

CITY OF NORTH MIAMI BEACH



CIVIL SERVICE RULES & REGULATIONS

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RULE 1

ORGANIZATION AND DUTIES

1.1 Rules.

These Rules are adopted by the Civil Service Board and approved by the Commission of the City of North Miami Beach, pursuant to Section 7.3, Article VII of the Charter for the City of North Miami Beach, as amended by special election held on November 8, 2016, and adopted by the City Commission pursuant to Resolution 2016-96 on December 6, 2016.

1.2 Positions Covered by the Rules.

These Rules, and as they may be hereinafter amended, apply to all positions in the Classified Service of the City as defined in Section 7.1, Article VII of the City Charter. Provided, however, that these Rules do not apply to any position in the Classified Service that has been made a part of a bargaining unit certified by the Public Employee Relations Commission and with whom collective bargaining has resulted in the removal of such positions from the Civil Service or the applicability of these Rules, or to the extent that these Rules conflict with any collectively bargained term or condition of employment.

1.3 Organization and Composition of the Civil Service Board.

1.3.1 Composition. The Civil Service Board (“Board”) shall be composed of seven (7) members elected or appointed as follows:

- Five (5) members shall be appointed by the City Commission and shall be qualified electors of the City. They shall not, during the term for which they are appointed, be employed in any manner by the City. Members shall be appointed for terms of two (2) years. Members shall serve until their successors are appointed and qualified.
- Two (2) members shall be elected from Civil Service Regular Status Classified employees to serve as members of the Board for a term of two (2) years, as follows:

- One (1) member shall be elected from the qualified employees of the Police Department by the qualified employees of the Police Department.
- One (1) member shall be elected from the qualified employees of all departments other than Police by the qualified employees of all departments other than Police.

Elected members of the Board shall serve until their successors are elected and qualified.

1.3.2 Board Vacancies. All vacancies of appointed members shall be filled in the same manner as original appointments. Vacancies occurring during a term shall be for the unexpired term of the appointed member whose position is vacated. Any vacancy in elected membership shall be filled by special election in the manner herein provided if such vacancy shall occur more than three (3) months prior to the end of the term. All vacancies, regardless of cause, shall be filled within sixty (60) days by Commission appointment or by election as herein provided.

1.3.3 Terms. Terms of appointed and elected members shall commence on June 1 of the year in which appointed or elected and end May 31 of the year such terms are scheduled to expire.

1.3.4 Reappointment. Any member of the Board may, if qualified, be reappointed or reelected at the expiration of his or her current term.

1.4 Election of Employee Members of the Civil Service Board.

The following procedures are for the election of the two (2) members of the Civil Service Board by the regular status employees.

1.4.1 Election Board. The five (5) appointed members of the Board are designated as the Election Board and shall:

- Direct the Human Resources Department to prepare a nomination petition. Each nominee must have the signatures of five (5) qualified employees from the

nominee's department.

- Direct the Human Resources Department to prepare election ballots with the names of all qualified nominees.
- Direct the Human Resources Department to supervise the election of the employee members of the Board and to report to the Board the results of the election. The election shall be by secret ballot. A majority of the votes cast by qualified voters determines the selection.
- Certify the results of the election to the City Commission at the first meeting of the City Commission following the election.

1.4.2 Employees Qualified to Vote. Any employee in the Classified Service who has attained regular status shall be eligible to vote.

1.4.3 Time of Election. The election of employee members of the Board shall be held at least thirty (30) days prior to the expiration of the term of incumbents, or at such other time as may be designated by City Commission in order to fill a vacancy.

1.4.4 Run-off of Tie Vote. In the event of a tie vote, a run-off shall be held within ten (10) days.

1.5 Duties and Powers of the Civil Service Board.

1.5.1 Chairperson. The Board shall select a Chairperson at the first meeting after June 1 of each calendar year whose duties shall be to call to order meetings of the Board, to preside at Board meetings, public hearings and appeal hearings, and to perform other duties as the Board may designate or may otherwise be necessary. In the absence of the Chairperson, a temporary chairperson shall be designated by majority vote of the Board.

1.5.2 Duties and Powers. The Board shall have the power to:

- Adopt and amend, subject to the approval of the City Commission, these Rules including, but not limited to,

Rules addressing appointment to the Classified Service, suspension, removal, leave, merit rating, promotion, demotion, and appeals. An affirmative vote of not less than four (4) members shall be required to amend, repeal or supplement these Rules. Any amendments shall be submitted to the City Commission for approval in accordance with Section 7.3, Article VII of the Charter.

- Appoint a Chief Examiner.
- Appoint a Secretary to the Board.
- Make an annual report to the City Commission on Civil Service Activities, if requested.
- Hear appeals and grievances made pursuant to these Rules.
- As set forth in these Rules, subpoena witnesses, require the production of documentary evidence and administer oaths to witnesses at hearings.
- As provided in these Rules, modify a decision of the City Manager.
- Perform such additional duties and functions as may be necessary to carry out Article VII of the City Charter.

1.6 Chief Examiner.

The Director of the Human Resources Department shall serve as the Chief Examiner. The duties of Chief Examiner are as follows:

- To provide examinations and suitable selection processes in accordance with these Rules.
- Maintain lists of eligibles for each classification in accordance with these Rules.
- Fill positions in the Classified Service from such eligible

lists upon requisition for and after consultation with the Appointing Authority.

The Board designates the Director of Human Resources as the Chief Examiner in order to assure compliance with court decrees, Federal selection guidelines, grant requirements and other governing laws and regulations.

1.7 Meetings of the Board.

All regular and special meetings of the Board shall be open to the public.

1.7.1 Regular Meetings. Regular Meeting dates shall be established at the discretion of the Board. Dates of meetings shall be announced by public notice pursuant to the City's regular notice requirements. The Board shall hold a regular meeting if there is business to be considered.

1.7.2 Special Meetings. Special meetings shall be held as often as shall be necessary for orderly dispatch of the Board's business. Special meetings of the Board may be called by the Chairperson or any two (2) members, but only after three (3) days' notice shall have been given to all Board members and to the public.

1.7.3 Order of Business. The order of business at regular meetings of the Board shall be: roll call, special orders of business, reading and approval of the minutes, unfinished business and new business.

1.7.4 Procedure. A quorum of the Board for any purpose shall consist of four (4) members, at least three (3) of whom shall be members appointed by the City Commission. Roberts Rules of Order shall govern all proceedings with the exception that the Chairperson shall have the right to vote on all motions, but shall not have the right to initiate a motion.

1.7.5 Secretary to the Board. The Human Resources Director is designated as Secretary to the Board.

1.7.6 Records. The Secretary to the Board, or designee, shall maintain records for the Board as shall be necessary to the orderly conduct of its business.

1.7.7 Minutes. The Secretary for the Board, or designee, shall keep the official proceedings of the Board. The Board's minutes shall record the meeting date, members present, each official act and vote of each member thereon except when unanimously adopted.

1.7.8 Personnel Records. The Human Resources Department shall maintain all records of personnel transactions including, but not limited to, appointments, separations, leave, changes in pay status, promotions, demotions and disciplinary actions. The Human Resources Department shall establish procedures necessary to protect the privacy and confidentiality of such records, consistent with the provisions of law.

1.7.9 Public Records. All records will be maintained and produced in accordance with the State of Florida's Public Records Laws.

1.7.10 Appearance before the Board. Anyone desiring an appearance before the Board on matters within their jurisdiction shall make a request to the Secretary to the Board who will make the necessary arrangements. The City Attorney shall determine if a matter is within the jurisdiction of the Board.

1.8 City and Department Rules and Regulations.

The Board recognizes that the City Manager may adopt City Policies and Procedures that are not inconsistent with these Rules. The Directors of the various departments may also create standard operating procedures that are not inconsistent with City Policy and Procedures and these Rules. A violation of the City Policies and Procedures or any departmental standard operating procedure is cause for discipline under these Rules.

RULE 2

DEFINITIONS OF TERMS USED

2.1 Appointing Authority.

The City Manager or designee.

2.2 Appointment.

Appointments to the Classified Service of the City may be temporary, provisional, probationary or regular.

2.3 Board.

The Civil Service Board of the City of North Miami Beach.

2.4 Chairperson.

The Chairperson of the Civil Service Board elected as provided herein.

2.5 Change in Classification.

A change to a different classification with or without a change in pay range.

2.6 Charter.

The Charter of the City of North Miami Beach, as amended.

2.7 Chief Examiner.

The Human Resources Director or designee.

2.8 City.

The City of North Miami Beach.

2.9 Civil Service.

The civil service for the City shall be divided into the Classified and

Unclassified Service. These Rules apply only to the Classified Service of the City.

2.10 Classification.

A group of positions that are sufficiently similar in job duties and responsibilities such that the same job title may be used to designate the positions in the classification; that the same educational, experience, knowledge, abilities and skills should be required of all candidates; that the same selection processes may be used to choose qualified employees; and, that the same salary range can be applied under the same or substantially the same employment conditions. The Director of the Human Resources Department, or designee, is charged with the classification of positions within the City.

2.11 Classified Service.

The Classified Service of the City comprises all positions not specifically excluded by the Charter in accordance with these Rules. All employees previously referred to as contract or grant employees will become employees in the Classified Service as of the date of these Rules and will receive the Tier VI benefit package, as it may be amended, modified or replaced. The Classified Service shall be divided into three classes to be designated competitive, noncompetitive and labor, which are defined as follows:

2.11.1 Competitive Class. The competitive class includes all positions and employment for which it is practicable to determine the relative fitness of applicants by competitive examinations. The Director of the Human Resources Department, or designee, is charged with making the determination of whether a position is within the competitive class.

2.11.2 Noncompetitive Class. The noncompetitive class includes all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character. The Director of the Human Resources Department, or designee, is charged with making the determination of whether a position is part of the noncompetitive class.

2.11.3 Labor Class. The labor class includes ordinary, unskilled labor.

2.12 Discipline.

An adverse action taken due to an employee's unsatisfactory behavior or violation of these Rules, City Personnel Policies or Procedures, or any other City or department rule, regulation or standard operating procedure. It consists of counseling, warning, reprimand, suspension, demotion or removal of an employee from employment.

2.13 Dismissal.

The removal or separation of any employee from the service of the City. The removal or separation may be for cause in the case of a regular employee. The removal or separation of an employee who has not attained regular status (i.e., probationary employee) or a provisional or temporary employee is at the will of the City or because a provisional or temporary appointment ended. A dismissal is the same as a termination.

2.14 Demotion.

A reduction in classification or status. A demotion is used when an employee has unsatisfactory performance in the employee's classification, for disciplinary reasons, or as a result of the elimination of classifications. A demotion may include a reduction in the employee's pay.

2.15 Employee Status.

Employee status means the type of appointment held by the employee. Appointments may be temporary, provisional, probationary or regular.

2.16 Eligible List.

A list of persons who have qualified through a suitable selection process for employment in a specified classification or to a limited number of specified classifications. An eligible list can exist for re-employment, promotional appointment or original appointment. A person whose name is on an eligible list is referred to as an "eligible" or "candidate."

2.17 Layoff.

The separation from the Classified Service of the City when a position or positions have been discontinued because of lack of work or lack of funds.

2.18 Position Status.

Position status refers to the type of expected duration of the position. A position may be temporary, provisional, seasonal or regular.

2.19 Probationary Employee.

Any employee in the Classified Service who has been appointed to a regular position, but who has not completed the required probationary period. A probationary employee serves at the will of the City and has no right of appeal to the Board.

2.20 Probationary Period.

The period of service which an employee must complete prior to obtaining regular status in a position.

2.21 Promotion.

A transfer made in accordance with these Rules from a lower classification to a higher classification. A promotion may include an increase in pay.

2.22 Provisional Employee.

A provisional employee is an employee appointed to a provisional position.

2.23 Provisional Position.

A provisional position is created when an immediate appointment might otherwise be made to fill a vacant position and no one is available on an appropriate eligible list. Any person approved by the Appointing Authority may be appointed provisionally to fill the vacancy until an appropriate eligible list has been established.

2.24 Regular Employee.

An employee in the Classified Service who has completed the probationary period in a regular position of the City.

2.25 Regular Position.

A position which normally involves continuous year-round service.

2.26 Retirement.

The separation of an employee from the Classified Service in accordance with the City's retirement plan(s).

2.27 Return to Former Classification.

The reversion of an employee to a classification in which the employee held status prior to promotion, change in classification, or appointment to the Unclassified Service due to voluntary request or other reason not involving discipline.

2.28 Seasonal Employee.

An employee in the Classified Service who is appointed to a seasonal position. Seasonal Employees have no expectation of continued employment beyond the time period for which they are hired and are temporary employees of the City.

2.29 Seasonal Position.

A position in the Classified Service which requires or is likely to require the services of incumbents during certain parts of each year on a recurring basis.

2.30 Separation.

The severance of an employee from the Classified Service of the City by retirement, resignation, layoff, termination, dismissal or removal.

2.31 Suspension.

The placing of an employee on non-working status without pay for cause.

2.32 Temporary Employee.

An employee appointed for a certain period (e.g., seasonal employees), for a special project, or to replace a regular employee on leave. Temporary employees accrue no Civil Service rights in their temporary classifications and do not have a right to appeal pursuant to these Rules.

2.33 Temporary Position.

Any position in the Classified Service which is not regular, but which requires or is likely to require the services of an individual for a special period (e.g., seasonal employees), usually six (6) months or less, for a special project, or to replace a regular employee on extended leave.

2.34 Tier.

The City has created Tiers I through VI which correspond to pay ranges and employee benefit packages that are available to the employees grouped within the Tier. Tiers II through VI contain the benefit packages applicable to employees in the Classified Service. The pay ranges and employee benefit packages are established by, and may be modified, amended or replaced by, the City Manager or through collective bargaining.

2.35 Termination.

The removal or separation of any employee from the Classified Service of the City. The removal or separation may be for cause in the case of a regular employee, or because a provisional or temporary appointment ended. A termination is the same as a dismissal.

2.36 Transfer.

A transfer is from a classification in one department to the same classification in another department.

2.37 Unclassified Service.

The Unclassified Service consists of the City Manager, one secretary of

his/her choosing, heads of departments, the City Attorney, the City Auditor, all elected officials, members of appointive boards, and employees of the legal department.

RULE 3

CLASSIFICATION AND PAY PLANS

3.1 Classification Plan.

The Human Resources Director, or designee, is charged with the responsibility for the classification of positions within the Classified Service of the City.

3.2. Pay Plan.

The Board has no authority with respect to the City's pay plan or pay ranges.

RULE 4

APPLICATION FOR EXAMINATIONS

4.1 Announcement.

All announcements of examinations for positions in the Classified Service shall be issued by the Director of the Human Resources Department. All announcements shall be posted in the Human Resources Office, on the City's web page, and in such other places as the Director of the Human Resources Department deems advisable. This will include necessary advertising when outside advertising is desirable. The announcements shall specify the title and salary range of the classification or positions for which the examination is announced, the nature of the work to be performed, the qualifications necessary or desirable for the performance of the work; the time, place and manner of making application; whether recruitment will have a fixed or flexible closing date for receiving applications; and other pertinent information.

4.2 Application Forms.

Applications shall be made on forms prescribed by the Director of the Human Resources Department. Such forms shall require information covering training, experience, references and other pertinent information. Each application must be signed by the person applying. Such forms shall comply with all legal requirements.

4.3 Residence Preference.

Pursuant to City Resolution 2014-29B, the City has established preference for bona fide City residents for hiring, examinations and promotion. See Rules 5.7. To qualify for residence preference points, an applicant, examinee, and/or employee must be a bona fide resident of the City for at least one (1) year immediately preceding the date of the vacancy. In order to establish bona fide residence, the applicant, examinee and/or employee must submit the following documentation:

4.3.1 Picture ID. Present one (1) unexpired form of picture identification from the following categories:

- (1) State of Florida Driver's License or Florida ID Card issued by the Florida Department of Highway Safety and Motor Vehicles (DHSMV);
- (2) U.S. Passport, Certificate of Naturalization or Alien Registration Card ("Green Card"); or
- (3) Passport issued by a foreign government AND a valid U.S. Visa.

4.3.2 Proof of Residence. Present two (2) of the following documents, which must demonstrate continuous residency in the City for one (1) year:

- (1) Lease rental agreement (properly executed by both parties), and a notarized Letter from the Lessor/Landlord confirming that the Lessee/Renter has continuously resided at the address provided for one (1) year;
- (2) A mortgage statement at the address provided (verification of continuous ownership for one year via statements for the prior twelve (12) months, or current statement plus letter of the Mortgagee confirming mortgage on the property for one (1) year);
- (3) Any current utility bill with service at address provided (verification of twelve (12) consecutive months of bills at any address located in the North Miami Beach);
- (4) Property Tax Bill of address provided (verification of continuous ownership for one year); or
- (5) Voter's Registration Card (registration date will be verified).

4.3.3 Disqualification. Notwithstanding any of the foregoing, an otherwise qualified applicant, examinee, or employee will be disqualified from receiving residency preference points if he or she:

- (1) maintained a homestead exemption on property outside the City of North Miami Beach at any time during the twelve (12) consecutive months prior their the one (1) year

qualification period;

- (2) changes his or her bona fide residence from within to outside of the City of North Miami Beach prior to appointment; or
- (3) is determined that the applicant knowingly falsified his or her residency status, as determined pursuant to an investigation by the City.

4.4 Veteran's Preference.

Preference to veterans shall be given in accordance with applicable law.

4.5 Rejection of Application.

The Director of the Human Resources Department, or designee, may reject an application which does not indicate on its face that the applicant possesses the minimum qualifications required for the position or who fails to file by the announced closing date for receiving applications, unless prior to such date an extension has been publicly posted. Applications also may be rejected for any reason consistent with applicable law.

RULE 5

EXAMINATIONS

5.1 Examinations and Selection Processes.

Applicants for the competitive Classified Service shall be required to take a written examination in the form directed by the Director of the Human Resources Department. The Director of the Human Resources Department may also direct that other selection processes be used in conjunction with a written examination for the competitive class.

The noncompetitive and labor class of the Classified Service are not required to take a written examination. The Director of the Human Resources Department is responsible for using appropriate selection processes other than a written examination for the noncompetitive and labor classes.

5.2 Promotional Processes.

Advancement within the Classified Service shall be through promotional processes which shall be open to all employees who meet the minimum eligibility criteria and who are serving in an appropriate class as determined by the Director of the Human Resources Department. Promotional processes may be competitive or noncompetitive and may be limited to a single department or subdivision thereof. The Director of the Human Resources Department may direct that certain positions shall be filled through processes open not only to City employees, but also to other qualified persons.

5.3 Contents of Selection Processes.

All selection processes shall be practical in character, and shall relate directly to those matters which will fairly determine the relative capacity of the person examined to discharge the particular duties of the classification to which appointment is sought.

5.4 Rating of Examination Results or Other Selection Processes.

Passing grades for each examination shall be established by the Director of the Human Resources Department. The names of applicants receiving a passing grade shall be entered on the appropriate eligible list. A person must attain a qualifying score prior to receiving Veteran's preference points or residency preference points. For selection processes other than examinations, the Director of the Human Resources Department will establish an appropriate rating method.

5.5 Medical Examinations.

Eligibles for the Classified Service may be required to submit to a medical examination after a conditional offer of employment is given. Any medical examination will be conducted in accordance with the Americans with Disabilities Act and the Genetic Information Nondiscrimination Act.

5.6 Preferences in Cases of Equal Final Averages.

When two (2) or more candidates have the same final average on a written examination, preference shall be given as follows:

5.6.1 If one (1) of the candidates is a veteran, the veteran will be given the preference.

5.6.2 If the candidates having the tie rating are employed by the City, the one (1) having the greatest seniority measured by continuous time with the City shall be given preference.

5.6.3 If one (1) of the candidates is employed by the City and the others are not, the City employee shall be given preference.

5.6.4 If one (1) candidate is a bona fide resident of the City and the others are not, the resident shall be given preference.

5.6.4 If all else is equal, preference shall be given to the candidate with the earliest date of application for the position.

5.6.5 If all else is equal, the flip of a coin conducted by the Director of the Human Resources Department, or designee, shall determine preference.

5.6.6 The Director of the Human Resources Department has the authority to modify these preferences to insure compliance with federal, state or local law.

5.7 Bona Fide Residence Preference Points.

Bona fide residents of the City shall have eight (8) points preference added to an earned score on an initial appointment written examination provided that they first attain a passing score on the written examination. For City employees who are bona fide residents of the City, three (3) points shall be added to an earned score on a promotional examination provided that the employee first attain a passing score on the examination. These points are based on a grading scale of one-hundred (100) points. Should the grading scale be based on something other than a scale of one-hundred (100) points, a pro rata amount of points (i.e., 8% and 3%) shall be provided, as appropriate for initial appointment or promotional appointment.

5.8 Veteran's Preference Points.

Preference points shall be given in accordance with law.

RULE 6

ELIGIBLE LISTS

6.1. Open and Promotional Eligible Lists.

The Director of the Human Resources Department shall establish and maintain eligible lists for the various classes or positions as he/she deems necessary or desirable to meet the needs of the service.

6.2 Order of Names on Eligible Lists.

Names of eligibles shall be placed on competitive lists in the order of their final earned rating which will include any veteran's or bona fide residence preferences. In case of ties in the final ratings, names shall be placed on the registers in the order established by Rule 5.6. When one eligible candidate is certified all eligible candidates with the same score shall also be certified.

6.3 Duration of Eligibility Lists.

The term of eligibility for each list shall be determined by the Director of the Human Resources Department, but such term will not be less than one (1) year or more than two (2) years. Any eligible list that has been in effect for more than one (1) year may be abolished or extended at any time by the Director of the Human Resources Department. Any extension will not exceed a total time period of two (2) years for the life of the eligible list. For the purpose of this Rule, the life of an eligible list begins on the date the list is established.

6.4 Availability of Eligibles.

It shall be the responsibility of eligibles to notify the Director of the Human Resources Department in writing of any change affecting availability for employment, change of address or change of contact information.

6.5 Removal from Eligible List.

The name of any person appearing on an eligible list may be removed by the Director of the Human Resources Department if the eligible requests in writing that his/her name be removed. The name of any person appearing

on an eligible list shall be removed if, within ten (10) calendar days after an initial attempt to contact the eligible, the eligible does not reply. Any lawful reason for the rejection of an application may likewise be a reason for the removal of the name from an eligible list.

RULE 7

REQUISITION AND CERTIFICATION

7.1 Requisition.

When a vacancy is to be filled, the Department Director shall make a requisition for eligibles for appointment to the class of position for which a vacancy exists. The requisition shall be made to the Director of the Human Resources Department.

7.2 Certification.

Upon receipt of a requisition to fill a regular or promotion position, the Director of the Human Resources Department shall certify the names of up to three (3) individuals standing highest on the eligible list for consideration by the Department Director. No certification is required to fill a temporary or provisional position, and the filling of such positions shall be done by the Director of Human Resources as directed by the Department Director and subject to the approval of the Appointing Authority.

7.3 Approval.

All appointments shall be approved by the Appointing Authority.

RULE 8

APPOINTMENTS AND PROMOTIONS

8.1 Initial and Promotional Appointments from Eligible List.

Except as otherwise provided in these Rules, every vacancy in the Classified Service shall be filled by appointment from an appropriate eligible list.

8.2 Temporary Appointment.

When it is necessary to fill a position which has become vacant as a result of the granting of a leave of absence to the regular incumbent, a Department Director may make a temporary appointment for a time not to exceed the duration of the leave of absence. The person does not need to be on an eligible list for appointment. Upon the return of the regular incumbent to his/her position at any time on or prior to the expiration of his/her leave of absence, the services of the temporary appointee shall be automatically reduced to the position in which he/she previously held regular status.

When it is necessary to fill a position for a specified period or for a specific project, a Department Director shall consult with the City Manager, or designee, and the Director of the Human Resources Department to determine whether a temporary employee shall be hired. The person who is hired as a temporary employee does not have to be on an eligible list. When the specified period has expired or the specific project is complete, the services of the temporary appointee shall end unless extended by approval of the City Manager. Temporary employees who do not have regular status in another City position are not entitled to receive any benefits under these Rules and cannot appeal any matters to the Board.

8.3 Provisional Appointments in the Absence of Eligible List.

In the absence of an eligible list and whenever there is an immediate need to fill a vacant position in the Classified Service, the Department Director with the approval of the Director of the Human Resources Department, may provisionally appoint an employee to fill the vacancy until an appropriate eligible list is established.

RULE 9

PROBATION

9.1 Probationary Period.

No initial appointment, promotion, demotion or change in classification in the Classified Service shall be deemed complete until a probationary period of actual service in the position shall have been completed. During the probationary period, the employee may be returned to a former classification in which the employee held regular status or can be separated from City employment.

9.2 Length of Probation.

The probationary period for an original appointment to a regular position shall be twelve (12) months. The probationary period upon promotion shall be six (6) months.

9.3 Duty of Department Head During Probationary Period.

It shall be the duty of the Department Director, or designee, during the probationary period to determine the ability of the employee to adequately perform the job and comply with all City rules, and to determine whether the employee shall be retained in the Classified Service. Such determination shall be solely within the discretion of the Department Director, or designee, subject to approval by the Appointing Authority. No employee will be granted regular status unless such action is recommended by his/her Department Director, or designee, and approved by the Appointing Authority. Notification as to whether the probationary period has been successfully completed shall be in writing to the employee. A decision as to whether the employee successfully completed the probationary period cannot be appealed pursuant to these Rules. If the probationary period is not successfully completed, the employee shall not be accorded a hearing before the Civil Service Board.

RULE 10

EMPLOYEE ORGANIZATIONS

These Rules shall not apply to employees in the Classified Service who are represented by a certified collective bargaining representative and for whom collective bargaining has resulted in the removal of such persons from the Civil Service or applicability of these Rules, or to the extent that these Rules conflict with any collectively bargained term or condition of employment.

RULE 11

TRANSFERS

11.01 Request for Transfer.

All requests for transfers must be made in writing, state the reasons for the request, and be submitted to the Director of the Human Resources Department. The Director of Human Resources has the discretion to approve or not approve the request. Transfers are subject to the approval of the releasing and the receiving department heads and the Appointing Authority.

11.02 Transfer.

Upon approval as stated above, employees may transfer from a position in one (1) department to the same class in another department. If, at any time within sixty (60) days from the date of transfer, the services rendered by the employee in the position to which he/she has been transferred are not satisfactory, he/she may be transferred back to his/her former position, and the reasons for this transfer stated, or the employee may be separated from the service of the City. Such a decision is not subject to an appeal to the Board. Employees may also be transferred for temporary or emergency work at the discretion of the City Manager, which decision is also not subject to an appeal to the Board.

RULE 12

HOURS OF WORK, LEAVE AND EMPLOYEE BENEFITS

12.1 Hours of Work.

The City Manager shall prescribe actual hours of employment for any or all employees in the City service.

12.2 Employee Benefits.

The City has established Tiers. Each Tier corresponds to a particular pay range and employee benefit package that has been established by the City Manager or through collective bargaining. The benefit packages can be changed, modified, amended, or replaced by the City Manager or, if applicable, through collective bargaining.

12.3 Holidays.

The following shall be recognized City holidays: New Year's Day, Martin Luther King Jr.'s Birthday, Presidents Day, Memorial Day, Fourth of July, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day. Holidays falling on Saturdays will normally be observed on the Friday preceding the holiday, and holidays falling on Sunday will normally be observed on the Monday following such holiday. Employees shall be paid for legal holidays and when called to work on such days shall be compensated for the time worked in accordance with Section 12.12 hereinafter.

12.4 Annual Leave and Payout of Accumulated Annual Leave.

Employees holding positions in the Classified Service shall be entitled to annual vacation and payout of accumulated leave as set forth in the employee's particular Tier. Annual leave must be preapproved by the employee's department head. Annual leave can be used after an employee has been on the job for six (6) months. Annual leave can be used for any reason.

Coordination of annual leave within a City Department shall be established by the Department Director; first with particular regard to the needs of the

Service and then in so far as is possible with the wishes of the employees.

12.5 Sick Leave and Payout of Accumulated Sick Leave.

Employees holding positions in the Classified Service shall be entitled to sick leave and payout of accumulated sick leave, as set forth in the employee's particular Tier. Sick leave can be used after the employee has been on the job for six (6) months. Sick leave shall be granted for the employee's own illness or injury or medical and dental appointments and for all uses allowed pursuant to the City's Family and Medical Leave Act Policy.

Employees must report use of sick leave as early as possible to his or her supervisor for foreseeable uses of leave (e.g., for scheduled appointments). For unforeseeable uses of sick leave, the employee must report such use to his or her supervisor before the beginning of the employee's work day.

12.6 Leave With Pay.

Leave with pay may be authorized by the City Manager in order that employees may serve required jury duty and for attendance at official and educational meetings. Such leave is subject to pre-approval by the Department Director and City Manager.

12.7 Leave Without Pay.

A permanent employee normally may be granted leave of absence without pay for a period not to exceed one (1) year provided it is requested and approved in advance. The initial request and any request for extension shall be approved by the Director of the Human Resources Department, in consultation with the Appointing Authority, for sickness or disability, to engage in a course of study or other good and sufficient reasons which are considered to be in the best interests of the City. Requests for maternity leave may be granted under the provisions of this Section.

12.8 Military Leave.

Employees who are called to active duty or training with one of the Armed Forces including Reserve Service shall receive the rights and privileges authorized by Federal and State veterans laws with respect to leave, status and re-employment.

12.9 Workers' Compensation Leave.

Subject to the conditions and limitations hereinafter set forth, an employee shall be entitled to compensable leave during any absence necessitated by an injury sustained in the course of his/her employment in accordance with the Workers' Compensation Laws of the State of Florida. Application for disability leave shall be made by or on behalf of the employee upon a form to be supplied by the Director of the Human Resources Department in accordance with the City's Workers' Compensation Program. The City's Workers' Compensation Program is to be established and administered by the Director of the Human Resources Department.

12.10 Compulsory Leave.

When an employee has committed or it is reasonably believed that the employee has committed an act or perpetrated an action considered by the Department Director, or designee, to be cause for removal, dismissal, suspension or other disciplinary action, the Department Head, or designee, may relieve the employee of duty and place the employee on Compulsory Leave. The placement of an employee on compulsory leave shall be reported to the City Manager as soon as practical under the circumstances. Within three (3) work days (not including the day of the incident giving rise to the imposition of compulsory leave), the Department Director, or designee, shall provide written notice to the employee stating the facts giving rise to the imposition of compulsory leave, and the disciplinary action being considered. The Department Director shall hold a pre-determination hearing with the employee allowing the employee to provide any reasons as to why the disciplinary action should not be imposed. Thereafter, the Department Director, or designee, shall render a written decision as to the discipline to be issued. The City Manager shall review the written decision and shall either approve, disapprove or modify the Department's decision. The City Manager may, but is not required to, have a meeting with the employee to hear the employee's reasons as to why discipline should not be imposed.

12.11 Fitness for Duty Leave.

When an employee is unable to perform his/her duties due to any non-service connected injury or illness that may be related to a disability as defined by the Americans with Disabilities Act, the employee may be placed on leave with pay in order that the employee can submit to a fitness for duty examination. Any such examination shall be in accordance with the Americans with Disabilities Act.

12.12 Compensatory Leave.

Any employee in the Classified Service who is required to be on duty for any period on legal holidays (exclusive of Saturdays and Sundays) or other holidays granted by City Commission action to employees of the Classified Service, shall be entitled to be paid at one and one-half times his or her regular rate.

Any employee in the Classified Service who is defined as a non-exempt employee under the Fair Labor Standards Act and who is required to work hours in excess of forty (40) hours per work week shall be compensated at a rate of one and one-half times his or her regular rate as required by the Fair Labor Standards Act.

12.13 Other Leave.

The City Manager has the authority to establish, modify, amend or remove other types of paid and unpaid leave as may be necessitated by law or pursuant to collective bargaining.

12.14 Reporting Leave.

All leave shall be reported on forms as determined by the Director of the Human Resources Department. All leave is to be approved by the Department Director.

No employee shall be permitted to be absent from duty for a period in excess of a normal break without reporting such absence under the provision of this rule. Periods of absence from duty in excess of thirty (30) minutes, due to tardiness or other reasons, shall be charged against the employee's leave record in accordance with the reason therefore. Such charges against the

leave record shall not excuse the employee from any applicable discipline, including AWOL, and shall not constitute “double jeopardy” in combination with any other disciplinary action that may be issued.

RULE 13

EMPLOYEE EFFICIENCY

13.1 Reports Required.

Service ratings relative to the ability and conduct of employees in the Classified Service shall be made by the Department Director on forms prescribed by the Director of the Human Resources Department.

13.2 Unsatisfactory Ratings.

Whenever it shall appear from the reports of efficiency that the conduct and/or efficiency of any employee has fallen below an acceptable level, that employee shall either be placed on a performance improvement plan or the Department Director shall make a recommendation to the City Manager for the employee to be removed, suspended, demoted or reduced in grade.

RULE 14

LAYOFF

14.1 Layoff Procedures.

Whenever it becomes necessary to reduce the number of employees within a given classification in any department through lack of funds, lack of work, or where there has been an insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in any office, department, division, or other causes or when a position is abolished, employees in the Classified Service shall be laid off in order as follows:

- (1) Temporary employees.
- (2) Probationary Employees.
- (3) Regular Employees.

14.2 Layoff Lists.

The order of lay-off shall be established by the City Manager based on an employee's work history, performance evaluations, discipline history, education, training, experience, and the needs of the City. Layoff lists by classification by department shall be established. Employees will be given two weeks' notice of any layoff. Pay equivalent to two weeks may be given in lieu of notice.

14.3 Layoff Recall Period. The duration of a Layoff List shall be eighteen (18) months.

14.4 Recall. Employees will be recalled from the Layoff List in reverse order of Layoff by department and by classification. The Director of the Human Resources Department will notify an employee to be recalled in writing. A recalled employee who does not respond within ten (10) working days will be removed from the Layoff List and will not be considered for recall. Employees who are on a Layoff List and subject to recall are responsible for providing the Human Resources Department with current contact information.

14.5 Appeal.

The Board does not have jurisdiction over any issue related to layoff including, but not limited to, the decision of the City to layoff employees, the order of layoffs, or recall. Accordingly, an employee may not file an appeal to the Board on any matter relating to layoff.

RULE 15

DISCIPLINE AND SEPARATION FROM EMPLOYMENT

15.1 Power of Suspension, Removal, Demotion.

Any employee in the Classified Service may be suspended, demoted, removed, or otherwise disciplined for cause by the City Manager. Discipline consists of counseling, warning, reprimand, suspension, demotion or removal of an employee from employment.

15.2 Grounds for Discipline.

An employee in the Classified Service of the City may be disciplined for any conduct that constitutes a breach of duty, conduct unbecoming an employee of the City, or other appropriate reason. These include, but are not limited to, the following:

- (a) Has been incompetent, negligent or inefficient in the performance of duties;
- (b) Has been convicted of a criminal act;
- (c) Has been guilty of misuse of leave;
- (d) Has been guilty of excessive tardiness or absenteeism;
- (e) Has engaged in an act of insubordination;
- (f) Has violated any policy, regulation, rule or standard operating procedure of the City or the employee's Department;
- (g) Has violated the City's Drug Free Workplace Policy;
- (h) Has been under the influence of alcohol or drugs in violation of the City's Drug-free Workplace Policy either on or off duty where his/her conduct has shed poor light upon the City;
- (i) Has been guilty of actions which amount to disgraceful conduct, whether committed on duty or off;

- (j) Has been objectively offensive in conduct or language toward the public or City officers or employees;
- (k) Has violated the City's policies prohibiting discrimination, sexual harassment or harassment;
- (l) Has been careless or negligent with City property;
- (m) Has engaged in theft, misplacement or misuse of equipment, material, property or money of the City, the public or an employee;
- (n) Has falsified official documents;
- (o) Has released without authorization or has abused confidential information;
- (p) Has used, or threatened, or attempted to use political influence in securing promotion, leaves of absence, transfer, change in pay, change in character of work, or revision of examination grade;
- (q) Has guided or in any manner has been concerned in assessing, soliciting, or collecting money from any officer or employee of the City for the purpose of making a gift to a public officer;
- (r) Has been induced, has induced, or has attempted to induce an officer or employee of the City to commit an unlawful act, or to act in violation of a lawful and reasonable departmental or official regulation or order;
- (s) Has intentionally falsified a time record or failed to report absence from duty to superiors;
- (t) If, after employment, it is found that an employee has made a false statement in the application for employment or at any point during the selection process for employment;
- (u) Has been absent from duty without leave, or has failed to report

for work after the leave of absence has expired, or after the said leave of absence has been disapproved or revoked;

- (v) Has been antagonistic toward superiors and fellow employees to where the conduct has impaired the efficiency of the public service;
- (w) Has accepted or received any gift, reward, present, donation, gratuity, or other thing of value for the performance of any duty imposed upon him/her by virtue of his/her office aside from his/her official capacity or in connection with his/her work. Provided, however, that this rule and regulation does not apply in cases of meritorious service rendered by a member of a Classified Service when the member has been authorized by the City Manager in each instance to receive such reward, gift, present, donation, gratuity, or other thing of value and when a permanent record shall be kept in the employee's personnel file;
- (x) Has been found to have used any recording instrument or device to record conversations without the consent of the person or persons whose conversation was recorded, unless specifically authorized by law;
- (y) Has participated in or promoted any strike against the City; or
- (z) Has engaged in any other actions which are determined by the City Manager to be sufficient cause for disciplinary action.

15.3 Discipline Process.

An employee shall be given written notice of all disciplinary actions. The written notice shall state the reason for the action and shall provide the employee with an opportunity to provide a response. A pre-determination hearing will not be held for discipline consisting of a counseling, warning or reprimand. No appeal to the Board is provided for discipline consisting of a counseling, warning or reprimand.

For discipline consisting of a suspension, demotion or termination, a written notice shall be provided by the Department Director, or designee, to the employee. The written notice shall provide the employee with the reasons establishing cause for discipline and with a recommendation for the level of discipline being considered. The employee may be placed on compulsory leave in accordance with Rule 12.10. After written notice is provided to the employee, the Department Director, or designee, shall hold a pre-determination hearing. The pre-determination hearing shall not be held less than three (3) days from the employee's receipt of the written notice. The purpose of the pre-determination hearing is to allow the employee to provide any reasons as to why the disciplinary action should not be imposed. Thereafter, the Department Director, or designee, shall render a written decision as to the discipline to be issued. The City Manager shall review the written decision and shall either approve, disapprove or modify the decision. The City Manager may, but is not required to, have a meeting with the employee to hear the employee's reasons as to why discipline should not be imposed. An appeal to the Board, as set forth in Rule 15, is provided for discipline consisting of a suspension, demotion or termination.

15.5 Other Separations from Employment.

Employees in the Classified Service may be separated from employment in ways other than dismissal or termination for disciplinary reasons. Employees may resign from their employment with the City, but are requested to provide two (2) weeks' notice. Employees may also retire from their employment in accordance with applicable pension/retirement plans.

RULE 16

APPEALS TO THE BOARD

16.1 Appeal of Disciplinary Actions.

Any employee in the Classified Service who deems that he/she has been suspended, demoted or terminated without cause may, within thirty (30) days of such action request in writing a hearing before the Board. Within fifteen (15) days of such request, the Board shall meet to afford the employee with a hearing, unless further time is requested by the City or the employee. After hearing and considering the evidence for and against the employee, the Board shall report its findings in writing to the City Manager.

16.2 Proceedings for Appeals of Disciplinary Actions.

The Board shall review the cause(s) for the disciplinary action. The Board shall make factual findings as to each charge. If any charge is sustained, the disciplinary action shall be affirmed by the Board. If no charge is sustained, the Board may modify the decision of the City Manager. It is the employee's burden to prove by the greater weight of evidence that there was not cause for discipline. Charges shall be sustained unless they are not supported by the greater weight of evidence or they depart from the essential requirements of City Policies and Procedures, departmental standard operating procedures, law or these Rules.

Board proceedings shall be as informal as is compatible with the essential requirements of law. Strict adherence to the State or Federal Rules of Evidence do not apply, but the admissibility of evidence shall be governed by the Board's rulings based upon the advice of the Board's counsel as to its relevance, reliability and materiality. The City Attorney's office or Board counsel shall decide all issues of law.

The employee and City may be represented by legal counsel.

The Board shall have the power to issue subpoenas to witnesses, require the production of records and administer oaths to persons testifying in the proceedings.

After due consideration of the evidence and other pertinent information, the Board shall render its decision to the City Manager.

16.3 Order of Proof for Appeals of Disciplinary Actions.

The order of proof shall be as follows:

- (a) The Director of the Department or his/her appointed representative shall present his/her evidence in support of the charges.
- (b) The appellant shall then produce such evidence as he/she may wish to offer in his/her defense.
- (c) The Director of the Department may offer rebuttal evidence.
- (d) The Board at its discretion may hear any relevant argument or opening/closing statements of the parties.

16.4 Procedures for Issuance of Subpoenas.

Subpoenas for the appearance of witnesses or the production of documents for a disciplinary appeal hearing or a grievance hearing may be issued by the Board upon a written request of a party, provided that the subpoena is narrowly tailored to the issues before the Board. A request for a subpoena shall be provided to the Department of Human Resources and the opposing party (or a party's representative). The Department of Human Resources shall send the written request to the City Attorney's office and the Board. The opposing party shall have three (3) business days to object in writing to the issuance of the subpoena. The decision as to whether a subpoena will be issued will be made by the Board in consultation with the City Attorney and shall consider factors such as the legality of the subpoena, the necessity of the subpoena, whether the subpoena is narrowly tailored, and that the subpoena will not put any criminal or governmental investigation at risk.

16.5 Resignation Before Appeal.

The acceptance by a Department Director of the resignation of an employee suspended, demoted or terminated before final action on the part of the Board, shall be considered a withdrawal of the charges and the separation

of the employee concerned shall be recorded as a resignation, and the proceedings shall be dismissed without judgment. A copy of the dismissal charge shall remain in the personnel file of the employee and a notation shall be made on the copy of the dismissal charge to the effect that charges were withdrawn and that the employee resigned in lieu of discipline.

16.6 Failure of Appellant to Appear.

If the employee notified of his/her appeal shall fail to appear at the time scheduled, the Board shall dismiss the appeal and the charges shall be sustained.

16.7 Procedure for Employee Grievances.

A grievance is defined as a violation of these Rules. The following is the procedure to be followed to address grievances:

- (a) The employee must state the nature of the grievance in writing within fifteen (15) days of the action giving rise to such grievance or within fifteen (15) days of when the employee knew or should have known of the action giving rise to the grievance. The writing must state the specific Rule that the employee alleges was violated.
- (b) The grievance shall be submitted to the Director of the Human Resources Department who shall investigate the grievance. The Director of the Human Resources Department has the discretion to meet with the employee to discuss the grievance or a resolution thereof.
- (c) The Director of the Human Resources Department shall either resolve the grievance or shall provide a written decision as to why the grievance is denied.
- (d) If the grievance is denied, the employee may appeal the denial in writing within fifteen (15) days of the date of the written decision by the Director of the Human Resource Department. The employee shall submit the appeal to the Secretary for the Board.

- (e) If in the opinion of the Board's attorney, the grievance states a possible violation of these Rules, a hearing will be scheduled before the Board. If the grievance does not state a possible violation of these Rules, a hearing will not be scheduled and the decision of the Director of the Human Resources Department shall stand.
- (f) If the grievance encompasses a decision made by the Director of the Human Resources Department, the City Manager shall consider the grievance in place of the Director of Human Resources.

16.8 Proceedings for Appeals of Grievances.

The employee must prove a violation of these Rules by the greater weight of the evidence. The Board shall make factual findings as to whether each Rule alleged was violated. If a violation of these Rules is sustained, the grievance shall be upheld by the Board and a remedy consistent with these Rules and the policies and practices of the City shall be issued. If an alleged violation is found to be insufficient or unfounded, the Board shall deny the grievance.

Board proceedings shall be as informal as is compatible with the essential requirements of law. Strict adherence to the State or Federal Rules of Evidence do not apply, but the admissibility of evidence shall be governed by the Board's rulings based upon the advice of the Board's counsel as to its relevance, reliability and materiality. The City Attorney's office or Board counsel shall decide all issues of law.

The employee and City may be represented by legal counsel.

The Board shall have the power to issue subpoenas to witnesses, require the production of records and administer oaths to persons testifying in the proceedings.

After due consideration of the evidence and other pertinent information, the Board shall render its decision to the City Manager.

16.9 Order of Proof for Appeals of Grievances.

The order of proof shall be as follows:

- (a) The appellant shall produce such evidence as he/she may wish to offer in order to prove a violation of these Rules.
- (b) The City or its appointed representative shall present the information indicating that the Rules have not been violated.
- (c) The appellant may offer rebuttal evidence.
- (d) The Board at its discretion may hear any relevant argument or opening/closing statements of the parties.

16.10 Failure of Grievant to Appear.

If the employee notified of his/her grievance hearing shall fail to appear at the time scheduled, the Board shall deny the grievance.

RULE 17

GENERAL PROVISIONS

17.1 Repealer.

Any act or resolution of the Board that may subsequently be found to be not in accordance with these Rules shall, immediately upon discovery of such nonconformity, be declared null and void and of no effect. The Board shall have the power to correct by proper resolution any error of whatever nature, immediately upon the discovery of same.

All previous ordinances and Rules for admission to the Classified Service of the City of North Miami Beach, tenure of employment and promotion therein, and to any branch thereof, and for appointment of examiners thereunder, are hereby annulled and repealed.

17.2 Severability.

If any Rule or part of a Rule should be declared unconstitutional or illegal by any Court, the same shall not affect the remaining Rules or parts of a Rule, which shall be in full force and effect.

17.3 Non-Waiver; No Precedent.

The failure of the City to enforce any Rule or part of a Rule in any instance shall not constitute a waiver of that Rule in any other instance, nor shall it constitute a precedent for any other instance. The provision of procedures or protections in excess of those provided by these Rules in any instance shall not set precedent for any other instance.