



MIAMI BEACH

OFFICE OF THE CITY MANAGER

LETTER TO COMMITTEE

TO: Committee of the Whole

FROM: Jimmy Morales, City Manager

DATE: October 16, 2013

SUBJECT: **Proposed Changes to the Personnel Rules as Presented by the Subcommittee to the Personnel Board September 20, 2013**

Background

At the December 16, 2011, Personnel Board meeting, Moj Khaghan Danial, then an Associate Member and today the Vice Chairperson, assumed responsibility for chairing a subcommittee tasked with reviewing the Personnel Rules for the Classified Service and making recommendations to the Board. The subcommittee was open to all Board members to participate based on their availability and interest.

The subcommittee approached its task with the following guiding principles in mind: (1) this appears to be the first complete review and revision of the Personnel Rules since their adoption in 1939; (2) all meetings were to be open to the public; (3) the Civil Service Act was to be referenced throughout the process to ensure compliance; (4) information was to be gathered from staff to identify outdated and current practices; (5) guidelines no longer applicable or appropriate were to be deleted and (6) the final product was to be more concise and easier to understand.

The Personnel Board, a ten-member board, is currently comprised of the following members:

- Gabriel Paez, Chairperson;
- Moj Khaghan Danial, Vice Chairperson;
- Laurie Kaye Davis, Associate Member;
- Lori Gold, Associate Member;
- Rosalie Pincus, Associate Member;
- George Castell, Employee Member;
- Evette Phillips, Employee Member; and
- Christopher Diaz, Employee Member.

The Human Resources Director, Sylvia Crespo-Tabak, is the Board's secretary and the Board's legal advisor is Robert Rosenwald from the City Attorney's Office.

On September 30, 2013, the subcommittee presented its recommendations to the Personnel Board at its regularly scheduled meeting. At the end of the meeting Mr. Paez

We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community.

Agenda Item R9K
Date 10-16-13

asked the secretary to circulate the proposed revisions, as amended at the meeting, pursuant to Section 14 of Article IV, Civil Service System, which states, in part, that "... after August 1, 1951, the Personnel Rules and amendments thereto shall not be subject to approval by [the] City Commission. No amendments thereto shall be adopted until thirty days after a copy of such amendment shall have been submitted to the City Manager and to a representative of each of the three groups referred to in Section 4 [12], ..."

Summary of Proposed Changes

There are several significant proposed amendments. Among them the following stand out:

- Rule II – The Code of Ethics. The importance of the new Rule cannot be overemphasized. Given the concerted effort everyone associated with the City of Miami Beach is making to recover and maintain the public's trust, providing employees with clear expectations regarding their conduct on and off duty is a significant step in the right direction.
- Rule VI – Applications and Examinations. Current provisions allow a former employees who were dismissed for violating rules or resigned in lieu of termination to petition the Personnel Board for reinstatement of [sic] his/her eligibility to compete in examination for entry into the Classified Service. The subcommittee has proposed eliminating this provision considering that once someone has been separated for cause, he/she should not be re-employed.
- Rule VIII – Method of Filling Vacancies. The subcommittee is recommending that once employees leave the classified service, they retain rights to their former classification for 90 days and in case of a layoff for 365 days.
- Rule X – Disciplinary Action. The contents were revised and the sequence in which they appear changed. First there is a description of the grounds for disciplinary action, and then the types of action are described in ascending order of severity. A number of reasons that may lead to disciplinary action were added.
- Rule XII – Resignation and Layoffs. Adds the provision that employees who resign in lieu of termination are subject to disqualification from re-employment.
- Rule XIII – Appeals for Disciplinary Action. The most significant change is that the proposed Rule eliminates the requirement that the Personnel Board hear the evidence and render a decision if the employee does not appear and requires the appeal be denied; changes the consequences from default to continuance if the appointing authority fails to appear.
- Rule XV – Performance Evaluations. There is a new provision under paragraph (d) that states that an employee whose most recent overall performance evaluation score was less than 50 shall be disqualified from promotional examinations until

such time as the employee earns a score of 50 or above. Furthermore, the subcommittee is recommending that only overall performance evaluation scores less than 50 be eligible for appeal. Currently, an employee may appeal a single rating that is less than 5.

Rule I – General Provisions

There are a number of editorial changes in the section, some of which simply clarify language and intent.

Of note, however, are the following:

- Section 1 – Purpose of Rules (page 1) - new language in the first paragraph. *“These Rules Provide specific Regulations on daily personnel matters. These Rules will govern in resolving personnel problems but cannot be so precise or complete as to address every employment situation.”*
- Section 2 – Positions Covered by Rules (page 1) – Specifies that the Rules do not apply when they conflict with provisions in a collective bargaining agreement.
- Section 3 – Prohibitions and Restrictions (page 1)
 - Updates the prohibition against unlawful discrimination,
 - Requires advanced written approval for outside employment or gainful occupation.
 - Restricts dual part-time employment with the City to 29 hours, unless otherwise approved by the Human Resources Director.
 - Includes individual who reside together and domestic partners in violation of the prohibition against family members living together and being employed in the same division where one supervises or evaluates the other.
- Section 4 – Violation of Rules (page 4) - Adds the requirement that employees who know of violations and fail to report that they shall also be subject to disciplinary action.
- Section 5 – Amendments of Rules (page 4) - Incorporates language formerly in Section 9, which requires that the City Manager and employee representatives have 30 days to review proposed amendments to the Rules before the Personnel Board can approve them.
- Section 8 – Definitions (page 5) - Almost every term was redefined with the goal of making the meaning more clear.

Rule II – The Code of Ethics

This section is completely new and written to give employees a clear understanding of the ethical standards to which they will be held. When references are made to information contained in other documents such as the City of Miami Beach Code of Ordinances and the Florida Code of Conduct for City Officers, language is incorporated into the Rules by reference and attached as exhibits thereto.

- Section 2 – The Code of Ethics (page 13) - Sets forth the Code of Ethics.
- Section 3 – Prohibitions on Gifts (page 14) - Addresses the prohibition regarding acceptance of gifts, consistent with state law.
- Section 4 – Standard of Conduct (page 15) - Informs employees they must abide and uphold the Citizens' Bill of Rights.
- Section 5 – Duty to Report (page 15) - Sets forth the duty to report known or potential violations of law or ethics.
- Section 6 – Duty to Self-Report (page 15) - Sets forth the duty to self-report when arrested or given a notice to appear. This requirement was communicated to employees in December 2012, and adding it to the Personnel Rules as a requirement strengthens the seriousness with which the Mayor, City Commissioners and the Administration take transparency and ethical conduct.
- Section 7 – Failure to Report (page 16) - Sets forth the consequences of failing to report, as required, which includes termination of employment for cause.

Rule III – The Classification Plan (page 17)

New language in Section 2 states that when new classifications are created or there are other amendments to the classification plan, these shall be adopted according to the same procedures established for the original adoption of the plan as set forth in Section 10, Article IV, of the Civil Service Act, which are that the Human Resources Director "prepare and recommend to the Personnel Board of [the] classification plan and amendments thereto for the entire classified service of the City..."

Rule IV – The Compensation Plan (page 22)

Revisions to this Rule are mostly editorial in nature and meant to clarify.

Rule V – Certification of Payrolls (page 25)

The most significant editorial change to this section of the Rules is the inclusion of language related to the federal wage and hour laws.

Rule VI – Applications and Examinations (page 26)

Revisions in this Rule are mostly editorial in nature, re-written to reflect actual practices and to recognize changes in technology by removing the requirement to announce openings in a newspaper of general circulation and acknowledging the use of email as a common communication method.

- Section 5, Disqualification of Applicants (page 28) - the reasons for which the Human Resources Director may refuse to examine an applicant, remove an applicant from an eligible list or refuse to certify an appointment were expanded significantly.
- Of significance is the deletion of provisions and procedures that permitted a former employee dismissed for cause to apply to the Personnel Board for reinstatement to an eligibility list. (page 28)

Rule VII – Eligibility Lists (page 35)

Revisions to this Rule are mostly editorial in nature, re-written to reflect actual practices.

Rule VIII – Method of Filling Vacancies (page 42)

While most revisions in this section are editorial in nature, re-written to reflect actual practices such as eliminating the appointing officer's ability to specify an applicant's gender pursuant to a bona fide occupational requirement, the following are significant.

- Section 5 – Provisional Appointments (page 44) – was deleted.
- Section 7 Re-appointments after Disability Retirement (page 45) - re-appointment after disability retirement was deleted.
- Section 7 – Appointment to the Unclassified Service (page 46) – The proposed change to this rule is significant since it strips employees appointed to the unclassified services of classified service rights except for the first ninety work days after reporting to work in the unclassified position or 365 calendar days should the employee be laid off from the unclassified position.

Rule IX – Probationary Period (page 49)

Revisions to the Rule are mostly editorial in nature.

Rule X – Disciplinary Action

The contents were revised and the sequence in which they appear changed. First there is a description of the grounds for disciplinary action, and then the types of action are described in ascending order of severity.

- Section 2 – Grounds for Disciplinary Action (page 55) – A number of reasons that may lead to disciplinary action were added.
- Section 3 – Reduction in Pay (page 60) - Refines the procedure by which an appointing authority may reduce an employee's pay and recognizes the right of non-bargaining unit, classified service employees to appeal the reduction to the Personnel Board.
- Section 4 – Demotions (page 61) - Recognizes the right of non-bargaining unit, classified service employees to appeal demotions to the Personnel Board.
- Section 5 – Suspensions (page 63) - Adds the requirement that the Human Resources Director determine that the indictment or information of charges are job related or create a potential conflict.

Rule XI – Transfers, Assignments and Promotions (page 66)

Revisions to this Rule are mostly editorial in nature, re-written to reflect actual practices.

Rule XII – Resignations and Layoffs

- Section 1 – Resignations (page 70) - Adds the provision that employees who resign in lieu of termination are subject to disqualification from re-employment.
- Section 2 – Layoffs (page 70) – Consistent with current practices, expands factors to be considered in determining layoff order; adds the requirement that to be placed on a re-employment list, the laid off employee cannot accept a leave settlement upon lay off; adds factors to be considered when determining the order of recall.

Rule XIII – Appeals for Disciplinary Action

- Section 1 - Rights of Regular Employees (page 74) – Consistent with legal requirements, requires that written notice be provided to the employee and deletes the provision that written notice can be given 30 days after the action; adds “pending investigation for disciplinary action” as a reason to relieve employee from duty; deletes the extension of up to 60 days before written notice has to be given to the employee, which is presumably after the disciplinary action is taken.
- Section 2 – Request for Appeals Hearing (page 75) - Specifies the time frame and procedure for a non-bargaining unit, regular, classified service employee to appeal any disciplinary action to the Personnel Board.
- Section 3 – Appeals Hearing for Disciplinary Action by Regular Employees (page 75) - Details the procedures for scheduling the hearing, continuance of the hearing,

production of documents, the burden of proof, conduct of the hearing, submission of facts and conclusions of law, and ruling by the Personnel Board.

- Section 4 – Failure of Parties to Appear (page 78) - Changes the requirement that the Personnel Board hear the evidence and render a decision if the employee does not appear and requires the appeal be denied; changes the consequences from default to continuance if the appointing authority fails to appear.

Rule XIV – Attendance, Leave of Absence (page 80)

Revisions to this Rule are mostly editorial in nature.

Rule XV – Performance Evaluations

- Section 2 – Evaluators (page 85) - There is a new provision under paragraph (d) that states that an employee whose most recent overall performance evaluation score was less than 50 shall be disqualified from promotional examinations until such time as the employee earns a score of 50 or above.
- Section 3 – Requests for Appeals Hearing (page 85) - The subcommittee is recommending that only overall performance evaluation scores less than 50 be eligible for appeal. Currently, an employee may appeal a single rating that is less than 5.
- Section 4 – Appeal Hearings from Performance Evaluations (page 85) - The appeal process is outlined in detail.

Rule XVI – Special City Awards (page 91)

The Rule was updated to reflect the current awards presented by the City to employees.

Rule XVII – Employee Training (page 93)

No significant changes, editorial in nature.

Rule XVIII – Medical and Physical Standards (page 94)

Editorial changes that make the Rule easier to understand and follow.

Conclusion and Recommendations

The Administration commends those who undertook this project and worked on these revisions for more than two years. While noting major improvements, such as the inclusion of a new section on ethics and conduct standards, the Administration recommends that modification be presented to the Personnel Board on two of the proposals.

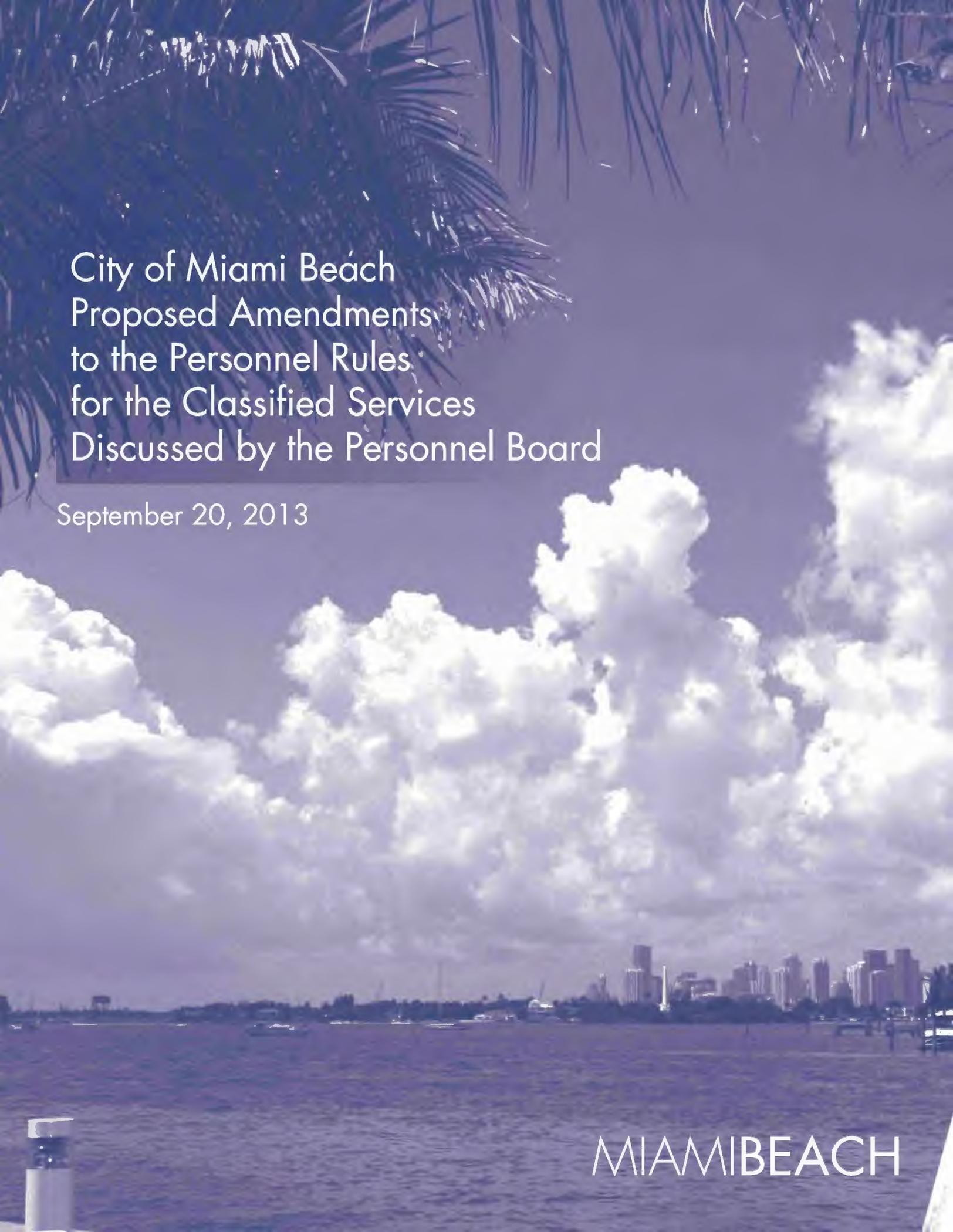
1. The Administration does not support the concept of employees' losing their classified service rights for accepting an unclassified position. The Administration strongly believes that employees in this situation should not be *entitled* to self-demote to a position to which they have rights. Their ability to return voluntarily should be contingent upon agreement among the City Manager, appropriate Assistant City Manager, Department Director, Human Resources Director, and should be contingent upon a vacancy in the classification they seek. They should also retain the ability to return to the classified service, at any time, in the event of a layoff.
2. The Personnel Rules should not require the Human Resources Director to determine that an indictment or information of charges is job related or creates a potential conflict. City administrators should have the managerial discretion to look at each criminal case individually and evaluate every one on its own merits. The City should be able to pursue disciplinary action if the employee's behavior, that which led to the criminal charge, warrants such action. For example, if an employee is indicted for selling large amounts of cocaine, is identified in the media as a City of Miami Beach employee and his/her conduct brings reproach to the City, the behavior alone should warrant investigation and administrative action as appropriate. The job relatedness proposal is too restrictive and does not promote the City's best interests.

If you have any questions or would like additional information, please do not hesitate to reach out to me.


JLM/KGB/SC-T

c: Jose Smith, City Attorney
Kathie G. Brooks, Assistant City Manager
Sylvia Crespo-Tabak, Human Resources Director

Attachment



City of Miami Beach
Proposed Amendments
to the Personnel Rules
for the Classified Services
Discussed by the Personnel Board

September 20, 2013

MIAMIBEACH

**CITY OF MIAMI BEACH, FLORIDA
PERSONNEL RULES**

Approved by the Personnel Board February 20, 1939
Adopted by the City Council March 8, 1939
AS AMENDED OCTOBER, 1998
AS AMENDED APRIL, 2001
AS AMENDED AUGUST, 2005
AS AMENDED

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Rule 1

General Provisions

1 **RULE I. ————— GENERAL PROVISIONS**
2

3 **SECTION 1: PURPOSE OF RULES:** These Rules are adopted ~~in pursuance of~~ pursuant to
4 Section 2 and Section 6 of AN ACT CREATING A CIVIL SERVICE SYSTEM FOR
5 CERTAIN OFFICERS AND EMPLOYEES OF THE CITY OF MIAMI BEACH, FLORIDA,
6 for the furtherance of personnel activities and transactions on the sole basis of merit and
7 competence ~~to~~ in the best interests of the City and without regard to personal, political, ~~religious,~~
8 ~~and~~ or other extraneous matters. These Rules provide specific Regulations on daily personnel
9 matters. These Rules will govern in resolving personnel problems, but cannot be so precise or
10 complete as to address every employment situation.

11 **SECTION 2: POSITIONS COVERED BY RULES:** These Rules apply to all
12 ~~positions~~ Positions in the Classified Service of the City, except as herein otherwise ~~noted~~ stated,
13 provided, however, a provision herein, will not apply to a Position covered by a collective
14 bargaining agreement if the provision herein is in conflict with the expressed written provisions
15 of the collective bargaining agreement covering that Position.

16
17 **SECTION 3: PROHIBITIONS AND RESTRICTIONS:** The following, and such other acts
18 or activities as are determined to be detrimental to the best service to the City, and as ~~shall be so~~
19 specified in Administrative Regulations, shall be prohibited.;

20 ~~(a)~~

21 **DISCRIMINATION:** No person in the Classified Service of the City or seeking admission
22 thereto shall be appointed, promoted, removed, or in any way favored or discriminated against
23 because of ~~his/her~~ political or religious opinions or affiliations ~~or because of racial,~~ race, color,
24 national origin, sex, non-disabling physical handicap gender, gender identity, sexual orientation,
25 marital and familial status, religion or age, a disability where the individual can perform the
26 essential functions of the job with or without reasonable accommodation, or other non-merit
27 factors. No question in any examination, ~~in any~~ application form, ~~in any~~ other personnel
28 proceedings, or ~~of~~ by any Appointing ~~Officer~~ Authority or ~~supervising official~~ supervisor shall be
29 so framed as to attempt to elicit information concerning ~~such opinions, affiliations, or origin of~~
30 ~~an applicant, eligible or employee.~~

31 (a) ~~any of the above.~~ Any person seeking admission to the Classified Service or any
32 employee in the Classified Service, regardless of employment status, who believes that he
33 or she has been discriminated against in violation of this Section, shall have a right to
34 report such violation to the ~~Personnel Board within ten (10) days after such act of the~~
35 ~~discrimination occurred. The Personnel Board shall promptly conduct such investigation~~
36 ~~as it may deem advisable relative to such alleged act of discrimination and, at the~~
37 ~~conclusion of such investigation, the Personnel Board shall direct administrative action~~
38 ~~consistent with its findings.~~ Human Resources Director or the City Manager.

39 **(b)**

40 (b) **POLITICAL ACTIVITY:** No person who holds a ~~position~~ Position in the
41 Classified Service of the City shall:

42 ~~1. use his/her~~

43 1. Use official authority or influence for the purpose of interfering with an
44 election, ~~or a nomination~~ to office, ~~or~~ coercing or influencing another person's
45 vote, or affecting the result thereof; or

46 ~~2. directly~~

47 2. Directly or indirectly coerce or attempt to coerce, command or advise any
48 other officer or employee to pay, lend, or contribute any ~~part of his/her~~
49 ~~salary~~ wage, kick back any sum of money, or anything else of value to any party,
50 committee, organization, agency, or person for political purposes; ~~or.~~

51 ~~3. nothing~~

52 3. Nothing contained in this ~~Section~~ Subsection shall be deemed to prohibit
53 any person in the Classified Service from expressing ~~his/her~~ opinions on any
54 candidate or issue, or from participating in any political campaign ~~during~~
55 ~~his/her~~ while off-duty ~~hours~~, so long as such activities are not in conflict with the
56 provisions of subsections (1), ~~(2),~~ or (32) of this ~~Section~~ subsection or Rule II,
57 The Code of Ethics herein.

58 **(e)**

59 (c) **ABUSE OF INFLUENCE:** No person shall corruptly use or promise to use or
60 endeavor to corruptly use or obtain, either directly or indirectly, any authority or
61 influence in order to secure or aid oneself or any other person in securing ~~for~~

62 ~~himself/herself or another, any office or, employment in the Classified Service, or any~~
63 ~~promotion, Promotion or increase in compensation therein as a reward for political~~such
64 ~~influence or service; nor. No person shall any person, by means of threats or~~
65 ~~coercion~~threaten or coerce, induce or seek to induce anyone ~~in the Classified Service to~~
66 resign ~~his/her position~~from a Position or waive ~~his/hers~~his/hers right to ~~certification, appointment~~
67 ~~or promotion.~~Certification, Appointment or Promotion.

68 (d)

69 (d) EMPLOYMENT RESTRICTIONS:

70 ~~1.~~

71 1. No person who holds a ~~position~~Position in the Classified Service of the
72 City shall engage in any other employment or pursue any other gainful occupation
73 than ~~that involved in his/her employment with the City duties~~ except as ~~such other~~
74 ~~work shall be~~ formally approved in advance, in writing by the Appointing ~~Officer~~
75 ~~under whom he/she serves~~Authority and ~~by the City Manager.~~ ~~Any person may be~~
76 ~~appointed to more than one part time position in the service of the City provided~~
77 ~~that the working hours and do not conflict.~~

78 ~~2. No~~

79 2. Subject to written approval from the City Manager or a designee, any
80 person may be appointed to more than one member part-time Position in the
81 service of the same family who are living together as City provided that the work
82 hours do not conflict and the total does not exceed twenty nine (29) hours in any
83 week, provided further however, that the Human Resources Director may approve
84 hours in excess of twenty nine (29) on a weekly basis.

85

86 3. Individuals, who reside in the same residence, are related by blood,
87 marriage or other legal action, who live in a domestic partnership, or otherwise
88 comprise a family unit shall not hold Regular status any positions in the same
89 ~~Division~~division within the same ~~Department~~department where one evaluates or
90 supervises the other.

91 (Amended 8/18/89)

92 ~~3. Any~~

93 4. Unless the employee resigned prior to becoming a candidate, an employee
94 in the Classified Service who is elected to ~~any~~ public office in the City of Miami
95 Beach or ~~as an elected officer in Metro~~ Miami-Dade County shall be
96 automatically removed, ~~and unless he/she shall have properly resigned prior to~~
97 ~~becoming a candidate, he/she~~ and shall forfeit all Civil Service rights.
98

99 **SECTION 4: VIOLATION OF RULES:** ~~Violations~~ Violation of or permitting the violation of
100 any of the provisions of these Rules shall be ~~adequate grounds~~ just cause for ~~removal, or refusal~~
101 ~~of the Personnel Director to certify a payment of salary or wages to a person violating or~~
102 ~~permitting violations of~~ discipline, including Removal. Any person found to have violated these
103 Rules, ~~and in addition, thereto, any person violating these Rules also~~ shall be subject to the
104 penalties prescribed in the Civil Service Act, if applicable, for ~~violations~~ violation of any of the
105 provisions of the Act. Employees who know of violations and fail to report them are subject to
106 the same aforementioned penalties.
107

108 **SECTION 5: ~~AMENDMENT AND REVISION~~ AMENDMENTS OF RULES:** Amendments
109 and revisions of these Rules shall be initiated by the ~~Personnel~~ Human Resources Director and/or
110 ~~the Personnel Board and such amendments.~~ Amendments shall be adopted according to the
111 procedure established by the Civil Service Act. The City Manager and Employee Members of
112 the Personnel Board shall have no less than thirty (30) days to review any proposed amendments
113 of these Rules before the proposed amendments are submitted for vote to the Personnel Board
114 for its approval.

115 **SECTION 6: ADMINISTRATIVE REGULATIONS:** The ~~Personnel~~ Human Resources
116 Director shall promulgate, amend and rescind ~~may recommend~~ any amendment, revision, or
117 rescission to the Administrative Regulations for the routine or special conduct of personnel
118 matters, which ~~has~~ is deemed appropriate. The Administrative Regulations shall not conflict with the
119 Civil Service Act or these Rules.
120

121 **SECTION 7: ASSISTANT ~~PERSONNEL~~ HUMAN RESOURCES DIRECTOR:** The
122 ~~Personnel~~ Human Resources Director may designate an officer or employee ~~to act as his/her~~

123 ~~assistant, in which event the~~ Assistant Personnel Director, who shall be empowered to perform
124 such ~~of the~~ duties ~~of~~ as the Personnel Human Resources Director ~~as the latter~~ may require.

125 **SECTION 8: DEFINITIONS:** For the purpose of these Rules, certain terms, phrases, and
126 words and their derivatives shall be construed as ~~set out~~ defined in this Section. ~~Other~~ Any terms,
127 phrases, and words not herein defined shall be construed ~~in~~ by the ~~light of their context~~ Personnel
128 Board. Words used in the singular shall include the plural, and ~~the singular, and~~ vice versa; words
129 used in the masculine gender shall include the feminine, and ~~the feminine the masculine~~ vice
130 versa. Whenever a Paragraph, Section-, or Rule is referred to, it shall be understood to refer to a
131 Paragraph, Section or Rule of these Rules unless ~~otherwise~~ specifically stated otherwise.

132 (a) ~~(a)~~ ADMINISTRATIVE REGULATIONS: “Administrative Regulations”
133 means the City’s Policies and Procedures and Work Rules.

134 (b) ADVANCEMENT: “Advancement” means a salary or wage increase within an
135 arranged schedule or established ~~scale of pay range~~ for a ~~class of positions~~ Classification
136 made without an examination.

137 (c) ~~(b)~~ APPOINTING OFFICER: AUTHORITY: “Appointing ~~Officer~~ Authority”
138 means the ~~officer or~~ person in a Department ~~department~~ or a unit of the City Government
139 who is empowered to make employments. ~~The words “Appointing Officer” and~~
140 ~~“Appointing Authority” shall be construed as synonymous terms.~~ employment decisions.

141 **~~(e)~~ APPOINTMENTS:**

142 (d) ~~1.~~ APPOINTMENT: “Appointment” means placement to a Classified Position,
143 including hiring, Demotion, Promotion or Transfer.

144 1. EMERGENCY: ~~Signifies~~ “Emergency Appointment” means the
145 appointment, in ~~eases~~ case of an emergency ~~for periods not exceeding thirty (30)~~
146 ~~days,~~ without regard to Civil Service procedures, for a period not to exceed thirty
147 (30) days.

148 2. ~~2.~~ PROVISIONAL: Signifies TEMPORARY: “Temporary
149 Appointment” means the appointment to any Classified ~~position~~ Position without

150 ~~competition, but~~ Open Competitive Examination, with the approval of the
151 ~~Personnel~~ Human Resources Director, pending the establishment of an ~~eligible~~
152 ~~list~~ Eligible List or during the approved absence of a Regular employee. for a
153 period not to exceed one (1) year.

154 3. 3-PROBATIONARY: Signifies “Probationary Appointment” means the
155 appointment from an appropriate ~~eligible list~~ Eligible List to ~~any~~ a Classified
156 ~~position, pending the satisfactory~~ Position until completion of the ~~Probationary~~
157 ~~period and includes all persons employed at the effective date of the Civil Service~~
158 ~~Act and all amendments as hereinafter referred~~ designated Probationary Period.

159 4. 4-REGULAR: Signifies “Regular Appointment” means the ~~appointment~~
160 ~~Appointment to a fulltime position after~~ the satisfactory completion of ~~the~~
161 ~~Probationary period following a~~ Probationary Period.

162 5. RE-APPOINTMENT: “Re-Appointment” means the same as and is
163 interchangeable with re-employment.

164 6. SUBSTITUTE: “Substitute Appointment” means the ~~appointment or~~
165 ~~promotion~~ to any Classified Position where an employee is on a leave of absence
166 and ~~immediately preceding a Regular appointment, and includes all persons~~
167 ~~employed at in~~ the ~~effective date~~ opinion of the ~~Civil Service Act~~ Human
168 Resources Director it is impractical to utilize Temporary Appointment.

169 (e) ASSIGNMENT: “Assignment” means the same as and is interchangeable with
170 “Out of Classification” and ~~all amendments as hereinafter referred~~. both mean the transfer
171 of an employee for a temporary period of no more than three (3) months in any twelve
172 (12) month period from a Position in one Classification to a Position in another
173 Classification provided, however, the time may be extended with written approval of the
174 City Manager.

175 ~~5. TRANSITIONAL: Signifies a Classified position sufficiently similar in duties and~~
176 ~~responsibilities that the same descriptive title may apply to a like classification with the same~~
177 ~~salary range, but which shall be maintained as a separate Transitional classification so that the~~

178 ~~Transitional employee will have the opportunity for transfer or promotion to a Regular position~~
179 ~~in the City's work force in the Classified Service.~~

180 (f) ~~(d)~~ BUSINESS DAYS: "Business Days" means Monday, Tuesday,
181 Wednesday, Thursday and Friday and does not include Saturday or Sunday.

182 (g) CALENDAR DAYS: "Calendar Days" means seven (7) days of the week,
183 including Saturday and Sunday.

184 (h) CERTIFIED: "Certified" indicates the Human Resources Director's assurance
185 that the process or processes set forth herein have been followed.

186 (i) CHARGES: "Charges" mean allegations or counts of misconduct or violation
187 of these or any other applicable rules, regulations, policies, or procedures.

188 (j) CIVIL SERVICE ACT: ~~As employed in these Rules, the term~~ "Civil Service
189 Act" refers to "AN ACT CREATING A CIVIL SERVICE SYSTEM FOR CERTAIN
190 OFFICERS AND EMPLOYEES OF THE CITY OF MIAMI BEACH, FLORIDA."

191 (k) ~~(e)~~ CLASSIFICATION: ~~Refers to a group of positions sufficiently~~
192 "Classification" means one or more Positions suffi-ciently similar in duties and
193 responsibilities such that the same descriptive title may be reasonably applied ~~to each~~
194 position, the same qualifications reasonably required and the same salary range equitably
195 applied ~~with equity.~~

196 (l) ~~(f)~~ CLASSIFIED SERVICE: ~~This term applies to~~ "Classified Service" means
197 all ~~positions~~Classifications in the ~~service~~Service of the City except those specifically
198 placed in the ~~Unclassified Service~~unclassified service by the Civil Service Act.

199 (m) ~~(g)~~ CRIMINAL OFFENSE: "Criminal Offense" means violation of public
200 law, whether a misdemeanor or a felony.

201 (n) COMPENSATION PLAN: "Compensation Plan" means the Classified Salary
202 Ordinance as established by the City Commission.

203 (o) DEMOTION: “Demotion” means a reduction in employment status ~~to a class~~
204 ~~having from a higher Classification to a lower Classification with~~ a lower maximum rate
205 of pay.

206 ~~(h) ELIGIBLE: Eligible means the condition of being qualified, or a person who has become~~
207 ~~qualified by examination, prior service or otherwise in accordance with the provisions of the~~
208 ~~Civil Service Act or these Rules to serve in a Classified position in the service of the City.~~

209 (p) (i) ELIGIBLE: “Eligible” means deemed qualified for Appointment.

210 (q) ELIGIBLE LISTS: ~~Eligible lists refer to lists~~ “Eligible List(s)” means the same
211 as and is inter-changeable with “List of Eligibles” and both mean the list(s) of persons
212 who have become qualified for appointment to the Classified Service of the City in any
213 of the ways established by law or rules are deemed qualified for becoming so
214 qualified Appointment to a Classification.

215 1. Original Entrance Lists: ~~Means the lists of names~~ “Original Entrance
216 Lists” means the list(s) of persons who have been successful in entrance
217 examinations or who are otherwise Eligible for consideration for employment in
218 Classified Positions.

219 2. Promotional Lists: “Promotional Lists” means the list(s) of persons who
220 have been successful in ~~open competitive~~ promotional examinations administered
221 to Regular employees in an appropriate lower Classification and who are
222 otherwise Eligible for appointment to higher Classifications.

223 3. Transfer Lists: “Transfer Lists” means the list(s) of persons who have
224 expressed in writing the desire to transfer to a particular Position and who have
225 occupied another Position in such Classification as Regular employee or who the
226 Human Resources Director has determined are otherwise qualified. Probationary
227 employees are not eligible ~~for employment in Classified positions to request a~~
228 Transfer.

229 ~~2. Promotional Lists: Means the lists of names of employees who have been successful in~~
230 ~~promotional examinations and are eligible for appointment to higher positions.~~

231 4. ~~3.~~ Re-Employment Lists: Means “Re-Employment Lists” means the ~~lists~~
232 ~~of names~~list(s) of persons who have been ~~previously~~laid off while employed in
233 the ~~service~~Service of the City in a classified Position and whose Leave Settlement
234 ~~remains with the City in Classified positions and who have been separated from~~
235 ~~the service in good standing~~for one year pending re-employment, and are entitled
236 to have their ~~names~~name certified to an Appointing ~~Officers~~Authority.

237 (r) ~~(j) LAY-OFF: Means the~~ EVALUATOR: “Evaluator” means the Appointing
238 Authority and/or any designated supervisory employee.

239
240 (s) GIFT: “Gift” means the transfer of anything of economic value, whether in the
241 form of money, service, loan, travel, entertainment, hospitality, item or promise or in any
242 other form, without adequate and lawful consideration. Food and beverages consumed at
243 a single sitting or meal shall be considered a single gift, and the value of the food and
244 beverage provided at that sitting or meal shall be considered the value of the gift.

245
246 (t) HUMAN RESOURCES: “Human Resources” means the same as and is
247 interchangeable with the term “Personnel”; “Human Resources Director” means the same
248 as and is interchangeable with the term “Personnel Director.”

249
250 (u) JOB DESCRIPTION: “Job Description” means the job function and duties of a
251 particular Position or budgeted slot within a Classification, in addition to the
252 Specifications or Qualifications for that Classification.

253
254 (v) LAYOFF: “Layoff” means temporary or indefinite ~~or temporary~~
255 ~~discontinuance~~cessation of employment because of lack of work ~~or funds or because,~~
256 lack of material funding, changes in job duties or changes in organization, ~~but without~~
257 ~~reference to cause on the part of the employees concerned.~~

258 ~~(k)~~

259 (w) LEAVE SETTLEMENT: “Leave Settlement” means any earned and unused
260 balance of annual vacation leave and sick leave, deducting therefrom any credit granted

261 in 1939 when Civil Service was adopted, pursuant to the City's Leave Ordinance, for the
262 Classified Service, Ordinance No. 1335.

263
264 (x) OPEN COMPETITIVE EXAMINATION: "Open Competitive Examination"
265 means oral, written or physical examination after published notice, open to all who meet
266 the minimum Specifications.

267
268 (y) OUT OF CLASSIFICATION: "Out of Classification" means the same as and is
269 interchangeable with "Assignment" and both mean the transfer of an employee for a
270 temporary period of no more than three (3) months in any twelve (12) month period from
271 a Position in one Classification to a Position in another Classification provided, however,
272 the time may be extended with written approval from the City Manager.

273
274 (z) POSITION: "Position" means the number of persons or budgeted slots for a
275 Classification.

276
277 (aa) PROBATIONARY PERIOD: ~~Means a working test~~"Probationary Period"
278 means the evaluation period following ~~a Probationary appointment or promotion and~~
279 ~~immediately preceding a Regular appointment or promotion in the~~ an Appointment.

280
281 (bb) PROMOTION: "Promotion" means, appointment from a Position in a lower
282 Classification to a Position in a higher an increase in employment status Classification
283 with a higher maximum rate of pay.

284
285 (cc) QUALIFIED: "Qualified" means meeting minimum required Specifications.

286
287 (dd) REJECTION: "Rejection" means the non-acceptance of an employee during an
288 original, promotional, re-employment or Probationary Period, because of failure to
289 satisfactorily complete the Probationary Period, failure to satisfy the Schedule of
290 Specifications, failure to satisfy the performance expectations of the Appointing
291 Authority, and/or failure to comply with these Rules.

292
293 (ee) REMOVAL OR TERMINATION: “Termination” means the same as and is
294 interchangeable with “Removal” and both mean involuntary cessation of employment for
295 cause.

296
297 (ff) REQUIREMENTS: “Requirements” means the same as and is interchangeable
298 with “Schedule of Specifications.”

299
300 (gg) SCHEDULE OF PAY: “Schedule of Pay” means the same as and is inter-
301 changeable with the term “Compensation Plan.”

302
303 (hh) SCHEDULE OF SPECIFICATIONS: “Schedule of Specifications” means the
304 same as and is interchangeable with “Requirements” or “Specifications.”

305
306 (ii) SERVICE: “Service” means the same as and is interchangeable with “Classified
307 Service.”

308 ~~(i) PROMOTION: Means a change of status in accordance with these Rules from a position in a~~
309 ~~lower class to a position in a higher class.~~

310 ~~(m) REJECTION: Means the removal of an employee after a Probationary appointment or~~
311 ~~promotion, during or at the end of the Probationary period, because of failure to satisfy the~~
312 ~~requirements of the Appointing Officer or of these Rules.~~

313 ~~(n) REMOVAL: Means the separation of a Regular employee from the Classified Service of the~~
314 ~~City for cause.~~

315
316 (j) SEPARATION: “Separation” means (1) the voluntary cessation of
317 employment, including, but not limited to resignation, or (2) the involuntary cessation of
318 employment, including, but not limited to Layoff, Removal, or termination, regardless of
319 whether such cessation is initiated by the employer or the employee and, (3) with or
320 without cause attributable to the employee.

322 ~~(kk) SPECIFICATIONS: Means the Schedule of~~ “Specifications in which are set up
323 ~~the minimum requirements as to~~” means the knowledge, skill, abilities, physical
324 conditions, experience, education, training and other prerequisites, together with
325 ~~statements,~~ duties, examination, licensing, testing, responsibilities, title, description of
326 duties and any other duty requirements in the Service plan.

327 ~~(p) SUSPENSIONS: Means the~~

328 ~~(ll) SUSPENSION: “Suspension” means temporary removal from duty in the~~
329 ~~Classified Service without compensation~~ compensation for disciplinary purposes of
330 discipline.

331 ~~SECTION 9: EFFECTIVE DATE OF RULES: These Rules and any amendments thereto~~
332 ~~shall not be approved by the Personnel Board until thirty (30) days after being presented to the~~
333 ~~City Manager and employee representatives of the Personnel Board.~~

334
335 ~~(mm) TRANSFER: “Transfer” means the change from one Position or Classification~~
336 to another Position or Classification

337
338 ~~(a) Classification Transfer: “Classification Transfer” means the transfer of~~
339 an employee from a Position in one Classification to a Position in another
340 Classification for which the employee is qualified and for which the same
341 maximum rate of pay has been established.

342 ~~(b) Organizational Transfer: “Organizational Transfer” means the transfer~~
343 of an employee from a Position in one Classification to another Position in the
344 same Classification under another Appointing Authority.

345 ~~(nn) WORK DAYS: “Work Days” mean the actual day(s) or shift(s) an individual is~~
346 scheduled to work

347

Rule II

Code of Ethics

1 **RULE II. THE CODE OF ETHICS**

2
3 **SECTION 1: PURPOSE:** City of Miami Beach employees are agents of the people and hold
4 their Positions for the benefit of the public. As public servants, they must abide by the
5 highest standard of conduct and faithfully discharge the duties of their Position, regardless of
6 personal considerations and interests. They must recognize that promoting the public interest
7 and maintaining the people’s respect for their government is of foremost concern. All city
8 officials and employees shall be accountable and responsible for their actions, shall abide by
9 applicable codes of ethical conduct, and shall be subject to all penalties for violations thereof.

10
11 **SECTION 2: THE CODE OF ETHICS:** All employees must comply with the Code of
12 Ethics Section 2-449 of the Miami Beach Code incorporated herein by reference and attached
13 hereto as **Exhibit A** and the Florida Code of Conduct for City Officers incorporated herein by
14 reference and attached hereto as **Exhibit B**. Employees must also:

- 15
16 a) Affirm the dignity and worth of the services rendered;
17 b) Maintain a constructive, creative, and practical attitude and a deep sense of
18 social responsibility as a trusted public servant;
19 c) Be dedicated to the highest principles of honesty and integrity in all public
20 and personal relationships so that the employee may merit the respect and
21 confidence of the public;
22 d) Conduct oneself so as to earn and maintain public confidence;
23 e) Conduct official and personal affairs so as to demonstrate that one cannot be
24 improperly influenced in the performance of duties;
25 f) Recognize that the purpose of employment is to serve the best interests of all
26 people;
27 g) Uphold and implement policies adopted;
28 h) Exercise discretion in political activities so as not to undermine public
29 confidence;
30 i) Continually improve professional skills and abilities;
31 j) Encourage communication between the public and the employee;
32 k) Emphasize friendly and courteous service to the public;

- 33 l) Seek to improve the quality and image of public service;
- 34 m) Resist any encroachment on professional responsibilities;
- 35 n) Carry out duties without interference;
- 36 o) Perform duties on the basis of principle and justice without prejudice;
- 37 p) Handle all personnel matters on the basis of merit, fairness and impartiality;
- 38 q) Seek no favor;
- 39 r) Avoid personal enrichment or profit secured by information, abuse of influence
- 40 or misuse of public time because it is dishonest; and
- 41 s) Accept no favor or service that might reasonably tend to influence the employee
- 42 improperly in the performance of the employee's duties.

43
44

45 **SECTION 3: PROHIBITION ON GIFTS:**

46

47 (a) No employee of the City of Miami Beach shall solicit or demand any gift, nor accept

48 or agree to accept any gift regardless of its value from another person or entity for:

49

50 1. An official action taken, to be taken, or which could be taken;

51

52 2. A legal duty performed, to be performed, or which could be performed;

53

54 3. A legal duty violated, to be violated, or which could be violated; or

55

56 4. Any travel or travel-related expenses from a City vendor, contractor, bidder or

57 proposer (unless waived by majority vote of the City Commission);

58

59 5. Additionally, employees who are required to file Gift Disclosure forms with

60 the State of Florida or the City of Miami Beach (see Exhibit C attached hereto) are

61 further prohibited from receiving or soliciting where there is personal benefit to

62 themselves, other similarly-ranked employees or immediate family, any gift or series

63 of gifts during a calendar quarter in excess of \$100 from a political committee or

64 individual (including partner, principal, etc.) who lobbies the City of Miami Beach.

65
66 (b) All employees shall disclose any gift or series of gifts, received during a single
67 calendar quarter from any one person or entity, having a value of one hundred dollars (\$100)
68 or more. Said disclosure shall be made by filing the appropriate form as described in attached
69 Exhibit C. Forms are available on the City’s Employee Intranet under the City Clerk’s section
70 of Forms Central, or by visiting the Office of the City Clerk, 1st Floor of City Hall.

71
72 **SECTION 4: STANDARD OF CONDUCT:** Every employee must abide by and uphold the
73 Citizen’s Bill of Rights, Miami Beach, Florida, Code of Ordinance, Part 1, Subpart A incorporated by
74 reference herein and attached hereto as Exhibit D. The public’s confidence and trust in the City’s
75 operations and government demands the most exacting ethical standards and the strictest adherence
76 to the Code of Ethics.

77 **SECTION 5: DUTY TO REPORT:** An employee with knowledge or information about any
78 actual or potential violation of law or ethics shall immediately report such knowledge or
79 information to the Appointing Authority, the Human Resources Director or the City Manager.

80
81 **SECTION 6: DUTY TO SELF REPORT:**

82 (a) Employees arrested, detained and issued a Notice to Appear, or charged with or
83 indicted for a criminal offense (felony or misdemeanor), including driving under the
84 influence (DUI) and/or other criminal traffic offenses, shall provide written notification
85 to the Human Resources Director using the Notification of Employee Arrest which is
86 attached hereto as Exhibit E, Indictment or Criminal Conviction Form (hereinafter
87 referred to as “the Form”) within two (2) calendar days. If it is impossible for the
88 employee to make a timely report due to hospitalization or incarceration related to the
89 incident, the Form shall be completed as soon as possible, and in no event more than
90 twenty-four (24) hours after the employee’s release. The Human Resources Director
91 shall advise the City Manager of the employee’s arrest, detainment, and issuance of a
92 Notice to Appear, charge or indictment of a criminal offense.

94 (b) Employees shall report to the Human Resources Director, in writing, using the
95 attached Form, any conviction, finding of guilt, withhold of adjudication, enrollment in a
96 pretrial diversion program, or entering of a plea of guilty or nolo contendere for any
97 criminal offense other than minor traffic violation within forty-eight (48) hours after the
98 final judgment. The Human Resources Director shall advise the City Manager of the
99 employee's conviction, finding of guilt, withhold of adjudication, enrollment in a pretrial
100 diversion program, or entering of a plea of guilty or nolo contendere for any criminal
101 offense.

102 **SECTION 7: FAILURE TO REPORT:**

103 (a) An employee who knows or should have known of any violation of law or ethics
104 and fails to report such knowledge or information may be subject to disciplinary up to
105 and including Removal.

106
107 (b) Supervisors who become aware of an employee who has been arrested, detained,
108 issued a Notice to Appear, charged, indicted, convicted, found guilty, given a withhold of
109 adjudication, enrolled in a pretrial diversion program or entered a plea of guilty or nolo
110 contendere for any criminal offense other than minor traffic violation, whether
111 misdemeanor or a felony shall immediately notify the Human Resources Director.
112 Failure to notify the Human Resources Director may lead to disciplinary up to and
113 including Removal.

114

Sec. 2-448. Restriction on employment and appointment of city commission relatives.

- (a) No relative of any member of the city commission may be appointed, employed, promoted or advanced in or to a position in the city if the city commission exercises jurisdiction or control over the appointment, employment, promotion or advancement.
- (b) Relative means an individual who is related to any member of the city commission as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

Sec. 2-449. Acceptance of gifts, favors, services.

No officer or employee of the city shall accept any gift, favor or service that might reasonably tend improperly to influence him in the discharge of his official duties.

Sec. 2-450. Disclosure of interest in/relationship with business entity.

- (a) (1) If a public officer or employee of the city directly or indirectly (via participation in any type of business entity) has or holds any employment or contractual relationship with any other business entity which the officer or employee knows or with the exercise of reasonable care should know, is doing business with the city, and which relationship is otherwise permissible under state and county ethics law, he/she shall file a sworn statement with the city clerk disclosing, (consistent with relevant privilege exemptions) the specific nature of employment and interest in such business entity as well as commencement date of the subject employment or contractual relationship and (if applicable) term of such relationship. The city clerk shall publish logs on a quarterly basis reflecting the disclosure forms referenced herein.
- (2) If a member of the city commission establishes a business relationship with any person or business entity within 12 months after a city commission vote, which vote the city commission member knows directly benefits that person or business entity, the subject member of the city commission shall disclose any such business relationship in writing to the city clerk within 15 days after the business relationship is established.

(b) **Definitions.**

Business entity means any corporation, partnership, limited partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not.

Business relationship, for purposes of subsection (a)(2) above, shall mean that a member of the city commission has a relationship with a person or business entity wherein:

- (1) The person/business entity is a customer of the member of the city commission (or of his/her employer) and transacts more than \$10,000.00 of the business of the member of the city commission (or of his/her employer) in the 12-month period immediately after the subject vote; or
- (2) The member of the city commission (or his/her employer) is a customer of the person/business entity and transacts more than \$10,000.00 of the business of the person/business entity in the 12-month period immediately after the subject vote.

Form 9		QUARTERLY GIFT DISCLOSURE (GIFTS OVER \$100)	
LAST NAME -- FIRST NAME -- MIDDLE NAME:		NAME OF AGENCY:	
MAILING ADDRESS:		OFFICE OR POSITION HELD:	
CITY:	ZIP:	COUNTY:	FOR QUARTER ENDING (CHECK ONE): YEAR <input type="checkbox"/> MARCH <input type="checkbox"/> JUNE <input type="checkbox"/> SEPTEMBER <input type="checkbox"/> DECEMBER 20__

PART A — STATEMENT OF GIFTS

Please list below each gift, the value of which you believe to exceed \$100, accepted by you during the calendar quarter for which this statement is being filed. You are required to describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the date(s) the gift was received. If any of these facts, other than the gift description, are unknown or not applicable, you should so state on the form. As explained more fully in the instructions on the reverse side of the form, you are not required to disclose gifts from relatives or certain other gifts. You are not required to file this statement for any calendar quarter during which you did not receive a reportable gift.

DATE RECEIVED	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON MAKING THE GIFT	ADDRESS OF PERSON MAKING THE GIFT

CHECK HERE IF CONTINUED ON SEPARATE SHEET

PART B — RECEIPT PROVIDED BY PERSON MAKING THE GIFT

If any receipt for a gift listed above was provided to you by the person making the gift, you are required to attach a copy of that receipt to this form. You may attach an explanation of any differences between the information disclosed on this form and the information on the receipt.

CHECK HERE IF A RECEIPT IS ATTACHED TO THIS FORM

PART C — OATH

<p>I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed herein and on any attachments made by me constitutes a true accurate, and total listing of all gifts required to be reported by Section 112.3148, Florida Statutes.</p> <p>_____ SIGNATURE OF REPORTING OFFICIAL</p>	<p>STATE OF FLORIDA COUNTY OF _____ Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____ by _____ _____ (Signature of Notary Public-State of Florida) _____ (Print, Type, or Stamp Commissioned Name of Notary Public) Personally Known _____ OR Produced Identification Type of Identification Produced _____</p>
---	--

PART D — FILING INSTRUCTIONS

This form, when duly signed and notarized, must be filed with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 3600 Maclay Blvd. South, Suite 201, Tallahassee, Florida 32312. The form must be filed no later than the last day of the calendar quarter that follows the calendar quarter for which this form is filed (For example, if a gift is received in March, it should be disclosed by June 30.)

(22) "Represent" or "representation" means actual physical attendance on behalf of a client in an agency proceeding, the writing of letters or filing of documents on behalf of a client, and personal communications made with the officers or employees of any agency on behalf of a client.

(23) "Source" means the name, address, and description of the principal business activity of a person or business entity.

(24) "Value of real property" means the most recently assessed value in lieu of a more current appraisal.

History. s. 2, ch. 67-469; ss. 11, 12, ch. 68-35; s. 8, ch. 69-353; s. 2, ch. 74-177; s. 1, ch. 75-196; s. 1, ch. 75-199; s. 3, ch. 75-208; s. 4, ch. 76-18; s. 1, ch. 77-174; s. 2, ch. 82-98; s. 1, ch. 83-282; s. 2, ch. 90-502; s. 2, ch. 91-85; s. 3, ch. 91-292; s. 699, ch. 95-147; s. 1, ch. 96-328; s. 1, ch. 2000-243.

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.-

(1) **DEFINITION.**—As used in this section, unless the context otherwise requires, the term "public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(2) **SOLICITATION OR ACCEPTANCE OF GIFTS.**—No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

(3) **DOING BUSINESS WITH ONE'S AGENCY.**—No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer's or employee's own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. The foregoing shall not apply to district offices maintained by legislators when such offices are located in the legislator's place of business or when such offices are on property wholly or partially owned by the legislator. This subsection shall not affect or be construed to prohibit contracts entered into prior to:

(a) October 1, 1975.

(b) Qualification for elective office.

(c) Appointment to public office.

(d) Beginning public employment.

(4) **UNAUTHORIZED COMPENSATION.**—No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

(5) **SALARY AND EXPENSES.**—No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law. No local government attorney shall be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.

(6) **MISUSE OF PUBLIC POSITION.**—No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31.

(7) **CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.**—

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency shall not be prohibited by this subsection or be deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section shall be deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.

(b) This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

(8) **DISCLOSURE OR USE OF CERTAIN INFORMATION.**—A current or former public officer, employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating

exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

(9) **POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.-**

(a) It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. 110.402 or any person holding a position in the Selected Exempt Service as defined in s. 110.602 or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the director of the Office of Program Policy Analysis and Government Accountability, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director of the Legislative Committee on Intergovernmental Relations and the executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Governors of the State University System; and the president, provost, vice presidents, and deans of each state university.

(VI) Any person, including an other-personal-services employee, having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

4. An agency employee, including an agency employee who was employed on July 1, 2001, in a Career Service System position that was transferred to the Selected Exempt Service System under chapter 2001-43, Laws of Florida, may not personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

a. A person employed by the Legislature or other agency prior to July 1, 1989;

b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;

c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;

d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; or

e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

(b) In addition to the provisions of this part which are applicable to legislators and legislative employees by virtue of their being public officers or employees, the conduct of members of the Legislature and legislative employees shall be governed by the ethical standards provided in the respective rules of the Senate or House of Representatives which are not in conflict herewith.

(10) **EMPLOYEES HOLDING OFFICE.-**

(a) No employee of a state agency or of a county, municipality, special taxing district, or other political subdivision of the state shall hold office as a member of the governing board, council, commission, or authority, by whatever name known, which is his or her employer while, at the same time, continuing as an employee of such employer.

(b) The provisions of this subsection shall not apply to any person holding office in violation of such provisions on the effective date of this act. However, such a person shall surrender his or her conflicting employment prior to seeking reelection or accepting reappointment to office.

(11) **PROFESSIONAL AND OCCUPATIONAL LICENSING BOARD MEMBERS.-** No officer, director, or administrator of a Florida state, county, or regional professional or occupational organization or association, while holding such position, shall be eligible to serve as a member of a state examining or licensing board for the profession or occupation.

(12) **EXEMPTION.-** The requirements of subsections (3) and (7) as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person. In addition, no person shall be held in violation of subsection (3) or subsection (7) if

(a) Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.

(b) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

1. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best

bidder;

2. The official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

3. The official, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics, if the official is a state officer or employee, or with the supervisor of elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official's interest, or the interest of the official's spouse or child, and the nature of the intended business.

(c) The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.

(d) An emergency purchase or contract which would otherwise violate a provision of subsection (3) or subsection (7) must be made in order to protect the health, safety, or welfare of the citizens of the state or any political subdivision thereof.

(e) The business entity involved is the only source of supply within the political subdivision of the officer or employee and there is full disclosure by the officer or employee of his or her interest in the business entity to the governing body of the political subdivision prior to the purchase, rental, sale, leasing, or other business being transacted.

(f) The total amount of the transactions in the aggregate between the business entity and the agency does not exceed \$500 per calendar year.

(g) The fact that a county or municipal officer or member of a public board or body, including a district school officer or an officer of any district within a county, is a stockholder, officer, or director of a bank will not bar such bank from qualifying as a depository of funds coming under the jurisdiction of any such public board or body, provided it appears in the records of the agency that the governing body of the agency has determined that such officer or member of a public board or body has not favored such bank over other qualified banks.

(h) The transaction is made pursuant to s. 1004.22 or s. 1004.23 and is specifically approved by the president and the chair of the university board of trustees. The chair of the university board of trustees shall submit to the Governor and the Legislature by March 1 of each year a report of the transactions approved pursuant to this paragraph during the preceding year.

(i) The public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.

(j) The public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency and:

1. The price and terms of the transaction are available to similarly situated members of the general public; and

2. The officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

(13) COUNTY AND MUNICIPAL ORDINANCES AND SPECIAL DISTRICT AND SCHOOL DISTRICT RESOLUTIONS REGULATING FORMER OFFICERS OR EMPLOYEES.-The governing body of any county or municipality may adopt an ordinance and the governing body of any special district or school district may adopt a resolution providing that an appointed county, municipal, special district, or school district officer or a county, municipal, special district, or school district employee may not personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or employee for a period of 2 years following vacation of office or termination of employment, except for the purposes of collective bargaining. Nothing in this section may be construed to prohibit such ordinance or resolution.

(14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.-A person who has been elected to any county, municipal, special district, or school district office may not personally represent another person or entity for compensation before the government body or agency of which the person was an officer for a period of 2 years after vacating that office. For purposes of this subsection:

(a) The "government body or agency" of a member of a board of county commissioners consists of the commission, the chief administrative officer or employee of the county, and their immediate support staff.

(b) The "government body or agency" of any other county elected officer is the office or department headed by that officer, including all subordinate employees.

(c) The "government body or agency" of an elected municipal officer consists of the governing body of the municipality, the chief administrative officer or employee of the municipality, and their immediate support staff.

(d) The "government body or agency" of an elected special district officer is the special district.

(e) The "government body or agency" of an elected school district officer is the school district.

(15) ADDITIONAL EXEMPTION.-No elected public officer shall be held in violation of subsection (7) if the officer maintains an employment relationship with an entity which is currently a tax-exempt organization under s. 501(c) of the Internal Revenue Code and which contracts with or otherwise enters into a business relationship with the officer's agency and:

(a) The officer's employment is not directly or indirectly compensated as a result of such contract or business relationship;

(b) The officer has in no way participated in the agency's decision to contract or to enter into the business relationship with his or her employer, whether by participating in discussion at the meeting, by communicating with officers or employees of the agency, or otherwise; and

(c) The officer abstains from voting on any matter which may come before the agency involving the officer's employer, publicly states to the assembly the nature of the officer's interest in the matter from which he or she is abstaining, and files a written memorandum as provided in s. 112.3143.

(16) LOCAL GOVERNMENT ATTORNEYS.-

(a) For the purposes of this section, "local government attorney" means any individual who routinely serves as the attorney for a unit of local government. The term shall not include any person who renders legal services to a unit of local government pursuant to contract limited to a specific issue or subject, to specific litigation, or to a specific administrative proceeding. For the purposes of this section, "unit of local government" includes, but is not limited to, municipalities, counties, and special districts.

(b) It shall not constitute a violation of subsection (3) or subsection (7) for a unit of local government to contract with a law firm, operating as either a partnership or a professional association, or in any combination thereof, or with a local government attorney who is a member of or is otherwise associated with the law firm, to provide any or all legal services to the unit of local government, so long as the local government attorney is not a full-time employee or member of the governing body of the unit of local government. However, the standards of conduct as provided in subsections (2), (4), (5), (6), and (8) shall apply to any person who serves as a local government attorney.

(c) No local government attorney or law firm in which the local government attorney is a member, partner, or employee shall represent a private individual or entity

before the unit of local government to which the local government attorney provides legal services. A local government attorney whose contract with the unit of local government does not include provisions that authorize or mandate the use of the law firm of the local government attorney to complete legal services for the unit of local government shall not recommend or otherwise refer legal work to that attorney's law firm to be completed for the unit of local government.

(17)BOARD OF GOVERNORS AND BOARDS OF TRUSTEES.-No citizen member of the Board of Governors of the State University System, nor any citizen member of a board of trustees of a local constituent university, shall have or hold any employment or contractual relationship as a legislative lobbyist requiring annual registration and reporting pursuant to s. 11.045.

History.-s. 3, ch. 67-469; s. 2, ch. 69-335; ss. 10, 35, ch. 69-106; s. 3, ch. 74-177; ss. 4, 11, ch. 75-208; s. 1, ch. 77-174; s. 1, ch. 77-349; s. 4, ch. 82-98; s. 2, ch. 83-26; s. 6, ch. 83-282; s. 14, ch. 85-80; s. 12, ch. 86-145; s. 1, ch. 88-358; s. 1, ch. 88-408; s. 3, ch. 90-502; s. 3, ch. 91-85; s. 4, ch. 91-292; s. 1, ch. 92-35; s. 1, ch. 94-277; s. 1406, ch. 95-147; s. 3, ch. 96-311; s. 34, ch. 96-318; s. 41, ch. 99-2; s. 29, ch. 2001-266; s. 20, ch. 2002-1; s. 894, ch. 2002-387; s. 2, ch. 2005-285; s. 2, ch. 2006-275; s. 10, ch.2007-217.

112.3135 Restriction on employment of relatives.-

(1)In this section, unless the context otherwise requires:

(a) "Agency" means:

- 1.A state agency, except an institution under the jurisdiction of the Board of Governors of the State University System;
- 2.An office, agency, or other establishment in the legislative branch;
- 3.An office, agency, or other establishment in the judicial branch;
- 4.A county;
- 5.A city; and

6.Any other political subdivision of the state, except a district school board or community college district.

(b) "Collegial body" means a governmental entity marked by power or authority vested equally in each of a number of colleagues.

(c) "Public official" means an officer, including a member of the Legislature, the Governor, and a member of the Cabinet, or an employee of an agency in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency, including the authority as a member of a collegial body to vote on the appointment, employment, promotion, or advancement of individuals.

(d) "Relative," for purposes of this section only, with respect to a public official, means an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(2)(a)A public official may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the agency in which the official is serving or over which the official exercises jurisdiction or control any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual or if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative of the individual is a member. However, this subsection shall not apply to appointments to boards other than those with land-planning or zoning responsibilities in those municipalities with less than 35,000 population. This subsection does not apply to persons serving in a volunteer capacity who provide emergency medical, firefighting, or police services. Such persons may receive, without losing their volunteer status, reimbursements for the costs of any training they get relating to the provision of volunteer emergency medical, firefighting, or police services and payment for any incidental expenses relating to those services that they provide.

(b)More approval of budgets shall not be sufficient to constitute "jurisdiction or control" for the purposes of this section.

(3)An agency may prescribe regulations authorizing the temporary employment, in the event of an emergency as defined in s. 252.34(3), of individuals whose employment would be otherwise prohibited by this section.

(4)Legislators' relatives may be employed as pages or messengers during legislative sessions.

History.-ss. 1, 2, 3, ch. 69-341; ss. 15, 35, ch. 69-106; s. 70, ch. 72-221; s. 3, ch. 83-334; s. 1, ch. 89-67; s. 4, ch. 90-502; s. 2, ch. 94-277; s. 1407, ch. 95-147; s. 1, ch. 98-160; s. 42, ch. 99-2; s. 11, ch. 2007-217.

Note.-Former s. 116.111.

112.3136 Standard of conduct for officers and employees of entities serving as chief administrative officer of political subdivisions.-

The officers, directors, and chief executive officer of a corporation, partnership, or other business entity that is serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision, for the purposes of the following sections, are public officers and employees who are subject to the following standards of conduct of this part:

(1) Section 112.313, and their "agency" is the political subdivision that they serve; however, the contract under which the business entity serves as chief executive or administrative officer of the political subdivision is not deemed to violate s. 112.313(3) or (7). (2) Section 112.3145, as a "local officer." (3) Sections 112.3148 and 112.3149, as a "reporting individual."

History.-s. 1, ch. 2009-126.

112.3143 Voting conflicts.-

PART E — INSTRUCTIONS

WHO MUST FILE THIS FORM?

- Any individual, including a candidate upon qualifying, who is required by law to file full and public disclosure of his financial interests on Commission on Ethics Form 6, except Judges. (See Form 6 for a list of persons required to file that form.)
- Any individual, including a candidate upon qualifying, who is required by law to file a statement of financial interests on Commission on Ethics Form 1. (See Form 1 for a list of persons required to file that form.)
- Any procurement employee of the executive branch or judicial branch of state government. This includes any employee who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in Section 287.012, Florida Statutes, if the cost of such services or commodities exceeds \$1,000 in any year.

NOTE: Gifts that formerly were allowed under Section 112.3148, F.S., now may be prohibited expenditures under Sections 11.045 and 112.3216, F.S.

WHAT GIFTS ARE REPORTABLE?

- Any gift (as defined below) you received which you believe to be in excess of \$100 in value, **EXCEPT:**
 - 1) Gifts from the following **RELATIVES:** father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepster, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, a person who is engaged to be married to you or who otherwise holds himself or herself out as or is generally known as the person whom you intend to marry or with whom you intend to form a household, or any other natural person having the same legal residence as you.
 - 2) Gifts which you are prohibited from accepting by Sections 112.313(4) and 112.3148(4), Florida Statutes. These include any gift which you know or, with the exercise of reasonable care, should know was given to influence a vote or other action in which you are expected to participate in your official capacity; it also includes a gift worth over \$100 from a political committee or committee of continuous existence under the elections law, from a lobbyist who lobbies your agency or who lobbied your agency within the past 12 months, or from a partner, firm, employer, or principal of such a lobbyist.
 - 3) Gifts worth over \$100 for which there is a public purpose, given to you by an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.089, South Florida Regional Transportation Authority, the Technological Research and Development Authority, a county, a municipality, an airport authority, or a school board; or a gift worth over \$100 given to you by a direct-support organization specifically authorized by law to support the governmental agency of which you are an officer or employee. These gifts must be disclosed on Form 10.
- A "gift" is defined to mean that which is accepted by you or by another in your behalf, or that which is paid or given to another for or on behalf of you, directly, indirectly, or in trust for your benefit or by any other means, for which equal or greater consideration is not given within 90 days after receipt of the gift. A "gift" includes real property; the use of real property; tangible or intangible personal property; the use of tangible or intangible personal property; a preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin; forgiveness of an indebtedness; transportation (unless provided to you by an agency in relation to officially approved governmental business), lodging, or parking; food or beverage; membership dues; entrance fees, admission fees or tickets to events, performances, or facilities; plants, flowers, or floral arrangements; services provided by persons pursuant

to a professional license or certificate; other personal services for which a fee is normally charged by the person providing the services; and any other similar service or thing having an attributable value and not already described.

- The following are **NOT** reportable as gifts on this form: salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with your employment, business, or service as an officer or director of a corporation or organization; contributions or expenditures reported pursuant to the election laws, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party; an honorarium or an expense related to an honorarium event paid to you or your spouse; an award, plaque, certificate, or similar personalized item given in recognition of your public, civic, charitable, or professional service; an honorary membership in a service or fraternal organization presented merely as a courtesy by such organization; the use of a governmental agency's public facility or public property for a public purpose. Also exempted are some gifts from state, regional, and national organizations that promote the exchange of ideas between, or the professional development of, governmental officials or employees.

HOW DO I DETERMINE THE VALUE OF A GIFT?

- The value of a gift provided to you is determined using the actual cost to the donor, and, with respect to personal services provided by the donor, the reasonable and customary charge regularly charged for such service in the community in which the service is provided. Taxes and gratuities are not included in valuing a gift. If additional expenses are required as a condition precedent to the donor's eligibility to purchase or provide a gift and the expenses are primarily for the benefit of the donor or are of a charitable nature, the expenses are not included in determining the value of the gift.
- Compensation provided by you to the donor within 90 days of receiving the gift shall be deducted from the value of the gift in determining the value of the gift.
- If the actual gift value attributable to individual participants at an event cannot be determined, the total costs should be prorated among all invited persons. A gift given to several persons may be attributed among all of them on a pro rata basis. Food, beverages, entertainment, etc., provided at a function for more than ten people should be valued by dividing the total costs by the number of persons invited, unless the items are purchased on a per-person basis, in which case the per-person cost should be used.
- Transportation should be valued on a round-trip basis unless only one-way transportation is provided. Round-trip transportation expenses should be considered a single gift. Transportation provided in a private conveyance should be given the same value as transportation provided in a comparable commercial conveyance.
- Lodging provided on consecutive days should be considered a single gift. Lodging in a private residence should be valued at \$44 per night.
- Food and beverages consumed at a single sitting or event are a single gift valued for that sitting or meal. Other food and beverages provided on a calendar day are considered a single gift, with the total value of all food and beverages provided on that date being the value of the gift.
- Membership dues paid to the same organization during any 12-month period are considered a single gift.
- Entrance fees, admission fees, or tickets are valued on the face value of the ticket or fee, or on a daily or per event basis, whichever is greater. If an admission ticket is given by a charitable organization, its value does not include the portion of the cost that represents a contribution to that charity.
- Except as otherwise provided, a gift should be valued on a per occurrence basis.

FOR MORE INFORMATION

The gift disclosures made on this form are required by Sec. 112.3148, Florida Statutes. Questions may be addressed to the Commission on Ethics, Post Office Drawer 15709, Tallahassee, Florida 32317-5709 or by calling (850) 488-7864; information is also provided at: www.ethics.state.fl.us.

Miami Beach, Florida, Code of Ordinances >> PART I - CHARTER AND RELATED SPECIAL ACTS >>
Subpart A - CHARTER >> CITIZENS' BILL OF RIGHTS >>

CITIZENS' BILL OF RIGHTS

- (A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:
1. *Convenient access.* Every person has the right to transact business with the City with a minimum of personal inconvenience. It shall be the duty of the City Manager and the City Commission to provide, within the City's budget limitations, reasonably convenient times and places for required inspections, and for transacting business with the City.
 2. *Truth in government.* No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.
 3. *Public records.* All audits, reports, minutes, documents and other public records of the City and its boards, agencies, departments and authorities shall be open for inspection at reasonable time and places convenient to the public.
 4. *Minutes and ordinance register.* The City Clerk shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances and resolutions¹ [2] listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than thirty (30) days after the conclusion of the meeting.
 5. *Right to be heard.* So far as the orderly conduct of public business permits, any interested person has the right to appear before the City Commission or any City agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the City. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit the City or any agency thereof from imposing reasonable time limits for the presentation of a matter.
 6. *Right to notice.* Persons entitled to notice of a City hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.
 7. *No unreasonable postponements.* No matter once having been placed on a formal agenda by the City shall be postponed to another day except for good cause shown in the opinion of the City Commission, or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any

determination made at such hearing.

8. *Right to public hearing.* Upon a timely request of any interested party a public hearing shall be held by any City agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the law department of the City nor to any body whose duties and responsibilities are solely advisory.
At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.
9. *Notice of action and reasons.* Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.
10. *Managers' and attorneys' reports.* The City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions.
11. *Budgeting.* In addition to any budget required by state statute, the City Manager shall prepare a budget showing the cost of each department for each budget year. Prior to the City Commission's first public hearing on the proposed budget required by state law, the City Manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefor, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.
12. *Quarterly budget comparisons.* The City Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.
13. *Adequate audits.* An annual audit of the City shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. The independent City Auditor shall be appointed by the City Commission; both appointment and removal of the independent City Auditor shall be made by the City Commission. A summary of the results of the independent City Auditor's annual audit, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy. Duties, method of selection, and method of compensation of the Independent City Auditor shall be established by ordinance.
14. *Representation of public.* The City Commission shall endeavor to provide representation at all proceedings significantly affecting the City and its residents before state and federal regulatory bodies.
15. *Natural resources and scenic beauty.* It shall be the policy of the City of Miami Beach to conserve and protect its natural resources and scenic beauty, which policy shall include the abatement of air and water pollution and of excessive and unnecessary noise.
16. *Nondiscrimination.* No person shall be deprived of any rights and privileges conferred by law because of race, color, national origin, religion, gender, sexual orientation, disability,

marital status, familial status, or age.

[17. *Reserved.*]

18. *Ethics in Government.* The public's confidence and trust in City of Miami Beach operations and government must meet the most demanding ethical standards and demonstrate the highest level of achievement in its adherence to ethics laws. City of Miami Beach officials and employees are agents of the people and hold their positions for the benefit of the public—as public servants, they are to observe in their official acts a high standard of conduct and to discharge faithfully the duties of their office regardless of personal considerations and interests, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern. In upholding the values of accountability and responsibility, all city officials and employees shall abide by applicable codes of ethical conduct, and be subject to all penalties provided for in such regulations.

- (B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City of Miami Beach. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the City. The orderly, efficient and fair operation of government requires the intelligent participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.
- (C) Remedies for violations. In any suit by a citizen alleging a violation of this Bill of Rights filed in the Dade County circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the court. Any public official or employee who is found by the court to have willfully violated this article shall forthwith forfeit his office or employment.
- (D) Construction. All provisions of this article shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this article shall be declared invalid, it shall not affect the validity of the remaining provisions.

FOOTNOTE(S):

[\(Back\)](#)

Rule III

Classification Plan

1 **RULE III. THE ~~POSITION~~-CLASSIFICATION PLAN**

2 **SECTION 1: PURPOSE:** It is the purpose of the ~~Position~~-Classification Plan to provide an
3 orderly inventory and appraisal of ~~positions in the City service~~Classifications so that the
4 following ends may be attained:

5 **(a)** ~~(a)~~-Equality of pay on the basis of ~~substantially~~sufficiently similar duties and
6 responsibilities.

7 **(b)** ~~(b)~~-Proper pay differences ~~between positions in~~ Classifications which differ
8 ~~materially~~significantly in duties and responsibilities.

9 **(c)** ~~(c)~~-Improved ~~recruiting~~recruitment through appropriate definitions of
10 ~~positions~~Classifications and the establishment of Specifications which include reasonable
11 standards of fitness for ~~entrance to~~Appointment or ~~promotion within the~~
12 ~~service~~Promotion.

13 **(d)** ~~(d)~~-Orderly control of personnel changes ~~affecting employees while in the service,~~
14 such as ~~transfers, promotions, demotions~~Transfers, Promotions, Demotions, leaves of
15 absence, and any other ~~internal~~-personnel ~~status~~ changes.

16 **SECTION 2: PREPARATION ADOPTION AND AMENDMENT OF THE PLAN:** The
17 ~~Personnel~~Human Resources Director ~~shall~~may survey and record the ~~duties and responsibilities~~
18 ~~Specifications~~ of all ~~positions in the Classified Service and~~Classifications and, after consultation
19 with the Appointing ~~Officers and principal supervisors shall~~ Authorities, may recommend ~~a to~~
20 the Personnel Board changes or modifications to the Classification Plan covering all such
21 ~~positions. This plan shall consist of a grouping of positions substantially similar in duties and~~
22 ~~responsibilities, appropriate and descriptive titles for each class of positions, and written Class~~
23 ~~Specifications which shall describe the typical duties and responsibilities characteristic of the~~
24 ~~positions in the classes and which specify the training, experience, and other qualifications to be~~
25 ~~required of applicants for positions in each class~~Classifications. When changes in City
26 organization or operations require the creation of new Classifications or other amendments to the
27 Classification Plan, these shall be adopted according to the same procedures established for the
28 original adoption of the Plan as set forth in Section 10 Article IV of Civil Service Act.

29 **SECTION 3: ~~CLASS~~ CLASSIFICATION SPECIFICATIONS INTERPRETED:** The
30 Specifications for each of the various ~~classes of positions in the Classified Service~~ Classifications
31 shall have the following force and effect:

32 ~~(a)~~ The

33 (a) They are descriptive and explanatory and are not restrictive. The use ~~inclusion~~ of a
34 particular ~~expression or illustration as to~~ of duties, ~~qualifications, or attributes~~ shall not be
35 held to exclude others not mentioned ~~if such others are similar as to kind or quality.~~

36 (b) ~~(b)~~ In determining the ~~allocation~~ assignment of a given position, ~~the~~
37 ~~specifications~~ Specifications to a particular Classification, the Specifications shall be
38 considered as a whole. ~~Consideration shall be given to the general duties, specific~~
39 ~~examples, responsibilities, minimum entrance qualifications, and relationship to other~~
40 ~~classes as affording an inclusive picture of the employment the class is intended to~~
41 ~~embrace.~~

42 (c) ~~(e)~~ The ~~statement of duties is~~ Specifications shall not ~~intended to prescribe what~~
43 ~~specific duties shall attach to a given position nor to~~ limit the power of the Appointing
44 ~~Officer~~ Authority to modify or alter detailed tasks or duties involved in or to be performed
45 within the ~~duties of any position.~~ Classification. When there is a substantial change in ~~the~~
46 ~~duties is made~~, except for a temporary period or by the addition of duties which are
47 incidental ~~to the main employment~~, such change shall be reported to the ~~Personnel~~ Human
48 Resources Director ~~with view to consider a possible re-classification of the position.~~
49 Classification.

50 **SECTION 4: ALLOCATION TO CLASSIFICATION:**

51 (a) The ~~fact~~ Human Resources Director shall ensure that every employee is allocated
52 to a Classification established by the Classification Plan.

53 (b) Classifications which have undergone a substantial change in duties and require
54 re-Classification, or new duties, shall be so classified by the ~~actual tasks performed~~
55 ~~de~~ Human Resources Director after consultation with the Appointing Authority as the
56 Human Resources Director deems appropriate.

57 (c) The wage rate of re-Classified employees is as follows:

58 1. The compensation of such employee shall not appear in the specifications
59 shall not imply that the position be reduced if the individual's then current wage is
60 necessarily excluded from within the class, provided that wage scale of the tasks
61 constituting new Classification and the main work duties of such old and new
62 Positions are duly covered similar.

63 ~~Similarly, any example cited, taken with reference to the statement of typical duties and the~~
64 ~~qualifications required shall not be construed as finally determining whether a position shall be~~
65 ~~included within the class. Although they may not be mentioned in the specifications, certain~~
66 ~~qualifications which should properly apply to practically all positions, such as suitable age,~~
67 ~~sobriety, and industry are taken for granted.~~

68 ~~**SECTION 4: ADOPTION AND AMENDMENT OF THE PLAN:** Before becoming~~
69 ~~effective, the Position Classification Plan shall be approved and adopted by the Personnel Board.~~
70 ~~Thereafter, its provisions shall be observed in handling all personnel transactions and activities.~~
71 ~~When changes in City organization or operations require the creation of new classes of positions~~
72 ~~or other amendments to the Position Classification Plan, these shall be adopted according to the~~
73 ~~same procedure established for the original adoption of the Plan.~~

74 ~~**SECTION 5: ALLOCATION OF POSITIONS TO CLASSES**~~

75 ~~(a) After adoption of the Classification Plan by the Personnel Board, the Personnel Director shall~~
76 ~~allocate every position in the Classified Service to one of the classes established by the Plan.~~

77 ~~(b) New positions in the service and positions which have so changed in work content as to~~
78 ~~require allocation to a different class, shall be so reallocated in accordance with the same~~
79 ~~procedure established for original allocation of positions.~~

80 ~~(c) Employees incumbent in positions so reallocated or reclassified shall~~
81 ~~automatically retain their status where the duties of such old and new positions~~
82 ~~are of an overlapping or closely related nature, and the compensation of no~~
83 ~~employee so transferred shall be reduced thereby. If, however, a position is~~
84 ~~reallocated to a high class because of~~

85 2. The compensation of such employee shall be reduced to no higher than the
86 maximum for the lower Classification, if the employee is assigned or re-Classified
87 to a lower paying Classification.

88
89 (d) If a Position is assigned to a higher Classification because of substantially
90 changed duties or responsibilities, the Human Resources Director may (1) require the
91 incumbent ~~may be required by the Personnel Director~~ employee to demonstrate fitness by
92 passing a non-competitive examination ~~or may be transferred,~~ (2) transfer the incumbent
93 employee to a vacant ~~position~~Position in the ~~class~~Classification to which ~~his/her~~
94 ~~position~~the incumbent employee was formerly allocated, or ~~his/her~~(3) place the
95 incumbent employee's name ~~shall be placed~~ on the ~~re-employment list~~Re-Employment
96 List for the ~~class~~Classifications to which ~~his/her position~~the incumbent employee was
97 formerly allocated. ~~Reallocations of positions~~Allocation to a higher ~~classes~~Classification
98 shall be subject to the approval of the City Manager.

99 **SECTION 65: MAINTENANCE OF THE CLASSIFICATION PLAN:**

100 (a) ~~(a) New positions to be created~~ Specifications or changes in Specifications
101 requested by any ~~department or division~~Appointing Authority shall be reported to the
102 PersonnelHuman Resources Director and ~~he/she~~who shall ~~study the duties and the~~
103 responsibilities of such new positions to provide a basis for ~~determining~~consider the
104 proper ~~classification~~Classification of such new ~~positions~~Position.

105 ~~(b)~~The Appointing ~~Officers~~Authority shall report substantial changes in Specifications to the
106 PersonnelHuman Resources Director ~~the addition of new assignments or the taking away of old~~
107 ~~ones which may affect the duties and responsibilities of any position if it is believed that such~~
108 ~~changes will be permanent. The Personnel Director~~who shall investigate such changes in order to
109 ~~provide a basis for determining the effect of~~and determine whether such changes upon the
110 classification of the position.

111 ~~(b) (e) The Personnel Director shall make periodic investigations of any and all~~
112 ~~positions in order to determine changes in duties and responsibilities of any position~~
113 ~~which may affect the status of the~~require re-Classification Plan. of the Position.

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(c) ~~(d)~~ An employee may, make a written request to the Human Resources Director at any time, ~~make a request in writing to the Personnel Director~~ for a review of the ~~allocation of his/her position. This request shall set forth the employee's~~ Specifications of the employee's Classification, explaining the reasons for the request. Upon review, and if such reasons appear to be substantial, the Personnel the Human Resources Director shall ~~make an investigation of the position with a view to determining the correctness or incorrectness of the allocation and the adjustment necessary.~~ determine what action, if any, is appropriate.

1 | **RULE ~~III~~IV. THE COMPENSATION PLAN**

2 |

3 | **SECTION 1: PURPOSE:** It is the purpose of the Compensation Plan to provide ~~an orderly~~
4 | ~~and~~ a fair means for ~~the determining~~ compensation ~~of employees~~ based on ~~the basis of the work~~
5 | ~~which they perform and the efficiency of their performance.~~ Classification.

6 | **SECTION 2: PREPARATION, APPROVAL AND AMENDMENT OF THE PLAN:** ~~At~~
7 | ~~least sixty (60) days before the beginning of each fiscal year, the Personnel~~ COMPEN-
8 | SATION PLAN: The Human Resources Director shall prepare a Compensation Plan. ~~This Plan~~
9 | ~~which~~ shall consist of a ~~schedule~~ Schedule of ~~pay~~ Pay for each ~~class of positions in the Classified~~
10 | ~~Service~~ Classification indicating the minimum and maximum ~~rate~~ range of ~~pay for each~~
11 | ~~class~~ wages. In arriving at such ~~salary~~ wage ranges, consideration shall be given to prevailing
12 | rates of pay in private business, ~~to~~ and the public sector, the current cost of living, and ~~to~~ the
13 | City's financial condition and policies. ~~After making any adjustments in the Plan which he/she~~
14 | ~~deems~~ The Human Resources Director shall submit the proposed Compensation Plan to the
15 | City Manager who shall review and adjust the Compensation Plan as necessary, ~~the~~ The City
16 | Manager shall submit the Compensation Plan to the City Commission, ~~which, after due~~
17 | ~~reference to the proposed budget, shall adopt, or modify and adopt, the Compensation Plan.,~~
18 | Amendment of the Compensation Plan with supporting data prepared by the Human Resources
19 | Director may be submitted by the City Manager at any time to the City Commission for
20 | approval in accordance with the Classified Salary Ordinance.

21 | **SECTION 3:- EFFECT OF THE PLAN:** The City Commission establishes the Compensation
22 | Plan, ~~as adopted by the City Commission,~~ under the Classified Salary Ordinance; the
23 | Compensation Plan shall constitute the official schedule of ~~salaries~~ wages for ~~positions in the~~
24 | ~~Classified Service~~ all Classifications. No person shall be assigned ~~at a salary~~ wage greater than
25 | the maximum or less than the minimum ~~fixed~~ set forth in the Compensation Plan for ~~his/her~~
26 | ~~class~~ that Classification.

27 | **SECTION 4: ~~INSTALLATION OF THE COMPENSATION PLAN:~~** ~~The Director of~~
28 | ~~Personnel shall prepare regulations indicating how the Compensation Plan shall be applied to~~

29 ~~incumbent employees; such regulations to be transmitted with the first Compensation Plan~~
30 ~~submitted to the City Commission pursuant to the Civil Service Act and these Rules.~~

31 **SECTION 5: ADMINISTRATION OF THE COMPENSATION PLAN:**

32 ~~(a)~~ (a) The entrance ~~salary~~ wage for new appointees ~~to positions in~~ shall be within the
33 ~~Classified Service~~ wage range for the Classification of the City Appointment.

34 (b) The re-employment wage rate shall be within the ~~salary~~ range for the
35 ~~class~~ Classification of positions to which they are appointed Re-Appointment.

36 ~~(b)~~ Salary for a reinstated employee shall be within the salary range for the classification to
37 which he/she is appointed.

38 ~~(c)~~ (e) When an employee ~~is transferred from a position in one class to another~~
39 ~~position in the same class, no change in salary~~ has an Organizational Transfer, no
40 changes in the employee's wage rate shall be made because of such ~~transfer.~~ Transfer.

41 ~~(d)~~ (d) When an employee is promoted to a ~~position in a higher class~~ Classification,
42 and his/her salary the employee's wage is lower than the minimum of the higher ~~class,~~
43 ~~his/her salary immediately~~ Classification, then the wage rate shall be increased
44 immediately to within the ~~salary~~ range of the higher class. Classification.

45 ~~(e)~~ (e) When an employee is demoted to a ~~position in a lower class and his/her~~
46 ~~salary~~ Classification and the employee's wage rate is higher than the maximum of the
47 lower ~~class, his/her salary immediately~~ Classification, then the wage rate shall be
48 decreased immediately to no higher than the maximum wage rate of the lower
49 ~~class~~ Classification.

50 ~~(f)~~ (f) An annual review of the ~~salary~~ wage rate of each employee shall be made by
51 the ~~Personnel~~ Human Resources Director in consultation with the Appointing ~~Officer,~~
52 ~~and adjustments within the range~~ Authority. Adjustment may be made within the wage
53 range, after an analysis of the performance evaluation ~~and,~~ length of service of each
54 employee, and after considering the recommendations of the Appointing
55 ~~Officer~~ Authority, provided that in no case shall the ~~salary of any such employee~~ wage

56 | rate be increased above the maximum established for the ~~class:~~Classification and
57 | provided further, that such ~~salary adjustments~~wage rate adjustment shall ~~receive the~~
58 | ~~approval of~~be approved by the City Manager.

59 | ~~(g) Amendments of the Compensation Plan with supporting data justifying such changes as~~
60 | ~~prepared by the Personnel Director may be submitted by the City Manager at any time to the~~
61 | ~~City Commission for approva~~

1 | **RULE ~~IV~~V. CERTIFICATION OF PAYROLLS**

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3 | **SECTION 1: CERTIFICATION:** Prior to the payment of any salary, wage, or other
4 | compensation to any employee for services ~~to any person holding a position in~~, the ~~Classified~~
5 | ~~Service, the Personnel~~Human Resources Director or designee shall certify that the persons
6 | named on a payroll, estimate, or account ~~therefore~~ have been appointed or employed ~~in~~
7 | ~~pursuance~~pursuant to and have fully complied with the terms of the Civil Service Act and these
8 | Rules. except as required by law.

9 | **SECTION 2: REFUSAL TO CERTIFY:** Before ~~making any such certification~~Certification,
10 | the ~~Personnel~~Human Resources Director or designee shall take all appropriate steps to assure
11 | ~~himself/herself~~ that each payroll, estimate, or account is prepared in accordance with the
12 | provisions of ~~law~~all applicable laws and these Rules. If any item fails to comply with such
13 | provisions, ~~he/she~~the Human Resources Director or designee shall refuse to certify such item.

14 | **SECTION 3: ILLEGAL APPOINTMENT:** ~~All Officers of the City~~Each Appointing Authority
15 | shall comply with and shall ~~aid in all proper ways in carrying into effect~~effectuate the provisions
16 | of the Civil Service Act and these Rules. No Appointing ~~Officer~~Authority shall select any person
17 | for ~~appointment, employment, or promotion~~Appointment except in accordance with the
18 | ~~provisions of the Act and these Rules. Any person employed or appointed contrary to the~~
19 | ~~provisions of the Act and/or of these Rules shall have no claim upon the funds of the City for~~
20 | ~~salary or wage payment.~~Civil Service Act and these Rules.

1 | **RULE ~~V. APPLICATION~~VI. APPLICATIONS AND EXAMINATION EXAMINATIONS**

2 |
3 | **SECTION ~~6-1:~~ SCOPE OF EXAMINATIONS:** Examinations may ~~consist of~~include,
4 | but are not limited to, written tests, oral tests, performance tests, ~~and~~psychological evaluations,
5 | evaluations of training and experience, ~~or~~and tests of knowledge, manual ~~skill, or~~skills, physical
6 | ability ~~or~~, fitness, or any combination thereof.

7 | ~~With the approval of the Personnel Board, tests may be non-competitive for positions which~~
8 | ~~require peculiar and exceptional qualifications of a scientific, managerial, professional, or~~
9 | ~~educational character or in case the character of the work or the conditions of employment or~~
10 | ~~compensation make it impracticable to secure through competitive assembled tests a sufficient~~
11 | ~~number of qualified eligibles to meet the needs of the service. (Amended 2/15/91)~~

12 | **SECTION ~~12:~~ NOTICE OF EXAMINATIONS:**

13 | ~~(a)~~ (a) ENTRANCE TESTS**Entrance Examination:** The ~~Personnel~~Human
14 | Resources Director shall give public notice of all competitive examinations for initial
15 | entrance into the Classified Service. Such notice shall be ~~given by publication in a~~
16 | ~~newspaper of general circulation in the City,~~advertised online at www.miamibeachfl.gov
17 | and shall be posted in or near the ~~office of the Personnel~~Human Resources Department
18 | and ~~copies thereof~~also may be distributed among public officials, educational institutions,
19 | professional and vocational societies, and such other individuals and organizations as the
20 | Human Resources Director may ~~in each case decide. Public notices~~deem appropriate.
21 | Such notice shall specify the title and minimum compensation of the ~~position~~Position, the
22 | minimum ~~qualifications~~Specifications required, the final date on which applications will
23 | be received, and any other pertinent information consistent with the provisions of these
24 | Rules. ~~(Amended 8/18/89)~~

25 | **~~(b) CONTINUOUS TESTS:~~**

26 | **~~(b) 1-~~ Continuous Examination:**

27 | i. ~~The Personnel~~Human Resources Director, ~~when he/she deems it advisable~~
28 | ~~for the good of the service,~~ may, ~~with the approval of the Personnel Board,~~ give
29 | examinations on a continuous basis.

30 | ii. ~~2.~~ Notice of continuous examinations shall be posted in or near the ~~office~~
31 | ~~of the Personnel Division~~Human Resources Department and shall be
32 | ~~published~~advertised online at www.miamibeachfl.gov at least once every ninety
33 | (90) days ~~in a newspaper or general circulation in the City of Miami Beach.~~

34 | (c) ~~(e) PROMOTIONAL TESTS: Notices of~~ **Promotional Examination:** Notice of
35 | competitive promotional examinations to be held shall be ~~given by conspicuous posting~~
36 | ~~of bulletins in the offices of~~advertised online at www.miamibeachfl.gov for no less than
37 | seven (7) calendar days. Notice may also be posted in the offices, the departments or
38 | divisions whose employees are ~~eligible~~Eligible to compete, ~~for not less than one (1) week~~
39 | ~~prior to closing date for application acceptance, or such notices may and may~~ be given by
40 | individual ~~communications~~communication to ~~the employees eligible for~~ Eligible to
41 | ~~compete in~~ such promotional ~~tests~~examination.

42 | **SECTION 23: QUALIFICATION REQUIREMENTS OF APPLICANTS:** All applicants
43 | must meet the minimum ~~qualifications prescribed in the Class Specifications~~ for the ~~class of~~
44 | ~~positions~~Classification for which application is made. ~~When a position for which an examination~~
45 | ~~is to be held has not yet been allocated to a class in accordance with these Rules, the minimum~~
46 | ~~qualifications to be required of applicants shall be established by the Personnel Director with the~~
47 | ~~approval of the Personnel Board.~~

48 | **SECTION 3:4: APPLICATIONS:** All applications shall be made on forms ~~to be prescribed by~~
49 | ~~and in the Personnel~~manner determined by the Human Resources Director. ~~On such forms the~~
50 | ~~Director~~The application may require information ~~covering personal characteristics, regarding~~
51 | education, experience, references and ~~any~~ other information ~~he/she deems pertinent for the~~
52 | Classification, including a photograph. ~~All submitted applications shall be signed and the truth~~
53 | ~~of all statements contained therein will be deemed~~ certified by ~~such signature: the applicant as true~~
54 | ~~and accurate.~~ Applications must be filed with the ~~Personnel Division~~Human Resources
55 | ~~Department~~ within the time limit specified in the public ~~notices of examination~~notice.

56 **SECTION 4:5: DISQUALIFICATION OF APPLICANTS:**

57 ~~(a) The Human Resources Director may refuse to examine an applicant, or after examination~~
58 ~~may remove his/her the applicant's name from the resulting eligible list~~Eligible List, or refuse to
59 certify for appointment any applicant: ~~who is found to lack any of the preliminary requirements;~~
60 ~~(1) does not meet the minimum Specifications established for that classification; who is~~
61 ~~physically so disabled as to be rendered unfit for performance of the required duties; who is~~
62 ~~addicted to the habitual use of narcotics or any intoxicating liquors; who has been found guilty of~~
63 ~~any infamous or notoriously disgraceful conduct; who has been dismissed from the public~~
64 ~~service for delinquency; who has made false statements of material fact in his/her application; or~~
65 ~~who has violated the provisions of these Rules.~~

66 ~~(b) No Classified employee removed from his/her employment by disciplinary action, or who~~
67 ~~resigns therefrom~~Classification; (2) is a qualified individual with a disability but is unable to
68 perform the essential functions of the Position with or without reasonable accommodation; (3) is
69 currently engaging in the use of illegal drugs, illegal use of controlled substances or is under the
70 influence of alcohol, illegal drugs, or non- prescribed controlled substance, upon examination
71 after a contingent job offer; (4) has been convicted of any crime that, based upon the totality of
72 factors, including, but not limited to, the nature of the offense, the recency of the offense and/or
73 lack of evidence of rehabilitation, is determined to be job related, involves moral turpitude or
74 violence to any person; (5) has been dismissed from public service or previous employment for
75 cause; (6) has made a false statement or act of omission of material fact in the application; or (7)
76 resigned after the institution of disciplinary action, ~~shall be eligible to compete in any~~
77 ~~examination for entrance or re-entrance into the Classified Service except as is hereinafter~~
78 ~~provided:~~

79 ~~1. After a period of at least three (3) years have elapsed from the date of resignation or removal~~
80 ~~of such Classified employee, he/she shall have the right to apply to the Personnel Board for~~
81 ~~reinstatement of his/her eligibility to compete in examinations for entry into the Classified~~
82 ~~Service. (Amended 3/20/87)~~

83 ~~2. As soon as; (8) has violated or is practicable after such application has been made, the~~
84 ~~Personnel Board shall set a time and a place for conducting a hearing to determine whether such~~

85 ~~former employee has demonstrated his/her rehabilitation so as to qualify him/her for eligibility to~~
86 ~~compete in entrance examinations. Notice of the time and place of such hearing shall be given to~~
87 ~~the applicant, to the head of his/her former division and department, and to the City Manager. All~~
88 ~~interested persons may be heard at such hearing, which shall be conducted by the Personnel~~
89 ~~Board on an informal basis and for the sole purpose of determining the rehabilitation of the~~
90 ~~applicant.~~

91 ~~3. If the Personnel Board, after such hearing, shall determine that the applicant has been~~
92 ~~rehabilitated so as to be qualified to become a City employee, such person thereafter shall be~~
93 ~~eligible to compete in original entrance examinations into the Classified Service, provided he/she~~
94 ~~meets the specified requirements for such examination and, provided further, he/she shall be~~
95 ~~given no credit, in any way, for any prior service he/she may have had with the City. It is the~~
96 ~~declared purpose of this Section that the person so taking such examination will receive no credit~~
97 ~~on such examination, and, if appointed to the Classified Service, will receive no credit for~~
98 ~~longevity or otherwise for any service he/she may have had with the City prior to his/her being~~
99 ~~declared rehabilitated.~~

100 ~~4. If the Personnel Board, after such hearing, finds and determines that such applicant is not so~~
101 ~~rehabilitated, he/she shall be denied eligibility to compete in examinations for entrance or re-~~
102 ~~entrance into the Classified Service, and such action of the Personnel Board shall be final. In~~
103 ~~such case, no further or later applications for restoration of eligibility of such person shall be~~
104 ~~considered by the Personnel Board.~~

105 ~~(c) No Probationary/Provisional employee removed from his/her employment by disciplinary~~
106 ~~action, or who resigns therefrom after the institution of disciplinary action, shall be eligible to~~
107 ~~compete in any examination, except as hereinafter provided: (Amended 7/17/87)~~

108 ~~1. After a period of at least three (3) years have elapsed from the date of resignation or removal~~
109 ~~of such Probationary/Provisional employee, he/she shall have the right to apply to the Personnel~~
110 ~~Director for reinstatement of his/her eligibility to compete in examination for entry into the~~
111 ~~Classified Service. (Amended 7/17/87)~~

112 ~~2. If the Personnel Director, after investigation, shall determine that the applicant has been~~
113 ~~rehabilitated so as to be qualified to become a City employee, such person thereafter shall be~~

114 eligible to compete in original entrance examinations into the Classified Service, provided he/she
115 meets the specified requirements for such examination, and provided further, he/she shall be
116 given no credit, in any way, for any prior service he/she may have had with the City. It is the
117 declared purpose of this Section that the person so taking such examination will receive no credit
118 on such examination, and, if appointed to the Classified Service, will receive no credit for
119 longevity or otherwise for any service he/she may have had with the City to his/her being
120 declared rehabilitated. (Amended 3/20/87)

121 ~~3.~~ If the Personnel Director, after investigation, finds and determines that such applicant is not
122 rehabilitated, he/she shall be denied eligibility to compete in examinations for entrance or re-
123 entrance into the Classified Service and such action of the Personnel Director shall be final. In
124 such case, no further or later applications for restoration of eligibility of such person shall be
125 considered by the Personnel Director. (Amended 3/20/87)

126 ~~(a)~~ (d) No person shall be permitted to file an application to take an examination for a
127 classification if such person has taken an examination for the same classification within
128 ninety (90) days prior to such filing in violation of the provisions of these Rules.

129 **SECTION 56: PROMOTIONAL EXAMINATIONS:** ~~Whenever, in the opinion of the~~
130 ~~Personnel~~The Human Resources Director, shall determine when vacancies in the ~~service of the~~
131 ~~City Classified Service~~ may be satisfactorily filled by the ~~promotion~~Promotion of a Regular
132 ~~employees, he/she~~ employee. The Human Resources Director shall conduct promotional
133 ~~tests~~examinations among such Regular employees ~~as he/she shall determine~~determined to be
134 ~~eligible~~Eligible to compete. ~~Other~~The Human Resources Director may establish additional
135 qualifications for ~~participating~~participation in promotional ~~tests~~ shall be established by the
136 ~~Personnel Director and approved by the Personnel Board and~~ examinations, which shall be
137 announced prior to ~~the holding of the examination.~~ Length of service shall be a factor in such
138 ~~examinations, and the weight to be given shall be established for such examination by the~~
139 ~~Personnel Director~~examination.

140 **SECTION 7: NON-COMPETITIVE EXAMINATIONS:** Non-competitive examinations
141 may be administered for Classifications which require peculiar and exceptional qualifications of
142 a scientific, managerial, professional, or educational character, or when the character of the

143 work, the conditions of employment or the compensation make it impracticable to secure a
144 sufficient number of qualified applicants through competitive examination.

145 **SECTION 8: CONDUCT OF EXAMINATIONS:** The ~~Personnel~~Human Resources Director
146 or a designee shall be responsible for the conduct of all examinations, ~~but he/she may arrange for~~
147 ~~persons qualified therefore to prepare and administer part or all of any tests in any examination.~~

148 (a) ~~(a)~~ Identification of persons taking a competitive written ~~test~~examination may be
149 concealed through the use of identification numbers ~~instead of names on all test papers~~
150 ~~where, in if the opinion of the Personnel~~Human Resources Director, deems it is ~~feasible~~
151 ~~and desirable to use this method, and inappropriate.~~ In such cases, all ~~test~~
152 ~~papers~~examinations bearing names of ~~applicants~~the applicant or any other identifying
153 mark other than the assigned number shall be rejected and the applicant notified.

154 (b) ~~(b)~~ The ~~Personnel~~Human Resources Director shall ~~see that~~take proper precautions
155 ~~are taken to~~ prevent any applicant or other unauthorized person from ~~securing, in~~
156 ~~advance, obtaining~~ questions or any other material to be used in any ~~test, examination in~~
157 advance unless such questions or other material ~~is~~are available ~~for~~to all applicants.
158 ~~He/she~~ The Human Resources Director shall also ~~take action to~~ prevent the examiner's
159 identification ~~by examiners, of any applicant, or any applicant's work in examinations that~~
160 requires the concealment of identity prior to completion of the rating of ~~the work of all~~
161 ~~testees, of any testee's work in such tests as require the concealment of identity~~all
162 applicants' work.

163 (c) ~~(c)~~ When ~~any testee is found using~~ an applicant possesses or uses any extraneous,
164 forbidden, or unfair source of information, ~~memoranda, pamphlets, books, or notes to~~
165 assist ~~him/her~~ in answering the questions or doing the assigned work, the ~~person in~~
166 ~~charge may take from such testee any such~~ examiner shall confiscate all material and
167 ~~he/she shall in such case make a written statement of,~~ document the circumstances, and
168 submit such documentation to ~~be submitted along with the test papers or other work of~~
169 ~~the testee to the Personnel~~Human Resources Director, ~~who.~~ The Human Resources
170 Director may take such action as ~~he/she considers the circumstances warrant, and may, at~~

171 ~~his/her discretion, disqualify the testee~~ deemed appropriate including, but not limited to
172 disciplinary action up to and including termination and disqualification of the applicant.

173 ~~(d) Whenever, in~~ If the opinion of the Personnel Human Resources Director, the
174 ~~conditions under which any test~~ determines an examination or portion of the test has
175 ~~been~~ thereof was ~~were not~~ unfairly to an applicant, such as to be fair to the
176 ~~testee, the Personnel Director may order that such test~~ examination or portion of
177 ~~test~~ thereof may be re-administered again. for the applicant.

178 **SECTION 8: 9: RATING OF EXAMINATIONS:** In all examinations, the minimum
179 grade or rating through which for eligibility on an employment list may be earned Eligible List
180 shall be determined by the Personnel Human Resources Director. Such final grade shall or rating
181 may take into consideration all factors of the examination, including where the Director deems it
182 appropriate, but not limited to, credits for training, experience, past service with the City, and
183 other qualifying elements as shown in the application of the person examined, by, the oral
184 interviews, or by interview, other verified information. Unless as otherwise approved by the
185 Personnel Board, if any promotional competitive examination be divided into two, and any other
186 qualifying elements as deemed appropriate by the Human Resources Director.

187 ~~(2) parts, a written portion and an oral portion, that failure of the applicant on the oral portion of~~
188 ~~the examination shall not automatically disqualify the applicant.~~

189 **SECTION 910: NOTICE OF RESULTS OF EXAMINATION:** As Unless the information is
190 posted, as soon as the ratings of an examination have been completed, each competitor shall
191 practicable every applicant shall be notified by mail whether he/she attained the minimum
192 passing grade, and if so, of his/her final rating and, whether the minimum possible grade was
193 obtained and his/her relative position on the eligible list established as a result of the
194 examination. The markings and test papers of each person examined shall be open to his/her own
195 personal inspection for one month after the Position on the Eligible List. Within thirty (30) days
196 of the date of the examination, or as otherwise provided for in the office of the Personnel
197 Department during business hours. A manifest an applicable collective bargaining agreement, the
198 applicant may review the applicant's examination score sheets by submitting a written request to
199 the Human Resources Director. If an applicant believes that an error has been made in the

200 ~~marking~~grading or rating of ~~any~~the applicant's examination, ~~if called to the attention of the~~
201 ~~Personnel~~applicant must notify the Human Resources Director within ~~one month after the thirty~~
202 ~~(30) calendar days, or as otherwise provided for in an applicable collective bargaining~~
203 ~~agreement, of the establishment of an eligible list~~Eligible List resulting from such examination,
204 ~~shall be corrected by him/her.~~ If the Human Resources Director determines that an error has
205 ~~occurred, the Human Resources Director shall correct the error as deemed appropriate.~~

206 **SECTION ~~10~~11: PRESERVATION OF WORK OF ~~TESTEES~~: APPLICANTS:**

207 **(a)** The applications, ~~test paper and~~examination papers, other work and ratings of the
208 ~~testees~~applicants who receive scores less than the minimum ~~required in any test, group of~~
209 ~~tests, or tests as a whole and whose names~~ passing grade and who are not ~~therefor~~ placed
210 on the ~~eligible list resulting from the tests~~Eligible List, shall be ~~preserved~~retained for a
211 period consistent with ~~then existing Federal and State laws~~ any governing ~~preservation of~~
212 ~~public records, after the approval and establishment of the list of successful~~
213 ~~applicants~~laws, but may be destroyed thereafter at the discretion of the ~~Personnel~~Human
214 ~~Resources~~ Director.

215 **(b)** The applications, ~~test~~examination papers and other work and ratings of ~~testees~~
216 ~~whose names appear~~applicants who are placed on the ~~list of successful candidates~~Eligible
217 ~~List~~ shall be ~~preserved~~retained for the life of the ~~eligible list resulting therefrom~~Eligible
218 ~~List~~, and shall be open to inspection by an Appointing ~~Officers~~Authority for
219 consideration in making appointments; ~~but may be destroyed thereafter at the discretion~~
220 ~~of the Personnel Director after a~~. Such documents shall be retained for a period
221 consistent with ~~then existing Federal and State laws~~ any governing ~~preservation~~laws, but
222 ~~may be destroyed at the discretion of~~ public records, unlessthe Human Resources
223 ~~Director. If the applicant receives an Appointment, such persons shall receive an~~
224 ~~appointment, in which case such applications, test papers, and other work~~documents shall
225 become part of ~~such persons's record~~the personnel file.

226 **SECTION ~~11~~12: POSTPONEMENT AND CANCELLATION OF**
227 **~~TESTS~~EXAMINATIONS:** All examinations shall ~~normally~~be held upon the dates fixed by the
228 ~~Personnel~~Human Resources Director in the ~~published~~public notices; ~~but~~however, the

229 ~~Personnel~~Human Resources Director shall have the right to may postpone any examination
230 because of an inadequate number of applicants, ~~because of~~non-attendance of ~~special~~examiners
231 or for any other ~~suffieient cause, or to~~reason. The Human Resources Director may also cancel
232 any examination ~~the holding of~~which becomes unnecessary because of a change in the personnel
233 requirements ~~of Appointing Officers.~~

234

Rule VII
Eligibility Lists

30 1. ~~1.~~ Each person whose name appears on an ~~eligible list~~ Eligible List shall
31 file ~~with the Personnel Director, all contact information including telephone~~
32 ~~number(s), email and residential address(es) and shall provide~~ written notice of
33 any change, of ~~address, and failure~~ either electronic or residential address, whether
34 temporary or permanent, with the Human Resources Director. Failure to do so
35 may cause ~~his/her~~ the person's name to be removed from the ~~list.~~ List.

36 ~~2.~~ The name of any person appearing on any ~~eligible list~~ Eligible List may be removed by the
37 ~~Personnel~~ Human Resources Director: (a) if the ~~candidate~~ person fails to respond within ~~three~~
38 ~~(3)~~ ten (10) calendar days ~~of from the date a notice of certification, is sent or issued;~~ (b) if
39 ~~he/she~~ the person declines an appointment without ~~reasons satisfactory to the Personnel Director,~~
40 ~~or if he/she~~ an explanation; or (c) if the person cannot be located ~~by the postal authorities~~ in five
41 (5) calendar days. In case of such removal, the ~~Personnel~~ Human Resources Director shall notify
42 the ~~candidate affected~~ person at ~~his/her~~ the last known electronic and residential address. The
43 person ~~so removed~~ may be reinstated on the Eligible List only ~~if a thoroughly satisfactory~~
44 ~~explanation of the circumstances is made to the Personnel Director.~~

45 2. ~~3.~~ The name of any person appearing on an ~~open competitive eligible list~~
46 ~~may be removed by the Personnel~~ at the discretion of the Human Resources
47 Director:

48 ~~(a) When such person has been certified for appointment and has been passed over for such~~
49 ~~appointment three (3) times; or~~

50 ~~(b) Declines acceptance of an employment interview for a total of three (3) times. (Amended~~
51 ~~11/17/89)~~

52 **SECTION 2: RE-EMPLOYMENT LISTS:** For each ~~class of positions~~ Classification, the
53 ~~Personnel~~ Human Resources Director shall maintain a general Re-Employment List consisting of
54 the names of persons who ~~have occupied positions in such class in the Classified Service~~ were
55 laid off from such Positions as Regular employees and who have ~~been separated without~~
56 ~~misconduct on their part.~~ not accepted a Leave Settlement. The names of employees who have
57 been ~~so separated~~ laid off may also be placed on Re-Employment Lists for such other ~~classes of~~
58 ~~positions~~ Classification as the ~~Personnel~~ Human Resources Director deems appropriate. The order

59 in which names shall be placed on Re-Employment Lists shall be determined by the
60 ~~Personnel~~Human Resources Director after consideration of ~~the~~ priority, length of service, skills,
61 qualifications, ability to perform the work available, performance evaluations ~~of the employees~~
62 ~~while in service and the length of their previous service with the City,~~ disciplinary history and
63 any other factors the Human Resources Director deems relevant. The duration of eligibility of
64 names on Re-Employment ~~Eligible~~-Lists shall expire individually at the conclusion of one (1)
65 year from the date the employee's name was placed on the Re-Employment List or until the
66 employee accepts the Leave Settlement, whichever occurs first.

67 ~~SECTION 3: PROMOTIONAL LISTS: After each promotional examination, the Personnel~~
68 ~~Director shall prepare a Promotional List of persons who achieved passing scores in the~~
69 ~~examination arranged in order of the rating achieved. Whenever it becomes necessary to hold~~
70 ~~subsequent examinations in order to obtain additional eligibles for a Promotion List, the~~
71 ~~Personnel Director may combine the existing list with the new list for the same class by~~
72 ~~arranging all the eligibles in order of rating received without regard to time of examination.~~
73 ~~Promotional List shall expire one (1) year after the posting of the results of a promotional test, or~~
74 ~~where lists have been combined, one (1) year after the date of the combining of the new with the~~
75 ~~old lists~~TRANSFER LIST: For each Classification, the Human Resources Director shall

76 maintain a general Transfer List consisting of the names of persons who expressed in writing the
77 desire to transfer to a particular Classification or Position and who have occupied Positions in
78 such Classification as Regular employees or who the Human Resources Director determines are
79 otherwise qualified. The order in which names shall be placed on the Transfer List may be
80 alphabetical or may be as determined by the Human Resources Director after consideration of
81 length of Service, skills, qualifications, ability to perform the work available, performance
82 evaluations, disciplinary history and any other factors the Human Resources Director deems
83 relevant. The duration of eligibility of names on the Transfer List may continue from year to
84 year.

85 **SECTION 4: ORIGINAL ENTRANCE LISTS:**

86 ~~(a)~~ **(a) Open Competitive Examinations:** ~~On the basis of open competitive~~
87 ~~examinations, the Personnel~~The Human Resources Director shall prepare a ~~list~~List of
88 ~~those eligible for appointment to~~Eligibles based on Open Competitive Examinations; the

89 ~~Service. Names~~names shall be placed upon such ~~list~~List in order ~~of preference~~ according
90 to the final earned rating ~~of each person successfully competing in the examination~~
91 ~~which.~~ The final earned rating shall be determined by the earned ratings on all phases of
92 the examination according to weights for each phase established and announced by the
93 ~~Personnel~~Human Resources Director ~~in advance of giving the tests.~~ Whenever it
94 becomes necessary to hold a subsequent examination to obtain additional
95 ~~eligibles~~Eligibles from an Original Entrance List, the ~~Personnel~~Human Resources
96 Director may combine existing ~~lists~~Lists with the new ~~list~~List for the same
97 ~~class~~Classification by arranging the ~~eligibles~~'Eligibles' names as provided above, without
98 regard to the time of the ~~tests~~examination. Original Entrance Lists shall expire one (1)
99 year after the posting of the results of the original entrance ~~tests~~examination, or ~~where~~
100 ~~lists have been combined,~~ one (1) year after the date of ~~the~~ combining of Lists provided,
101 however, that the new with the old lists. ~~The eligibility lists for the following~~
102 ~~classifications shall be valid for a two (2) year period: (Amended 8/16/96)~~of individual
103 names on the Original Entrance List shall expire eighteen (18) months, which is defined
104 as 547 calendar days, from the date the individual's name was placed on the Eligibles
105 Lists.

106 ~~Administrative Secretary Painter~~

107 ~~Carpenter Parking Enforcement Specialist I~~

108 ~~Central Services Technician Parking Events Attendant~~

109 ~~Clerk Property & Evidence Technician I~~

110 ~~Clerk Typist Police Officer Trainee~~

111 ~~Code Compliance Officer I Public Safety Specialist II~~

112 ~~Concession Attendant Recreation Leader I~~

113 ~~Communications Operator Recreation Leader II~~

114 ~~Complaint Operator II Recreation Supervisor I~~

115 ~~Data Entry Clerk School Guard~~
116 ~~Dispatcher Trainee Stores Clerk~~
117 ~~Fleet Service Writer Tree Trimmer~~
118 ~~Municipal Service Worker I Warehouse Supervisor~~
119 ~~Museum Guard Waste Collector~~
120 ~~Water Meter Technician I~~

121 (b) (b) Non-Competitive Examinations: The ~~Personnel~~Human Resources Director
122 shall prepare an ~~eligible list~~Eligible List of all applicants meeting the ~~announced~~required
123 minimum ~~qualifications for a class of positions. (Amended 2/15/91)~~Specifications for the
124 Classification.

125 (c) (e) Open Continuous Examinations:

126 1. 1. In those ~~classifications~~Classifications for which there are continuous
127 examinations ~~are provided~~, the ~~eligible list~~Eligible List shall be prepared by the
128 ~~Personnel~~Human Resources Director by placing names on such ~~list~~List in order of
129 preference according to the final earned ~~ratings of each person successfully~~
130 ~~participating in the examinations~~rating, without regard to the time of the ~~taking of~~
131 ~~the examinations. (Amended 2/15/91)~~

132 2. 2. Individual The duration of eligibility of names on ~~such continuous~~
133 Continuous Examination Lists shall expire individually at the conclusion of one
134 (1) year from the date the applicant's name was placed on the Continuous
135 Examination List.

136 SECTION: 5: PROMOTIONAL LISTS: After each Promotional Examination, the Human
137 Resources Director shall prepare a Promotional List of employees who achieved passing scores
138 in the examination ~~lists~~, arranged in order of the final earned rating. The final earned rating
139 shall be determined by the earned ratings on all phases of the examination according to weights
140 for each phase established and announced by the Human Resources Director. Whenever it

141 becomes necessary to hold subsequent examinations in order to obtain additional Eligibles for a
142 Promotional List, the Human Resources Director may combine the existing List with the new
143 List for the same Classification by arranging all the Eligibles in order of preference according to
144 the final earned rating without regard to the time of examination. The Promotional List shall
145 expire one (1) year after ~~having~~the posting of the results of a Promotional Examination, or where
146 Lists have been ~~placed thereon~~ combined, one (1) year after the date of combining the List.

147 ~~(d) If in order for the City to receive the benefits of the United States Emergency Employment~~
148 ~~Act of 1971 (Public Law 92-54), the Comprehensive Employment and Training Act of 1973~~
149 ~~(Public Law 92-54), and if the Personnel Director be authorized to conduct open competitive~~
150 ~~examinations for transitional classifications. Names shall be placed upon such lists, as~~
151 ~~established in accordance with the job classification of the positions to be filled, with the added~~
152 ~~title to such job classifications as "transitional" and which lists shall be maintained separate and~~
153 ~~apart from lists for the same positions which are not transitional nature. The qualifications for~~
154 ~~transitional classifications shall include the requirements as set forth in the United States~~
155 ~~Emergency Employment Act of 1971 and the Comprehensive Employment and Training Act of~~
156 ~~1973.~~

157 **SECTION ~~56~~: CERTIFICATION OF ELIGIBLE LISTS**

158 ~~(a)~~LIST: An Eligible listsList shall become effective when the ~~Personnel~~Human Resources
159 Director certifies that the ~~list~~List was ~~legally prepared and representative of the relative~~in
160 accordance with these Rules and accurately reflects the final earned ratings in order of the
161 persons whose ~~names~~name appear thereon.

162 ~~(b) Applicants qualifying on certain examinations may be certified to more than one (1) eligible~~
163 ~~list providing that the Personnel Director has determined that the appropriate test forms for the~~
164 ~~classifications involved are of sufficient similarity and providing that the applicant has agreed to~~
165 ~~such certification. (Amended/17/86)~~

166 **~~SECTION 6~~ SECTION 7: RESTORATION TO LIST**

167 ~~(a) The name of a promotional:~~ A Promotional Probationary employee who has been laid off
168 during ~~his/her probationary period and who is not removed, suspended, or rejected,~~the

169 Probationary Period and reverts to the previous Regular Classification shall be restored to
170 ~~his/her~~the original ~~position~~Position on the Promotional List ~~from which he/she was certified~~ for
171 the remainder of the one (1) year period after the posting of the results of the ~~promotional test,~~
172 ~~upon his/her reverting to his/her Regular classification.~~

173 ~~(b) The name of a Probationary employee who has been laid off after being employed in a~~
174 ~~position in which the work was of a seasonal, fluctuating~~Promotional Examination, or temporary
175 nature, (a temporary position being deemed to be one for which the employee, at the time of
176 ~~his/her employment, is informed in writing by the Personnel Director that such employment will~~
177 ~~be for a period of less than nine (9) months) shall be restored to his/her original position on the~~
178 ~~list from which he/she was certified for the remainder of the one(1) year period~~where Lists have
179 been combined, one (1) year after the posting of the results of the examination, unless the
180 appointing authority, at the time of such lay-off, certifies to the Personnel Director that such
181 employee has been removed, suspended, or rejecteddate of combining the Lists.

Rule VIII

Methods of Filling Vacancies

1 | **RULE ~~VH~~VIII. METHODS OF FILLING VACANCIES**

2 |
3 | **SECTION 1: _TYPES OF APPOINTMENTS:** All vacancies shall be filled by Appointment
4 | from Eligible Lists certified by the Human Resources Director, unless the Human Resources
5 | Director determines that a vacancy in the Classified Service shall be filled by appointment from
6 | eligible lists established by the Personnel Director, which list shall include Re-Employment
7 | Lists, Promotional Lists, and Original Entranee Lists. may be filled by other methods. In the
8 | absence of an appropriate list, Provisional appointments List, Temporary Appointments may be
9 | permitted in accordance with the Civil Service Act and these Rules.

10 | **SECTION 2: _NOTICE TO ~~PERSONNEL~~HUMAN RESOURCES DIRECTOR:** Whenever
11 | vacancies in the Classified Service are to be filled, the Appointing Officer concerned Authority
12 | shall request certification of names from the Eligible Lists and shall notify the Personnel Human
13 | Resources Director stating of the title and, the duties, the number of ~~vacancies~~Positions to be
14 | filled, the necessary Specifications, and desirable qualifications, and any other pertinent
15 | information relating to the positions Classifications to which appointments Appointments are to be
16 | made.

17 | **SECTION 3: _CERTIFICATION OF ELIGIBLES:**

18 | (a) (a) Upon receipt of a request for certification Certification of eligibles Eligible
19 | Lists, the Personnel Human Resources Director shall investigate the availability of
20 | employees for transfer and the desirability of making such transfers. If it shall be found to
21 | be undesirable or impracticable to make transfers of present employees to fill such
22 | vacancies, then the Personnel Director shall make certification from eligible lists provide
23 | names of Eligibles from Eligible Lists as follows:

24 | 1. 1. Whenever a Re-Employment List exists, the Personnel The Human
25 | Resources Director shall certify to the Appointing Officer Authority names from
26 | such the Re-Employment List before any certification of names may be made from
27 | other lists Lists of eligibles Eligibles.

28 2. ~~2.~~ If there ~~shall be~~ is no Re-Employment List ~~and a Promotional List exists,~~
29 the Human Resources Director shall certify to the Appointing ~~Officer from such~~
30 ~~Promotional List before any certification may be made~~ Authority names from an
31 Original Entrance List, and/or Transfer List.

32 ~~(a) Whenever a certification is made from a Promotional List, any employee who has received a~~
33 ~~passing grade on the promotional examination from which such promotional list is compiled, and~~
34 ~~who is and has been employed as a Regular employee in the Department of the City in which the~~
35 ~~vacancy to be filled exists, such employment is such Department as a Regular employee having~~
36 ~~been continuous for a period of at least one (1) year immediately prior and preceding the date~~
37 ~~such certification is made, shall be given a credit of one half (1/2) point for each full year of~~
38 ~~Regular employment with such Department of the City, but not to exceed a total of three and~~
39 ~~one half (3 1/2) points; provided, however, when applicants for the promotional examination~~
40 ~~from which such promotional list is compiled is limited to only members of the Department in~~
41 ~~which the vacancy exists, the provisions of this paragraph as to the granting of extra points shall~~
42 ~~not apply.~~

43 ~~3. If there shall be no Re-Employment List or Promotional List, then the Personnel Director shall~~
44 ~~make certification from an Original Entrance List.~~

45 ~~(b) Such certification by the Personnel Director shall be in writing and shall be effective for a~~
46 ~~period of twenty one (21) calendar days after the date thereof.~~

47 ~~(c) With the approval of the Personnel Director, only where there is a bona fide occupational~~
48 ~~requirement the Appointing Officer may specify the sex of the persons to be certified, in which~~
49 ~~event the Personnel Director shall certify only the persons of such sex standing highest on the list~~
50 ~~in the same number as provided in Sub-Section (d) of this Section.~~

51 ~~(d) When there are vacancies to be filled, the Personnel Director shall certify the names of the~~
52 ~~persons standing highest on the list to be used. At least two (2) more names shall be certified~~
53 ~~than the number of vacancies to be filled. (Amended 2/15/91)~~

54 (b) ~~(e) If the eligible list from which certification should first be made~~ Whenever
55 vacancies are to be filled, the Human Resources Director shall provide the names of the

56 Eligible persons ranking highest on the applicable List and certify at least two (2) names
57 over and above the number of vacancies to be filled.

58 (c) In the event a List contains an insufficient number of names ~~to comply with the~~
59 ~~certification process, the Appointing Officer may fill such of the vacancies as possible~~
60 ~~from such list and the balance of the vacancies from the next list to be considered, or may~~
61 ~~demand~~ and the Appointing Authority requests that all vacancies be filled from ~~a list~~
62 ~~with one List and no List contains~~ sufficient names ~~to comply with the certification~~
63 ~~process. If no list shall contain sufficient names, he/she may demand, the Appointing~~
64 ~~Authority may request~~ that an examination be conducted to ~~secure~~ create a List with the
65 required number ~~and Provisional appointments~~ of names. Temporary Appointments may
66 be made pending the ~~establishment of such adequate list.~~ creation of an adequate List. If
67 the Human Resources Director determines, however, that a Temporary Appointment is
68 inappropriate, the Human Resources Director may appoint one or more employees from
69 the Eligibles List.

70 **SECTION 4: APPOINTMENTS:** ~~The Appointing Officer, after~~ After such interviews and
71 investigations as ~~he/she deems desirable,~~ deemed appropriate, the Appointing Authority shall
72 ~~appoint~~ make a contingent Appointment from the List of one or more of the persons certified, ~~in~~
73 ~~number equal to the number requisitioned~~ as Eligible, and shall immediately notify the
74 ~~Personnel~~ Human Resources Director of the person or persons appointed. If a candidate accepts
75 an ~~appointment~~ Appointment and fails to present ~~himself/herself~~ for duty within five (5) calendar
76 days after instructed to do so, ~~he/she~~ the candidate shall be deemed to have declined the
77 ~~appointment~~ Appointment, unless otherwise provided by law.

78 **SECTION 5: PROVISIONAL APPOINTMENTS**

79 ~~(a) Those original appointments to positions in the service of the City, made without~~
80 ~~competition, after the effective date of the Civil Service Act and before adoption of these Rules,~~
81 ~~shall be considered as Provisional appointments. After the adoption of these Rules, the persons~~
82 ~~occupying these positions shall be required to establish their eligibility either by individual~~
83 ~~qualifying examinations or by competitive in open assembled tests, as may be determined by the~~

84 Personnel Director; provided that in all cases such persons must meet the minimum requirements
85 of the class to which their position belongs.

86 ~~(b) After the adoption of these Rules, in the absence of eligibles from which appointments or~~
87 ~~transfers may be made, persons meeting as nearly as practicable the minimum qualifications for~~
88 ~~vacant positions may be Provisionally appointed after such investigation and tests as the~~
89 ~~Personnel Director shall decide. Such appointments shall continue only until such time as~~
90 ~~appropriate eligible lists are established or qualified persons in the service become available for~~
91 ~~transfer, but in no case longer than thirty (30) days without the approval of the Personnel Board.~~
92 ~~Time spent under Provisional appointment shall not be credited to the Probationary period.~~

93 ~~SECTION 6: EMERGENCY APPOINTMENTS:~~ In the event of ~~ana dire~~ emergency ~~so~~
94 ~~drastic that it renders unwise, if the delay necessary to have Provisional appointments approved~~
95 ~~by the Personnel~~ Human Resources Director is unavailable or time is of the essence, the
96 Appointing ~~Officer~~ Authority may select and appoint persons without regard to the ~~rules~~ Rules
97 governing ~~appointments~~ Appointments, but in no case shall such ~~emergency~~
98 ~~appointments~~ Emergency Appointments continue longer than thirty (30) calendar days.
99 Successive ~~emergency appointments~~ Emergency Appointments of the same person shall not be
100 made, and no person shall serve under ~~emergency appointment~~ Emergency Appointment longer
101 than thirty (30) calendar days in any twelve (12) month period. ~~Notice~~ Written notice of
102 ~~emergency appointments~~ the Emergency Appointments shall be given immediately by the
103 Appointing Authority to the ~~Personnel~~ Human Resources Director.

104 ~~SECTION 7: RE-APPOINTMENTS AFTER DISABILITY RETIREMENT~~

105 ~~(a) Regular employees who have been retired for disability on monthly increments of allowance~~
106 ~~under the provisions of the Employees' Retirement System and who have become able to return~~
107 ~~to work prior to reaching their minimum retirement age as determined by the Board of Trustees~~
108 ~~of the Employees' Retirement System shall be re-appointed to vacancies in the same~~
109 ~~classification from which they were retired or any lower classifications for which they are~~
110 ~~qualified and which involve duties of a similar nature and the application of a pay scale which is~~
111 ~~not less than seventy percent (70%) of that for the classification from which they were retired.~~

112 ~~Such appointments shall take precedence over any eligible lists, but the classifications to which~~
113 ~~such appointments shall be made shall be subject to the approval of the Personnel Director.~~

114 ~~(b) Regular employees who have claimed and received full payment of all benefits under the~~
115 ~~disability provisions of the Employees' Retirement System shall be considered as completely~~
116 ~~separated from service and shall be eligible for re-employment only through original entrance~~
117 ~~procedures.~~

118 **SECTION 86: SUBSTITUTE APPOINTMENTS:** Whenever it becomes necessary to fill the
119 ~~position~~Position of a ~~Classified~~an employee who is absent from ~~his/her regular~~ duties on a leave
120 of absence, and the duration of the leave and/or conditions of work are such that in the opinion of
121 the ~~Personnel~~Human Resources Director it is impracticable to use ~~assignment or Provisional~~
122 ~~appointments, he/she~~Temporary Appointments, the Human Resources Director may approve an
123 appointment on a ~~substitute~~Substitute basis to fill the vacancy during the entire period of the
124 leave. If an ~~eligible list exists~~Eligible List exists for the ~~classification~~Classification to which the
125 vacant ~~position~~Position belongs, selection shall be made from this ~~eligible list~~Eligible List in the
126 same manner as provided for Probationary appointments; if no such ~~eligible list~~Eligible List
127 exists, the ~~Personnel~~Human Resources Director shall decide whether qualifying or competitive
128 tests shall be conducted. Any person so appointed shall be compensated within the pay range
129 provided for the ~~classification~~Classification to which the vacant ~~position~~Position belongs, but no
130 ~~other~~Classification Service rights shall accrue to such ~~person~~substitute employee in such
131 ~~classification.~~Classification or Position.

132 **SECTION 97: APPOINTMENT TO UNCLASSIFIED SERVICE:**

133 ~~_____ (a)-~~ When ~~anya~~ Regular employee in the Classified Service ~~shall be~~is appointed to ~~an~~
134 ~~office or position~~ a Position in the ~~Unclassified Service, his/her position~~unclassified service, the
135 Position in the Classified Service ~~shall be~~is considered ~~vacated~~vacant, except as specified in
136 subject paragraphs 1 & 2 below, and shall be filled by the regular procedures which apply to
137 filling such ~~positions~~Positions on a permanent basis. The Regular employee so appointed to the
138 ~~Unclassified office or unclassified~~ position shall not retain ~~his/her~~ Classified Service ~~title and~~
139 ~~status.~~ (Amended 2/15/91)

140 ~~(b) If such employee is separated from his/her Unclassified office or position, he/she shall be~~
141 ~~returned to the position and classification in~~ or any right to return to the Classified Service
142 ~~which he/she held immediately prior to becoming an Unclassified employee with compensation~~
143 ~~within the salary range then prevailing for such classification.~~except:

144 1. (e) In the event the Classified Service classification of such employee has
145 been abolished or otherwise discontinued, such employee shall be placed in a
146 Classified position at the same level as his/her Classified Service classification for
147 which, in the opinion of the Personnel Director, as approved by the Personnel
148 Board, he/she possess at least minimum qualifications. If there is no classification
149 at such level, he/she shall be placed in a Classified position at the next lower level
150 for which, in the opinion of the Personnel Director, as approved by the Personnel
151 Board, he/she possesses at least minimum qualifications. In either of such events
152 said employee shall be placed in such Classified position with compensation
153 within the salary range then prevailing for such classification but not lower than
154 the salary range held by such employee when appointed to the Unclassified
155 office.The employee may elect to return or the City may elect to return the
156 employee to the Position last held in the Classified Service, within ninety (90)
157 work days from the first work day the employee reports to work in the
158 unclassified position. If the employee or if the City exercises this election, the
159 employee's length of service in the Classified Service shall not be considered
160 interrupted provided, however, the Classified Service Act or rights under any
161 Collective Bargaining Agreement shall not apply to any disciplinary action
162 pending or contemplated which arises out of conduct which occurred while the
163 employee was in the unclassified position, and any such disciplinary action may
164 proceed as if the employee remained in the unclassified service. The ninety (90)
165 work days includes the first day the employee reports to the unclassified position
166 and includes any scheduled work days thereafter whether or not the employee is
167 absent from work and whether or not such absence is excused or unexcused,
168 provided; however, any scheduled work day which the employee is absent
169 pursuant to leave under the FMLA or the USSERA shall not be counted toward
170 the ninety (90) work days.

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2. The employee may elect to return or the City may elect to return the employee to the Position last held in the Classified Service if the unclassified position is eliminated and/or the employee is subject to be laid off within 365 calendar days following the employee’s first day in the unclassified position. If the employee or the City exercises this election, the employee’s length of service in the Classified Service shall not be considered interrupted provided, however, that the Classified Service Act or rights under any Collective Bargaining Agreement shall not apply to any disciplinary action pending or contemplated which arises out of conduct which occurred while the employee was in the unclassified position, and any such disciplinary action may proceed as if the employee remained in the unclassified service. The employee’s first day of work in the unclassified position shall be counted as the first day or day one (1) of the 365 calendar days.

3. Any Classified employee who filled the Position vacated by the Appointment of the Regular employee to the unclassified position and is displaced from such Position because of the Regular employee’s or the City’s exercise of the election set forth in paragraphs 1 & 2 above, shall be returned to the Position in the Classified Service held immediately prior to filing the Vacant Position in paragraph (a) above. If the prior Position is filled the displaced employee may bump such person, who in turn may return to the prior Position, and so on.

SECTION 8: CONTINGENT APPOINTMENT: All Appointments are contingent upon the individual successfully completing all pre-Appointment requirements, if any, as determined by the Human Resources Director.

1 | **RULE ~~VIII~~X. PROBATIONARY PERIOD**

2 |
3 | **SECTION 1: ~~OBJECT OF PROBATIONARY PERIOD~~; PURPOSE:** The Probationary
4 | ~~period shall be regarded as~~ Period is an intrinsic part of the ~~examination~~Appointment process and
5 | shall be ~~utilized for~~used to closely ~~observe~~evaluate the ~~employee's work, for securing the most~~
6 | ~~effective adjustment of a new employee for his/her position, and for eliminating any~~employee's
7 | ~~performance.~~ A Probationary employee ~~whose performance~~who in the sole discretion of
8 | Appointing Authority does not satisfactorily meet ~~the required standards.~~ all Specifications may
9 | be rejected by the Appointing Authority.

10 |
11 | **SECTION 2: DISCIPLINARY ACTION ~~AND~~, SUSPENSION, REJECTION OR**
12 | **REMOVAL DURING PROBATIONARY**

13 | **PERIOD:** During the Probationary ~~period~~Period, an employee may be ~~suspended, reduced in~~
14 | ~~pay~~subject to Rejection or ~~class, or removed for reasonable cause~~disciplinary action including,
15 | but not limited to, Suspension, reduction in pay or Classification, or Removal at any time ~~during~~
16 | without any prior notice or warning in the Probationary period ~~by~~sole discretion of the
17 | Appointing Officer~~Authority~~. Notice of ~~the suspension~~Suspension, reduction in pay or
18 | ~~class~~Classification, or ~~removal~~shall Removal must be given ~~both to the employee and the~~
19 | ~~employee and the Personnel~~Human Resources Director ~~together with a statement of the reasons~~
20 | ~~therefore.~~ No. A Probationary employee has ~~the~~no right to appeal Rejection or any disciplinary
21 | action, or ~~removal~~Removal by ~~his/her~~the Appointing Officer~~Authority~~ for any ~~cause~~reason
22 | whatsoever ~~to the Personnel Board~~. The Personnel Board has no jurisdiction over Probationary
23 | employees. In the case of a ~~removal~~Rejection, the ~~Personnel~~Human Resources Director ~~may~~shall
24 | determine whether or not the ~~name of the removed~~ Probationary employee should be restored to
25 | an ~~eligible list~~Eligible List provided ~~that the name of,~~ however, a ~~person~~Probationary employee
26 | who has been ~~removed~~rejected a second time ~~during the Probationary period~~ or ~~removed~~ shall
27 | not be restored to ~~a list of eligibles.~~ an Eligible List.

28 |
29 | **SECTION 3: REPORTS DURING THE PROBATIONARY PERIOD:** The
30 | ~~Personnel~~Human Resources Director may, ~~if he/she deems it desirable,~~ require ~~that~~the

31 Appointing ~~Officers file with him/her at a designated time~~ Authority to submit a performance
32 evaluation of ~~each~~ the Probationary employee ~~on such form as he/she may prescribe.~~

33 **SECTION 4: REGULAR APPOINTMENT AFTER PROBATIONARY PERIOD:**

34 ~~(a) All original appointments and probationary promotional appointments and re-employment of~~
35 ~~Probationary employees shall be made for a period of six (6) months, except as hereinafter~~
36 ~~provided. All probationary promotional appointments, made as of January 19, 1973 and~~
37 ~~thereafter, made within the same department in which the employee has been employed for a~~
38 ~~minimum of six (6) months shall be for a period of three (3) months, except as hereinafter~~
39 ~~provided; provided, however, that any and all absences totaling in excess of three (3) days with~~
40 ~~pay during such three (3) month period shall be added thereto so as to extend such period by the~~
41 ~~number of days of such absences. No probationary period is to be required for re-employment in~~
42 ~~the same, equivalent, or lower classification of an employee with Regular status. (Amended~~
43 ~~8/18/89)~~

44 ~~If an employee requests a change in departments during the probationary period, a new~~
45 ~~probationary period will begin from the date of transfer. If the employee returns to the original~~
46 ~~department, the first probationary period will commence from the date it ended prior to the~~
47 ~~transfer. (Amended 8/18/89)~~

48 ~~After the expiration of the required probationary period from the date of the original appointment~~
49 ~~or the re-employment of a Probationary employee, or from the date of a promotional~~
50 ~~appointment, no salary or other compensation payment shall be made unless the Appointing~~
51 ~~Officer has first filed with the Personnel Director a statement in writing that the services of the~~
52 ~~employee during the probationary period were satisfactory and that it is desired that he/she be~~
53 ~~continued in the service. Such statement shall contain an appraisal of the value of the services of~~
54 ~~the employee and if the Personnel Director so determines, may include a performance evaluation~~
55 ~~upon forms prescribed by him/her. (Amended 8/18/89)~~

56 (a) (b) The probationary period for the classifications All Appointments are subject to
57 successful completion of six (6) months Probationary Period, except as provided in these
58 Rules.

59 (b) The Probationary Period for the Classifications of Firefighter I, Communications
60 Supervisor, Dispatcher, Dispatcher Trainee, and Code Compliance Officer I shall be ~~for~~
61 ~~twelve (12) months. (Amended 4/19/91, 12/18/92) The probationary period for the~~
62 ~~classifications of Police Officer and Police Officer Trainee shall be for eighteen (18)~~
63 ~~months. (Amended 4/20/90)~~ twelve (12) months.

64 ~~(e) 1(a) The original entrance or promotional probationary~~ Probationary Period for
65 Police Officer and Police Officer trainees shall be eighteen (18) months. The
66 Probationary Period for the Classifications of Police Officer and Police Officer Trainee
67 may be extended for an additional period of time up to eighteen (18) months. [SEE
68 SECTION 10 (I) of Civil Service Act]

69 (c) The Original Entrance or Promotional Probationary Period for the following
70 ~~classifications~~ Classifications shall be ~~for~~ nine (9) months: ~~(Amended 4/17/92)~~

71 Sergeant of Police

72 Lieutenant of Police

73 Captain of Police

74 Communications Operator

75 Communications Technician I

76 Identification Technician I

77 Identification Technician II

78 Identification Officer

79 Firefighter II

80 Fire Lieutenant

81 Fire Captain

82 ~~Deputy Chief~~

83 ~~(b) The original entrance or promotional probationary period for the following classification~~
84 ~~shall be for six (6) months:~~

85 Complaint Operator II

86 ~~(d)~~ (d) A ~~probationary~~ Probationary employee ~~whose employment has been~~
87 ~~terminated for other than~~ who is laid off or who resigns without pending disciplinary
88 ~~reasons~~ action, after ~~he/she has served~~ serving four (4) or more months of ~~his/her~~
89 ~~probationary period~~ the Probationary Period and who is ~~rehired by the City in re-~~
90 ~~appointed to~~ the same classification Classification within one (1) year from the date of
91 such ~~termination~~ separation shall be given full credit for such prior
92 ~~probationary~~ Probationary time towards completion of ~~his/her probationary period~~ the
93 Probationary Period. In no event, however, is the ~~probationary period~~ Probationary Period
94 to be served after such ~~rehiring~~ Re-Appointment to be for less than one (1) calendar
95 month.

96 **SECTION 5: PROBATIONARY PERIOD AFTER HAVING ATTAINED REGULAR**
97 **STATUS;**

98 ~~(a)~~ (a) Any An employee ~~removed~~ rejected or laid off during the Probationary
99 ~~period~~ Period following a ~~promotional appointment because of failure~~ Promotional
100 Appointment to ~~meet the required work standards of an Appointing Officer, or who is~~
101 ~~removed at the conclusion of the Probationary period following a promotional~~
102 ~~appointment by reason of failure of an Appointing Officer to file a statement that his/her~~
103 ~~services were satisfactory;~~ a higher Classification shall be ~~reinstated in re-~~ appointed to the
104 ~~position~~ Position from which ~~he/she~~ the employee was promoted, even ~~though~~ if the ~~lay-~~
105 ~~off~~ Layoff of the employee currently occupying ~~his/her~~ the former ~~position~~ Position is
106 necessary.

107 ~~(b)~~ Any An employee ~~removed~~ rejected during the Probationary ~~period~~ Period following a
108 ~~promotional appointment~~ Promotional Appointment to a higher Classification for reasons which,
109 in the opinion of the ~~Personnel~~ Human Resources Director, constitute ~~grounds~~ sufficient cause for
110 ~~removal~~ Removal as provided in ~~Section 2 of Rule XXI, Sections 2 and 6,~~ shall be ~~considered as~~
111 ~~removed and~~ removed. If such employee is not part of a collective bargaining unit, the employee

112 shall have the right to appeal such Removal from the City to the Personnel Board ~~as provided~~
113 ~~therein.~~

114 ~~(b) (e) Whenever any Regular employee receives a Probationary appointment~~
115 ~~because of certification from an eligible list and is not appointed to Regular status in the~~
116 ~~classification for which he/she was serving a Probationary period, he/she~~ but such appeal
117 ~~shall be reinstated in~~ not have the position from which he/she held Regular status
118 ~~immediately preceding~~ right to appeal the commencement of Appointing Authority's
119 ~~determination that the Probationary period, even though it is necessary to lay off the~~
120 ~~employee occupying his/her former position~~ employee did not pass probation.

121 SECTION 6: ABSENCES DURING PROBATIONARY PERIOD:

122 ~~(a) (a)~~ All absences during a ~~probationary period~~ Probationary Period shall extend the
123 date of completion of the ~~probationary period~~ Probationary Period in time equal to the
124 amount of time absent, except that the first thirty (30) days of an absence for non-service
125 connected injury or illness or the first sixty (60) days of an absence for a service
126 connected injury, shall not extend the date of completion of the ~~probationary~~
127 ~~period~~ Probationary Period if the employee ~~furnishes to~~ is on approved FMLA leave, or if
128 ~~the Personnel~~ employee provides to the Human Resources Director proper medical
129 evidence as to the ~~nature and extent~~ existence of ~~the an~~ an illness or injury within two (2)
130 weeks after the injury or illness commences, or as otherwise required by USERRA or
131 other law.

132 ~~(b) (b)~~ During an ~~original entrance probationary period~~ Original Entrance
133 Probationary Period, any consecutive absence in excess of three (3) weeks, except for an
134 approved absence in connection with ~~an~~ an illness or injury as provided in sub-paragraph (a)
135 above or an absence which is otherwise provided for by law, shall automatically cancel
136 the ~~probationary appointment, except that upon~~ Probationary Appointment. If, however,
137 ~~the Appointing Authority submits a written request of the Appointing Officer, such to the~~
138 Human Resources Director and obtains the Human Resources Director's approval, the
139 ~~appointee may be retained, and his/her probationary period. The Probationary Period~~
140 ~~shall continue from the date of his/her~~ the return to duty; if absence is due to military

141 leave under USERRA. In the event such consecutive absence, ~~except for an approved~~
142 ~~absence or injury as provided in sub-paragraph (a) above,~~ exceeds ninety (90) days, the
143 ~~probationary period~~ Probationary Period shall be automatically terminated., ~~except for an~~
144 approved absence, illness or injury as provided in sub-paragraph (a) above or as
145 otherwise required by USERRA or other law.

146 ~~(e)~~ During a ~~promotional probationary period~~ Promotional Probationary Period, any consecutive
147 absence in excess of six (6) weeks, except for an approved absence in connection with an illness
148 or injury as provided in sub-paragraph (a) above or an absence which is otherwise provided for
149 by law, shall automatically ~~cancel the probationary appointment, except that upon~~ terminate the
150 Probationary Appointment. If, however, the Appointing Authority submits a written request of
151 the Appointing Officer to the Human Resources Director and obtains the Human Resources
152 Director's approval, such appointee may be retained, ~~and his/her probationary period.~~ The
153 Probationary Period shall continue from the date of ~~his/her~~ the return to duty. ~~if absence is due to~~
154 military leave under USERRA. In the event such consecutive absence exceeds six (6) months,
155 the Probationary Period shall be automatically terminated, except for an approved absence,
156 illness, or injury as provided in sub-paragraph (a) above, ~~the probationary period shall be~~
157 automatically terminated or as otherwise required by USERRA or other law.

158 **SECTION 7: NON-APPLICABILITY OF PART-TIME SERVICE:** Service in a part time
159 capacity does not apply to, nor lessen the length of, the Probationary Period for that position.

29 of the provisions thereof.

30 3. ~~3.~~ Has been guilty of conduct unbecoming an employee of the City,
31 including, but not limited to, failure to report a felony indictment or other criminal
32 action that may be job related, failure to report knowledge of or reasonable basis
33 of suspicion, of another employee's theft of time, money, property, fraud,
34 embezzlement or corruption.

35 4. ~~4.~~ Has violated any lawful and reasonable regulation or order, or failed to
36 obey any lawful ~~or~~and reasonable ~~direction made and given by~~directive from a
37 superior where such ~~violations~~violation or failure to obey has ~~or might~~
38 resultresulted or may have resulted in loss or injury to the City, the public, or to
39 persons or property in the custody of the City.

40 5. ~~5. (a)~~ Has engaged in any of the following:

41 (a) ~~_____~~ Has been intoxicated or under the influence of intoxicants or
42 narcotics while on duty or while wearing a City furnished uniform,
43 whether on or off duty.

44 (b) ~~(b) If an employee sworn in as a~~Has imbibed any amount of any
45 intoxicant, narcotic, alcohol, illegal drug, or controlled substance, has
46 tested positive for any intoxicant, alcohol, narcotic, illegal drug or
47 controlled substance, or has used any amount of any narcotics, alcohol,
48 illegal drug, or controlled substance, during duty hours if the employee is
49 a sworn Police Officer, an employee of the Fire Division detailed to fire
50 fighting apparatus, or an employee responsible for the operation of an
51 automobile, truck, tractor, bulldozer, roadgrader, roadroller, crane, or
52 other such power equipment, ~~has imbibed any amount of any intoxicant,~~
53 ~~or used narcotics, during duty hours.~~

54 (c) ~~(c) If an employee has in his/her possession,~~Has failed to report a
55 citation, arrest or notice to appear for any moving violation if the
56 employee is a sworn Police Officer, an employee of the Fire Division

57 detailed to fire fighting apparatus, or an employee responsible for the
58 operation of an automobile, truck, tractor, bulldozer, roadgrader,
59 roadroller, crane, or other such power equipment.

60 (d) Has tested positive or is in possession and/or is using, dispensing,
61 or selling any illegal drug or controlled substance not prescribed by a
62 licensed physician, whether on or off duty. ~~(Adopted 9/18/92)~~

63 (d) Has tested positive or used and/or possesses alcohol during duty
64 hours. ~~(Adopted 9/18/92)~~

65 ~~6.~~ 6. Has ~~contracted some~~ mental, psychological or physical ~~ailment or~~
66 ~~defect~~ condition which ~~incapacitates him/her for usefulness in~~ prevents the City
67 ~~service.~~ employee from performing the essential functions of the Position with or
68 without reasonable accommodation.

69 ~~7.~~ 7. Has been ~~guilty of acts which amount to insubordination.~~ 8.
70 insubordinate.

71 8. Has been ~~wantonly~~ offensive in ~~his/her~~ conduct or language toward the
72 public, ~~toward~~ City officers, superiors, or toward other employees.

73 ~~9.~~ 9. Has been incompetent, negligent or inefficient ~~to such an extent that~~
74 ~~he/she~~ and/or has received two consecutive overall performance evaluations of
75 Improvement Needed, Unsatisfactory, or ~~any~~ any combination thereof.

76 10. ~~10.~~ ~~Is~~ Has been careless, inefficient, or negligent ~~of~~ with the time, service
77 equipment materials, property or anything of value of the City; ~~or, steals,~~
78 ~~misplaces,~~

79 11. Has stolen, misplaced or ~~misuses~~ misused time, services, equipment,
80 materials, property or any other thing of value belonging to the City, including
81 the authority accorded by the employee's Position.

82 12. ~~11.~~ Has ~~used or~~ threatened to use, ~~or~~ attempted to use or used political
83 influence in securing ~~promotion~~Promotion, leave of absence, transfer or change of
84 ~~class~~Classification, pay or character of work.

85 13. ~~12.~~ Has violated the provisions of the Conflict of Interest Ordinance of the
86 City of Miami Beach.

87 14. ~~13. Intentional falsification of~~Has falsified a time record or ~~failure~~failed to
88 report ~~absences~~absence from duty ~~to his/her superior~~ in accordance with
89 prescribed procedures.

90 15. ~~14.~~ Has been absent from duty without approved leave of absence from
91 ~~his/her~~the Appointing ~~Officer~~Authority, or contrary to prescribed procedures, or
92 has failed to report after a leave of absence has expired, or within a reasonable
93 time after such leave of absence ~~shall have~~has been revoked or cancelled, if an
94 extension of such is not otherwise required by law.

95 16. ~~15.~~ Has been excessively absent or habitually tardy or has refused to
96 perform a reasonable amount of work when directed to do so.

97 17. ~~16.~~ Has engaged in any activities prohibited under the provisions of Rule
98 I, Section 3, of these Rules.

99 18. ~~17. That he/she is~~ Has been antagonistic in ~~his/her~~ attitude toward ~~his/her~~
100 superiors or ~~fellow~~other employees, ~~criticizing~~criticizes orders or rules issued and
101 policies adopted by ~~his/her~~ superiors, or ~~so conducts him/herself as to~~
102 ~~interfere~~interferes with the proper coordination of the City's employees ~~of the~~
103 City to the detriment of efficient public service.

104 19. ~~18.~~ Has been guilty of actions which amount to disgraceful conduct while
105 on or off duty.

106 20. ~~19.~~ Has willfully refused or failed to appear before any grand jury, court,
107 or judge, or officer, board or body authorized by law or the City Commission to
108 conduct any hearing or inquiry relative to the official duties of such employee, or

109 has refused and continues to refuse to answer any related questions concerning
110 ~~his/her~~ official duties which have been asked ~~him/her~~ of the employee as part of an
111 official hearing or inquiry by the ~~head of his/her department~~ Appointing Authority,
112 the City Manager or by any other person authorized by the City Commission or
113 the City Manager to conduct such hearing or inquiry, unless refusal to do so is
114 otherwise protected by law.

115 ~~20. Has been guilty of violating the provisions of Rule I, Section 3(d)2.~~

116 21. 21. Has been guilty of gross negligence or gross inefficiency in the
117 performance ~~or his/her~~ of duties, where such negligence or inefficiency has ~~or~~
118 ~~might result~~ resulted in loss or injury to the City, the public, or to persons or
119 property affected thereby.

120 ~~(e) Any Regular employee in the Classified Service may appeal a removal according to the~~
121 ~~procedure established by Section 9 of the Civil Service Act and by Rule XI, APPEALS FROM~~
122 ~~DISCIPLINARY ACTIONS.~~

123 22. Has engaged in or failed to report unlawful harassment, discrimination or
124 retaliation.

125 23. Has engaged in or failed to report any violation of law or ethics.

126 24. Has violated the provisions of Department rules.

127 25. Has made a false statement or material omission in the application for
128 employment, promotion, advancement wage increase, or other term or condition
129 of employment; has made a false statement or material omission during an
130 investigation; has made a false statement or material omission in any
131 documentation.

132 26. Has had an excessive number of accidents resulting in personal injury, or
133 injury to self, others or property, or other violation of safety practices.

134 27. Has a Position that requires the operation of a motor vehicle in the
135 performance of duties, is a sworn police officer, an employee of the Fire Division,

136 detailed to fire fighting apparatus, or an employee responsible for the operation of
137 an automobile, truck, tractor, bulldozer, roadranger, roadroller, crane, or other
138 power equipment, and has had driver's license or driving privileges suspended or
139 revoked; has failed to wear corrective lenses as required by Rule XVII, Medical
140 and Physical Standard.

141 28. Has a Position requiring a valid driver's license or valid specialized
142 license, and has failed to obtain or maintain such license or allowed it to lapse or
143 has had restrictions imposed by operation of law.

144 29. Has engaged in a physical altercation outside the lawful exercise of duties
145 with either other City employees or the general public, regardless of provocation.

146 30. For any other just cause.

147 **SECTION 5: 3: REDUCTION IN SALARY PAY:**

148 (a) ~~(a) The Appointing Officer, with the Subject to approval of by~~ the City Manager,
149 an Appointing Authority may reduce the salary wage of an employee under his/her
150 jurisdiction within the salary range for the classification for a disciplinary purpose or
151 when the quality of work of an employee is of low service value and employee's
152 performance does not conform with to the required standards. Appeals
153 from Specifications, Job Description, Work Rules, Department Rules or for other just
154 cause. Any such action may reduction must be taken by the employee under submitted in
155 advance to the procedure provided by Rule XI of these Rules. Human Resources Director
156 who will make a recommendation to the City Manager as to whether or not the reduction
157 should be approved, denied or modified.

158 (b) ~~(b)~~ In the event that an employee's salary wage is reduced for a disciplinary
159 purpose, such reduction in salary pay shall not exceed five percent (5%) of the salary wage
160 of such employee, nor and shall continue for a period the length of more than ninety (90)
161 days from the effective date of such time the employee remains in that Position; however,
162 the reduction, and such reduction or any portion thereof may be lifted adjusted by the

163 Appointing Authority, with the approval of the City Manager, at any time ~~during such~~
164 ~~period of reduction.~~

165 (c) The procedures established by Rule XIII Appeals from Disciplinary Action shall
166 apply in case of appeals from reduction in pay of classified employees not in a collective
167 bargaining unit.

168 **SECTION 4: DEMOTIONS:** A ~~transfer in the Classified Service~~reduction of employment
169 status from a ~~position in a higher class~~Classification to a ~~position in a lower class shall be~~
170 ~~deemed a demotion~~Classification is a Demotion.

171 ~~a) Subject to the provisions of Section 9 of the Civil Service Act and Rule XI of these Rules, an~~
172 ~~Appointing Officer may demote an employee whose ability to perform his/her duties falls below~~
173 ~~standard or for disciplinary purposes. All demotions shall be reported to the Personnel Director~~
174 ~~in sufficient time before the date it is intended that they become effective so that the Director~~
175 ~~may make such investigations of the circumstances as he/she may consider necessary. Where~~
176 ~~such action would in his/her opinion be in the best interests of service, the Personnel Director~~
177 ~~shall attempt to arrange the transfer of the affected employee to a position under the jurisdiction~~
178 ~~of another Appointing Officer. A transfer under such circumstances shall be approved by the~~
179 ~~Director and the Appointing Officer having jurisdiction over the position to which the employee~~
180 ~~is to be transferred, but not necessarily by the Appointing Officer intending to effect the~~
181 ~~demotion.~~

182 (a) 1. Subject to approval by the City Manager, an Appointing Authority may Demote
183 an employee for disciplinary purpose or when the employee's performance does not
184 conform to the required Specifications, Job Description, Work Rules, Department Rules
185 or for other just cause. Any request for a Demotion must be submitted in advance and in
186 writing to the Human Resources Director who will make a recommendation to City
187 Manager as to whether or not the disciplinary action should be approved, denied, or
188 modified.

189 The ~~Personnel~~Human Resources Director may ~~demote~~place an employee; to a vacant Position at
190 the request of such employee, after ~~the Director has made such an investigation of the~~
191 ~~circumstances of the request as he/she may consider necessary, provided, however, that such~~

192 ~~employee possesses the minimum qualifications for appointment to the position to which he/she~~
193 ~~is to be demoted, and provided further, that the Appointing Officer in whose jurisdiction such~~
194 ~~employee is employed approves such demotion.~~

195 ~~(b) 2. In the event of a request for demotion by an employee and when such action~~
196 ~~would, in his/her opinion be in the best interest of the service, the Personnel Director may~~
197 ~~arrange the transfer of the affected employee the Human Resources Director may deem~~
198 ~~necessary. The Human Resources Director may arrange the placement of the employee~~
199 ~~to a position vacant Position under the jurisdiction of another Appointing Officer.~~
200 ~~No Authority. However, no such transfer, however, shall placement will be made unless~~
201 ~~approved by both the Personnel Director and the Appointing Officer having jurisdiction~~
202 ~~over the position to which the demoted employee is to be transferred. It shall not be~~
203 ~~necessary to obtain the approval of the Appointing Officer from whose jurisdiction such~~
204 ~~employee has been transferred, but notice Human Resources Director and the prospective~~
205 ~~Appointing Authority. Notice of such proposed demotion and transfer placement shall be~~
206 ~~given to such the current Appointing Officer Authority by the Personnel Human Resources~~
207 ~~Director at least ten (10) days before the same shall become placement becomes effective,~~
208 ~~unless said notice is waived in writing by such the current Appointing Officer Authority.~~

209 ~~(c) (b) At his/her discretion and~~ The Human Resources Director, with the consent of
210 the prospective Appointing Officer, ~~the Personnel Director~~ Authority, may ~~permit the~~
211 ~~demotion~~ demote an employee to a vacant position Position as a substitute for a ~~lay-off, or~~
212 ~~the~~ Layoff. The City Manager may require ~~that~~ such action ~~be taken where he/she deems~~ if
213 the City Manager determines it ~~to be~~ is in the best interest of the ~~service~~ City. Any
214 employee so demoted shall ~~have his/her name~~ be placed on the Re-Employment List for
215 the Classification from which ~~he/she~~ the employee was demoted ~~as provided in cases of~~
216 ~~lay-off. No.~~ An employee shall not be demoted to a position Position for which ~~he/she~~ the
217 employee does not possess the minimum ~~qualifications~~ Specification, as determined by
218 the Human Resources Director.

219 ~~(d) (e) In case of appeals from demotions made for disciplinary purposes, the~~ The
220 procedure established by ~~Section 9 of the Civil Service Act and by Rule XI, APPEALS~~
221 ~~FROM DISCIPLINARY ACTION~~ Rule XIII, Appeals from Disciplinary Action, shall

222 apply in case of appeals from Demotions made for disciplinary actions of classified
223 employees not in a collective bargaining unit.

224 **RULE X. SEPARATIONS**

225 **SECTION 1: 5: SUSPENSIONS:**

226 (a) ~~(a) An Appointing Officer~~ Subject to approval by the City Manager, an
227 Appointing Authority may Suspend an employee for disciplinary purpose or when the
228 employee's performance does not conform to the required Specifications, Job
229 Description, Work Rules or department rules or for other just cause. Any Suspension
230 must be submitted in advance to the Human Resources Director who will make a
231 recommendation to the City Manager as to whether or not the disciplinary action should
232 be approved, denied, or modified.

233 Subject to the approval by the City Manager, an Appointing Authority may suspend an employee
234 in the Classified Service at any time for the good of the service, for a disciplinary purpose, or for
235 other just cause.

236 1. If the suspension is for a period of 3 days or less the Appointing Officer is excused from the
237 process on Rule XI, Section 1(a), (b), (c), and (d).

238 2. If the suspension is for a period of more than 3 days, the Appointing Officer must follow the
239 procedures as set forth in Rule XI, Section 1(a), (b), (c), and (d).

240 (b) ~~(b) Anywhenever an employee in the Classified Service who has been indicted, or~~
241 informed against in any Federal Court, or in a court of any state of the United States, may
242 be forthwith suspended by his/her Appointing Officer., or otherwise charged in any state
243 or federal court and the Human Resources Director determines the matter to be job
244 related or to cause a potential conflict of interest. Such suspensions Suspension may
245 continue until the acquittal or conviction of such employee. The maximum limitations for
246 the duration of suspensions, as hereinbefore set forth, shall not apply to suspensions
247 based upon information or indictments. If the indictment or information against such
248 employee is quashed, and the charges dropped by the prosecuting authority, such action
249 shall be deemed an acquittal hereunder. If a finding of guilty is entered against such

250 ~~employee and adjudication is withheld under the provisions of Chapter 948, Florida~~
251 ~~Statutes, such finding shall be deemed a conviction hereunder. Acquittal shall entitle such~~
252 ~~employee to reinstatement and recovery of all wages and emoluments lost by reason of~~
253 ~~such suspension, but conviction of such employee shall be grounds for removal in~~
254 ~~accordance with the provisions of Section 2 (b) 1 of this Rule or until the case against the~~
255 ~~employee has been otherwise resolved.~~

256 (c) ~~In the event that the~~If an employee requests a continuance based upon ~~such an~~
257 ~~indictment or, information or other charges and that the continuance is granted, said the~~
258 ~~employee shall waive any and all rights to wages and emoluments all other benefits and~~
259 ~~terms and conditions of employment lost by reason of such continuance from the date of~~
260 ~~said continuance until the date of hearing before the Personnel Board acquittal.~~

261 ~~(e) Any employee who engages in a physical altercation outside the lawful exercise of his/her~~
262 ~~duties with either other City employees or the general public, regardless of provocation, shall be~~
263 ~~suspended for a period of not less than three working days.~~

264 ~~(d) Suspensions shall be immediately reported to the Personnel Director who may investigate the~~
265 ~~circumstances surrounding the suspensions.~~

266 ~~(e) Any Regular employee in the Classified Service may appeal a suspension according to the~~
267 ~~procedures established by Section 9 of the Civil Service Act and by Rule XI, APPEALS FROM~~
268 ~~DISCIPLINARY ACTION.~~

269 (d) ~~The procedure established by Rule XIII, Appeals from Disciplinary Action shall~~
270 ~~apply in case of an appeal from Suspension made for disciplinary action of classified~~
271 ~~employees not in a collective bargaining unit.~~

272 **SECTION 2: 6: REMOVALS:**

273 ~~(a) Any Appointing Officer may remove a subordinate employee under his/her jurisdiction in the~~
274 ~~Classified Service at any time for any cause which will promote the efficiency of the service.~~
275 ~~Before the effective date of any such removal, the Appointing Officer shall give the affected~~
276 ~~employee and the Personnel Director a written statement of the reasons for such removal. The~~

277 ~~Personnel Director may thereupon investigate such removal in order to be apprised of the factors~~
278 ~~causing such removal and to aid in the elimination of such factors.~~

279 (a) Subject to approval by the City Manager, an Appointing Authority may remove
280 an employee for disciplinary purpose or when the employee's performance does not
281 conform to the required Specifications, Job Description, Work Rules or department rules
282 or for other just cause. Any Removal must be submitted in advance to the Human
283 Resources Director who will make a recommendation to the City Manager as to whether
284 or not the disciplinary action should be approved, denied, or modified.

285 The procedures established by Rule XIII, Appeals from Disciplinary Action shall apply in case
286 of appeals from Removals of classified employees not in a collective bargaining unit.

1 **RULE ~~IXXI~~. TRANSFERS, ASSIGNMENTS, PROMOTIONS, ~~DEMOTIONS~~**

2
3 **SECTION 1: TRANSFERS:**

4 **~~(a) ORGANIZATIONAL TRANSFERS~~**

5 **Classification Transfer:** The ~~transfer~~Transfer of an employee from a ~~position~~Position in one
6 ~~class~~Classification to a Position in another ~~position in~~Classification for which the ~~same class~~
7 ~~under another Appointing Officer shall be called an organizational transfer.~~employee is qualified
8 and for which the same maximum rate of pay has been established, is called a Classification
9 Transfer and may be made ~~with the consent of~~by the Appointing ~~Officers~~Authorities involved
10 and the ~~Personnel~~Human Resources Director ~~provided, however, that such transfer shall not~~
11 ~~become effective until it has been approved by the Personnel Board at a regular meeting after~~
12 ~~written notice to the effected employee by the Personnel Director at least seven (7) days prior to~~
13 ~~such approval, or, in any event, where~~ whenever the City Manager deems such action to be for
14 the good of the ~~service.~~

15 **~~(b) CLASS TRANSFERS~~**

16 **(a)** ~~The transfer of an employee from a position in one class to a position in another~~
17 ~~class for which he/she is qualified and for which the same maximum rate of pay has been~~
18 ~~established, under the same Appointing Officer, is called a class transfer and may be~~
19 ~~made by the Appointing Officers involved and the Personnel Director, or in any event~~
20 ~~where the City Manager deems such action to be for the good of the service.~~Service. No
21 ~~class transfer shall be made without the written consent of the employee~~
22 ~~concerned~~Classification Transfer which requires an employee to ~~transfer~~Transfer from
23 ~~his/her~~the employee's existing regular pension system or relief and pension fund to any
24 other, or which renders such employee ineligible to remain in or participate in benefits of
25 ~~his/her~~the employee's existing regular pension system or relief and pension fund.
26 ~~(Amended 5/20/88), shall be made without the written consent of the employee.~~

27 ~~1. However, an employee so transferred under this Section shall be considered eligible for a~~
28 ~~period of one year from the date of such transfer to participate in such examinations as are~~

29 ~~promotional from the classification from which he/she was transferred. In like manner, an~~
30 ~~employee so transferred shall be considered ineligible for a period of one year from the date of~~
31 ~~such transfer to participate in such examinations as are promotional from the classification to~~
32 ~~which he/she has been transferred.~~

33 (b) Organizational Transfer: The Transfer of an employee from a Position in one
34 Classification to another Position in the same Classification under another Appointing
35 Authority shall be called an Organizational Transfer, and may be made with the consent
36 of the Appointing Authorities involved and the Human Resources Director.

37 SECTION 2: ASSIGNMENTS

38 ~~Pursuant to applicable provisions of negotiated agreements between the respective certified~~
39 ~~bargaining agents and the City of Miami Beach, the transfer of an employee~~OUT OF
40 CLASSIFICATION ASSIGNMENT: The assignment for a temporary period from a
41 ~~position~~Position in one ~~class~~Classification to a ~~position~~Position in another ~~class~~Classification
42 having a higher maximum rate of compensation, or with the consent of the affected employee to
43 another ~~class~~Classification having a lower maximum rate of compensation under the same
44 Appointing ~~Officer~~Authority, is an ~~assignment~~Assignment and may be made in order to bring
45 about a better distribution of persons in the ~~service~~Service to effect economies or to provide
46 training.

47 ~~(a) Request for the assignment of an employee shall be made in writing to the Personnel Director~~
48 ~~stating reasons and approximate length of time for which assignment is to be made by the~~
49 ~~Appointing Officer or Officers affected. No employee shall be assigned when an eligible list~~
50 ~~exists for the classification in which an assignment is to be made until the persons on the eligible~~
51 ~~list have refused to accept the appointment. Except that any employee may be temporarily~~
52 ~~assigned out of class for a specific shift where an eligible list exists for the classification in~~
53 ~~which the assignment is to be made irrespective of the eligibility list existing (1) where no person~~
54 ~~on the eligible list is on duty for that specific shift, or (2) where the eligible employee has~~
55 ~~refused to accept the appointment. This out of class assignment shall be limited to that specific~~
56 ~~shift. That specific appointment shall be made solely within the discretion of the Appointing~~
57 ~~Officer. No appointment shall be made without the approval of the Personnel Director, and no~~

58 ~~employee shall be assigned to a position involving duties for which he/she is not qualified as~~
59 ~~indicated by his/her experience, training and record of service.~~

60 ~~(a)~~ (b) ~~Assignments to a higher class or higher compensation may be limited to a~~
61 ~~maximum of three (3) months in any twelve (12) month period. In those instances where~~
62 ~~such assignments are deemed necessary to provide for the health, safety, and welfare of~~
63 ~~citizens and/or employees, an Appointing Officer may request, with sufficient~~
64 ~~justification, a three (3) month extension of an assignment and, if warranted, may be~~
65 ~~approved by the Personnel Director. Any employee so assigned to a higher Classification~~
66 ~~will receive the pay of the higher Classification.~~

67 (b) ~~Any employee so assigned to a lower Classification will maintain the current pay~~
68 ~~or not be decreased.~~

69 The time an employee spends ~~underin~~ such ~~assignments~~Assignment shall not be used for
70 computing any rights in the higher ~~classification~~Classification to which ~~he/she~~the employee may
71 be so assigned. ~~(Amended 1/20/89)~~

72 ~~(c)~~ (e) ~~Vacant positions cannot be filled with assigned employees for a period of time~~
73 ~~exceeding eighteen (18) months. (Amended 1/20/89)~~

74 **SECTION 3: PROMOTIONS:** ~~A transfer in the Classified Service~~An increase in employment
75 ~~status from a position~~Position in a lower ~~class~~Classification to a ~~position~~Position in a higher
76 ~~class shall be deemed~~Classification is a promotion. ~~Promotion.~~ No ~~promotion~~Promotion shall be
77 made except as a result of examination as provided in these Rules; ~~provided, however, that,~~
78 ~~However,~~ the ~~Personnel~~Human Resources Director; ~~upon recommendation by the Personnel~~
79 ~~Board,~~ may eliminate competitive ~~test~~examinations in specific categories as set forth in Section
80 81G of Article XIV of ~~the related laws~~Subpart B of the Related Special Laws of the Code of City
81 of Miami Beach. ~~Under such latter circumstances, the noncompetitive test~~ If competitive
82 examinations are eliminated, the Promotion shall be based upon the Specifications, skill, ability,
83 ~~and qualifications of the employee and his/her,~~ length of service, as performance evaluation,
84 disciplinary history, and such term is defined in Rule X, Section 4(a).

85 ~~Transitional employees having the qualifications, as announced, for promotional examinations~~
86 ~~for positions in the regular work force of the City shall~~other factors as may ~~be eligible to take~~
87 ~~such promotional examinations. Upon appointment thereto and successful completion of the~~
88 ~~required probationary period, such transitional employee shall become a part of the regular work~~
89 ~~force of the City and shall no longer carry the classification designation of "transitional".~~deemed
90 relevant by the Human Resources Director.

Rule XII

Resignations & Layoffs

1 **RULE X. SEPARATIONS**

2 **SECTION 3: XII. RESIGNATIONS: AND LAYOFFS**

3 **(a) SECTION 1: RESIGNATIONS:**

4
5 (a) Any person who ~~has satisfactorily served~~ voluntarily withdraws as a Regular
6 employee in the Classified Service, whose service has been satisfactory, and ~~who~~
7 ~~voluntarily~~ withdraws from ~~service~~the Service after submitting a written resignation and
8 withdraws, while in compliance with all attendant requirements of the Appointing
9 ~~Officer~~Authority and the ~~Personnel~~Human Resources Director ~~shall have his/her name~~
10 ~~placed on the Reemployment List and his/her service shall not~~, and who further declines
11 to accept the Leave Settlement, may be considered as discontinued unless he/she shall
12 request, in writing, that his/her name be removed from such Re-employment List or
13 unless such Re-employment List shall expire by limitation, in which case he/she shall
14 forfeit all his/her Civil Service rights and shall be eligible for future employment only
15 through original entrance procedures. ~~re-employed.~~

16
17 (b) Any person who voluntarily withdraws as a Regular employee in the Classified
18 Service, whose service has not been satisfactory or who fails to submit a written
19 resignation or who fails to comply with the attendant requirements of the Appointing
20 ~~Officer~~Authority and the ~~Personnel~~Human Resources Director or who accepts the Leave
21 Settlement, shall forfeit all his/her Civil Service rights and shall be eligible may apply for
22 ~~future~~ employment only through ~~original entrance~~Original Entrance procedures.

23 (c) Employees who resign from employment after the institution of disciplinary
24 action are subject to disqualification from re-employment under Rule VI, Application and
25 Examination, Section 5.

26 **SECTION 4: LAY-OFFS2: LAYOFFS:**

27 (a) ~~(a) Pursuant to applicable provisions of negotiated agreements between the~~
28 ~~respective certified bargaining agents and the City of Miami Beach, any An~~ Appointing
29 ~~Officer~~Authority may reduce the number of employees or Positions in any ~~class or~~

30 ~~classes whenever he/she deems it necessary~~Classification because of ~~material~~lack of
31 work, lack of funding, changes in job duties~~or,~~ changes in organization,~~or because of~~
32 shortage of work funds. After a study or for other legitimate reasons. Upon investigation
33 and recommendation by the ~~Personnel~~Human Resources Director, the City Manager shall
34 ~~decide~~determine whether only the employees of the Appointing ~~Officer~~Authority
35 concerned shall be considered ~~in making such lay-off~~for Layoff or whether the ~~City~~
36 ~~service as a~~ Service in whole or in part shall be considered. ~~In conformance with the~~
37 ~~decision of the City Manager, the Personnel~~The Human Resources Director shall inform
38 the Appointing ~~Officer or Officers~~Authority as to the order in which ~~the employees in~~
39 ~~such class or classes~~ shall be laid off. ~~Effect should be given in making this determination~~
40 ~~to the~~The employee's length of service ~~of the employees and the value of such service.~~
41 ~~For the purpose of this Section, "length of service" shall be defined as an employee's~~
42 ~~length of continuous paid time dating from his/her last date of hire,~~ skills, qualifications,
43 ability to perform the work available, performance evaluations, disciplinary history, and
44 any other factors deemed relevant will be considered in determining the order of Layoff.
45 A written notice of ~~lay-off~~Layoff containing the reasons ~~therefore~~therefor shall be
46 ~~handed~~provided to each ~~such~~ employee or mailed ~~to his/her~~ electronically or otherwise to
47 the last known ~~place of residence.~~ address.

48 In determining the order of ~~lay-off~~Layoff in each ~~class or classes,~~
49 ~~transitional~~Classification, Temporary employees shall be considered as a separate entity
50 and the length and relative value of service of the employees in such ~~transitional class or~~
51 ~~classes~~Temporary status shall be comparable only among such ~~transitional~~Temporary
52 employees of such ~~class or classes~~Classification.

53 ~~(b)~~ (b) No Regular or Probationary employee in a ~~class~~Classification shall be laid off
54 so long as any ~~emergency~~Emergency or ~~Provisional~~Temporary employee is employed in
55 the same ~~class, in the same organizational unit~~Classification, or any other ~~organizational~~
56 ~~unit~~Classification to which ~~transfers~~Transfers can readily be made, in the opinion of the
57 City Manager, ~~readily be made.~~ Furthermore, all employees in a ~~class~~Classification who
58 have not ~~served~~completed an ~~original~~Original Probationary ~~period~~Period shall be laid off
59 before any Regular employees in the same ~~class.~~Classification. In the event of further

60 reductions in force, employees will be laid off or reduced in ~~classification~~ Classification
61 in accordance with ~~their~~ length of service ~~and their~~, skills, qualifications, ability to
62 perform the work ~~available,~~ performance evaluations, disciplinary history, and any other
63 factors the Human Resources Director deems relevant. When two or more employees
64 have equal skill, ~~ability and qualification~~ qualifications, ability to perform the work,
65 which include performance evaluations and disciplinary history, the employee(s) with the
66 least length of service will be the first laid off or ~~reduced in classification.~~ demoted. No
67 employee shall be laid off or demoted without receiving one week's notice prior to the
68 effective date of ~~layoff.~~ Layoff or Demotion.

69 (c) ~~(e) The Personnel Director may, when he/she deems it~~ When deemed to be in the
70 best ~~interest~~ interests of the ~~service.~~ City, the Human Resources Director may require that
71 employees in a lower ~~class~~ Classification be laid off when employees in a higher
72 ~~class~~ Classification who are willing and qualified for the work of the lower
73 ~~class~~ Classification would otherwise have to be ~~separated from the service~~ laid off.

74 (d) ~~(d)~~ Length of service ~~in the employment relationship~~ shall be terminated when a
75 Regular employee:

76 ~~i~~ quits voluntarily;

77 ~~ii~~ 1. resigns;

78 ~~2.~~ is laid off for more than one year or laid off and accepts Leave Settlement;

79 ~~iii~~ 3. is terminated for cause;

80 ~~iv~~ 4. retires or is retired;

81 ~~v~~ 5. fails to return to work at the expiration of any approved leave of absence;
82 unless otherwise prohibited by law; or

83 ~~vi~~ 6. fails to report to work within ~~five (5) work~~ seven (7) calendar days after the
84 date of written notice of recall to work after a ~~lay-off~~ Layoff given by the City by
85 electronic, certified or registered mail and addressed to the employee at his/her
86 last address appearing on the records ~~of the City.~~ in Human Resources. It shall be

87 the employee's responsibility to provide the City Human Resources Director with
88 his/her a current residential and email address.

89 ~~(e)~~ Any person who has served satisfactorily as a Regular employee ~~in the Classified Service or~~
90 ~~as a Probationary employee,~~ and who is laid off as provided in this Section and who does not
91 accept the Leave Settlement, shall ~~have his/her name~~ be placed on the Reemployment ~~Re-~~
92 Employment List ~~and his/her.~~ The employee's length of service shall not be ~~considered as~~
93 discontinued, unless ~~he/she~~ the employee shall request, in writing, ~~that his/her name~~ to be
94 removed from such Re ~~re-~~ employment List, accepts the Leave Settlement or unless such Re-
95 employment Employment List shall expire by limitation. ~~in which case he/she then, the employee~~
96 shall forfeit all his/her Civil Service rights and shall be eligible ~~Eligible~~ for future employment
97 only through ~~original entrance~~ Original Entrance procedures. When there is a recall from the Re-
98 employment Employment List, employees laid ~~off with seniority in length of service~~ off will be
99 recalled in ~~inverse order to their lay off, provided they are, at~~ determined by the time Human
100 Resources Director after consideration of ~~recall, qualified~~ length of service, skills, qualifications,
101 ability to perform the work in, performance evaluations, disciplinary history, and any other
102 factors the ~~classification to which they are recalled~~ Human Resources Director deems relevant.

Rule XIII
Appeals from Disciplinary Action

1 | **RULE ~~XI~~XIII. APPEALS FROM DISCIPLINARY ACTION**

2 |

3 | **SECTION 1: RIGHTS OF REGULAR EMPLOYEES;**

4 | ~~(a)~~ (a) Whenever the Appointing ~~Officer~~Authority of any Regular employee ~~or~~
5 | ~~officer in the Classified Service~~ determines that there are reasons for ~~removal,~~
6 | ~~suspension, or~~ reduction in pay, Suspension, Demotion or ~~class~~Removal of such
7 | employee ~~or officer, such,~~ the Appointing ~~Officer~~Authority shall notify the ~~City~~
8 | ~~Manager~~Human Resources Director, the City ~~Attorney~~Manager and the ~~Personnel~~
9 | ~~Director~~City Attorney in writing ~~thereof as quickly as is practicable.~~ prior to the intended
10 | action.

11 | ~~In the event such~~ [HR]

12 | (b) The written notice of intent required by paragraph (a) above shall state the type of
13 | disciplinary action to be considered, the reasons therefor and shall be given to the
14 | employee or ~~officer~~remailed or mailed to the employee's place of residence. A copy of
15 | such notice shall be submitted to the Human Resources Director.

16 |

17 | (c) If an employee is ~~relieved~~released from ~~his/her duties~~duty by ~~his/her~~the
18 | Appointing ~~Officer~~Authority pending ~~suspension, reduction, or removal, the notification~~
19 | ~~to the~~the investigation for disciplinary action, the Appointing Authority shall provide
20 | written notice to the Human Resources Director, the City Manager, the City Attorney,
21 | and ~~Personnel Director, as required by paragraph (a) above, shall be given~~the employee,
22 | within ~~not more than~~ 24 hours after such ~~relief~~release from duty.

23 | ~~(e) Within not more than 30 days after the giving of the notification required by paragraph (a)~~
24 | ~~above, written notice of suspension, reduction or removal, as the case may be, stating the reasons~~
25 | ~~therefore, and the date from which such action is effective, shall be given to such employee or~~
26 | ~~officer or mailed to his/her usual place of residence. A copy of such notice shall be submitted to~~
27 | ~~the Personnel Director.~~

28 | ~~(d) In the event that good and sufficient reasons exist making it impractical or impossible to give~~
29 | ~~or mail such written notice to said employee within said period of 30 days, as required by~~

30 ~~paragraph (c) above, the Personnel Board, in its discretion, upon application and upon good~~
31 ~~cause being shown, may extend the period for the giving or mailing of such notice for an~~
32 ~~additional period not to exceed 30 days.~~

33 **SECTION 2: REQUEST FOR APPEALS HEARING:** ~~Any officer or~~ A Regular employee
34 ~~not covered by a collective bargaining agreement~~ may appeal from ~~such~~ the above disciplinary
35 action within ten (10) calendar days after the delivery or mailing ~~to him/her~~ of such written
36 notice, by filing a written request for a hearing ~~to~~ before the Personnel Board ~~in~~ with the ~~Office of~~
37 ~~the Personnel~~ Human Resources Director. ~~If~~ The written request shall contain the employee's
38 name, Position, the ~~tenth day falls on a Saturday or Sunday, he/she will have~~ disciplinary action
39 ~~the ability to file for an appeal on~~ employee is appealing, and a brief explanation as to why the
40 ~~following Monday. (Amended 8/21/86)~~ employee is appealing the disciplinary action. The
41 employee may also attach supporting documents.

42 **SECTION 3: APPEALS HEARING FOR DISCIPLINARY HEARING ACTION BY**
43 **REGULAR EMPLOYEES:**

44 (a) ~~(a) The Personnel Board, not later than~~ Within ten (10) calendar days after receipt
45 of ~~such appeal, shall~~ a request for an appeals hearing, the Personnel Board shall fix a time
46 and place ~~and time for holding~~ a public appeals hearing within ~~a reasonable time~~ thirty
47 (30) calendar days thereafter. Written notice of such time and place shall be delivered or
48 mailed promptly to ~~both the Appellant and~~ employee, the Appointing ~~Officer.~~ Authority
49 and the City Manager.

50 (b) ~~To legally constitute a hearing of appeal, there must be a quorum present; which~~
51 ~~quorum shall consist~~ A quorum of the Personnel Board consists of three (3) Associate
52 Members and one (1) Employee Member. ~~Only the Chairman of the Personnel Board~~
53 ~~may~~ The Chair or acting Chair shall grant a continuance at the time of hearing for lack of
54 quorum or emergency. The Chair may grant a continuance to either party for good and
55 sufficient cause. No continuance shall be granted to either party unless Absent an
56 emergency, such request for continuance ~~is~~ should be received in writing by the
57 ~~Personnel~~ Human Resources Director ~~at least ten (10),~~ with a copy to the opposing party,

58 no less than seven (7) calendar days prior to the date of ~~said~~the scheduled hearing ~~of~~
59 appeal.

60 (c) ~~(b)~~ The Personnel Board may, ~~at the request of the Appointing Officer or the~~
61 Appellant, ~~call or request~~ any person ~~or to~~ appear or request the production of any records
62 ~~for~~relevant to the ~~purpose of ascertaining~~appeal prior to or at the ~~facts~~hearing.

63 (d) ~~(e)~~ The current or former Appointing ~~Officer~~Authority or a representative
64 designated by ~~him/her~~Human Resources, shall have the right to ~~be present~~appear at such
65 hearing and to be represented by counsel appointed by the City ~~Attorney~~.

66 (e) ~~(d)~~ The Appellant employee shall have the right to ~~be present~~appear at such
67 hearing and to be represented by an attorney ~~of his/her choice~~. ~~Said attorney shall be an~~
68 ~~attorney duly admitted and licensed to practice in~~ the State of Florida. ~~In the event that~~
69 ~~the Appellant does not retain an attorney, said Appellant may have an advisor of his/her~~
70 ~~choice present. Such advisor~~

71 An appeal for hearing from disciplinary action shall not ~~have the right be~~ subject to interrogate
72 ~~any witnesses or to enter objections to any testimony or evidence presented to the Board, nor~~
73 ~~may such advisor speak in the Appellant's behalf~~.

74 (f) ~~(e)~~ Hearings before the Personnel Board shall be ~~informal and shall not be bound~~
75 ~~by formal rules of evidence. The~~ However, the findings of the Personnel Board, ~~however,~~
76 shall be based upon competent and substantial evidence of record.

77 (g) ~~(f)~~ The Appointing ~~Officer~~Authority shall have the burden of presenting evidence
78 to ~~support~~prove the ~~truth of~~allegations supporting the ~~charges as contained in the written~~
79 ~~notice~~disciplinary action.

80 (h) ~~(g)~~ The Appellant employee shall have the right to present evidence to refute ~~the~~
81 ~~charges brought against him/hersuch~~ allegations.

82 ~~(h)~~ The Appellant shall have the right to be confronted by his/her accuser, and the Appellant and
83 ~~the Appointing Officer shall each have the right to cross-examine the witnesses of the other~~.

84 (i) ~~(h)~~ Each party shall have the right to make an opening statement.

85 (i) Rulings on objections and ~~other~~ questions of ~~the~~ procedure or law shall be made
86 by the ~~Chairman, but such rulings may be overruled by a majority vote of the~~
87 ~~Board.~~Chair. Before making ~~any~~the ruling, the ~~Chairman~~Chair or any member of the
88 Personnel Board may request ~~the~~an opinion ~~off~~from the City Attorney for the Personnel
89 Board, ~~if he/she is present.~~

90 (k) ~~(j)~~ After both the Appointing ~~Officer~~Authority and the ~~Appellant shall~~employee
91 have presented their testimony and evidence, the Personnel Board shall receive argument
92 in summation. The Appointing ~~Officer shall have both the opening and closing~~
93 ~~argument~~Authority may reserve time for rebuttal.

94 ~~(k)~~ After ~~the completion of~~closing ~~argument~~arguments, the Personnel Board shall hold an open
95 executive session to consider the testimony and evidence presented ~~before the Board to~~
96 ~~determine the truth or untruth of the charges.~~ At such open executive session, only the
97 ~~members~~Members of the Personnel Board and ~~the Attorney for the Board,~~ at the Personnel
98 Board's request, ~~shall be heard.~~

99 (l) ~~(h)~~ After the members of the Board have been charged by ~~the~~the City Attorney for
100 the Personnel Board, shall be heard.

101 (m) The Personnel Board shall confine its decision to the ~~Chairman~~particular
102 disciplinary action before it and whether or not the employee engaged in the conduct as
103 alleged. If the Personnel Board finds just cause for discipline, the Personnel Board shall
104 not substitute its judgment with respect to the level of discipline imposed by the City.

105 (n) The Chair shall entertain a motion, duly seconded, to grant or deny the appeal.
106 Each Associate Member shall be entitled to one (1) vote; the three Employee Members
107 shall be entitled to a total of one vote, voting as an ~~employee member~~Employee Member
108 unit. The Human Resources Director as the Secretary of the Personnel Board shall then
109 call the ~~role~~roll. A majority vote of those members present shall be required to ~~deny~~
110 ~~an~~grant the appeal and overturn the disciplinary action. In the event of a tied vote, the
111 appeal shall be ~~upheld~~denied and the disciplinary action shall remain.

112 (o) ~~(m)~~ The Personnel Board may request written submissions of proposed findings
113 of fact and conclusions of law.

114 (p) Within five (5) ~~working~~business days after the ~~completion~~close of the hearing, the
115 Personnel Board shall report its findings in writing. The ~~Personnel~~Human Resources
116 Director shall promptly deliver or mail a copy of such findings to the Appointing
117 Officer~~Authority~~ and to the ~~Appellant~~employee.

118 ~~(n) A copy of the written statement given the officer or employee, a copy of any reply thereto, and~~
119 ~~a copy of the findings of the Personnel Board shall be filed as a Public Record in the Office of~~
120 ~~the Personnel Department.~~

121 **SECTION 4: FAILURE OF PARTIES TO APPEAR:** ~~If the ~~person~~appealing shall~~
122 ~~fail~~employee~~ fails to appear, the Personnel Board shall ~~hear~~deny the ~~evidence and render a~~~~
123 ~~decision thereon~~appeal~~.~~

124 ~~If the Appointing ~~Officer shall fail~~Authority or the Appointing Authority designee fails to appear~~
125 ~~and if no evidence be offered in support of his/her charges, the Personnel Board shall render a~~
126 ~~decision by default.~~may continue the hearing.~~~~

127 **SECTION 5: RESIGNATION BEFORE HEARING:** ~~The acceptance by an Appointing~~
128 ~~Officer of the resignation of a person who appealed from a removalIf the employee resigns~~
129 ~~before the final action on the part of the Personnel Board shall act to nullify the hearing and the~~
130 ~~proceedingsissues its findings, the appeal shall be dismissed without judgment.. Any person~~
131 ~~resigning under such circumstances shall forfeit all their Civil Service rights.~~

132 **SECTION 6: COMPENSATION WHEN APPEAL IS SUSTAINED:** ~~When~~AN
133 EMPLOYEE PREVAILS: ~~If the employee prevails at an ~~appeal~~appeals hearing from the~~
134 ~~disciplinary action results inand the ~~vacating of such~~disciplinary action is overturned by the~~
135 ~~Personnel Board, or by a court of competent jurisdiction, the employee shall be entitled to~~may
136 recover ~~all~~any wages and ~~emoluments~~benefits lost by reason of such disciplinary action. ~~Under~~
137 However, under no circumstances shall the Appellantemployee be entitled to recover attorney's
138 fees ~~in the prosecution of his/her appeal.~~

139 SECTION 7: PARTICIPATION IN EXAMINATIONS WHEN APPEAL—IS
140 SUSTAINED:

141 EMPLOYEE PREVA-ILS: If ~~an~~the employee is ~~unable to participate~~precluded from
142 participating in any examination solely because ~~he/she is~~of the ~~subject of~~ disciplinary action at
143 the time such examination is held, and ~~if such disciplinary action is finally reversed or set aside~~
144 ~~by the Personnel Board or by a competent court while the eligible list resulting from such~~
145 ~~examination shall be in effect, such employee, upon demand,~~the employee prevails at the appeals
146 hearing, then at the employee's request, the employee shall be given an individual
147 testexamination of the same degree of difficulty. ~~If he/she shall successfully pass~~ If the employee
148 passes such examination, ~~his/her~~the employee's name shall be ~~added~~placed into the existing
149 ~~eligible list~~Eligible List in order of ~~score, and his/her eligibility~~the final earned rating, and the
150 employee's Eligibility shall continue for the life of the ~~then-existing list~~List.

151

Rule XIV

Attendance, Leave, & Absence

1 | **RULE ~~XXIV~~. ATTENDANCE, ~~LEAVES~~LEAVE, AND ~~ABSENCES~~ABSENCE**

2 |
3 | **SECTION 1: ATTENDANCE:**

4 | **(a) ~~(a)~~ HOURS OF WORK:** Administrative regulations pertaining to hours of work
5 | shall be promulgated in order to establish, insofar as practicable, uniformity in hours of
6 | work for all employees.

7 | **(b) ~~(b)~~ LEAVES WITH PAY:** All leaves with pay shall be in accordance with
8 | ordinances adopted by the City ~~Commission~~ or otherwise required by law.

9 | **(c) ~~(c)~~ ATTENDANCE RECORDS:** All employees ~~in the Classified Service shall~~
10 | ~~be required to be in attendance at their~~ must attend work in accordance with the
11 | requirements of administrative regulations, ~~annual~~ leave ordinances, the Department's
12 | Rules and procedures, the collective bargaining agreements and these Personnel Rules. It
13 | is the duty of the Appointing Authority to ~~arrange for the keeping of~~ keep daily attendance
14 | records ~~of Classified employees~~ and to submit attendance reports ~~of attendance~~ to the
15 | ~~Personnel Division in the form and manner specified by the Personnel Director~~ Human
16 | Resources Department.

17 | **SECTION 2: REPORTS OF ABSENCE:**

18 | **(a) ~~(a)~~** ~~All employees in the service of the City shall be required to~~ An employee must
19 | report ~~absences from duty, any absence~~ not previously arranged, to their Appointing
20 | ~~Officer, or a designated superior~~ in accordance with departmental rules approved by the
21 | ~~Personnel Board, Personnel Director and the City Manager~~ or procedures, but in no case
22 | later than one hour after the usual time of beginning work each day ~~that~~ of such absence
23 | ~~occurs~~, unless the cause of the absence is such that it ~~may be expected to~~ will be of
24 | considerable duration, ~~in which case, the absence shall be reported as specified the first~~
25 | ~~day, together with a statement of the approximate length of time such absence is expected~~
26 | ~~to continue~~ and the employee has provided appropriate notification and documentation of
27 | the covered absence.

28 ~~(b) Causes of~~ The Human Resources Director or a designee can investigate
29 absences for which compensation is claimed ~~may be investigated by the Personnel~~
30 ~~Director and the report of a registered physician or registered nurse of his/her selection~~
31 ~~may be required,~~ . Appropriate documentation from City designated Health Care
32 Providers may be required stating that the employee was unable to perform the duties of
33 the Position during the entire absence ~~to perform the duties of his/her position and that~~
34 ~~such absence was not due to excesses on the part of the employee concerned.~~

35 **SECTION 3: ~~MEDICAL EXAMINATION FOLLOWING ABSENCE:~~** ~~An examination by~~
36 ~~the City Physician or any other registered physician~~ The Human Resources Director or medical
37 ~~specialist so designated by the City Physician, together with the physician's statement as to the~~
38 ~~physical condition of an employee, may be required by the Personnel Director or the Appointing~~
39 ~~Officer of an employee who returns or requests~~ the Appointing Authority may require a
40 statement from a qualified licensed Health Care Provider that the employee is able to return to
41 work ~~from any and all types of absences. In cases where.~~ If an employee has been absent for ten
42 (10) or more work days because of illness or injury, the Human Resources Director or the
43 Appointing Authority may require a physical examination fitness for duty evaluation
44 by the City Physician or any other registered physician or medical specialist so designated by the
45 City Physician, together with the physician's statement as to the physical condition of the
46 employee before the employee is permitted to return to work. Where the physical condition is
47 such that an employee cannot perform the duties of his/her classification, the provisions of Rule
48 IX, Section 4 and Section 5 will apply.

49 **SECTION 4: ~~LEAVES~~ LEAVE WITHOUT COMPENSATION:** ~~An~~ When a Regular
50 employee requests a leave of absence not covered under the FMLA, the Appointing
51 Officer Authority may, in appropriate situations, grant leaves such leave of absence without pay
52 for ~~periods~~ a period not longer than a total of twelve (12) working days, consecutive or otherwise,
53 ~~to Regular employees~~ within a six (6) month period. ~~Leave~~ A leave of absence ~~of long~~
54 ~~duration,~~ longer than twelve (12) working days but not to exceed six (6) months, unless
55 specifically provided elsewhere in these Rules, may be granted to a Regular employees employee
56 upon written recommendation of the Appointing ~~Officer and the Personnel Director.~~ Whenever
57 granted, such leaves shall be in writing and signed by the Appointing Officer. Among the

58 | ~~circumstances deemed proper for granting such leaves shall be military service, temporary~~
59 | ~~physical or mental disability, study or training, or other reasons determined by the Personnel~~
60 | ~~Director to be adequate. Upon the expiration of a regularly approved leave without~~
61 | ~~compensation, the employee shall be reinstated to the position held at the time the leave was~~
62 | ~~granted, or upon the request of the employee such leave may be extended.~~Authority and with the
63 | approval of the Human Resources Director. Such leave may be cancelled at any time and the
64 | employee ~~concerned~~ ordered to report back to ~~his/her duties~~duty within a reasonable time.
65 | (~~Amended 4/15/88~~)

27 ~~2. (a) Upon the recommendation of the Personnel Director, with concurrence of the City~~
28 ~~Manager and the approval of the Personnel Board, performance evaluation reports shall not be~~
29 ~~required for designated administrative personnel and/or personnel on special assignment.~~

30 ~~(b) If, because of unusual circumstances, the Personnel Director believes that no~~
31 ~~evaluation should be given for a particular employee during any particular evaluation~~
32 ~~period, the Personnel~~The Human Resources Director shall have the authority to waive the
33 performance evaluation ~~for such~~of any employee for ~~that a~~ particular period. The waiver
34 of an evaluation hereunder shall not be construed either favorably or unfavorably ~~in~~
35 ~~regard~~with respect to the employee ~~involved.~~

36 ~~3. It is the intent of this Rule to promulgate and promote a policy to enhance the morale,~~
37 ~~incentive, and industry of the City's employees.~~

38 SECTION 2: EVALUATORS:

39 ~~(a) AUTHORITY:~~ The Human Resources Director ~~of Personnel~~ shall designate
40 the Appointing ~~Officers of the City~~Authorities as ~~evaluators and shall delegate to them~~
41 ~~the authority to~~Evaluators who in turn may designate ~~evaluators from among their~~
42 ~~supervisory personnel~~Evaluators. The Appointing ~~Officer~~Authorities shall provide the
43 Human Resources Director ~~of Personnel~~ with a record of all ~~such appointments and any~~
44 ~~subsequent changes in appointments~~Evaluators.

45 ~~(b) RESPONSIBILITIES:~~ ~~As set forth in this Rule and in accordance with~~
46 ~~directives of the Director of Personnel, evaluators~~Evaluators shall be responsible for the
47 timely and accurate preparation and submission of performance evaluation reports for the
48 employees ~~of~~in their area of assigned responsibility. Evaluators shall attest to the validity
49 and accuracy of ~~their reports, as having been prepared to the best of their ability,~~
50 ~~observation, and knowledge~~the evaluations.

51 ~~(c) TRAINING:~~ The Human Resources Director ~~of Personnel~~ shall provide a
52 continuing program of orientation and training for all ~~evaluators, which will explain to~~
53 ~~and instruct the evaluators in the purpose and techniques of~~ Evaluators regarding
54 performance evaluations. Each ~~evaluator~~Evaluator must participate in an introductory

55 training course. After the initial training ~~is completed, evaluators will,~~ Evaluators need be
56 retrained only at the request or recommendation of the ~~Department Head,~~
57 ~~Personnel~~ Appointing Authority, Human Resources Director, or the Personnel Board or
58 the City Manager.

59 (d) DISQUALIFICATIONS FOR LOW RATINGS: Any employee whose most
60 recent performance evaluation scores was less than 50 overall shall be disqualified from
61 any promotional examination until such time as the employee receives a score of 50 or
62 higher.

63 SECTION 3: REQUEST FOR APPEALS HEARING: A Regular employee may appeal an
64 overall performance evaluation score of less than 50 within ten (10) calendar days of receiving
65 the performance evaluation by filing a written request for a hearing before the Personnel Board
66 with the Human Resources Director who shall advise the Personnel Board, Chair. The written
67 request for appeal shall contain the employee's name, dates of service, Position and brief
68 explanation as to why the employee believes the evaluation is inaccurate. Only the overall
69 performance evaluation score may be appealed.

70 SECTION 4: APPEAL HEARINGS FROM PERFORMANCE EVALUATION:

71 (a) Within ten (10) calendar days after receipt of such petition, the Personnel Board
72 shall fix a place and time for holding a public hearing within thirty (30) calendar days
73 thereafter. Written notice of such time and ~~in such further courses as may be required by~~
74 ~~the Personnel Director,~~ place shall be delivered or mailed promptly to the Employee, to
75 the Appointing Authority and to the City Manager.

76 SECTION 3: APPEALS

77 (b) ~~(a) The~~ A quorum consists of three (3) Associate Members and one (1) Employee
78 Member. The Chair or acting Chair shall grant a continuance at the time of hearing for
79 lack of quorum or emergency. The Chair may grant a continuance to either party for
80 good and sufficient cause. Absent an emergency, a request for continuance should be
81 received in writing by the Human Resources Director with a copy to the opposing party
82 no less than seven (7) calendar days prior to the date of the scheduled hearing.

83 (c) The Personnel Board ~~shall adopt and publish practices and~~ may call any person to
84 appear or request the production of any records relevant to the appeal prior to or at the
85 hearing.

86 (d) The Appointing Authority or a designated representative shall have the right to be
87 present at such hearing and to be represented by counsel appointed by the City.

88 (e) The employee shall have the right to appear at such hearing and to be represented
89 by an attorney licensed to practice in the State of Florida.

90 (f) The appeal hearing shall not be subject to formal rules of evidence. The findings
91 of the Personnel Board, however, shall be based upon competent and substantial evidence
92 of record.

93 (g) The employee shall have the burden of presenting evidence to prove the
94 evaluation is inaccurate.

95 (h) The Appointing Authority or the Human Resources Director shall have the right
96 to present evidence to substantiate the evaluation and refute the employee's evidence.

97 (i) Each party shall have the right to make an opening statement.

98 (j) Rulings on objections and questions of procedures ~~enabling employees and~~
99 ~~department heads to appeal~~ or law shall be made by the Chair. Before making the ruling,
100 the Chair or any Member of the Personnel Board may request an opinion from the City
101 Attorney for the Personnel Board.

102 (k) After both the employee and the Appointing Authority have presented their
103 testimony and evidence, the Personnel Board shall receive argument in summation. The
104 employee may reserve time for rebuttal.

105 (l) After closing arguments, the Personnel Board shall hold an open executive
106 session to consider the testimony and evidence presented. At such open executive
107 session, only the Members of the Personnel Board and, at the Personnel Board's request,
108 the City Attorney for the Personnel Board shall be heard.

109 (m) The Chair shall entertain a motion, duly seconded, to grant or deny the appeal.
110 Each Associate Member shall be entitled to one vote; the three Employee Members shall
111 be entitled to a total of one vote, voting as an Employee Member unit. The Human
112 Resources Director as Secretary of the Personnel Board shall then call the roll. A
113 majority vote of those Members present shall be required to grant the appeal. In the event
114 of a tied vote, the appeal shall be denied and the performance evaluations.
115 Appeal evaluation score(s) shall be permitted for performance levels remain.

116 (n) The Personnel Board may request proposed findings of less than fact and
117 conclusions of law to be submitted after the hearing.

118 (o) Within five (5 for individual factors on a performance evaluation) calendar days
119 after the close of the hearing, the Personnel Board shall report and less than 50 for overall
120 evaluations. All appeal requests must be filed its findings in writing within ten (10) days
121 following notification. The Human Resources Director shall promptly deliver or mail a
122 copy of such findings to the Appointing Authority and to the employee of the overall
123 evaluation.

124 (p) If the performance level, for either an individual factor or an overall evaluation is
125 appealed and the Appointing Authority and/or the Human Resources Director or
126 designees fail to appear, the Personnel Board may hear the employee's evidence and
127 render a decision thereon or may continue the hearing.

128 (q) If the employee fails to appear, the Personnel Board shall deny the appeal.

129 (r) If the appeal results in a finding in favor of the employee, the evaluation shall be
130 raised to 5 for individual factors and to 50 for overall evaluations, as as applicable. Any
131 employee whose last performance evaluation was less than 50 overall shall be
132 disqualified from any promotional examination until such time as he/she receives a 50 or
133 better evaluation. (Adopted 10/16/98) (Amended 3/18/05)

134 ~~**1. Personnel Board:** At such appeals, the Personnel Board shall permit the parties involved to~~
135 ~~present such evidence as the Personnel Board deems pertinent to the issue. Testimony taken~~

136 before the Personnel Board shall be reported and transcribed at the cost of the party desiring such
137 testimony to be part of the record.

138 ~~(b) VOTING:~~ In all cases a simple majority vote will control.

139 **SECTION 4: 5: PERFORMANCE EVALUATION REPORT:** There is hereby created a
140 : A performance evaluation report hereinafter called the must be prepared for each employee.
141 The Performance Evaluation Report, which will be prepared no less than annually for each
142 employee.

143 ~~(a) PURPOSE:~~ The Performance Evaluation Report shall be designed so far as possible to shall
144 accurately measure the ~~value of an~~ employee's performance ~~with respect to~~ on the critical factors
145 of ~~his/her~~ the job classification and ~~his/her~~ the overall responsibilities ~~to conditions of~~
146 employment. It will become a . The performance evaluation will be discussed with the employee.
147 The performance evaluation is a permanent and integral record of his/her employment and will
148 be utilized within the purview of Section 1(e) of this Rule.

149 ~~(b) FORMS:~~

150 ~~1. Forms shall be designed and distributed by the Director of Personnel. Such forms will describe~~
151 ~~the several critical factors of the job classifications being evaluated, and insofar as possible,~~
152 ~~provide a reliable means for accurately measuring the work performance of the employees. They~~
153 ~~shall provide for descriptions of the employee's fulfillment of conditions of employment.~~

154 ~~2. Forms will be completed by the evaluators, and discussed with the individual employees~~
155 ~~before being submitted to the Director of Personnel for permanent record.~~

156 ~~(c) EVALUATIONS:~~ Performance levels shall be used to describe the employee's performance,
157 and standardized descriptions shall be used to describe the employee's adherence to conditions of
158 employment.

159 ~~Performance evaluations of "Meets Expectations" shall be the minimum acceptable standard for~~
160 ~~Classified employees. Receipt of two (2) consecutive overall performance evaluations of less~~
161 ~~than 50, or two (2) consecutive overall performance evaluations of "Unsatisfactory", or a~~

162 combination thereof, shall be sufficient grounds for disciplinary action. It shall be mandatory that
163 such disciplinary action be taken by the appropriate Appointing Officer. (Amended 4/20/01)

164 ~~SECTION 5: SPECIAL AWARDS: All Classified and Unclassified employees shall be~~
165 ~~eligible for special awards to be granted annually. The awards period will be on a fiscal year~~
166 ~~basis, commencing October 1st and ending September 30th. (Amended 7/21/95)~~

167 ~~(a) SPECIAL AWARDS~~

168 ~~1. Beyond the Call of Duty (Extra Mile Award): For brave and courageous acts performed~~
169 ~~during or beyond course of duties. Involves exposure to extreme danger in saving and/or~~
170 ~~protecting lives and/or property (Amended 08/19/2005).~~

171 ~~2. City Achievement Award: For specific contribution to the betterment of the department or~~
172 ~~City's operation in the form of development of new methods and/or procedures; ideas or~~
173 ~~suggestions resulting in the saving of time, labor and/or money to the City.~~

174 ~~3. Community Service Award: For employees who, in addition to valuable contributions to the~~
175 ~~City service in the nature of continued loyal and efficient performance, have made vital and~~
176 ~~valuable contributions to community, civic, educational, athletic and/or related fields in the~~
177 ~~community (Amended 08/19/2005).~~

178 ~~4. Safety Award: For original ideas or suggestions on methods, procedures, or equipment~~
179 ~~which, when implemented, resulted in a reduction of on-the-job injuries, or in the removal or~~
180 ~~reduction of a substantial safety hazard to employees.~~

181 ~~5. Customer Service Award: Displayed customer service which has been witnessed and~~
182 ~~documented (Created 08/19/2005).~~

183 ~~(b) NOMINATIONS: Nominations are to be made during a fiscal year, commencing October~~
184 ~~1st and ending September 30th. Nominations must be submitted on standard questionnaires~~
185 ~~supplied by the Personnel Department.~~

186 ~~Recommendations for awards will be accepted from department heads and all other City~~
187 ~~employees.~~

188 ~~(c) REVIEW AND SELECTION: The awards nominations will be reviewed thoroughly by the~~
189 ~~Personnel Board. The Board may select one winner and three runners up for each category. At~~
190 ~~the discretion of the Board, committees may be appointed to investigate thoroughly the~~
191 ~~substantiation submitted to determine the validity of the evidence presented and the worthiness~~
192 ~~of the nominations. The decision of the Board shall be final.~~

193 ~~There will be no appeal procedure. It will be the responsibility of the Board to ascertain, beyond a~~
194 ~~shadow of a doubt, the validity of the substantiations submitted and that the final selections are, to~~
195 ~~the best of their knowledge, the most deserving employee's personnel file.~~

196

1 RULE XVI. SPECIAL CITY AWARDS

2
3 **SECTION 51: PURPOSE: SPECIAL AWARDS:** All Classified and Unclassified
4 employees shall be ~~eligible~~Eligible for ~~special awards~~Special City Awards to be granted
5 annually. ~~The awards period will~~

6 **SECTION 2: SPECIAL CITY AWARDS:** Nominations shall be ~~on~~accepted by the Personnel
7 Board for Special City Awards in the following categories:

8 (a) One Team, One City Award: For a ~~fiscal year basis, commencing October 1st~~
9 ~~and ending September 30th. (Amended 7/21/95)~~team consisting of two or more persons
10 (not necessarily within the same department) working together in a collaborative effort to
11 accomplish one of the City's key intended outcomes.

12 **(a) SPECIAL AWARDS**

13 (b) 1. Beyond the Call of Duty (Extra Mile Award): For an employee whose brave
14 ~~and courageous acts performed during or~~, compassionate or humane act(s) went above
15 and beyond ~~course~~the scope of normal employment duties. ~~Involves exposure to extreme~~
16 ~~danger in saving and/or protecting lives and/or property (Amended 08/19/2005).~~

17 (c) 2. City AchievementBetterment Award: For ~~specific contribution~~an employee
18 who contributed to the betterment of ~~the department or City's operation in the form of~~
19 ~~development of a~~ Department's or the City's operations by developing new methods
20 and/or, procedures, ideas or suggestions ~~resulting in~~that resulted in the enhancement of
21 safety, the saving of time, labor and/or money to the City.

22 (d) 3. Community ServiceVolunteer Award: For ~~employees who, in addition to~~
23 ~~valuable contributions to an~~ employee whose volunteer work, outside the City service in
24 ~~the nature~~scope of continued loyal and efficient performance, havenormal employment
25 duties, made a vital and valuable ~~contributions~~contribution to the community, or to the
26 civic, educational, athletic and/or ~~related fields~~other endeavors in the community
27 ~~(Amended 08/19/2005).~~

28 ~~4. Safety Award: For original ideas or suggestions on methods, procedures, or equipment~~
29 ~~which, when implemented, resulted in a reduction of on-the-job injuries, or in the removal or~~
30 ~~reduction of a substantial safety hazard to employees.~~

31 ~~(e) 5. Customer Service Award: Displayed~~ For an employee whose extraordinary
32 customer service at work exceeded expectations and which has been witnessed and
33 documented ~~(Created 08/19/2005).~~

34 ~~(b)~~ SECTION 3: EMPLOYEE OF THE YEAR AWARD: The Personnel Board will present
35 the Annual Employee of the Year Award to one of the recipient(s) of the above Special City
36 Awards. The recipient(s) will be recognized by having their name(s) affixed to a plaque to be
37 displayed at City Hall.

38 SECTION 4: NOMINATIONS: Nominations are to be made during a fiscal year, commencing
39 October 1st and ending September 30th. Nominations must be submitted on standard
40 questionnaires supplied by the Personnel Department.

41 ~~Recommendations for awards will be accepted from department heads and all other City~~
42 ~~employees.~~

43 ~~(e) REVIEW AND SELECTION: The awards~~ SELECTIONS: The Human Resources
44 Director will determine the time and manner for nominations. The selection of nominations and
45 awardees will be reviewed thoroughly made by the Personnel ~~Board. The Board may select one~~
46 ~~winner and three runners up for each category. At the discretion of the Board, committees may~~
47 ~~be appointed to investigate thoroughly the substantiation submitted to determine the validity of~~
48 ~~the evidence presented and the worthiness of the nominations. The decision of the Board shall be~~
49 ~~final.~~

50 ~~There will be no appeal procedure. It will be the responsibility of the Board to ascertain, beyond~~
51 ~~a shadow of a doubt, the validity of the substantiations submitted and that the final. The~~
52 ~~selections are, to the best of their knowledge, the most deserving. made by the personnel Board~~
53 are final and not appealable.

1 | **RULE ~~XIV~~XVII. EMPLOYEE TRAINING**

2 |

3 | **SECTION 1: ~~ADJUSTMENT OF NEW EMPLOYEES AND~~EMPLOYEE TRAINING**

4 | The ~~head of each division shall be~~Appointed Authority is responsible for the instruction and
5 | training of employees in ~~the specific~~their duties ~~of their positions~~ and for explaining
6 | ~~the providing applicable~~ policies, and objectives, ~~and methods of the divisions and their~~
7 | ~~operations. On request, the Personnel, The Human Resources~~ Director shall ~~cooperate with the~~
8 | ~~heads of divisions in establishing~~provide training programs as necessary.

9 | **SECTION 2: IN-SERVICE TRAINING**

10 | ~~The Personnel~~Human Resources Director ~~in cooperation with the Appointing Officer and with~~
11 | ~~the approval of the City Manager shall arrange for lectures, courses, demonstrations, and~~
12 | ~~discussions and shall prepare lists of texts on appropriate subjects and take any other action for~~
13 | ~~facilitating the efforts of employees and officers to increase their efficiency, broaden their~~
14 | ~~knowledge, and become more effective in the performance of their respective duties~~may provide
15 | ongoing training opportunities.

16 | **SECTION 3: OTHER TRAINING**

17 | Employees: An employee who ~~enroll and~~successfully ~~complete~~completes any academic,
18 | extension, correspondence, or other special training courses ~~shall report~~may submit proof thereof
19 | to the ~~Personnel~~Human Resources Director. ~~their actions and progress and he/she shall offer such~~
20 | ~~advice and assistance as may be within his/her power. Where the completion of such courses~~
21 | ~~may be deemed to have definitely increased the effectiveness of the employees, they may, at the~~
22 | ~~discretion of the Personnel Director, be considered in making advancements and promotions.~~

1 | **RULE ~~XVI~~XVIII. MEDICAL AND PHYSICAL STANDARDS**

2 |
3 | **SECTION 1:- APPLICANTS FOR EMPLOYMENT:** The ~~Personnel~~Human Resources
4 | Director, ~~with the approval of the Personnel Board,~~ is authorized to adopt physical and medical
5 | standards which are ~~to be job~~ related to the Position, are consistent with business necessity and
6 | required of all applicants for ~~positions in the Classified Service~~that Position.

7 | **SECTION 2:- EMPLOYEES:** The ~~Personnel~~Human Resources Director, ~~with the approval of~~
8 | ~~the Personnel Board,~~ is authorized to adopt physical and medical standards which are ~~to be job~~
9 | related to the Position, are consistent with business necessity and required of all ~~Classified~~
10 | ~~Service~~-employees for that Position.

11 | (a) ~~(a)~~-When an employee ~~in the Classified Services~~ fails to meet such physical and
12 | medical standards ~~as are~~ deemed necessary for continued employment in the ~~position~~
13 | ~~he/she holds, a lateral~~ Position held, and cannot do so with or ~~organizational transfer~~
14 | ~~shall~~ without reasonable accommodation, a Classification or Organizational Transfer may
15 | be made, if practical, to a ~~position~~Position for which ~~he/she~~the employee is ~~physically~~
16 | qualified, notwithstanding any other provisions of these Rules. If a transfer cannot be
17 | arranged, the provisions of Rule ~~IX~~XI, Section 3 and 4 ~~and Section 5~~ will apply. Any
18 | ~~transfer or demotion~~Transfer, Demotion or reduction in pay made in accordance with this
19 | Rule is subject to approval of the City Manager and the ~~Personnel~~Human Resources
20 | Director. This paragraph shall not apply to Police Officers and Fire Fighters with respect
21 | to ~~transfers~~Transfers outside of their respective departments.

22 | (b) An employee ~~of the City~~ who, ~~as part of his/her duty,~~ operates a motor vehicle as part of
23 | his/her duties, and who has acceptable vision only when wearing corrective lenses must, at all
24 | times while engaged in driving, wear such corrective lenses. An employee who fails to wear
25 | required corrective lenses while driving is subject to disciplinary action as provided in Rule
26 | ~~X~~XI.