	President's Day
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
November 11	Veteran's Day
Fourth Thursday in November	Thanksgiving
Fourth Friday in November	Day after Thanksgiving
December 25	Christmas
	Employee's Birthday

2. All regular and probationary employees are entitled to holiday pay. When a holiday falls on a Saturday, the preceding Friday shall be designated a substitute holiday and observed as the official holiday for that year. When a holiday falls on a Sunday, the following Monday shall be designated a substitute holiday and observed as the official holiday.
3. Employees who regularly work less than forty (40) hours per week and who are entitled to holiday pay will receive compensation based upon a prorated calculation of the average hours worked per day over the preceding four (4) weeks. This proration shall be calculated by dividing the total hours worked during the preceding four (4) work weeks by twenty (20).
4. The Town Manager will determine when operations will be closed in observance of the holiday and be noticed on the employee schedule.
5. Special consideration for additional holiday status shall be given to those days immediately following or preceding a holiday that falls on a Tuesday or Thursday at the discretion of the Town Manager.

B. ELIGIBILITY FOR HOLIDAY PAY

- (1) All regular full-time and part-time employees are entitled to holiday pay. Seasonal and temporary employees are entitled to holiday pay for their regularly scheduled hours if the holiday falls on their regularly scheduled workday.

- (2) If a holiday is observed on a day which is a regular work day for employees, and if they are permitted to be off that day due to the holiday, they shall be paid for the number of hours they would have worked in a normal work shift at their regular straight time rate provided they work the full scheduled work day immediately preceding the holiday and the full scheduled work day immediately following the holiday, unless the employee is absent on either day pursuant to an authorized leave.
- (3) If a holiday occurs on a day which is outside/beyond the regularly scheduled workweek (which is a regularly scheduled day off) for the full-time employee, he or she will receive additional pay for that workweek equal to the hours contained in one of that employee's regular work shifts (not to exceed eight (8) hours).

C. HOLIDAY ON SCHEDULED WORK DAY

- (1) Any non-exempt employee who is scheduled to work on any of the designated holidays will be paid straight time for all hours actually worked during his or her regularly scheduled hours, plus up to eight (8) hours holiday pay at the regular rate of pay. Hours worked on a holiday in excess of normal work hours or hours worked the normal work week will be paid as overtime or awarded as compensatory time-off at the Town Manager's discretion at the rate of time and one-half the employee's regular straight time rate in accordance with the provisions for overtime/compensatory time.
- (2) Employees in the executive and exempt classification who are required to work on holidays may be given time off with pay at a later date with appropriate approval.
- (3) Requests for vacation for the day before or after a holiday must be submitted in writing at least one week in advance.

D. HOLIDAY ON LEAVE DAY

Employees on annual leave, medical leave, bereavement leave, or military leave must use the holiday on the same day that it is earned, except as designated by the Town Manager. Holidays, which occur during such leave, will not be charged against the leave.

E. PERSONAL LEAVE

Full-time employees are eligible for eight (8) hours of personal leave each fiscal year. Personal leave for regularly scheduled part-time employees shall be prorated based upon the number of hours regularly scheduled. Requests to observe personal leave must be submitted in writing at least one week in advance to the Town Manager for approval. The leave must be used during the fiscal year and may not be carried forward. Personal leave may not be taken in increments of less than one half (1/2) hour.

10.3 ANNUAL LEAVE

A. ACCRUAL

- (1) ~~All full-time regular employees shall accrue 1 day of vacation per month.~~
Full-time employees with regular or probationary status shall earn leave according to the following table:

<u>0 through 6 years of service</u>	<u>.0462 hours per work hour</u>
<u>7 through 13 years of service</u>	<u>.0577 hours per work hour</u>
<u>14+ years of service</u>	<u>.0769 hours per work hour</u>

- (2) Vacation leave shall be earned as of the last day of each bi-weekly pay period. All employees will be charged on an hour for hour basis for time used. Vacation may not be taken in increments of less than one-half (1/2) hour.
- (3) Regular part-time employees who are assigned regularly scheduled work shifts shall accrue leave in proportion to the amount of time worked on their regularly scheduled shift, computed on the base rate of regular full-time employees with the same length of service, provided the normal work hours are at least sixteen (16) hours per week.
- (4) Department Directors begin earning leave at a rate of .0577 hours per work hour and follow the remainder of the years-of-service schedule above.

B. ACCRUED HOURS

Traditionally, an employee may accrue 8 weeks (320 hours) of vacation leave. Annually, the employee may cash in 2 weeks (80 hours) accrued leave upon approval of the Town Manager. Six months after the effective date of this revision, an employee may accrue up to two hundred forty (240) hours of annual leave. Any employee who accrues more than

two hundred forty (240) hours of annual leave must use the additional hours prior to the beginning of the next fiscal year or lose the additional hours in excess of two hundred fourth (240) hours, unless the employee has been unable to use the hours due to personnel shortage or other emergency.-, as determined by the Town Manager.

No employee shall be permitted to forego his/her annual leave and receive pay in lieu of time off. Upon separation from the Town, an employee shall be paid all accrued annual leave up to two hundred forty (240) hours of annual leave.

C. ELIGIBILITY

An employee is eligible to use accrued vacation after completing six (6) months of service.

D. SCHEDULING

Application for vacation leave shall be made in advance. In emergency cases, the Town Manager may waive this requirement. Employees becoming sick while on vacation may use medical leave for such period of illness provided a doctor's certificate is presented to the employee's immediate supervisor.

E. SEPARATION

Upon separation from employment, all employees will receive pay at their base rate of pay at the time of separation for any vacation hours accrued as of the date of separation. All earned vacation hours of employees who die while in the service of the Town will be paid at the base rate of pay at the time of death to the spouse, or if none, to the estate of said individual. For vacation purposes, rehired employees are considered new employee.

F. UNAUTHORIZED ABSENCE

An employee's failure to obtain approval for leave shall result in the hours of absence being without pay. An employee's unauthorized absence, also, may be grounds for disciplinary action. However, a Department Director or Town Manager shall not unreasonably withhold approval of an employee's request for leave.

F. EXCHANGE OF VACATION OR SICK TIME

Until September 30, 2007, as an employee's vacation and sick time accrues he/she may trade in up to 80 hours of vacation and/or sick time and receive payment for the traded hours upon the approval of the Town Manager. Thereafter, this provision shall be null and void and of no effect.

F. LEAVE WITHOUT PAY

An employee may request a leave of absence without pay for a period not to exceed one hundred eighty (180) days. The request must be submitted in writing to the Director and must be approved in writing by both the Director and the Town Manager. In determining whether to approve the request for leave without pay, the Director and the Town Manager shall consider factors such as the reason for the request and the department's ability to operate effectively in the absence of the employee. During any period of leave without pay exceeding fifteen (15) working days, the Town shall not provide for any employee benefits, including, but not limited to, medical or other insurance, and pension. The employee may, at his/her option, maintain such benefits at the employee's sole expense.

10.4 MEDICAL LEAVE

The Town of Fort Myers Beach grants Medical Leave to eligible employees to provide continued income during employee illness. Medical Leave shall not be considered a right to be used at the employee's discretion, but rather a privilege which shall be allowed only in a case of personal illness or disability, pregnancy, medical appointments, legal quarantine because of exposure to contagious disease, or in the case of illness in the immediate family. For this policy, immediate family shall be defined as: spouse, dependent children and parents.

A. ELIGIBILITY

- (1) All permanent and probationary full-time regular employees earn Medical (sick) Leave credits at the rate of 1 day per month. Day worked shall include days for which leave with pay is authorized.
- (2) When an employee is unable to work as the result of illness, injury or family illness, he or she must request Medical or Vacation Leave. Vacation Leave may not be used unless all accrued Medical Leave has been taken. Abuse or misuse of Medical or Vacation Leave may result in disciplinary action.

B. CHARGING LEAVE

- (1) Medical Leave time shall be charged to the employee for the actual time the employee is away from work.

(2) Medical leave will be paid at the employee's current basic rate of pay. The minimum charge for Medical leave shall be in units of one-half (1/2) hours.

(3) Hours taken as Medical Leave will not count as Hours Worked for overtime calculation purposes.

(4) Should a holiday occur during Medical Leave, the leave shall be charged to the holiday leave. This provision extends only to extended leave periods, which are approved in advance.

C. REQUEST FOR MEDICAL LEAVE

(1) In all cases, the employee must notify the immediate supervisor, at the beginning of the schedule workday or prior, of the reason for such employee's absence. Failure to comply with the above may be permitted should circumstances for such failure be warranted.

(2) After two (2) consecutive workdays of Medical Leave, the employee shall submit a medical certification signed by a physician stating the requirement for the extended leave and, to the extent permitted by state and federal law, the kind and nature of the sickness or injury.

(3) When an employee has exhausted his or her Medical Leave, vacation or leave without pay may be requested.

D. USE OF MEDICAL LEAVE

Medical Leave may be granted for the following purposes:

- (a) Personal injury or illness not connected with work.
- (b) Personal injury or illness connected with work for the first twenty-one (21) days not covered by worker's compensation benefits.
- (c) Work-related injury or illness beyond first twenty-one (21) days to make up the difference between worker's compensation payments and the employee's regular base pay not to exceed the regular base pay.
- (d) Pregnancy disability leave.
- (e) Medical, dental, optical or chiropractic examination or treatment.
- (f) Exposure to a contagious disease which would endanger others, as determined by a physician.
- (g) Illness of a member of the employees immediate family. Not more than five working days per fiscal year may be taken for this purpose without approval of the Town Manager. (See definition of immediate family for Medical Leave.)

E. ACCRUAL OF MEDICAL LEAVE

There is no limit on the amount of Medical Leave an employee may accrue. A maximum of seven hundred and twenty (720) Medical Leave hours may be accrued at any time.

F. PAYMENT OF MEDICAL LEAVE UPON SEPARATION

Medical Leave accumulated shall be forfeited in full upon separation from the Town if the separation is a termination. One half accumulated medical leave will be paid in full if employee resigns.

G. SICK LEAVE CONVERSION TO VACATION LEAVE

The first three hundred and twenty (320) hours of accrued Medical Leave are not subject to these conversion privileges.

A. Each year on October 1st excess sick leave accrued over a minimum of 120 hours can be converted to vacation leave on an hour per hour basis not to exceed 40 hours by first deducting the sick leave used during the previous year from the 40 hours and converting the remainder to vacation. An employee with three hundred and twenty (320) but less than seven hundred and twenty (720) hours of accrued Medical Leave, may convert the unused balance of any Medical Leave earned in the previous anniversary year, but not more than forty (40) hours, to forty (40) hours of Annual Leave (subject to approval of the employee's Department Director.)

B. All Annual Leave resulting from a conversion of Medical Leave must be taken prior to the employee's next anniversary date, retirement, or separation from Town employment, whichever comes first. Converted Medical Leave shall be taken before regular Annual Leave.

H. LEAVE SHARING

Within thirty (30) calendar days of the enactment of this Manual, the Town shall implement a leave sharing program whereby Regular employees may donate accrued Annual Leave to other Regular employees who, because of medical or family needs, have exhausted all forms of paid leave to which they are entitled and whose receipt of donated leave has been approved by both the proposed recipient's Department Director and the Town Manager.

10.5 BEREAVEMENT LEAVE

- (a) All full-time and part-time regular employees may be granted, upon approval of the Town Manager, time off with pay up to thirty six (32) ~~forty (40)~~ hours for full-time employees or four days ~~one (1) work week~~ for part-time employees in the event of a death in their immediate family.
- (b) Bereavement Leave shall not be charged to vacation or medical leave.
- (c) Upon the Town's request, an employee requesting bereavement leave may be required to furnish proof of death, date of burial and relationship.

10.6 MILITARY LEAVE

In accordance with the applicable Federal and State Law, regular employees who are commissioned reserve officers, reserve enlisted persons or a member of the National Guard will be entitled to a leave of absence for military training, duty with full pay and without loss of benefits up to a maximum of seventeen (17) days in any one-year. Military leave shall not affect employees' rights to vacation or sick leave. Requests for military leave shall be submitted in writing with proper documentation of duty orders at least one month prior to the commencement date. (Reference: Chapter 115, Florida Statutes.) Regular employees who are in the reserves or National Guard who are called to active military service will be entitled to a leave of absence with full pay and benefits for the first thirty (30) days, and for up to one (1) year thereafter an amount of pay necessary to bring their total salary, with base military pay, to the level they earned at the time they were called to active duty. Health insurance and other benefits will be continued for up to one (1) year from the time the employee is called to active duty. Re-employment rights and service credits will be given in accordance with the Veteran's Reemployment Rights Law contained in Title 38, U.S. Code, Chapter 43.

10.7 COURT AND JURY DUTY LEAVE

- (a) Employees required to attend court pursuant to a subpoena in cases involving their official duties or for jury duty during their normal working hours shall receive full pay equal to their normal work schedule for the hours they attend court. This time shall be charged as court or jury duty leave with pay.
- (b) Employees who are required to attend court during their normal work hours in cases not involving their official duties, will be granted leave for their attendance as leave without pay or as vacation if requested in advance by the employee.
- (c) Employees required to attend court during hours other than their normal work hours in cases involving their official duties will be compensated in accordance

with the provisions in these rules and regulations concerning payment for call-out court time.

- (d) All full-time employees subpoenaed to attend court as witnesses during their regularly scheduled workshift, except as paid expert witnesses, for cases in which employees are not personally or monetarily interested are eligible for court or jury duty leave with pay. Those employees who attend court, as parties to the litigation are not eligible for such leave with pay unless the action is related to their duties with the Town.
- (e) Employees required to attend court for only a portion of the regularly scheduled workshift are expected to report to work when excused or released by the court.
- (f) An employee required to attend court except for cases in which he or she is personally or monetarily interested, while on scheduled vacation, may be allowed to take court leave with pay for that court time in lieu of vacation time.
- (g) All pay received from the court for jury duty may be retained by the employee.
- (h) All pay received for witness fees shall be submitted to the Town.

10.9 ADMINISTRATIVE LEAVE

The Town Manager may grant an employee up to a maximum of sixty (60) days of paid leave per fiscal year when the Town Manager believes said grant to be in the Town's best interest, and the Town Council is given 30 days prior notice.

10.10 PREGNANCY DISABILITY LEAVE

Disabilities or illnesses caused or contributed to by pregnancy, childbirth or related medical conditions, will be treated the same as any other illness or disability in accordance with the applicable medical leave provisions contained in these policies and procedures.

10.11 FAMILY AND MEDICAL LEAVE ACT OF 1993 IMPLEMENTED

Notwithstanding anything to the contrary which may be contained in these Personnel Rules and Regulations, the Town implements the Federal Family and Medical Leave Act of 1993, and provides as follows:

Employees who have worked for the Town for at least twelve (12) months and at least 1,250 hours during the prior twelve (12) months may take up to twelve (12) weeks of leave per twelve-month period as outlined in the Family and Medical Leave Policy Addendum.

10.13 EXECUTIVE LEAVE

- (a) Executive and exempt employees who are not normally eligible to earn or accrue overtime will be permitted Executive leave. Executive leave may not be taken in increments of less than one-half (1/2) hour.

- (b) The Town Manager must approve such time off as appropriate.

10.14 TIME OFF TO VOTE

Employees are entitled to one hour time off with pay to vote on all designated federal, state, and local election days.

10.15 WORKER'S COMPENSATION LEAVE

If an employee sustains a job-related injury entitling him or her to Worker's Compensation Benefits in accordance with Florida Statutes, the employee shall be paid by the Town and receive benefits in accordance with the Statutes, provided the approved attending physician certifies the inability of the employee to work.

The employee may utilize any accumulated sick leave or annual leave to make up the difference between the full salary and the maximum amount allowed by Florida Statute 440.

10.16 SEVERE WEATHER CONDITIONS AND OTHER UNUSUAL EMERGENCY SITUATIONS

- (1) Statement of Policy--It is well known that the Town is subject to severe weather conditions, especially in the form of tropical storms, hurricanes and floods. It is crucial to the safety and welfare of the citizens that there be sufficient Town services available during severe weather conditions, weather emergencies and in emergency situations to provide for guidance and protection of persons and property. It is, therefore, necessary to balance the normal concerns for the convenience and wellbeing of Town employees against the obligations of the employees and the Town to the public safety and welfare. In light of these considerations, employees shall follow the procedures outlined in the Emergency Operations Plan which will be in effect during severe weather conditions, including, but not limited to, tropical storms, hurricanes and floods. Employees will be given time to secure their family's safety and protect their property.

- (2) Expectations-- All employees are expected to recognize that the same conditions which make it desirable to stay home from work, also present a greater need for Town employees to report to work.

SECTION 11: CORRECTIVE ACTIONS/DISCIPLINARY PROCEDURES

11.1 INTENT/SCOPE

- (a) It is essential that all employees of the Town work together for the main objective of serving the community. Employees who fail to follow the proper policies and procedures are doing a disservice to other Town employees and the community as a whole. These rules and regulations are designed to provide guidelines that will enhance businesslike deportment for efficiently serving the community while respecting the rights of employees.
- (b) Generally, the Town shall follow a policy of progressive discipline by which less severe forms of discipline are imposed prior to resorting to the imposition of more severe sanctions for the same or similar conduct by the employee. The regulations set forth are divided into three groups to reflect degrees of severity of offenses. The penalties or recommended corrective actions are intended as guidelines only. The Department Director or Town Manager may take more or less severe corrective actions in any given instance where the circumstances warrant. Disciplinary actions, in increasing order of severity, consist of oral reprimand, written reprimand, suspension without pay, demotion, and dismissal. The Town reserves the right to impose even the most severe discipline as an initial measure when circumstances warrant.
- (c) The offenses listed under each of the three categories are examples only and are not intended to be all-inclusive. The Town retains the right to treat each violation on an individual basis without setting a binding precedent for future cases.
- (d) In determining the corrective action to be taken in each group, and whether a deviation from the recommended action is warranted, consideration should be given to the totality of the circumstances, including, among other things, the severity of the offense, costs involved, the time interval between violations, the length and quality of service records, and the performance and ability of the employee concerned.
- (e) Any offense not specifically enumerated in the three groups will be considered an offense most closely resembling any offense in the group listed and appropriate recommended guidelines will apply.

- (f) As used in this section, the terms second or third offense do not necessarily mean a repeat of a previous offense, but include any and all offenses listed.

11.2 GENERAL PROVISIONS

- (a) Where disciplinary or corrective action is taken the Town Manager or the Director shall notify the employee of the action taken. Except for verbal counseling/warning, a copy of such notice will be placed in the employee's personnel folder.
- (b) When an employee has the right or is required to do some act within a prescribed period after the delivery of a notice or other document upon him or her and the notice or other document is delivered by mail, delivery shall be deemed complete upon mailing, but five days shall be added to the prescribed period.
- (c) In imposing any disciplinary measures, the Town Manager will not take into consideration any prior offense which occurred more than two (2) years previously, so long as there has been no recurrence of the offense; or of any infraction which occurred more than five (5) years previously.

11.3 CORRECTIVE OR DISCIPLINARY ACTIONS

The actions set forth below are descriptive of the corrective or disciplinary actions the Town may take. These are typical actions, but they are not the exclusive actions available. The failure of the Town to adhere strictly to the procedures described does not prevent the Town from taking necessary disciplinary action.

A. VERBAL COUNSELING/WARNING

When an employee's performance, attitude, work habits, or personal conduct at any time falls below a desirable level, and minimal disciplinary or corrective action is warranted, the employee will be informed promptly and specifically of that fact and given verbal counsel and assistance, and if necessary, a verbal warning. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating more severe corrective or disciplinary measures.

B. WRITTEN WARNING

When disciplinary or corrective action more severe than verbal counseling/warning is warranted, or where verbal counseling has not resulted in expected improvement, a

written warning may be issued explaining the nature of the offense or reason for discipline. A written warning may also be issued in any situation where a verbal counseling/warning is warranted, whether or not verbal counseling/warning has been initiated. A copy will be sent to the employee and the original will be placed in the employee's personnel file, which is maintained in the Town Hall.

C. SUSPENSION

(1) With pay:

An employee may be suspended with pay by the Town Manager where it is necessary to have the employee removed from the job site, or from a position pending investigation; or prior to initiating a potential disciplinary action. It is a temporary measure and should not be used as a substitute for other disciplinary measures.

(2) Without Pay:

An employee may be suspended without pay. The Town Manager will notify the employee of the action in writing outlining the offense or reason for the action. The Town Manager will take the action deemed appropriate, providing the employee with a written copy of the action.

D. TERMINATION

At the time termination becomes effective, the Town Manager will notify the employee of the proposed action in writing outlining the offense or reason for the action.

11.4 OFFENSES/REASONS FOR DISCIPLINE

TYPES OF OFFENSES - EXAMPLES

The three (3) groups of offenses and a guide for standard penalties recommended are as follows. These are illustrations and not inclusive of all disciplinary offenses:

A. GROUP I OFFENSES

FIRST OFFENSE - Verbal Counseling/Warning or Written Warning

SECOND OFFENSE - One (1) to Five (5) Days Suspension

THIRD OFFENSE - Termination

- (1) Productivity or workmanship not up to required standards of performance, neglect of work during work hours..
- (2) Discourtesy to persons with whom the employee comes in contact while in the performance of duties.
- (3) Habitual, chronic or excessive absenteeism.

B. GROUP II OFFENSES

FIRST OFFENSE - UP TO FIVE (5) DAYS SUSPENSION
SECOND OFFENSE - TERMINATION

- (1) Threatening, intimidating, coercing or interfering with fellow employees at any time, including abusive language and insubordination.
- (2) Negligence or omission in complying with the requirements as set forth in the rules and standards of conduct.
- (3) Making or publishing false, vicious or malicious statements concerning any employee, manager, the Town or its operation.

C. GROUP III OFFENSES

FIRST OFFENSE - TERMINATION

- (1) Violation of the conflict of interest provisions as stated in this manual.
- (2) Falsification of personnel or Town records, use of official position for personal advantage, including employment applications, accident records, work records, purchase orders, time sheets, leave requests or any other report, record or application, or use or attempted use of political influence or bribery to secure an advantage of any form.
- (3) Failure to return from an authorized leave of absence.
- (4) Conviction of a felony or of a misdemeanor of the first degree involving moral turpitude, while either on or off the job.
- (5) Violations of law involving moral turpitude, unlawful discrimination or sexual harassment.

The above reasons for termination are examples only and the Town retains the right to terminate any employee for reasons other than listed. This termination section is not intended to create a property interest in employment.

11.5 DISCIPLINARY PROCEDURES

A. When disciplinary action against an employee, greater than a verbal counseling or written warning, is contemplated by the Town, the Department Director shall provide the employee with written notice of the intended action(s). The notice shall include the following:

- 1.** The proposed effective date of the disciplinary action;
- 2.** The specific changes or reasons for the action and identification of any documents on which the charges are based;
- 3.** A statement advising the employee that he/she may, within three (3) working days of receipt of the notice, submit a request in writing for an informal pre-disciplinary conference to refute or explain the charges made against the employee;
- 4.** The name, address and telephone number of the person to whom the request for a conference shall be directed; and
- 5.** A statement advising that if the employee requests a conference, no disciplinary action will be take effect until after the conference has been held. The conference shall be held at a time and place determined by the Town, during regular business hours.

B. Pre-Disciplinary Conference

1. The conference shall be conducted by the person who has the authority to make a decision as to what, if any, discipline is to be imposed, generally the Department Director. In the case of a Department Director, the Town Manager shall conduct the pre-disciplinary conference.

2. The person conducting the pre-disciplinary conference shall explain that the purpose of the conference is to hear the employee's position concerning the charges and to provide an opportunity to reevaluate the situation after reviewing the information presented by the employee.

3. The conference shall be informal and shall not be in the nature of an evidentiary hearing.

4. The employee shall be permitted to submit relevant information, orally or in writing, or both. The employee shall be informed that if he/she chooses to make no response, the Town will proceed on the basis of the best information it can obtain without such response.

5. At the conclusion of the conference, the person conducting the conference shall inform the employee when the decision on whether to take disciplinary action will be forthcoming and how the employee will be notified.

6. After considering all information presented at the conference, the person conducting the conference may rescind or lessen the discipline first intended, or may proceed. In no event shall the discipline imposed be greater than that specified in the notice of proposed disciplinary action.

7. The person who conducted the pre-disciplinary conference shall notify the employee of the outcome of the pre-disciplinary conference in writing. If the decision is to impose disciplinary action on the employee, then the disciplinary action to be imposed must be embodied in a Final Notice of Disciplinary Action which must be provided to the employee by hand delivery or certified mail, return receipt requested. The Final Notice of Disciplinary Action shall state clearly the nature of the discipline to be imposed, the effective date(s) of such discipline, and the reason(s) for the disciplinary action. The Final Notice of Disciplinary Action shall contain a statement informing the employee of her/his right to seek review by the Town Manager.

C. Review By Town Manager

1. The employee shall have ten (10) working days for receipt of the Final Notice of Disciplinary Action within which to request, in writing, a review by the Town Manager of the decision imposing disciplinary action. The written request shall be filed with the Town Manager and shall state the reason(s) the employee believes that the disciplinary action was not justified.

2. Within three (3) working days from receipt of the employee's request for review of the decision imposing disciplinary action, the Town Manager shall schedule a proceeding for the purpose of reviewing the decision imposing disciplinary action, the Town Manager shall schedule a proceeding for the purpose of reviewing the decision imposing disciplinary action.

3. At the review proceeding the Town Manager shall explain that the purpose of the proceeding is to determine whether the disciplinary action to be imposed is based on good and sufficient cause.

4. The review proceeding shall be informal and shall not be in the nature of an evidentiary hearing.
5. The employee and the Department Director shall be permitted to submit relevant information, orally or in writing, or both.
6. The Town Manager shall conclude this/her review within ten (10) working days.
7. At the conclusion of the review proceeding, the Town Manager shall inform the employee when a decision on the request for review will be forthcoming and how the employee will be notified.
8. After considering all information presented at the proceeding, the Town Manager may rescind or lessen the discipline, or may uphold the decision of the Department Director. In no event shall the discipline imposed be greater than that specified in the Final Notice of Disciplinary Action.
9. The Town Manager shall notify the employee of the outcome of the review proceeding in writing. The notice shall clearly state whether the Town Manager has upheld, modified, or reversed the decision of the Department Director or his/her designee to impose disciplinary action. If the Town Manager modifies or upholds the discipline impose in the Final Notice of Disciplinary Action, then the notice shall state clearly the nature of the discipline to be imposed, the effective date(s) of such discipline, and the reason(s) for the disciplinary action.

11.5 SEVERABILITY/EFFECTIVE DATE

A. SEVERABILITY

In the event that any portion or section of this Manual is determined to be invalid, illegal or unconstitutional by a court of jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Manual, which shall remain in full force and effect.

B. EFFECTIVE DATE

This Manual shall take effect immediately upon its approval by the Town of Fort Myers Beach Town Council.

END OF MANUAL