

CITY OF DELRAY BEACH

CIVIL SERVICE

CODE OF RULES AND REGULATIONS

This document is not intended to create any type of independent employment contract.

REVISED AS OF February 13, 1998, UNDER THE AUTHORITY OF

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DAVID T. HARDEN  
CITY MANAGER



## CIVIL SERVICE CODE OF RULES AND REGULATIONS

### Section 100

All persons employed on a regular, full-time basis by said municipality in any department shall be construed to come within the provisions of the Civil Service Act of the City of Delray Beach, Florida, as amended, except department heads who were employed subsequent to June 19, 1980; and this Act shall not include any officer or person employed for temporary duty only; nor shall it include employees covered under the terms of a collective bargaining agreement, or expired collective bargaining agreement which is subject to renegotiation unless otherwise expressly provided in the act or in the code of rules and regulations or in the collective bargaining agreement.

### Section 101 - Application for Position

No person shall be appointed to a position unless he or she shall have fulfilled the following conditions:

- A. Filed a written application on the prescribed form or in the case of a re-employment, has had his/her original application reviewed, updating such application as necessary. All applications must show the applicant's name, address, current business or employment, names of former employers, names of the required number of persons who are personally acquainted with the applicant.
- B. Qualified by passing required tests or by meeting all requirements as to education, experience and/or training.
- C. Completed the City's supplemental form requesting information required for reporting to local, state and federal regulatory agencies.
- D. Successfully passed a job related medical examination, if any were required.

No recommendations or questions shall relate to the race, religion, ethnic or national origin or political affiliations on the part of the applicant and neither shall such information be considered by the City in making appointments to City employment. No information regarding the age, sex or any physical handicap or disability of an applicant shall be considered by the City in making appointment to City employment, except where age, sex or physical condition can be reasonably shown to be necessary to the satisfactory performance of the duties of the position to be filled.

All positions of unskilled or semi-skilled nature shall not require the taking of a written examination. However, each employee shall be selected on the basis of experience, physical fitness required for the position, aptitude and ability. Each applicant shall be selected in accordance with the above stated qualifications.

## Section 102 - Appointment

Whenever a vacancy in a competitive position is to be filled other than by transfer, demotion, promotion or temporary or provisional appointment, the Department Head shall make a request for an employee to the Personnel Department on the form and in the manner prescribed. Whenever possible, the Department Head shall make said requests two (2) weeks in advance of the time the new employee is needed, and in any case as soon as possible. Upon receipt of the Department Head's request, or as soon thereafter as possible, the Personnel Department shall certify to the Department Head the names and addresses of persons whose names appear on the appropriate eligibility list.

The Department Head shall state in writing, in exact, specific and precise terms his reasons for selecting the person he/she is recommending for appointment over each applicant who made a higher examination score than the recommended person.

Whenever there are urgent reasons for filling a regular position for which there is no eligibility list, established, the City Manager may authorize the vacancy to be filled by a provisional or temporary appointment. Provisional or temporary appointments shall be terminated at such time as the required certification and appointment can be made from an eligibility list of applicants who have taken and passed the appropriate examination and shall be for not longer than six (6) months without review and approval by the City Manager.

Temporary appointments may be made of persons whose employment is expected to be of a seasonal nature or whose services are required for a special job or project and when it is expected that the services of such persons will no longer be necessary at the close of the season or upon completion of such special job or project for which they have been appointed. Temporary appointments may also be made to fill vacancies resulting from regular employees being on extended authorized leaves of absence. Such temporary appointments and terminations resulting from temporary appointments shall not be subject to Civil Service review.

All appointments must be approved by the City Manager.

## Section 103 - Examination Procedures

### A - General

All appointments to Civil Service positions shall be made according to merit and fitness. Merit and fitness may be determined, in part or in whole, by written examinations. At the request of the Department Head (except as hereafter noted) it shall be the duty of the Civil Service Board or its examiner, subject to Board approval, to secure and provide written examinations. In order to avoid even the appearance of an impropriety, the Chief Examiner shall in all instances be one of the Council appointed members. Written examination for positions which are covered under the terms of a collective bargaining agreement, or expired collective bargaining agreement which is subject to renegotiation shall be provided and administered by the City Manager or his designee. In regard to examinations required of the Civil Service Board, it shall be the Board's duty to assure that all examinations are currently valid and are positively related to the duties of the position in accordance with EEOC guidelines; to maintain eligibility lists, to administer all examinations and grading of all papers submitted as a result of examinations and perform such other related duties as may be necessary.

The Personnel Director shall notify the Department Heads, upon request, of the status of their eligibility lists.

All written examinations shall be fair and impartial and shall relate to those matters which will fairly test the capacity and fitness of the candidate to efficiently perform the duties of the position to be filled. Entry level examinees must obtain a minimum score of seventy (70%) on his examination in order to be eligible for appointment.

At the request of the Civil Service Board, it shall be the duty of the Department Heads to furnish a current job description and qualifications for the position, such statements serving as the basis for the examination in question.

The Civil Service Board shall set the date and place of the examination in concurrence with the Department Head and Personnel Department, including notice of any change in date and time of examination.

The actual conduct of every examination shall be under the direction of the Civil Service Board or its designated agent(s), free from interference, participation or influence of any person other than the examiners or agents named by the Board.

Each examination paper shall have an identification number. Before proceeding to answer the questions in an examination, all candidates shall fill out and sign an identification number slip whereupon they shall write their name and address, together with such other information as may be required. They shall then seal these slips in an envelope bearing the same identification number. All examination papers turned in by a candidate shall bear the same number at the top as appears on the envelope containing the identification slip. Said envelope shall not bear applicant's name. Before beginning the examination the identification envelopes shall be turned in to the Chief Examiner who will place them in a larger envelope which will then be sealed. Only after all examination papers have been marked or graded, said envelopes shall be opened, in the presence of two (2) or more Civil Service Board members, one of whom must be the Chief Examiner or his/her designee who must be another Council appointed member.

After certification by the Chief Examiner or his/her designee of the results of any examination, the City shall provide all candidates with written notification of the results of their examination within a reasonable period of time following the conclusion of the examination.

A candidate receiving such notice shall, in person or with his/her duly authorized agent, while in the presence of any member of the Board, have the right to review his/her own completed examinations. If the candidate believes an error has been made in the marking or grading of his/her completed examination, the candidate may, within ten days after the examination scores are disclosed, appeal to the Board in writing specifying wherein the candidate believes an error has been made. Such appeal shall be considered by the Board. In the event it finds that an error does exist, it will direct a revision in the marking of the candidate's completed examination. No one shall be permitted to see any completed examination but his/her completed examination or those of a candidate for whom he/she is a duly authorized agent.

From the results of each examination the Board shall prepare (and the Personnel Department shall keep open to public inspection) and eligibility list of persons who achieved a passing score. Whenever it becomes necessary to hold an examination in order to obtain additional eligibles, the Board shall add to the existing list for the same position by rearranging the eligible names therein according to their scores. No name or score shall be entered on any list to be posted, of those personnel who failed to achieve a passing score. The names of the eligibility list established from entrance and promotional examinations shall be valid for a period of one (1) year. At the end of one (1) year the name shall be automatically deleted from the eligibility list without further action from the Board.

A person who competes in an examination without achieving a passing score shall be eligible to compete in another examination as provided for in this section.

All persons whose names appear on an existing list for a position which is to be added to by another examination shall have the opportunity to compete in said examination. In all cases where a person elects to take another examination for the same position, and whose name is already on the eligibility list with a passing score, then upon taking another examination, the latter score shall be said person's score and shall replace the previous examination score. No score shall be entered on any eligibility list unless it is a passing score as herein above provided.

If none of the examinees competing in a particular examination attain a passing score, then no names shall be placed on the eligibility register.

The Civil Service Board shall have the power, whenever in its judgment the best interests of public service requires it, to order a re-examination of candidates for any position. It shall have the power to correct, amend, or revoke any eligibility list or examination paper where there is evidence that an error has been made or injustice has been done or where a person has become incapacitated or unfit for the position. Notice shall be given to all persons whose standing on such list or score on an examination is affected by such alterations.

The Civil Service Board may refuse to examine, or after examination to certify as eligible, applicants found to lack any of the established preliminary requirements to take the examination for the position for which they apply; or who have intentionally made a false statement or any material fact, or have practiced or attempted to practice any deception or fraud in their applications, in their examination, or in securing their eligibility for appointment.

#### B - Scheduled Entrant

Notice of scheduled competitive written probationary examinations shall be given by advertisement in at least one (1) newspaper of general circulation in the City of Delray Beach not less than seven (7) or more than thirty (30) days prior to the date of such examination, and by posting notices of said examination in two (2) places as follows: one (1) notice on the City Hall bulletin board; and one (1) notice at the department for which the examinations is being given.

A person who competes in a scheduled written examination without achieving a passing score is eligible to take another written examination for the same position after an elapsed time of no less than six (6) weeks.

A person who competes in a scheduled written examination, achieves a passing score but has failed or is rejected at any subsequent point of the hiring process, will not be eligible to compete in another written examination for a period of three (3) months from the date of failure or rejection.

#### C - Non-Scheduled Entrant

Whenever the Personnel Director or the Civil Service Board determines the necessity, non-scheduled examinations may be conducted on a continuous basis. The Chief Examiner or designee shall give such a non-scheduled examination. Each applicant will receive an identification number to coincide with the month, day, and year and sequence of testing, i.e., 10-17-81 - 1, 2, 3, etc.

A person who competes in an unscheduled written examination without achieving a passing score is eligible to take a scheduled written examination for the same position after an elapsed time of no less than six (6) weeks.

A person who competes in a non scheduled written examination, achieves a passing score but has failed or is rejected at any subsequent point of the hiring process, will not be eligible to compete in another written examination for a period of three (3) months from the date of failure or rejection.

#### D - Promotional Examinations.

Notice of competitive examination shall be posted at the department where the position exists no less than fifteen (15) nor more than thirty (30) days prior to said examination.

The Civil Service Board shall set the date and place of the examination in concurrence with the Department Head and Personnel Director, including notice of any change in date and time of examination.

The actual conduct of each examination shall be as outlined in Section 103-A.

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Section 104 - Entrance into the Fire Department

All candidates for Firefighter, in addition to the general requirements for City employment, shall not be less than eighteen (18) years of age at the time of their written examination.

Candidates must be free from any bodily defect; deformity or disease which would impair their ability to perform the required job tasks and must be certified as fit for service by a physician approved by the City at City expense. Any physical examinations for fire candidates shall be performed in accordance with requirements of the Florida Firefighters Minimum Standards Act.

Candidates must show themselves to be in good physical condition in accordance with the requirements of the Florida Firefighters Minimum Standards Act. Further, candidates must meet and maintain all other City requirements relative to health or physical condition.

Section 105 - Promotion in the Fire Department

All personnel who are covered by these Rules and Regulations desiring promotion in the Fire Department will be required to take the appropriate Civil Service examinations. To be admitted to such examination employees will in addition to the general requirements for City promotions be required to meet the following qualifications:

- A. Admission to examination for promotion to Fire Captain shall be restricted to Lieutenants who have been in that position for one (1) continuous year with the City of Delray Beach immediately preceding the examination.
- B. Admission to examination for promotion to Captain (Training Officer) and Captain (Fire Marshal) shall be restricted to employees who have served for three (3) continuous years with the City of Delray Beach Fire Department immediately preceding the examination.
- C. Admission to examination for promotion to Captain (Paramedic Coordinator) shall be restricted to employees who have served for three (3) continuous years with the Delray Beach Fire Department immediately preceding the examination and shall be a State Certified Paramedic in accordance with Chapter 401, Florida State Statutes.

Written promotional examinations for Fire Captain (Training Officer) and Captain (Fire Marshal) shall be augmented by an oral examination, to be given by the Fire Chief and such other officers of the Fire Department as the Fire Chief shall appoint. The respective grade of these tests shall be:

Written examination	70% to 100%
Oral examination	0% to 100%

Written promotional examinations for the position of Captain (Paramedic Coordinator) shall be augmented by oral examination, to be given by the Fire Chief or his/her designee. The respective grade of those tests shall be:

Written examination	70% to 100%
Oral examination	0% to 100%

The examinee's total score for all the above positions shall be the average of the written and oral examination scores. A minimum total score of 70% is required for promotion.

If for some reason there is no Delray Beach Fire Department employee who qualifies for the position of Paramedic Coordinator or no Fire Department employee successfully passes the examination, qualified applicants may be solicited from outside the Delray Beach Fire Department.

#### Section 106 - Entrance into the Police Department

All Candidates for Police Officer shall be in addition to the general requirements for City employment, not less than nineteen (19) years of age at the date of their written examination. Such written examination shall be administered by representatives of the Delray Beach Police Department, designated by the Civil Service Board as examiners. Candidates must also show themselves to be in good physical condition, and be free from bodily defect, deformity, or disease which would impair their ability to perform the required job tasks with reasonable accommodations and must be certified as fit for service by a physician approved by the City. Any physical examinations for police candidates shall be made in accordance with requirements of the Florida State Police Standards Act and are to be paid for by the City.

Candidates must pass an oral interview with the Police Chief and/or his/her designees which oral interview shall be considered an integral part of the examination process.

Candidates must be certified as being of sound and stable mental condition by a normal rating on a personality inventory and/or written report from a psychiatrist/psychologist designated by the City.

Candidates must receive a satisfactory rating on a background investigation.

Further, candidates must meet and maintain all other City requirements relative to health or physical condition.

Section 107 - Promotion in the Police Department

All sworn personnel desiring promotion in the Police Department will be required to take the appropriate Civil Service Board examination. To be admitted to examinations employees will in addition to the general requirements for City promotion, be required to meet the following qualifications:

- A. Admission to examination for promotion to Police Lieutenant shall be restricted to Police Sergeants who have been in that position for one (1) year continuously with the City of Delray Beach immediately preceding the examination.
- B. Admission to examination for promotion to Police Captain shall be restricted to Police Lieutenants who have been in that position for one (1) year continuously with the City of Delray Beach immediately preceding the examination.
- C. Anyone taking an examination shall be an employee of the Police Department of the City of Delray Beach at the time of taking such examination.
- D. An employee within the period of an authorized Leave of Absence from the Police Department of the City of Delray Beach shall be eligible to take such examination, provided the period of the Leave of Absence shall not be considered in calculating the "Time in Grade" requirement of these rules.

Candidates must obtain a minimum examination score of 70% in written exams to be eligible for further consideration. Written promotional examinations shall be augmented by oral interviews and staff evaluations. The oral interview shall be conducted by members of neighboring law enforcement agencies and/or a personnel director of a neighboring agency. The respective weights given to written examinations, oral interviews and staff evaluations to determine the candidate's total rating shall be:

Written examination	50%
Oral examination	25%
Staff evaluation	25%

An aggregate score of 70% must be attained to be promoted.

### Section 108 - Promotion in General

The higher positions of City employment with the exception of department heads and second in command shall be filled by promotion insofar as such is consistent with the best interests of the City of Delray Beach. Promotions to positions for which written examinations are provided will be made only after successful completion of promotional tests and meeting standards set for the position.

Promotional tests shall be open only to those employees who have the necessary qualifications.

Candidates must obtain a minimum examination score of 70% on written exams to be eligible for further consideration.

Written promotional examinations may be augmented by oral interviews, staff evaluations, practical tests job related physical ability tests of any combination of these:

All promotions shall be considered probationary for a period of twelve (12) months.

All promotions must be approved in advance by the City Manager.

### Section 109 - Probationary Period for New Employees

The probationary period shall be regarded as an integral part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective and adjustment of the new employee to his/her position, for rejecting any employee whose performance on the job is not satisfactory, and for determining, in the judgment of the department head, whether the employee, taking all things into consideration, should become a non-probationary regular full-time employee of the City.

All appointments shall be probationary, and the City Manager may terminate an employee at any time during the probationary period and specifically for "Unsatisfactory Completion of Probationary Period" upon the recommendation of the employee's department head.

The probationary period shall consist of a total of twelve (12) months' service. Any leave of absence exceeding thirty (30) days shall not count toward completion of the twelve (12) months' probationary period.

Terminations of probationary employees shall not be subject to Civil Service review.

Employees serving a probationary period are excluded from service on the Civil Service Board.

Section 110 - Probationary Period for Promoted Employees

The probationary period for employees promoted to higher positions in the City service shall be twelve (12) months. The City Manager may return to the employee's previous position, if available, any employee who has not satisfactorily completed his/her twelve (12) month probationary period, or the City Manager may reassign the employee to any other position which is available and for which the employee is qualified or his/her employment may be terminated.

### Section 111 - Transfer

A position may be filled by transferring an employee from another position of the same class or similar class with essentially the same basic qualifications, excepting that in no case shall an employee be transferred to a class having a higher maximum salary than the class from which the transfer is made, unless the employee is qualified in the new class and has passed the examination for that position if the position is a competitive one. Transfer may also be initiated at the request of the employee.

All transfers must be approved in advance by the City Manager.

### Section 112 - Reclassification

When a position or its primary function is reclassified to a higher grade with the same or a new position title, the City Manager shall have the option to appoint the incumbent of the reclassified position to the new position, to declare the new position open for competitive examination or to fill the new position without examination if no examination is required by the Civil Service Board.

### Section 113 - Non-Disciplinary Return to Previous Position, Reassignment, Termination

Request for return to previous position may originate with the employee or the Department Head. Such requests and the reasons therefore must be presented in writing and processed through the Department Head to the City Manager who must approve same prior to their effectiveness. Whenever a regular employee is incapacitated, and, as a result, is unable to perform the duties of the position, the employee may on his/her own initiative, request reassignment to any other position which is available and for which the employee believes he/she is qualified. An employee who is physically or mentally incapacitated may also be reassigned by the City Manager to any other position which is available and for which the employee is qualified, or under appropriate circumstances, his/her employment may be terminated from the City.

Section 114 - Disciplinary Actions

Subsection 1. INTENTION

The purpose of employment rules and disciplinary actions for violating such rules is to ensure the rights of all and to encourage cooperation and harmony in employment. Whenever possible, the administration of discipline will be constructive, corrective and progressive.

Subsection 2. DISCIPLINARY ACTIONS

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

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

The City has listed, as a guide, and not as a policy, three groups of offenses. These are examples only, and do not include all acts for which discipline may be imposed. Similarly, the penalties and sequences of penalties are suggested guideline only: a single Group I or II offense may justify and require discharge. A particular offense may have more serious consequences in some work situations than in others. For example, tardiness may be more serious in work settings where 24 hour staffing is required than in settings with an eight hour workday. The sequences of penalties in Group I and II are not controlling. To the extent they are utilized, they refer to any two to four acts viewed by the City as discipline offenses, regardless of their nature or when committed.

Employees engaging in misconduct or unsatisfactory behavior will be disciplined according to the severity of the act. A single infraction may be grounds for dismissal, as well as a series of lesser infractions. It would be impractical to attempt to list each item and each circumstance under which corrective action or termination will be considered; however, the following summary contains the most often violated rules of conduct. A department head may recommend to the City Manager the dismissal of any employee for any misconduct, whether or not listed below. The list is intended to be a guide only, and in no way limits authority of a department head or the City Manager to discipline for misconduct in a manner deemed by them to be most appropriate.

GROUP I OFFENSES

- |                |   |  |
|----------------|---|--|
| FIRST OFFENSE  | - | VERBAL INSTRUCTION AND CAUTIONING OR WRITTEN REPRIMAND |
| SECOND OFFENSE | - | ONE (1) OR TWO (2) DAYS SUSPENSION W/O PAY             |
| THIRD OFFENSE  | - | FIVE (5) DAYS SUSPENSION W/O PAY                       |

FOURTH OFFENSE - DISCHARGE

1. Failure to work overtime, special hours or special shifts, after being scheduled according to overtime and standby duty policies.
2. Operating, using, or possessing tools, equipment or machines to which the employee has not been assigned or performing other than assigned work.
3. Wasting time, loitering, or quitting work or leaving assigned work area during working hours without permission.
4. Taking more than specified time for meals or rest periods.
5. Productivity or workmanship not up to required standards of performance.
6. Mistake due to carelessness.
7. Where operations are continuous, an employee shall not leave his or her post at the end of his scheduled shift until he or she is relieved by the supervisor, or the relieving employee on the incoming shift.
8. Failure to punch in or out on a time clock, when required to do so.
9. Tardiness.
10. Being absent without permission or leave.
11. Violating a safety rule or safety practice.
12. Failure to report an accident or personal injury in which the employee was involved while on the job.
13. Engaging in horseplay, scuffling, wrestling, throwing things, malicious mischief, distracting the attention of others, catcalls, demonstrations on the job, or similar types of disorderly conduct.
14. Creating or contributing to unsafe and unsanitary conditions or poor housekeeping.
15. Posting or removal of any matter on bulletin boards or City property at any time unless authorized.
16. Distributing written or printed matter of any description on City premises unless authorized.

GROUP II OFFENSES

FIRST OFFENSE - INSTRUCTION AND ONE OR TWO DAYS SUSPENSION  
W/O PAY

SECOND OFFENSE - DISCHARGE

1. Threatening, intimidating, coercing or interfering with fellow employees or supervision at any time, on or off duty, including abusive language.

2. Making or publishing false, vicious, or malicious statements concerning any employee, supervisor, the City or its operation which is beyond the boundaries of free speech.
3. Leaving the job during regular work hours without permission.
4. Refusal to truthfully answer questions specifically, directly, and narrowly related to the employee's employment.
5. Causing material, parts or equipment to be damaged or scrapped due to carelessness.
6. Receipt from any person, or participation in, any fee, gift, or other valuable thing in the course of work, when such fee, gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons.
7. Conducting sales, soliciting, or collecting contributions, for any purpose whatsoever at any time on City premises unless authorized.
8. Chronic absenteeism.
9. Disregarding job duties by loafing or neglect or performing non-City work during working time.
10. Discourtesy to non-City persons with whom the employee is in contact while working.
11. Willful or gross neglect in the performance of assigned duties.
12. Deliberately misusing, destroying or damaging any City property or property of any employee.
13. Insubordination by the refusal to perform work assigned, or to comply with written or verbal instructions of the supervisory force.
14. Theft or removal from city locations without proper authorization of City property or property of any employee.
15. Immoral, unlawful, or improper conduct or indecency, either on or off the job, which would tend to affect the employee's ability to perform his assigned duties or would tend to interfere with the City's ability to provide services or carry out its public function.
16. Demonstrated repeated incompetence or inefficiency in the performance of assigned duties.
17. Use or attempted use of political influence or bribery to secure an advantage of any manner.

#### GROUP III OFFENSES

FIRST OFFENSE        -        DISCHARGE

1. Falsification of any personnel or City records, including employment applications, accident records, work records, purchase orders, time cards or sheets, or any other report, record or application.
2. Punching a time clock for another employee, knowingly having your card punched by another employee, or altering a time card for yourself or another employee without authorization.
3. Making false claims or a material misrepresentation in an attempt to obtain sickness or accident benefits or workers' compensation
4. Unauthorized possession of firearms, explosives, or weapons on City property.
5. Being under the influence or in possession of intoxicating beverages while on duty.
6. The use, possession or sale of illegal drugs while on or off duty.
7. Refusal or failure to submit to legally appropriate drug testing.
8. The illegal use, sale and/or dispensing of drugs at any time, including anabolic steroids, regardless of whether convicted.
9. Conviction of or entering a guilty plea to a felony, or a misdemeanor of the first degree as defined by Florida Statutes, or any violation of a City ordinance involving moral turpitude, while either on or off the job.
10. Concerted curtailment or restriction of production or interference with work including, but not limited to, instigating, leading or participating in any walk-out, strike, sit-down, stand-in, slow-down, refusal to return to work at the scheduled time for the scheduled shift.
11. Provoking or instigating a fight, or fighting at any time on City property.
12. Sleeping during working hours (unless otherwise provided, as in the Fire Department.)
13. Engaging in illegal gambling at any time on City premises.

### Subsection 3. PROBATIONARY EMPLOYEES

The provisions of Subsection 2 do not apply to probationary employees, who may be disciplined and discharged for any reason at the City's sole will and discretion at any time until the completion of their probationary period and the attainment of non-probationary employee status. The City expressly does not grant to any probationary employee any requirement that there be cause for his discharge, demotion, or suspension with loss of time or pay. The City expressly does not grant to any probationary employee any property right in City employment.

### Subsection 4. DEMOTION

A demotion is not normally considered a disciplinary action since it is usually related to matters of performance. However, there are situations of misconduct or deficiencies where demotions are appropriate.

### Subsection 5. AUTHORIZATION FOR DISCIPLINARY ACTIONS

Verbal reprimands and counseling may be given by immediate supervisors of the affected personnel. A brief written record of such action shall be made and placed in the personnel file of the affected personnel. Department heads may give written reprimands which shall be shown to, explained to and signed by the affected personnel and, thereafter, placed in the personnel file of the affected personnel. All supervisors have authority to recommend written reprimands of personnel assigned to them. Department heads have authority to suspend, without pay, personnel assigned to their departments, subject to approval by the City Manager. In exercising this authority, department heads shall consult the guidelines in Subsection 2 of this part. All supervisors and division chiefs have authority to recommend suspensions without pay.

Supervisors, division chiefs and department heads have authority to recommend discharge of employees for cause. In so doing, they shall consult the provisions of Subsection 2 of this part. All recommendations for discharge shall promptly be routed through the Human Resources Director.

The City Manager shall have authority to discharge all personnel below him. All disciplinary actions resulting in loss of time or earnings to employees must be approved by the City Manager prior to implementation.

#### Subsection 6. EMPLOYEE CHARGED WITH A CRIMINAL OFFENSE

If criminal charges have been formally instituted against an employee, the City Manager may place said employee on leave of absence with or without pay.

During such leave of absence, the City may investigate and take appropriate disciplinary action against the employee. However, if the employee is subsequently found not guilty by a trial court of all the criminal charges which had been instituted against the employee, and if no notice of potential disciplinary action had been given, the employee shall be reinstated and awarded back pay for the period of said leave of absence.

## SECTION 115 – DISCIPLINARY ACTION PROCESSING

All employees of the City of Delray Beach are subject to the rules and regulations set forth in the City of Delray Beach Personnel Policies and the City of Delray Beach Civil Service Code of Rules and Regulations except to the extent made inapplicable to members of the bargaining units, by virtue of any collective bargaining agreement, as well as, being subject to any rules and regulations of respective departments supplementary and not in conflict herewith. The City's rules and regulations are not intended to interfere with the rights of any personnel but are designed to protect the mutual rights of each employee, as well as the citizens and the City of Delray Beach.

In order to ensure the rights of all, disciplinary action is hereby provided, to include discharge, demotion, suspension without pay, deduction from pay, reprimands, and memoranda for personnel files advising of unsatisfactory performance of duty, for any act considered to be contrary to the best interests of the City.

The following procedure has been established for the processing of any disciplinary actions for non-probationary employees;

1. Prior to any disciplinary action being instituted (unless not feasible), the employee shall receive written notification from his/her department head, that the department head is considering recommending to the City Manager that disciplinary action be taken against the employee. The notice shall set forth the grounds for the potential discipline and state what departmental rules, personnel policies and/or Civil Service rules and regulations form the basis for the recommended discipline.
2. The employee shall have three (3) working days from date of notice, in Step 1, to request, in writing, a conference with the department head prior to the department head making his/her final decision on the recommendations for disciplinary action that he/she is considering forwarding to the City Manager. If the request for a conference has not been made within three (3) working days, the conference shall have been waived. In either case, the employee shall receive a copy of the department head's decision.
3. In case of disciplinary action, or recommendations for disciplinary action not involving termination, if the employee waives the departmental conference or is not satisfied with the decision resulting from the conference, he/she may still request, in writing, a pre-disciplinary conference before the City Manager.

The written request must be made to the City Manager within three (3) working days of the department head's decision (in Step 2) or the employee will have waived any rights to the City Manager's pre-disciplinary conference. Said written request should also clearly state the basis for the employee's dissatisfaction with the department head's decision or recommendation.

In cases where the recommended disciplinary action does involve termination, the City Manager shall initiate the hearing by notifying the employee in writing of the receipt of the department head's recommendation and the time and date set for such pre-disciplinary conference. Such notice shall set forth the grounds for the potential termination and

state what departmental rules, personnel policies and/or Civil Service rules and regulations form the basis for the recommended discipline. If the employee does not wish to have such a pre-disciplinary conference, such decision should be given in writing to the City Manager prior to the date of the hearing.

The employee has the right at such pre-disciplinary conferences held before the City Manager to attend the hearing with an attorney or representative of his own choice. Furthermore, the employee may call witnesses on his/her behalf.

4. The employee shall receive written notification of the City Manager's decision within a reasonable time following such pre-disciplinary conference (as outlined in Step 3).
5. For purpose of this Section the term "working days" shall mean Monday through Friday, inclusive, but excluding the City's legal holidays.

SECTION 116 – RIGHT OF APPEAL TO CIVIL SERVICE BOARD

An employee who has been discharged, demoted or suspended without pay for a period in excess of seven (7) calendar days may appeal to the Civil Service Board for a hearing within ten (10) calendar days from the time he was served with notice of discharge, demotion or suspension without pay (as above referred to), as shown by such notice.

Any further rights of appeal of disciplinary matters are pursuant to the current restrictions and requirements of the Civil Service Act of the City of Delray Beach.

SECTION 117 – DISQUALIFICATION FROM TAKING CIVIL SERVICE EXAMINATION

Any employee who is dismissed for misconduct or delinquency or who resigns while charges are pending shall be disqualified from taking any Civil Service examination in the City of Delray Beech within a period of five (5) years thereafter.

## SECTION 118 – RESIGNATION

Any employee who wishes to resign in good standing shall give his/her Department Head written notice of his/her intention at least two (2) weeks prior to the date said resignation is to become effective, or shorter notice, with the approval of the Department Head. Notice of resignation shall be immediately forwarded to the Personnel Department together with said employee's termination forms.

If any employee resigns without giving the required notice, the Department Head shall notify the Personnel Department; the Personnel Department shall enter this fact on the employee's records; and failure to give such required notice of resignation may be considered sufficient reason for rejecting any future application of said employee to re-enter City Service. Department Heads may enter good standing records for an employee who fails to give two (2) weeks notice if he/she feels there were extenuating circumstances.

Any employee who is absent from duty for three (3) consecutive business days without securing approved leave from the employee's superior, may be considered to have resigned without notice. It shall be the duty of the Department Head to report all unauthorized leaves immediately to the Personnel Department in the manner prescribed. All such unauthorized leaves shall be posted on the employee's records and may be considered in the employee's merit ratings.

#### SECTION 119 – SEVERABILITY

Should an instance of conflict be found to exist between this Code of Rules and Regulations and the Civil Service Act of the City of Delray Beach, Florida, as amended, from which the authority flows for this Code of Rules and Regulations, the Act shall prevail in that instance. In all other instances, this Code shall remain in full force and effect.