



**Employee Policies  
and  
Procedures Manual**

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## INTRODUCTION

Welcome to the **City of South Miami**! We are delighted that you have chosen to join our organization and hope that you will enjoy a long and successful career in public service with us. As you become familiar with our culture and mission, we hope you will take advantage of opportunities to enhance your career and further the **City of South Miami**’s goal of excellence in service delivery.

You are joining an organization that is developing a reputation for outstanding leadership, innovation, and expertise. Our employees are encouraged to use their creativity and talent to create effective and efficient solutions, meet new demands, and offer the most outstanding services to the community. With your active involvement, creativity, and support, the **City of South Miami** will continue to achieve its goals. We sincerely hope you will take pride in being an important part of the success!

This Manual serves as an informational and educational guide, contributes toward making employees better informed, and to making employees experience with the City of South Miami rewarding. The primary purpose of the Employee Policies and Procedures Manual is to establish policies, practices, and procedures, which will serve as enforceable guidelines to administrative action concerning the various personnel activities, benefits and services

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available to City employees. The policies, practices and procedures in this manual are to be equitable to all employees.

These policies, procedures, and guidelines are adopted by the City Manager and can only be changed by approval of the City Manager. This manual shall be made available to all employees. Each Department head and supervisor is responsible for the guidance of their employees, and shall also be responsible for the implementing of the policies contained herein.

Each employee is responsible to be aware of the policies, procedures, and guidelines contained in the manual, and of any future revisions in the manual.

## **Employment at Will**

The City of South Miami is an employment-at-will employer. Employment-at-will means that either the employee, or the employer, may terminate the employment relationship at any time, for any reason, with or without notice. Nothing contained in this manual, or any result of administration of the policies herein, shall be construed as an employment contract, expressed or implied. The policies, procedures, and guidelines contained in this manual are not exclusive, and may not address every personnel issue. They shall apply to all employees in the service of the City, including individuals employed by South Miami Community Redevelopment Agency, except where superseded by specific provisions of a current memorandum of agreement governing a specific group of employees, including, but not limited to, collective bargaining agreements (union agreements). Interpretation, methods, and policy must be subject to continual review and modification. The Human Resources Division shall assure that all authorized changes are prepared and distributed for inclusion in the manual.

Any questions concerning interpretation of policy, procedures to be followed, direction or clarification of any other subjects concerning personnel matters of the City of South Miami will be first directed to the appropriate supervisory person, and then if necessary to Human Resources Division for interpretation, review, or research. However, the City Manager has ultimate responsibility for the adoption, formulation, and implementation of City Personnel Policy, and may waive or amend any provisions of the policy, or its interpretation, as deemed necessary.

## **Policies Established and Purpose of Manual**

The following policies, guidelines, and other provisions for personnel administration in the City of South Miami are established to:

- (a) Promote and increase the efficiency and effectiveness of City services and service delivery.
- (b) Develop a program of recruitment, advancement, and tenure, which will make public service attractive as a career.
- (c) Establish and maintain a uniform plan of performance evaluation and compensation

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based upon the relative duties and responsibilities of each position to assure a fair and equitable wage or salary to all employees.

(d) Establish and promote high morale among City employees by providing good working relationships and environment, uniform personnel policies, and an opportunity for advancement without regard to race, color, sex, disability, religion, age, national origin or ancestry, and political affiliation.

(e) Establish City employment and personnel policies. These policies and guidelines do not create contractual employment rights. All employees are considered to be at-will employees for the purposes of City employment and shall serve at the pleasure of the City Manager.

(f) Although new employment and personnel policies will be established from time to time and will not immediately be included in this document, this will not exempt employees from adhering to newly adopted policies.

### Application of Policies

These policies and guidelines shall apply to all employees in the service of the City except where superseded by specific provisions of a current memorandum of agreement or Collective Bargaining Agreement governing a specific group of employees, and shall continue in effect until amended or repealed.

With the exception of the City's anti-harassment and Equal Employment Opportunity policies, Charter Officers including Elected Officials, the City Clerk, the City Attorney and the City Manager, and persons serving the City as members of Boards and Committees appointed by the City Commission or on a contractual basis are not covered by these policies. All previously adopted personnel rules and regulations are repealed. Where the masculine gender is used, it shall be construed to include the feminine gender and vice versa. Failure to review these rules is not an excuse or justification for the failure to comply therewith. The Manual will be provided to each employee and written acknowledgment of the receipt thereof must be submitted to the Human Resources Division. All forms referenced in the Manual may be obtained from the Human Resources Division. Departmental rules shall be subject to the approval of the City Manager.

The updated Employee Manual can be provided in hard copy by contacting the Human Resources Division. An electronic copy is always available on the City of South Miami website and Employee's internal portal on the Time & Attendance system home page.

Each policy, practice and procedure of the Employee Policies and Procedures Manual and each section thereof has the effect of an independent rule. The holding of any rule or section to be void, invalid, or ineffective, for any reason, does not affect the validity of any other rule or section. Where any portion of the City code, law or labor contract provision conflicts with the provisions of this manual, the former shall apply.

The following positions are exempt from the provisions of the Employee Policies and Procedures Manual:

a) Officials elected by popular vote and persons appointed to fill vacancies in such offices.

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Members of any board, committee, or commission of the City.

b) Persons of highly technical, scientific, or professional training maintaining independent practice in their chosen profession employed on a consulting basis, on a part-time fee, retainer or salary basis by the City including the City Manager, City Attorney and the City Clerk.

## General Definitions

**Administrative Leave:** The temporary separation with or without pay of an employee from employment with the City.

**Anniversary Date:** The date on which the employee was hired or commenced a new position and each successive year thereafter. It is the date for determining when an employee is due for an annual performance evaluation and for calculating benefits.

**Appointing Authority:** This term means the City Manager.

**Class:** This is a group of positions sufficiently similar as to duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation may be equitably applied to each position in the group.

**Classification Title:** The title chosen from the classification plan, which describes the nature of work performed by an employee.

**Cost of Living Adjustment (COLA):** An adjustment based on the consumer price index or an established amount based on policy and budgetary considerations.

**Class Specification:** This is the written description of the essential functions and characteristics of the class and the factors and conditions that separate it from other classes. The description is written in terms of duties, responsibilities, illustrative examples of work, and the qualifications needed to perform the work.

**Demotion:** That action either voluntary or involuntary which changes the employee's classification title with the result that the employee is placed in a classification, which may or may not lower pay range.

**Employee Dispute Procedure:** A procedure intended to assure that employee questions, problems and concerns arising from those misunderstandings that develop in the day-to-day activities are promptly heard, answered and provide an opportunity for appropriate action to be taken to correct a particular situation.

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**Employment-at-Will:** The practice whereby employees are hired for an indefinite period of time and the employment relationship may be terminated at-will by either party at any time. All employees of the City shall be considered at-will employees.

**Exempt Position:** this term can mean employee Classification and positions designated herein as being exempt from overtime provisions under the Fair Labor Standards Act.

**Full Time:** Any position that is scheduled to work forty or more hours per work week.

**Layoff:** A reduction of employees due to the lack of work, funds, or other causes not pertaining to employee performance.

**Merit Increase:** An increase in pay within a pay range, based on an employee's job performance and the results of an employee's evaluation.

**Overtime:** Hours worked in excess of the 40-hour work period, and in accordance with the provisions of the Fair Labor Standards Act.

**Part Time:** Any position that is normally scheduled for fewer than thirty (30) hours in a work week.

**Pay Rate:** A rate of pay within a Pay Range in the City's Position Classification and Compensation Plan.

**Personnel Administrator:** This shall mean the City Manager, or designee.

**Position Classification Plan:** This means the systematic arrangement of individual duties and positions into appropriate classes of work so as to provide a comprehensive, definite, and descriptive specification of the several types of work in the Municipal Service.

**Promotion:** A change in classification from one to another with higher pay or more responsibility than the employee's current position.

**Reclassification:** That action which results from a significant noticeable change in the work assignments of a position. In this type of action, the classification title of the position is changed and the pay range of such new title is then used.

**Resignation:** Act of voluntarily withdrawing from City employment.

**Suspension:** The temporary separation from duty with or without pay for disciplinary purposes.

**Temporary Employee:** An employee appointed for a special project or other work of a temporary or transitory nature not to exceed a period of six (6) months.

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**Temporary Transfer:** Being continuously assigned on a temporary basis to another classification (higher, lower, or the same salary range) for more than ten (10) consecutive, regularly scheduled work days.

**Transfer:** A change in position to one that is in the same salary range.

**Work Period:** The normal work period shall be defined and applied as follows:

Full-time Employees	40 hours in a seven (7) day period
Part-time Employees	Fewer than 30 hours in a seven (7) day period

## **Chain of Command**

The City Manager, as the head of the Administrative branch, deserves the unrestricted opportunity to manage and fulfill the responsibilities of the administrations role within our organization. Each employee, including Department Head and other such key positions, are responsible directly to the City Manager for their actions and the actions of those under their jurisdiction. Within each Department, there is a chain of command from the Department head down followed by various levels of supervisory and nonsupervisory employees. The chain of command is the organizational structure established for the operation and supervision of Departments. All communications, orders, requests, and recommendations should be channeled through this chain, in both directions, in order to avoid confusion, misunderstanding, and oversight. Supervisors and administrators at every level cannot carry out their responsibilities and perform effectively without an appreciation for and observation of these processes.

Unless specifically authorized by the City Manager, no employee shall contact members of the City Commission for the purpose of promoting or opposing Department regulations, programs, projects, or other administrative matters or matters which are or will come before the City Commission for action, unless specifically approved by the City Manager.

## **Departmental Guidelines**

The Director of any City Department may formulate, in writing, reasonable guidelines for the conduct of the operations of his Department, such as those relating to safety or operational procedures, which shall be available to all Departmental employees. Such Department guidelines shall not be less stringent than, in violation of, or in conflict with any personnel guidelines adopted by the City Manager. Because of the size and varying policies within specific Departments, it is impossible to address the appropriate supervisory person in each Department or division that handles specific personnel functions. Therefore, when the term "Department head" or "supervisor" is referred to, it should be construed as the person you, as a City of South Miami employee, report to on a regular basis, or the person assigned to a particular supervisory duty within your individual Department or division.

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## Employee Code of Conduct & Ethics Compliance

City rules governing employee conduct apply equally to all employees and are based upon:

The common-sense standards that mature people, working together to achieve a common purpose, expect of one another, and the special need to maintain public trust in those who perform municipal public service.

Supervisors are expected to set an example and to enforce these rules based on facts, uniformly, with fairness and impartiality. Each employee is responsible for their compliance and will be held accountable for any violations. Employees of the City are employed at-will and may be terminated at any time, and for any reason.

An employee found to have engaged in any of the following conduct, which list is not all inclusive, will be subject to appropriate disciplinary action, up to and including discharge.

- Conviction of a felony or other crime involving moral turpitude.
- Willful Violation of the provisions of the Charter, Code and employee Policies and Procedures Manual of the City of South Miami.
- Acts of incompetence or chronic inefficiency in the performance of assigned duties.
- Neglect of duty or loitering while on duty.
- Insubordination, including the failure to carry out instructions.
- Deliberate misuse, destruction, or damaging any City property or the property of another employee.
- Misappropriation, theft, conversion, or removal of any City funds, City property, or the property of another employee without proper authorization.
- Unauthorized possession of firearms, explosives or weapons on City property.
- Engaging during non-duty hours in an employment, activity or enterprise that is inconsistent, incompatible or in legal or technical conflict with your duties, functions and responsibilities as a City employee, or in violation of the City Code or Ordinances, or Florida Code of Ethics Statute.
- Knowingly falsifying time record of another employee, having one's time card or

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time record punched or entered by another employee, or any unauthorized altering of a time card or time record.

- Absence without leave or failure to report for duty after an Administrative Leave or Suspension has expired; or abandonment of position.
- Making false claims or misrepresentation in an attempt to obtain sickness or accident benefits, workers' compensation, or any other benefit or to avoid responsibility of some act or omission.
- Leave without prior approval; employees who foresee the need to be absent from work due to illness or an unforeseen emergency must contact their immediate supervisor and report their intention to be absent from work prior to such absence. If the employee's immediate supervisor is not available, the employee may report their intent to be absent to the Department head or the Human Resources Division.
- Use or attempted use of political influence or bribery to secure an advantage of any manner.
- Habitual Tardiness and/or absenteeism.
- Intentionally falsifying or not fully completing personnel or City records, including employment applications, accident records, work records, purchase orders, time and attendance records, or any other report, record, or application.
- Refusal to testify before a judicial proceeding or any other investigating committee regarding a city-related matter or refusal to give testimony in investigations regarding city accidents.
- Failure to obtain or maintain any license, bond, or certification required for employment.
- Instigating or participating in a walkout, strike, unlawful picketing, slow-down, or other concerted stoppage of work, for employees covered by a Collective Bargaining Agreement.
- Having been involved in multiple number of at fault or preventable accidents resulting in injuries or property damage.
- Possessing, consuming, or being under the influence of an intoxicating beverage, controlled substance, or narcotic while on duty or when reporting for duty. Reporting for duty or being on duty with alcohol noticeably on the breath. Refusing to submit to drug or alcohol testing. (Refer to the Drug-free

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## Workplace Policy)

- Smoking or consuming of any tobacco products within the City, City property or facilities, or in city vehicles.
- Failure to notify immediate supervisor or Department Head of any felony charge within five (5) calendar days of such charge.
- Failure to immediately report to the City Human Resources Division Manager when employee's driver's license is revoked or suspended, when the employee's position requires the operation of a motor vehicle, or drives a City vehicle.
- Allowing unauthorized passengers to ride in City vehicles.
- Acts of misconduct while on duty.
- Violating a safety rule, Departmental rule, City policy, or Administrative Orders.
- Provoking or instigating a fight, or fighting at any time on City property or while on duty.
- Threatening, intimidating, coercing, interfering with, or other abusiveness to fellow employees, supervisors, or the public in the line of duty; behaving in a way that interferes with the cooperation of employees or impairs the efficiency of municipal service; abusive or offensive language toward co-workers, or members of the public.
- Posting or removing any matter on bulletin boards or City property at any time without prior approval.
- Unauthorized release of confidential information.
- Campaigning in any manner while on duty or while wearing city uniform (whether on or off duty), or acting in a manner that relays to the public that the city supports one candidate over another, including distributing or causing to be distributed, during normal working hours.
- Distributing or causing to be distributed on City premises, during employee's normal working hours, written matter of any kind that does not relate to City approved business, without written authorization.
- Receiving from any person, any fee, gift, or other valuable item in the course of work, or any violation of City Codes, Ordinances, or Florida Code of Ethics Statute.

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- Gambling or engaging in any other game of chance during working hours, while on duty, in City uniform, or City property.
- Texting, emailing, or talking on the phone while driving a City vehicle or equipment.

### **Ethics Compliance**

No employee shall seek, receive, or give any gratuity in the form of compensation, entertainment, trips, gifts, favors, or otherwise of any value from or to those who have or seek business dealings with or receive service from the City of South Miami. It is expressly prohibited for employees, in any way, to use their position or influence for private gain for themselves or others.

Additionally, each employee is bound by. Conflict of Interest and the County Code of Ethics Ordinance, the Code of Ordinances for South Miami, and this manual.

### **Americans with Disabilities Act and Reasonable Accommodation**

The City of South Miami is committed to comply with all applicable provisions of the Americans with Disabilities Act (ADA). It is the City of South Miami policy not to discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of such individual's disability.

To ensure equal employment opportunities to qualified individuals with a disability, City of South Miami will make reasonable accommodations for the known disability of an otherwise qualified individual, unless undue hardship on the operation of the business would result.

Employees who may require a reasonable accommodation should contact the Personnel Manager.

### **Commitment to Diversity**

The City of South Miami is committed to creating and maintaining a workplace in which all employees have an opportunity to participate and contribute to the success of the business and are valued for their skills, experience, and unique perspectives. This commitment is embodied in City's policy and the way we do business at the City of South Miami and is an important principle of sound business management.

### **Equal Employment Opportunity Policy**

The City is committed to the concept and practice of equal employment opportunity to assure equal employment opportunity in all aspects of employment. It is the policy of the City to recruit, hire, train, and promote into all job levels, employees and applicants for employment without regard to race, color, age, sex, national origin, religion, marital status, sexual orientation, disability, or any other protected category under federal, state or local, law, rule, regulation, or ordinance. The City bases all such decisions on individual merit, qualification, and competence, as they relate to the particular position and the promotion of the principles of equal employment opportunity. The City's commitment to equal opportunity applies to all facets of the employment relationship, including compensation,

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benefits, and all other terms, conditions, and privileges of employment. All employment decisions will be made in accordance with principles of Equal Employment Opportunity.

The City is committed to ensuring that it employs only the most qualified personnel for each position in the most equitable manner possible. The rules and procedures set forth in this Policy ensure objectivity, consistency, uniformity and job relatedness through the design and implementation of appropriate personnel policies, procedures and practices that affect the equal employment opportunities of City employees and applicants for employment.

It is the policy of the City to ensure that all employees are able to work in an environment, which is free from all forms of harassment on the basis of race, color, age, sex, national origin, religion, marital status, sexual orientation, or disability. Harassment in any form is prohibited and will result in disciplinary action up to and including termination. The City also prohibits retaliation against any individual who has exercised any right protected by any federal, state, or local law regarding equal employment opportunity.

It is extremely important that all employees conscientiously follow the City's commitment to equal opportunity. Discrimination/harassment will not be tolerated. The City Manager or designee is charged with the overall responsibility for the administration of this policy. The City's basic goal is the equal treatment of all employees. Applicants and/or employees who have reason to believe their treatment is in violation of this policy should promptly submit a written statement of the facts and circumstances of the alleged violation to the City Manager or designee. Complaint forms are available from the Human Resources Division.

### **Veteran's Preference**

The City of South Miami awards veteran's preference to Florida residents in the initial hiring, promotion, and retention of veterans for positions in the classified service in accordance with Florida Administrative Code 55A-7, Florida State Statute 1.01 (14), F.S.S 295.07, and Chapter 2003-42 Laws of Florida.

### **Anti-Discrimination and Harassment Policy**

The City of South Miami adheres to its equal employment opportunity policy in all aspects of the employment relationship. The City requires all employees to abide by the rules and procedures set forth in these policies. No employee, applicant, citizen, visitor, vendor, or other individual will be discriminated against based on their race, gender, religion, color, national origin, disability, marital status, age, genetic information, sexual orientation, or any other protected category under federal, state, or local law, rule, regulation, or ordinance.

The City has a zero-tolerance policy for all forms of discrimination or harassment. Therefore, the City prohibits discrimination against and harassment of individuals or groups based upon race, gender, religion, color, national origin, disability, marital status, age, genetic information, sexual orientation, or any other protected category under federal, state or local, law, rule, regulation or ordinance. The City will not tolerate any form of discriminatory or harassing conduct that has the effect of interfering with an employee's work performance,

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interfering with a visitor's ability to transact his or her intended business, or creating an intimidating or hostile environment in violation of this policy. Acts of discrimination or harassment in the workplace or at City-sponsored events, whether such acts occur on or off City-owned property, are expressly prohibited. This policy applies to all terms and conditions of employment. Failure to adhere to this policy will result in appropriate disciplinary action, up to and including termination of employment

## **Employment Discrimination Defined**

Employment discrimination refers to the disparate treatment of individuals or groups in the terms, conditions, and benefits of employment based upon their membership in a defined protected class. Therefore, discrimination occurs when an employee suffers an adverse (negative) employment consequence because of his or her protected status. Terms and conditions of employment include, but are not limited to, hiring, promotion, disciplinary action, layoff, compensation, and termination.

## **Harassment Defined**

Prohibited harassment includes offensive verbal or physical conduct toward an individual or group because of their protected status that creates or is intended to create an intimidating, hostile, or offensive working environment, interferes or is intended to interfere with an individual's work performance or otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to:

- Epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts, which relate to race, color, religion, gender, national origin, age, genetic information, or disability.
- Written or graphic material that defames or shows hostility or aversion toward an individual or group because of race, color, religion, gender, national origin, age, genetic information, or disability and that is placed on walls, bulletin boards, or elsewhere on the Company's premises, or that is circulated in the workplace.

## **Sexual Harassment Policy Defined**

The City will not tolerate any sexually related conduct by any employee, vendor, customer or supplier. Any employee, vendor, customer or supplier, who sexually harasses another person during work hours, while on City property and/or while conducting City business whether such acts occur on or off City-owned property, shall be subject to appropriate disciplinary measures available to the City under the circumstances, up to and including termination of employment and/or cessation of contact with the City.

## **Standards of Conduct**

1. All employees are expected to behave in a manner consistent with a professional work atmosphere free of sexual harassment and sexual discrimination.
2. Each Department head shall ensure that the workplace is free of sexual harassment.

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3. All employees have a duty to report any suspected sexual harassment by a City employee, or a non-employee while on City property or when City business is being conducted, to the appropriate Department head even if they are not the victim.
4. An employee's rights and status with the City shall not be harmed due to any good faith report of suspected sexual harassment, nor shall any retaliation against such employee be tolerated.
5. Threats or insinuation that an employee's refusal to submit to sexual advances, or any type of harassment, will adversely affect his or her employment in any way including evaluations, wages, advancement, duties, shifts, disciplinary matters or benefits are strictly prohibited.
6. Any sexually based behavior by an employee, which is unwelcome by another person, is prohibited. Such conduct may include, but is not limited to:
  - Repeated sexual flirtations, advances, staring, or propositions; Verbal abuse of a sexual nature, including sexually related comments or jokes, requests for sexual favors, graphic or degrading comments about a person's appearance, or sexually-degrading words to describe a person; sexually-suggestive body movements directed toward a person; Any uninvited physical contact which is sexual or offensive, including patting, pinching, groping, or brushing against another's body; and the display of sexual-suggestive pictures or objects in the workplace other than what is necessary in the normal course of business.

Any sexually harassing behavior directed toward a non-employee by an employee during working hours or while on City property and/or while conducting City business whether such acts occur on or off City-owned property, will be treated as if the harassment was directed toward an employee and will subject the employee to appropriate disciplinary action under this policy, up to and including termination.

### **Equal Employment Opportunity/Sexual Harassment Complaint Procedure**

Any person who believes he or she is being discriminated against or harassed should immediately contact one of the persons listed below with whom the employee feels the most comfortable and file a formal complaint:

- (a) Personnel Manager or Designee,
- (b) The Department head, or
- (c) The City Manager or Designee,
- (d) The immediate supervisor.

Under no circumstances shall the employee be required to submit a complaint to a party who is responsible for or involved in the suspected discrimination or harassment.

The initial report may be made either orally or in writing. All oral complaints will be reduced to writing and the complaining employee shall be required to review and sign an accurate written account of his or her complaint. In the event that the employee refuses to reduce his or her complaint to writing, the recipient of the oral report shall document the date of

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the report, a summary of the facts, and indicate that the complainant declines to sign. A copy of the report of oral complaint shall be placed in the appropriate pre-investigation file.

The employee should be prepared to provide the following information:

- (a) Employee's name, Department, and position title;
- (b) The name of the person or persons committing the harassment;
- (c) The date(s) and approximate time(s) of the harassment;
- (d) The specific nature of the harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against him or her as a result of the harassment, or any other threats made against him or her as a result of the harassment;
- (e) Witnesses to the harassment, if any;
- (f) Whether he or she has previously reported such harassment and, if so, when and to whom. The employee filing a harassment complaint shall document the incident in writing.

If necessary or requested, the recipient of the complaint shall assist the employee filing the complaint with the written documentation, and the employee shall affix his or her signature attesting to the accuracy and truthfulness of the complaint. All information disclosed in the complaint procedure will be held in strictest confidence and will only be disclosed on a need-to-know basis in order to investigate and resolve the matter.

The individual receiving a complaint, if other than the Personnel Manager, shall promptly report the complaint to the Personnel Manager, unless the complaint is made about the Personnel Manager, in which case the complaint shall be reported to the City Manager or Designee

All employees have a duty to file a complaint on any suspected incident of discrimination or harassment. Failure to report a complaint to the appropriate City official shall result in appropriate disciplinary action, up to and including termination of employment.

Once the Personnel Manager receives a complaint (or the City Manager if the complaint is about the Personnel Manager), the investigation shall commence within seven (7) work days of notification. If the alleged violator is covered by a bill of rights (i.e. law enforcement officer bill of rights), the investigation shall be completed within 60 days. The investigation of the complaint shall include an interview with the employee(s) who made the complaint, and the person(s) toward whom the complaint was directed. Any other persons who have information regarding the alleged complaint shall also be interviewed. In addition to access to witnesses, the investigator shall be entitled to review all relevant sections of the personnel files of the complainant and the accused and any other available, relevant documentary evidence.

The Personnel Manager shall prepare a written investigation report within ninety (90) days of the notification of the suspected discrimination/harassment unless extenuating circumstances prevent from doing so. The investigation report shall include a finding that

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discrimination/harassment occurred, did not occur or is inconclusive evidence as to whether discrimination/harassment occurred. The results of the investigation shall be sent to the employee(s) to whom the suspected discrimination/harassment was directed, and the employee(s) suspected of the discrimination/harassment. Any disciplinary action and investigatory information will be placed in the appropriate employee(s) personnel file.

The results of the investigation will be reported to the person who filed the complaint. If the investigation confirms the existence of harassment/discrimination, the City will take prompt disciplinary action against the offender, up to and including termination of employment.

Any employee wishing to appeal the finding of an investigation may do so by submitting a request for review to the Personnel Manager within fifteen (15) days of receiving the report. The Personnel Manager (or City Manager) shall notify all other parties who were informed of the investigation results that an appeal has been filed within seven (7) work days of the appeal's receipt. The City Manager shall interview the employee(s) who filed the appeal and may interview all other persons deemed necessary, and will reach a conclusion as expeditiously as possible. If the complaint was initially investigated by the City Manager, the City Manager shall designate an individual to review the initial investigation and reach a conclusion.

No retaliatory action of any kind will be taken toward an individual for filing a complaint based upon a reasonable belief that a violation has occurred or requesting a review of the determination of any investigation. Every complaint will be expeditiously investigated at the direction of the City Manager or designee. Disciplinary action shall be brought against any employee who files false allegations with malicious intent.

### **Anti-Retaliation Policy**

The City of South Miami does not retaliate or discriminate against any of its employees or applicants because they oppose any act or practice made unlawful under federal, state, or local anti-discrimination laws or because they participate in any manner in an investigation, proceeding, litigation or hearing pertaining to federal, state or local anti-discrimination laws.

Further, the City does not retaliate or discriminate against any employee because the employee has:

Disclosed, or threatened to disclose, to any appropriate governmental agency, under oath, in writing an activity, policy or practice of the employer that is in the violation of a law, rule or regulation;

Provided information to, or testified before any appropriate governmental agency, person, or entity conducting an investigation, hearing, or inquiry into an alleged violation of a law, rule, or regulation by the employer;

Objected to, or refused to participate in any activity, policy, or practice of the employer that is in violation of such law, rule or regulation.

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## **Records of a Harassment Complaint**

All records concerning a harassment complaint shall be confidential and kept in a separate locked file. Access shall be only with the City Manager's or Designee approval to parties who have a direct and relevant need to know except as otherwise required by the Florida Open Records Act.

## **Drug Free Workplace**

The City is committed to providing a safe work environment for our employees, our guests, our community and the public. The abuse of alcohol and drugs is a problem, which impairs the safety and health of employees, promotes crime and harms our community. In order to maintain the highest standards of morale, productivity, and safety in our operations, we are instituting a drug, and alcohol free workplace policy. With the cooperation and assistance of our employees, the City has implemented a program designed to provide a safe workplace environment, free from drugs and alcohol use and/or abuse. The term "Drug Free Workplace" is defined in State Statute. In order ensure the programs legal integrity and receive the Workers' Compensation insurance discounts, the City is bound to adhere to the statutory language.

The City recognizes that alcohol and drug dependency typically require medical supervision and treatment if there is to be successful rehabilitation. Our desire and intent is to encourage any employee with alcohol or drug dependency to voluntarily enter a drug or alcohol rehabilitation program. It is the responsibility of each employee to initiate and obtain assistance before any difficulties with drugs or alcohol affects his or her work.

To ensure a workplace free from the influence of illegal drugs and alcohol abuse, the City has established a comprehensive Drug and Alcohol-Free Workplace Policy in accordance with Florida Statutes, Section 440.101, et seq., and the applicable Administrative Rules. This Drug and Alcohol-Free Workplace Policy applies to all employees. Any violation of the Policy will result in termination of employment.

Employees are hereby notified that it is a condition of employment for each employee to refrain from reporting to work or working with the presence of drugs or alcohol in their body. The sample is tested and confirmed twice by the Medical Review Officer (MRO) prior to the report of a positive test to the City. All re-testing is done according to the statute.

The use, possession, sale, distribution, or manufacture of any drugs, and/or the unauthorized possession and/or use of alcohol, while working or while on South Miami property is strictly prohibited. Such conduct will subject the employee to disciplinary action, including termination.

All job applicants shall be tested for drugs prior to beginning work. All employees shall be subject to drug and alcohol testing as part of the City's random drug screening program, upon reasonable suspicion, after an accident or injury which requires medical attention or results in damage to property, as a follow-up to release from a rehabilitation program, and as part

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of a routine fitness for duty (physical) examination. All employees are encouraged to be aware of the effects of and to advise their supervisor when taking prescription medication, which may affect their performance at work.

It is not South Miami's intent to intrude into the private lives of its employees. However, the effect of drug, and alcohol use, abuse and/or dependency on safety, work quality, increased medical expenses, and lost productivity requires that this Policy be implemented. Any employee who violates any of these rules shall be terminated.

**The City follows the Florida Drug Free Workplace statute and DOT Drug Testing protocols, which are very strict. The employee may request the full language of these policies from the City's Human Resources Office.**

### Drug and Alcohol Definitions

**Alcohol:** means ethyl alcohol (ethanol) including a distilled spirit, wine, a malt beverage and intoxicating liquor. For purposes of this policy, alcohol is considered to be a drug. Thus, any reference to drugs and/or drug testing includes alcohol and/or alcohol testing.

**Drugs:** means alcohol (as defined above); an amphetamine; a cannabinoid; cocaine, phencyclidine (PCP); methaqualone; an opiate; an opioide; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed in this paragraph. Job applicants and employees may be tested for any or all such drugs.

**Drug rehabilitation program:** means a service provider established pursuant to Florida law that provides confidential, timely, and expert identification, assessment, and resolution of employee drug abuse.

**Employee:** means an individual who works for the City of South Miami on a full-time or part-time basis and receives salary, wages, or other remuneration.

**Drug Test:** means any chemical, biological, or physical instrumental analysis administered by a laboratory certified by the United States Department of Health and Human Services (HHS) or licensed by the Agency for Health Care Administration (AHCA) for the purpose of determining the presence of a drug or its metabolites, including alcohol. Drug testing may require the collection of blood, urine, breath, saliva, or hair (if approved by ACHA) of an employee or job applicant. South Miami has the right to use more accurate, scientifically accepted methods which may be approved in the future by the United States Food and Drug Administration (FDA) or the AHCA as such technology becomes available in a cost effective form.

**Initial Drug Test:** means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens, using an immunoassay procedure or an equivalent, or a more accurate scientifically accepted method approved by the United States FDA or the AHCA, as such more accurate technology becomes available in a cost-effective form.

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**Confirmation Test:** also “confirmed test” or “confirmed drug test” means a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen, which test must be different in scientific principle from that of the initial test procedure and must be capable of providing requisite specificity, sensitivity and quantitative accuracy.

**Drug Testing Methodology:** means specimens for drug testing will be collected, handled, maintained and tested in accordance with the Florida Drug-Free Workplace Program. Urine will be used for the initial and confirmation tests for all drugs except alcohol. An intoxilyzer, breathalyzer or other similar device, maybe used for screening and test.

**Medical Review Officer:** (MRO) means a licensed physician, employed or contracted with the City of South Miami, who has knowledge of substance abuse disorders, laboratory testing procedures and chain of custody collection procedures, who verified positive confirmed test results, and who has the necessary medical training to interpret and evaluate an employee’s positive test result in relation to the employee’s medical history or any other relevant biomedical information.

**Prescription or Non-prescription Medication:** means a drug or medication obtained pursuant to a prescription as defined by Section 893.02, Florida Statutes, or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

**Reasonable Suspicion Drug Testing:** means drug testing based on a belief that an employee is using or has used drugs in violation of this Policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

1. Unusual behavior while at work, such as direct observation of drug use, or any physical symptoms, or manifestations of drug use, or being under the influence of a drug;
2. Abnormal conduct or erratic behavior while at work or a significant deterioration of work performance;
3. A report of drug use, provided by a reliable and credible source;
4. Evidence that an individual has tampered with a drug test during his or her employment with the City of South Miami;
5. Information that an employee has caused, contributed to, or been involved in an accident while at work; or
6. Evidence that an employee has used, possessed, sold, solicited or transferred drugs, including while working or while on City of South Miami’s premises or while operating any City owned, leased or borrowed vehicle, machinery, or equipment.

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**Safety-Sensitive Position:** means a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to Section 110.1127, Florida Statutes; or a position in which a momentary lapse in attention could result in injury or death to another person. Employment for Safety Sensitive Positions is conditioned upon successfully passing a pre-employment drug test.

**Special-Risk Position:** means a position that is required to be filled by a person who is certified under Sections 633 or 943, Florida Statutes as amended.

**Specimen:** means tissue, hair, or product of the human body capable of revealing the presence of drugs or their metabolites as approved by the FDA or the AHCA.

## **Pre-Employment Conditions**

The following pre-employment conditions are established to determine the suitability of employees to work for City of South Miami.

All job applicants shall submit to a drug test prior to starting employment in that position. Any job offer, which a job applicant may receive from City of South Miami, is contingent upon the applicants successfully completing the drug and/or alcohol test.

Any job applicant who refuses to submit to drug testing as part of the pre-employment testing process shall be refused employment. Any such job applicant who tests positive for drugs shall be refused employment at that time. Confidentiality will be maintained pursuant to this Policy.

The City of South Miami shall not discriminate against an applicant for employment because of the applicant's past addiction to drugs or alcohol. It is the current use/abuse of drugs or alcohol that shall not be tolerated.

## **Conditions of Continuing Employment**

It is a condition of continuing employment for each employee to abide by this Policy. The rules contained in the Policy are to be considered conditions of continuing employment and are to be consistently followed. Any violation of these conditions of continuing employment shall result in termination of employment.

## **Prohibition of Possession, etc.**

The unlawful manufacture, distribution, dispensation, possession, sale, or use of any drug or unprescribed, controlled substances and/or the unauthorized possession or usage of alcohol by employees while working or when on any South Miami property, including parking lots, are strictly prohibited.

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## **Prohibition of Drug Use**

All employees are prohibited from being at work or on City of South Miami property, including parking lots, with the presence of any drug or its metabolite, as set forth herein, in the employee's body. Any employee who has a confirmed positive test of a drug or its metabolite at the levels defined herein shall be presumed to be under the influence of the drug and in violation of City of South Miami Policy.

## **Requirement to Report Medication Use**

City of South Miami does not prohibit the use of a drug (prescribed medication), which has a currently accepted medical use, provided:

1. The drug is prescribed or authorized for an employee by a medical doctor; and
2. The use of the drug at the prescribed or authorized level is consistent with the safe performance of the employee duties; and
3. The drug is used at the dosage prescribed or authorized.

Employees are required to notify their immediate supervisor or Department Head when reporting for work or during the course of a work shift if the use of any prescription medication may adversely affect his or her ability to satisfactorily and safely perform his normal job duties (e.g., including but not limited to drowsiness). Employees should use a Medication Report Form, which may be obtained from the Human Resources Division, to notify their supervisor or Department head.

## **Employee Drug and Alcohol Testing**

In order to maintain a drug and alcohol-free work environment and in accordance with Florida's Drug-Free Workplace Program, Section 440.101, *et seq*, Florida Statutes, as amended, and applicable Administrative Rules, all City employees are subject to testing for the use of illegal drugs and unauthorized alcohol consumption as set forth below.

## **Pre-Employment Testing Policy**

All job applicants will be tested for the use of illegal drugs prior to beginning work and as a condition of employment. All such Drug Screens shall be conducted at a testing facility designated by the City at the City's expense. Any offer of employment for any position in the City's service shall be conditioned upon the candidate's satisfactory clearance of the drug screen. Any candidate who tests positive for the use of illegal drugs during the pre-employment testing shall be ineligible for employment and shall be deemed to have failed to satisfy the conditions of employment. Further, such candidate shall be ineligible for consideration for employment in any capacity in the City for a period of twelve months from the date of the failed Drug Screen.

## **Random Testing Policy**

The City recognizes that there are some positions in its service that involve safety-sensitive functions, require possession of a valid Commercial Driver's License (CDL), and/or require the

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operation of a City-owned vehicle as essential functions of the position. Employees fulfilling these jobs will be subject to random drug and/or alcohol screening. Additionally, City policy requires the random drug and alcohol testing for all employees on a regular basis, regardless of whether they hold a safety sensitive position. Employees will be chosen based on a computer generated random sampling of employees within each group subject to random testing. All employees within each group shall have an equal chance of being selected each time a selection is made. Employees who test positive for the use of illegal drugs or the unauthorized use of alcohol shall be subject to termination of employment. Further, failure of any such test shall be grounds for the employee's immediate suspension from active duty with pay pending final disciplinary action.

A computer-generated program performed by an outside agency will perform random selections. As the random selection and testing policy works, it is possible for an employee to be randomly selected several times, while other employees in the pool may never get selected.

### **Reasonable Suspicion Testing Policy**

Supervisors who have a reasonable suspicion, based upon the observation of specific and objective facts or reliable information and/or evidence that an employee is under the influence of alcohol or drugs may recommend that the employee report for an alcohol and/or drug screen. In such cases, the supervisor shall contact the Personnel Manager and report his or her suspicion and the reasons therefore. Upon confirmation of the existence of reasonable suspicion, the Personnel Manager shall require the employee to report to a testing facility designated by the City at the City's expense. Employees who test positive for the use of illegal drugs or the unauthorized use of alcohol shall be subject to termination of employment.

### **Post-Accident Testing Policy**

All employees will be subject to alcohol and drug screening following any on-the-job accident, which causes bodily injury requiring medical attention or damage to property. All such accidents must be reported to the Office of Human Resources Division and Department head **immediately** upon their occurrence; such report shall be made not later than one (1) hour from the time of its occurrence. Accidents occurring outside of the City's primary hours of operation shall be reported by contacting the Personnel Manager and Department head via the designated after-hours numbers. Upon receipt of any report of accident, the Personnel Manager, when appropriate, shall arrange for testing by the City's designated testing facility, or via on-site testing as appropriate. Failure to promptly report an on-the-job accident shall subject the employee to appropriate disciplinary action, up to and including termination of employment. Employees who test positive for the use of illegal drugs or the unauthorized use of alcohol shall be subject to disciplinary action, up to and including termination of employment. Further, failure of any such test shall be grounds for the employee's immediate suspension from active duty with pay pending final disciplinary action.

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## Refusal to Test

The following behavior constitutes a refusal to test under this policy:

- Failure to appear for scheduled testing and produce the required specimen within one hour of being notified to report, without valid written documentation of a medical reason for the inability to test.
- Engaging in any conduct that has the purpose, design, intent, or effect of impeding the testing process. Such behavior includes, but is not limited to, tampering with urine, tampering with testing devices, and failure to provide adequate specimen for testing without valid written documentation of a medical reason for the inability to test.

An employee's refusal to test shall be grounds for the immediate termination of employment. An applicant's refusal to test and/or failure to appear for testing as directed shall result in the immediate withdrawal of the conditional employment offer. Further, said applicant shall be ineligible for employment with the City for a minimum period of twelve months from the date of the withdrawal of the conditional offer. An employee who refuses to submit to a drug test following an occupational injury which requires medical treatment forfeits his eligibility for all workers' compensation medical and indemnity benefits in accordance with Florida law.

## Drug or Alcohol Related Criminal Charges or Arrests

Employees are required to notify the Supervisor or Department head of any criminal drug statute or alcohol related criminal charge or arrest no later than five days after such charge has been filed. Employees in positions which require driving a City vehicle or a personal vehicle on City business must notify the Supervisor or Department head of any alcohol or drug related arrest (including but not limited to Driving while Under the Influence) on the next workday.

The City will take appropriate action with respect to an employee who is so charged, which action may include, temporary transfer without loss of pay to another position and/or discipline.

Employees are required to notify the Supervisor or Department head of the outcome of all criminal drug statute or alcohol related criminal charges no later than five days after any change in status of such charges. This includes notification of all final dispositions, including, but not limited to, a conviction, a plea of guilty, an adjudication of guilty, a plea of nolo contendere, adjudication withheld, an acquittal, or a dismissal of the charges.

The City will take appropriate disciplinary action against such employee within thirty days of receiving notice of the final disposition of such criminal charges.

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## **Medical Review Officer's Responsibilities Under Florida Law**

The Medical Review Officer (MRO) shall fully comply with all of the requirements set forth in the applicable Administrative Rules or this manual. The MRO shall be a licensed physician and Certified MRO, under contract with the City, who has knowledge of substance abuse disorders, laboratory-testing procedures, chain of custody collection procedures, and medical use of prescription drugs and pharmacology and toxicology of illicit drugs.

The MRO shall review and verify drug test results prior to the transmittal of the test results, either positive or negative, to the City. The MRO shall evaluate the drug test result(s), verify the chain of custody forms and ensure that the donor's identification number on the laboratory report and the chain of custody form accurately identifies the individual.

If the test results reported are negative, the MRO shall notify the City of the negative test result and submit the appropriate documentation to the Designated Employee Representative (DER).

If the test results reported are positive, the MRO shall notify the employee or job applicant of a confirmed positive test result within three (3) days of receipt of the test result from the laboratory and inquire as to whether prescriptive or over-the-counter medications could have caused the positive test result. Within five (5) days after receiving written notification of the positive test result, the employee or job applicant may contest or explain the result to the MRO. If the employee or job applicant's explanation or challenge is unsatisfactory to the MRO, the MRO will report a positive test result back to the City.

Upon contacting an employee or job applicant who has received a positive test result, the MRO shall properly identify the donor, inform the donor that the MRO is an agent of the City whose responsibility is to make a determination on test results and report them to the City, and inform the donor that medical information revealed during the MRO's inquiry will be kept confidential, unless the donor is in a safety sensitive position and the MRO believes that such information is related to the safety of the donor or to the other employees.

Additionally, the MRO shall outline the rights and procedures for a retest of the original specimen for the donor and process any employee's or job applicant's request for retest of the original specimen within one hundred and eighty (180) days of notice of the positive test result in another licensed laboratory selected by the employee or job applicant. The employee or job applicant who requests the additional test shall be required to pay for the cost of the retest, including handling and shipping expenses. The MRO shall contact the original testing laboratory to initiate the retest.

Upon receipt of information and/or documentation from the employee or job applicant, the MRO shall review any medical records provided, authorized and/or released by the individual's physician, to determine if the positive test result was caused by a legally prescribed medication. If the donor does not have prescribed medication, the MRO shall inquire about over-the-counter medications, which could have caused the positive test result. The donor shall be responsible for providing all necessary documentation (i.e., a

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doctor's report, signed prescription, etc.) within the five (5) day period after notification of the positive test result.

If the MRO determines that there is a legitimate medical explanation for the positive test result, the MRO shall report a negative test result to the City. However, should the MRO feel that the legal use of the drug would endanger the individual or others, then the MRO shall report that the test is negative due to a validated prescription and shall request that the individual be placed in a position, which would not threaten the safety of the individual or others.

If the MRO has any question as to the accuracy or validity of a test result or has a concern regarding the scientific reliability of the sample, the MRO may request the individual to provide another sample. As a safeguard to employees and job applicants, once an MRO verifies a positive test result, the MRO may change the verification of the result if the donor presents information which documents that a serious illness, injury, or other circumstances that unavoidably prevented the donor from contacting the MRO within the specified time frame and if the donor presents information concerning a legitimate explanation for the positive test result.

If the MRO is unable to contact a positively tested donor within three (3) days of receipt of the test results from the laboratory, the MRO shall contact the City and request that the City direct the donor to contact the MRO as soon as possible. If the MRO has not been contacted by the donor within two (2) days from the request of the City, the MRO shall verify the report as positive.

If the donor refuses to talk with the MRO regarding a positive test result, the MRO shall validate the result as a positive and annotate such refusal in the remarks section. If the donor voluntarily admits to the use of the drug in question without a proper prescription, the MRO shall advise the donor that a verified positive test result will be sent to the City.

### **Challenge of Positive Drug Test Results**

An employee or a job applicant who receives a positive confirmed test result may submit information to the MRO contesting or explaining the results in writing within five (5) working days of receipt of notification of a positive confirmed test result.

If the explanation or challenge of the employee or job applicant is unsatisfactory to the MRO, the MRO shall report a positive result back to the City.

Within five (5) working days after receiving notice of a positive confirmed test result from the MRO, the City shall inform the employee or job applicant in writing of the positive test result, the consequences of such results, and the options available to the employee or job applicant. Upon request, the City shall provide a copy of the test result to the employee or job applicant.

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Within five (5) working days after receiving notice of a positive confirmed test result from the City, the employee or job applicant may submit information to the City explaining or contesting the test result, and explaining why the result does not constitute a violation of the City's policy.

If the explanation or challenge of the employee or job applicant is unsatisfactory to the City, the City shall provide a written explanation within fifteen (15) days of receipt as to why the employee or job applicant's explanation is unsatisfactory, along with a copy of the report of positive confirmed test results. All such documentation will be kept confidential, and will be retained by the City for at least one (1) year.

An employee may further challenge the results of the test in a court of competent jurisdiction or, if the drug test was administered due to a workplace injury, by filing a claim for benefits with a Judge of Compensation Claims, pursuant to Chapter 440, Florida Statutes.

If an employee or job applicant contests the drug test results, he or she will be solely responsible for notifying the laboratory and the City in writing by certified mail and provide a copy of the written notice, by certified mail, to the Personnel Manager. The notice must include reference to the chain of custody specimen identification number.

An employee or a job applicant who receives a positive, confirmed test result may, at the employee's or job applicant's expense, obtain a retest of a portion of the original specimen at another licensed and approved laboratory selected by the employee or job applicant, within one hundred eighty (180) days of the notice of the positive test result.

An employee or job applicant has the responsibility of notifying the drug testing laboratory of any administrative or civil action brought pursuant to Chapter 440, Florida Statutes. The test laboratory will preserve specimens of confirmed positive results for at least two hundred ten (210) days after the result was mailed to the MRO. If timely notified of such action, the testing laboratory will maintain the sample until the case or administrative appeal is settled.

### **Rights under Collective Bargaining Agreements**

Employees who are covered under any collective bargaining agreement between the City and any certified labor organization may have the right to file a grievance regarding discipline imposed by the City as a result of a violation of this policy if said grievance is permitted to be filed pursuant to the collective bargaining agreement.

### **Confidentiality and Records Maintenance**

Confidentiality of records concerning drug testing pursuant to the Drug and Alcohol-Free Workplace Policy will be maintained in accordance with Florida law. All information, records, and drug test results in the possession of the City, laboratories, employee assistance programs, and drug and alcohol rehabilitation programs will be kept confidential. No such information or records will be released unless written consent, signed by the employee or job applicant, is provided or unless disclosure of such information or records is compelled by an administrative law judge, hearing officer, or court of competent jurisdiction. The City may

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also disclose such information when relevant to its defense in any civil, disciplinary or administrative hearing. The City will maintain records concerning drug testing separate and apart from a job applicant or employee's personnel file.

Information on drug testing results will not be released in any criminal proceeding except as required by law.

### **Safe Harbor Provisions**

The City of South Miami recognizes that alcohol and drug dependency require medical supervision and treatment for successful rehabilitation and recovery. Our desire and intent is to encourage any employee with alcohol or drug dependency to voluntarily enter a drug or alcohol rehabilitation program. Accordingly, an employee may voluntarily admit that he or she has a substance abuse problem. Employees who require assistance for substance dependency and related problems are encouraged to seek assistance and information from the Human Resources Division regarding the Employee Assistance Program.

No disciplinary action will be taken against an employee who self identifies under this "safe harbor" provision if the employee complies with all requirements of this section. Such employee shall be referred to the Employee Assistance Program for enrollment and participation in a bona fide substance abuse rehabilitation program. As a condition of continued employment during treatment, the employee shall be required to execute a written release granting the treatment program permission to release information about his or her enrollment, participation, treatment, progress and other relevant information to the Personnel Manager. The employee shall be required to submit documented proof of the successful completion of the program.

The employee will be subject to return-to-work and follow up testing, which shall include submission to random testing for a minimum of twelve (12) months and a maximum of twenty-four (24) months immediately following completion of the program. Once a violation of this Policy occurs, subsequent use of a counseling or rehabilitation program on a voluntary basis will not affect the determination of appropriate disciplinary action.

An employee involved in a bona fide rehabilitation program may be eligible for a reasonable accommodation within the assigned Department or elsewhere within the City by placement in a non-safety-sensitive position if such position is available and as set forth below. In the event that no such position is available, the employee may be entitled to leave under the Family and Medical Leave Act (FMLA) until completion of the program. Self-identification must be completely voluntary and will not be allowed after an employee has been notified to report for a drug screen, regardless of the reason for the testing. An employee in a safety-sensitive position who enters a substance abuse rehabilitation program will be assigned to a position other than a safety-sensitive position, or, if such a position is not available, will be placed on leave while the employee is participating in the program. The employee shall be permitted to use any accumulated sick or annual leave credits before leave will be ordered without pay.

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## **Provisions for Employees in Safety-Sensitive Positions**

An employee in a safety-sensitive position who enters a substance abuse rehabilitation program will be assigned to a position other than a safety-sensitive position, or, if such a position is not available, will be placed on leave while the employee is participating in the program. The employee shall be permitted to use any accumulated sick or annual leave credits before leave will be ordered without pay.

## **Provisions for Employees in Special-Risk Positions**

An employee in a special-risk position is subject to discipline or discharge for the first positive confirmed test result if the drug confirmed is an illicit drug under Section 893.03, Florida Statutes. A special-risk employee who is participating in a substance abuse program will not be allowed to continue to work in a safety-sensitive or special-risk position, but may be assigned to a position other than a safety-sensitive position or placed on leave while the employee is participating in the program. The employee shall be permitted to use any accumulated sick or annual leave credits before leave will be ordered without pay.

## **Refusal of a Treatment Program**

If the employee is offered an opportunity to enter a treatment program and refuses to do so, the employee shall be immediately terminated.

## **Treatment Program Requirements**

Employees who have been provided with an opportunity to enter a treatment and/or rehabilitation program must meet all requirements of that program including any required after-care. Treatment Programs will only be offered to employees who voluntarily report drug abuse prior to being asked to take a test. Failure to follow or complete the treatment and/or rehabilitation program or a subsequent positive confirmed drug test shall result in immediate termination of employment.

Confidentiality shall be maintained at all times except to the extent necessary to comply with these policies and to the extent permitted by law.

## **Employee Assistance Program**

The Employee Assistance Program (EAP) is a resource designed to provide highly confidential and experienced help for employees in dealing with issues that affect their lives and the quality of their job performance. This benefit assists employees and their dependents with personal and family issues, including but not limited to stress management, bereavement, marital or family issues, financial problems, or substance abuse problems. Employees are encouraged to seek assistance before such problems negatively affect their personal well-being and/or job performance. The City of South Miami wants employees to be able to maintain a healthy balance of work and family that allows them to enjoy life. The EAP is a confidential counseling and referral service that can help employees successfully deal with life's challenges.

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This free, comprehensive counseling service offers employees three (3) visits per each year, and a 24-hour hotline answered by professional, degreed counselors.

The City of South Miami encourages employees to use this valuable service whenever they have such a need. Employees who choose to use these counseling services are assured the information disclosed in their sessions is confidential and not available to the employer, nor is the employer given any information on who chooses to use the services. For questions or additional information about this program, employees may contact the Human Resources Division. Mutual of Omaha currently handles the City's Employee Assistance Program. Employees may contact them directly by calling 800-316-2796 or visiting [mutualofomaha.com/eap](http://mutualofomaha.com/eap).

### **Smoke-Free Workplace**

The City of South Miami has adopted a smoke-free workplace in an effort to promote an ongoing healthy lifestyle choice.

Smoking is not allowed in any of the City properties, buildings, or work areas at any time. "Smoking" includes the use of any tobacco products, electronic smoking devices, and e-cigarettes containing nicotine cartridges.

The objective of this rule is to reduce the liability exposure to the City of South Miami recognizing that:

- (1) The Surgeon General of the United States has declared that the use of tobacco or tobacco products is a hazard to an individual's health;
- (2) An employee's poor health, due to the continued use of tobacco or tobacco products, increases the loss experience of the group health insurance plans and group life insurance plans;
- (3) Increases in loss experience result in increases in premium costs for insurance plans; and
- (4) Increases in premium costs from employees are borne by the General Fund and subsequently, by the taxpayers of the City of South Miami.

A second objective of this rule is to reduce the amount of lost productivity time due to absenteeism recognizing that:

- (1) An employee's poor health, due to continued use of tobacco or tobacco products, increases the number of lost workdays and limited activity and thus reduces an employee's productivity;
- (2) Decreases in employee productivity result in the decrease in efficiency of the City government; and
- (3) Decreased efficiency is not an effective use of taxpayer's dollars.

The City of South Miami does not hire individuals who have used tobacco products within twelve months of filing an employment application. All applicants must be nonusers of tobacco or tobacco products for at least one year immediately preceding the date of application, as evidenced by sworn affidavit. Furthermore, an employee hired after April 1,

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2015, who uses tobacco products subsequent to becoming employed with the City of South Miami will be subject to severe discipline, which may include immediate termination.

### **Workplace Violence Prevention**

The City of South Miami is committed to provide a safe, violence-free workplace for our employees. Due to this commitment, we prohibit employees from engaging in any physical confrontation with a violent or potentially violent individual or from behaving in a threatening or violent manner. Threats, threatening language, or any other acts of aggression or violence made toward or by any employee will not be tolerated. A threat may include any verbal or physical harassment or abuse, attempts to intimidate others, menacing gestures, stalking, or any other hostile, aggressive, and/or destructive actions taken for the purposes of intimidation. This policy covers any violent or potentially violent behavior that occurs in the workplace or at City functions.

### **Commitment to Safety**

The safety of every City of South Miami employee is a matter of prime importance and we constantly strive to keep the City a safe place to work. Each Department shall communicate the Department's safety rules and procedures to each employee and maintain minutes of each safety meeting. Employees shall study these rules and keep them in the Employee Policies and Procedures Manual binder. The City meets or exceeds all applicable State and Federal Safety requirements. If an employee comes across what he or she deems to be a hazardous condition, it shall immediately be reported in writing to a supervisor. Drivers will conform to all state and local laws and regulations regarding traffic and parking and applicable standard operating procedures, whether on or off duty, while operating an assigned vehicle. Employees shall observe all safe driving practices and display proper courtesy at all times. Employees experiencing any type of impairment or condition, which may adversely affect their safe operation of a motor vehicle, shall not operate any City vehicle. Employees shall use the safety equipment available to them in the operation of a motor vehicle. All persons shall wear seat belts when operating/occupying vehicles. No unauthorized firearm will be carried in the vehicle. Violations of standards, policies and laws intended to effectuate or promote safety shall be subject to appropriate levels of discipline up to and including termination.

**The use of cell phones while driving and operating a vehicle, including heavy equipment and riding lawnmowers, is prohibited at all times.**

### **Dress Code**

As public employees and representatives of the City of South Miami, we have a responsibility to present ourselves in a professional manner during working hours. While climate and custom permit a somewhat, casual work attire, each employee should maintain a neat, clean, and professional appearance. Employees are expected to exercise common sense and good judgment when choosing their work attire.

The following guidelines are provided as a reminder to help clarify what is meant by "acceptable" professional casual attire:

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Acceptable dress includes: Traditional business attire either within or outside the City. Preferably business attire such as sweaters, blouses, skirts, long sleeved dress shirts, ties and slacks. Skirt length should be no shorter than 4 inches above the top of the knee.

Inappropriate dress includes: jeans or denim of any kind, sweatshirts, tank tops, t-shirts, untucked "polo" style shirts, shorts, spandex items, tennis/gym shoes, leggings, ripped, wrinkled, torn, bleached, faded or revealing clothing (i.e. transparent garments).

Friday casual dress: Jeans may be worn on Fridays.

For those required to wear a uniform, it should be clean, fresh, and intact when reporting for duty and shall be in compliance with any Departmental operating procedures. Damage to or loss of uniforms or any part thereof is to be reported immediately to your supervisor. Uniforms shall be replaced as necessary due to wear and tear. Polo style shirts with City logo embroidered on them may be worn by appropriate personnel but shall be tucked in.

## City Identification

All employees of the City of South Miami shall carry with them a City issued photo identification card while on duty. Employees directly involved in providing services to children and seniors are required to wear the official City ID at all times while on duty. Present your card for entry to the City during periods of emergency or when necessary to identify yourself to residents in the conduct of official business. Report any loss or damage of your ID card as soon as possible. The ID card must be returned to the City upon termination of employment.

## Employee Reporting Procedures During Disaster Operations

As public servants and employees of the City of South Miami, it is our responsibility to be prepared at all times to respond to all disaster situations that may affect the citizens of the City. **These provisions apply to all disaster situations as determined solely by the City Manager and are not limited to hurricanes.** In order to accomplish this goal, the Emergency Operations Plan has been developed by the City's administrative staff. During disaster operations, it is imperative that all personnel follow the guidelines outlined in the plan. In addition, all personnel should make advance plans for the safety of their families and personal property and be prepared to respond well ahead of the general public to the disaster threat.

Personnel will report for duty during disaster operations as directed by the City Manager. All personnel called to duty shall be given a specific reporting time, allowing for reasonable time to make arrangements for the safety of family and personal property. Personnel may be recalled to duty based upon the type and severity of the emergency. Failure to report for duty, without prior leave approval from the Department Head, may result in termination of employment.

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During a hurricane watch, all personnel should make arrangements for the safety of family and personal property. If possible, family members should relocate to a safe area, well inland to avoid the effects of the approaching storm. Personnel should prepare to bring appropriate personal supplies to enable them to effectively perform their duties for at least three days of operation. The following personal supplies should be assembled and brought in by staff when reporting for duty: Extra uniforms, tee shirts, socks, underwear, shoes; toilet articles (toothbrush, toothpaste, deodorant, soap, shampoo, razor and shaving cream); rain gear; City of South Miami Identification Card; prescribed medications; mosquito repellent.

Personnel will be assigned to duties as outlined in the Emergency Operations Plan and shall not leave their assigned post unless relieved by the Department Head or other appropriate authority.

### Computer and Electronic Device Limitations

No employee shall install unauthorized software on any City computer or electronic device. Prior to installation, all software shall be authorized by the City Manager or his designee. Failure to obtain appropriate approval shall result in disciplinary action.

Internet including social media usage is limited to City related activities including on tablets and cell phones. Employees with Internet access shall not use the Internet for unauthorized, unethical and illegal activities such as surfing the Web for entertainment during work hours, accessing obscene or sexually oriented material, or viewing or downloading derogatory racial, ethnic, sexual or religious, etc., material. The downloading of any and all unauthorized material off the Internet is prohibited unless authorized by the City Manager or his designee. An employee found to be in violation of this rule shall be subject to disciplinary action up to and including termination.

The computer system and electronic mail system is for business purposes only and not for personal use. ***Employees do not have any expectation of privacy as to their use of City provided technology and equipment.*** Computer files, text messages, social media posts, and electronic mail on the City's network or equipment are not private or confidential, and may be read or monitored at any time. Any misuse of text, apps, or other social media, electronic mail, etc., is grounds for disciplinary action, up to and including termination.

### Voice Mail Recording

Employees who have voice mail capabilities on land lines or on cell phones may, from time to time, establish personalized messages. The messages shall be limited to an appropriate business-like greeting that identifies the person's Department and name. Recordings shall be responsible and professional and related to City business.

### Computer Usage

All information technology systems that are owned or supported by the City of South Miami and/or are connected to the City of South Miami computer network system are governed by this policy. All data from any source or for any purpose that is stored on City computer equipment is the property of the City of South Miami. Unauthorized use of information

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technology systems for non-work-related reasons is not permitted. All software must be rightfully licensed. Unauthorized copying of licensed software is illegal and is strictly prohibited.

All city-wide computer software purchases shall be made by the Information Technology Coordinator. Departmental software purchases shall be made by the Information Technology Coordinator in conjunction with the Department Head. The Information Technology Coordinator shall install all software on City owned computer equipment and will be responsible for an oversight of registration of the software. Computer games are not permitted on City computers. Hardware and software that is not purchased by the City is prohibited from connection or installation to the City network in any way unless authorized by the Information Technology Coordinator and the Department Head.

City-owned information technology systems shall not be removed from the City premises without authorization of the Department Head. Inappropriate use of Internet access and electronic mail (e-mail), including but not limited to, use of the Internet or e-mail system for personal gain or solicitation, campaign activities, sending harassing or threatening messages to others, forwarding "for-profit" messages or chain letters, or sending or accessing pornography or pornographic materials, is prohibited.

All e-mail and internet communication messages are the property of the City of South Miami and management reserves the right to access all messages. Employee Internet and e-mail usage may be monitored. Excessive use of the Internet or e-mail for personal use is prohibited.

Social media including Facebook, Twitter, Instagram, and other similar products are not to be accessed by City Computers unless specifically authorized by the City Manager.

Employees in violation of this policy shall be subject to appropriate disciplinary action up to and including termination.

### **Internet Security Policy**

While the City's ability to connect to the Internet offers potential benefits, it can also potentially provide significant risks to data and systems if City employees do not follow appropriate security discipline. City employees are required to insure the confidentiality of their respective passwords. In the event that an employee has reason to believe that his or her password has been compromised, he or she shall immediately report such suspicion to his or her supervisor and the City's IT Division.

### **Social Media Policy**

The City recognizes that social media can be a fun and rewarding way to share your life and opinions with family, friends and co-workers around the world. However, use of social media also presents certain risks and, therefore, carries with it certain responsibilities. To assist you in making responsible decisions about your personal use of social media, we have established this Social Media Policy for appropriate use of social media.

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In the rapidly expanding world of electronic communication, social media can mean many things. Social media includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's web log or blog, journal or diary, personal website, social networking or affinity website, web bulletin board or a chat room, whether or not associated or affiliated with the City, as well as any other form of electronic communication. Examples of social media websites include, but are not limited to, Twitter, Facebook, LinkedIn, Instagram, YouTube, Flickr and Google+. The absence of, or lack of explicit reference to a specific site does not limit the extent of application of this policy.

The same principles and guidelines found in the other City rules and regulations apply to your activities online. Ultimately, you are solely responsible for what you post online. Before creating online content, consider some of the risks and rewards that are involved. Keep in mind that any of your conduct that adversely affects your job performance, the performance of fellow employees, or otherwise adversely affects people who work on behalf of the City may result in disciplinary action up to and including termination.

Unless specifically authorized by the City to do so as part of an employee's position, employees are not permitted to blog or use other forms of social media during those periods of the day that they are required to perform their work tasks. Employees are prohibited from using a City e-mail address on their personal blogs, social media sites or pages, or any other personal internet account (such as accounts for on-line news, retail, entertainment or sports).

Unless specifically authorized by the City, employees are not permitted to blog or engage in social media use using any City computers or City-supplied electronic resources or other devices (except for City-issued cell/smart phones approved for employee personal use). In addition, employees may not use the City's facilities to develop, design, or maintain their personal blogs or social media site or page, and are prohibited from linking their blog or social media page or site to the City's website.

Online, your personal and work personas are likely to intersect. The City respects the free speech rights of all its employees, but you must remember that coworkers, supervisors, and members of the public often have access to the online content you post. Keep this in mind when publishing information that can be seen by more than family and friends, and remember that information originally intended just for friends and family can be forwarded on.

If the City of South Miami is a subject of any personal content you are creating, express only your personal opinions. Never represent yourself as a spokesperson for the City. Make it clear to the readers that the views expressed are yours alone and that they do not reflect the views of the City, by stating, for example, *"The views expressed in this blog [or blog posting] are my own"* or *"I am not a spokesperson for the City"* or *"My views do not represent those of the City."*

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You may not post anything on the Internet in the name of the City or in a manner that could reasonably be attributed to the City without prior written authorization from the City Manager or his/her designee.

Do not disclose any confidential information regarding on-going law enforcement investigations or any information exempt from disclosure under Florida's public records law at any time.

You may not use the City's logo, seal, slogan, or trademarks on your personal blog or social media site or page in a manner that suggests that your posts express the opinions of the City. Also, you may not use the City's trademarks as part of your social media usernames or handles.

Remember to respect the laws governing copyrights, fair use of copyrighted materials, trademarks and other intellectual property, rights of publicity, and other third-party rights in the on-line social media space.

Nothing in this policy is intended to prohibit or discourage employees from engaging in speech as citizens on matters of public concern, or to prohibit or discourage employees from engaging in any protected activities under the Public Employee Relations Act (F.S. Chapter 447, Part II), including discussing their wages, benefits, hours, or working conditions.

The City encourages employees to resolve work-related complaints by speaking directly with co-workers, supervisors, managers, Department Directors, or the Personnel Manager rather than by posting those complaints in a blog or on a social media site. If an employee, nonetheless, decides to post personal complaints or criticism concerning the City, its officers or employees, employees are prohibited from doing so in a way that is defamatory, slanderous, or that might be construed as threatening, intimidating, or unlawful discrimination or harassment.

The City prohibits taking negative action against any employee for reporting a possible deviation from this policy or for cooperating in an investigation. Any employee who retaliates against another employee for reporting a possible deviation from this policy or for cooperating in an investigation may be subject to disciplinary action, up to and including termination.

### **Cellular Telephone Usage**

The purchase and assignment of cellular telephones shall be subject to the approval of the employee's Department head and the Information Technology Coordinator. **All communication on cell phones including text, instant message, voice, email, and skype are subject to the State Public Record act.** All cellular plans and purchases will be administered by the Information Technology Coordinator. Cellular telephones are not to be used when a less costly alternative is readily available. Cellular telephones provided by the City are intended to be used primarily in the conduct of City business. Personal use will be reviewed

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by the employee's Department head as well as the Information Technology Coordinator.

The employee assigned the use of a cellular telephone is expected to exercise discretion regarding persons having access to their cellular telephone number in an effort to minimize telephone usage costs. Employees are reminded that cellular telephones should not be considered secure. Therefore, employees should use discretion in relaying confidential information, and reasonable precautions should be made to prevent equipment theft. Reasonable precautions should also be taken regarding loss or general damage to the telephone and related equipment. It is the employee's responsibility to reimburse the City for the replacement of damaged or lost telephones and equipment, unless the Department head chooses to replace the telephone through their Departmental budget.

The City's Social Media policy applies to the use of cellular phones for unauthorized social media access. Employees in violation of this policy shall be subject to appropriate disciplinary action up to and including termination.

## **Authorized use of City Name, Logo and Seal**

The City's name, its official logo, seal, and/or letterhead may not be used for personal correspondence, unapproved city or commercial activities, and/or any other use inconsistent with City policies and procedures.

## **Solicitation**

Distribution, canvassing, and placing of signs and posters, chain letters, sales of tickets and/or merchandise of any kind for personal, political, or commercial purposes are not permitted by City employees on City premises.

## **Work Space Privacy**

The City provides offices and other work space for business purposes only. City work space is not private, and may be inspected at any time. Management may at any time inspect or review any and all files (hard copy or computer), desks, drawers, filing cabinets, lockers, other storage areas, and/or all other work space and its contents, with or without prior notice to employees.

## **Municipal Service**

The Municipal Service shall include all paid employees of the City of South Miami not specifically exempted. A former employee who separates from the City in good standing shall be eligible for re-employment in the City service. Such employee is a new employee for all purposes, including seniority and leave accrual and maximum caps. No employee terminated from the City service for misconduct shall be eligible for re-employment.

## **Dual Employment and Membership in Groups and Associations**

Employees may not be employed in more than one position with the City except under special circumstances and with prior authorization by the City Manager. In order to prevent a conflict of interest, under no circumstances may a City employee hold office in any homeowner's association within the City or hold any similar position in any other City based

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organization, which may lobby before the City Commission or any City Board or Committee, without the prior approval of the City Manager.

### **Outside Employment**

Employees in the Municipal Service may engage in outside employment only with the prior approval of the City Manager and with the understanding that their primary duty, obligation, and responsibility is to the City of South Miami. Employees accepting additional employment outside City service must meet the following conditions:

File a written notice annually, to be approved by the City Manager. The notice shall state the type and place of employment, the maximum hours of work, and employer's or client's name. If the job has more than one location, the employee must furnish the name, address, and telephone number of someone who will know his or her whereabouts at all times. The employee must keep his or her Department head notified of changes in conditions of any outside employment. The employee must make arrangements with the outside employer to be relieved from duty if called for work by the City. The written notice must be filed annually by the employee and approved by the City Manager. Failure to report outside employment may result in disciplinary action.

Outside employment shall not be permitted when the City Manager determines such employment would be a conflict of interest or inappropriate with one's employment with the City or any other concern that he determines to be inconsistent with the employee's responsibilities to the City.

All injuries sustained during outside employment must be reported to the employee's supervisor prior to the next working day. The supervisor shall immediately report the injury to the Human Resources Division. An employee's failure to report an injury sustained during outside employment shall be grounds for discipline including dismissal from City employment.

### **Employee Performance Evaluations**

Department Directors shall assure that all employees will receive written performance evaluations conducted by their immediate supervisor at the end of the initial six (6) months of service and once a year thereafter on the anniversary date. Any employee receiving an average rating of "needs improvement" (3 or less) shall undergo a follow-up performance evaluation after three (3) months. Any employee who receives a promotion or transfer will be required to undergo a six (6) month evaluation in the new position and an evaluation once a year thereafter on the new anniversary date. Performance Evaluations may be administered more often as deemed appropriate by the Department head. An employee receiving an average of 3 or less, in any of the performance categories will be required to comment on the improvement section of the performance evaluation form.

The Employee Performance Evaluation is designed to record the evaluation of an employee's performance, attitude, and behavior on the job as accurately and as fairly as possible on

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forms provided by the Human Resource Division. All original evaluations shall be kept in the employee's personnel file.

The evaluation will indicate how one's past performance has been evaluated by one's immediate supervisor, bring out one's strong and weak points, and serve as the basis for discussion of how performance may be improved. The evaluation gives the employee the opportunity to make suggestions and comments on the policies of management or one's immediate supervisor. These suggestions are to be included in the final evaluation form. An employee's evaluation does not mean an automatic increase in salary or rate of pay. All merit raises if available will be solely based on the employee's evaluation for the current evaluation period. Performance not achieving ratings of above average will not be rewarded with merit pay.

### **Comment by Administration**

The Department head shall review and approve the Employee Performance Evaluation reports, which are then forwarded for approval to the Personnel Manager and City Manager, respectively.

### **Personnel Files**

Individual employee personnel files shall be maintained by the Human Resource Division in accordance with the Florida Public Records Statutes. Employees have the right to examine their personnel file in the Human Resource Office upon request and with reasonable notice. The Human Resources staff shall be present during the examination.

### **Compensation Plan Administration**

Each employee shall be paid at the rates set forth in the position classification in which he or she serves.

### **New Employment**

New appointments shall be made at the lowest rate of the salary range for each classification, unless otherwise approved by the City Manager. Issues to be considered in the award of hiring above the minimum rate shall include a lack of qualified candidates for recruitment at the minimum rates; or when a qualified candidate possesses skills, experience, and qualifications, which warrant starting above the minimum rate. The need to make appointments in excess of this beginning rate requires specific approval from the City Manager.

### **Salary or Wage Modifications**

Salary or wage modifications within the established range shall be dependent upon recommendation of the Department head with approval by the City Manager. The City Manager shall approve all salary or wage modifications. No salary or wage modifications shall be granted above the maximum rate fixed for the classification concerned.

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## Merit Increases

Merit increases are not automatic and are based upon formal Performance Evaluations that are to be made annually if available. Any merit raise will be solely based on the employee's evaluation for the current evaluation period. An employee whose overall performance is rated above average or better, may be entitled to, but not guaranteed, a merit increase.

An employee, whose overall performance is "satisfactory" or less, shall not be entitled to a merit raise. However, if subsequent performance evaluations rate the employee better, they may receive the merit increase if still available at that time.

If an employee's merit increase falls on the same date as the cost-of-living increase, the merit increase may be calculated based on and after the cost-of-living adjustment.

## Effective Date of Pay Changes

**Anniversary Dates & Eligibility:** The anniversary date for determining an employee's eligibility for a pay increase shall be the date of employment or the date of his or her last pay rate adjustment unless specifically provided otherwise by the City Manager.

**Effective Date of Separation:** The effective date of separation from the Municipal Service shall be at the close of business the last day an employee reports for duty, the date specified in the employee's written resignation, or the last day of leave granted should an employee fail to report for duty on the first working day following the expiration of leave. Employees separated shall receive lump sum payment for earned annual leave credits and other credits accumulated which are payable.

## Resignations

Any employee wishing to leave the service of the City in good standing shall provide his/her Department head with a written notice of resignation at least two (2) weeks in advance, stating the date the employee is leaving and the reasons for leaving. This notice will be filed immediately with the Personnel Manager.

## Exit Interviews

The purpose of the exit interview is to provide management with information that will help identify potential problems and help keep the City of South Miami a pleasant and efficient place to work. Each employee who resigns from the City shall be asked to complete an exit interview form in the Human Resource Division at or before the time he or she receives the final paycheck and returns all City property, including identification and keys.

## Return of City's Property

Employees separating from the City for any reason shall, prior to separation, return all City-owned property and equipment, including keys and entry cards to city facilities, in his or her possession. The cost of replacing or repairing any items lost or damaged while in the possession of the employee may, in the City's sole discretion, be attributed to the employee as income on his or her final check. In such cases, the value of unreturned equipment may

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result in increased tax liability for the departing employee. Alternatively, the cost of such items may be deducted from any pay and benefits held by the City, provided that such deduction shall not reduce the employee's pay for hours worked below the legally required minimum wage.

### **Political Activity**

It is the right of every employee to register and vote on all political issues. Employees are permitted to join political organizations, civic associations, or groups and to become involved in political activities subject to the restrictions of this article. As private citizens, employees may participate in all political activities, including holding public office, except for activities involving the election of candidates for any City office and where holding an appointive or elective public office is incompatible with the employee's City employment as determined by the City Manager.

City employees are not prohibited from supporting candidates for office or from contributing labor to candidates and organizations that endorse candidates who represent areas outside of South Miami. Employees are not permitted to make public endorsements of a candidate for City of South Miami elective office or to make cash or non-cash contributions to such a candidate.

Any employee desiring to become a candidate for a City of South Miami elective office, shall first take a leave of absence without pay or resign. If successful in seeking such elective office, the employee will be required to resign from employment with the City. If unsuccessful in seeking such elective office, the employee may be returned to employment on the same terms and conditions as any other employee who has taken leave of absence without pay. An employee is considered to be a candidate for elective office once all statutory requirements have been met to qualify as a candidate.

Political activity must not interfere with job attendance or performance. Employees are not permitted to solicit or receive political contributions during on-duty hours. They are not permitted to wear or display political badges, buttons, or signs on their person or on City property during on-duty hours.

No supervisor or other person in authority shall solicit any City employee for contributions of money or labor for any candidate for elective office, or otherwise compel, or attempt to compel, any employee to support a candidate for elective office or to engage in any political activity.

The purpose of this policy is to prevent and avoid the appearance of impropriety on the part of any City employee. City employees are neither appointed to nor retained in the City's service on the basis of their political affiliations or activities.

### **Care and Use of Equipment and Facilities**

Any employee of the City of South Miami that is found to be responsible for damage to or loss of City property or equipment through negligence, carelessness, or abuse shall be subject

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to disciplinary action and may be required to reimburse the City for such damage or loss. Any employee who does not report equipment and facility damages, regardless of cause, will be subject to disciplinary action up to and including termination. No equipment, material, or supplies belonging to the City shall be removed from its location or used without proper authority. Vehicles and other equipment assigned to individual personnel shall be used only for City work or business. Proper maintenance of workstations, with regard to cleanliness, safety, and efficiency, shall be required of all City employees.

### **Transportation**

#### **Use of City Owned Vehicles**

City owned vehicles are to be used for official City business only. Assignments of City vehicles are subject to the approval of the City Manager. Vehicles cannot be used to transport other family members or to tend to personal errands. Passengers in City vehicles are allowed when their presence relates to City business. Exceptions to this policy may be made with approval by the City Manager.

#### **Responsibility of Drivers**

Employees operating City vehicles are required to practice all safety precautions when utilizing a City vehicle. Drivers are required to adhere to all state and local laws and regulations regarding traffic and/or parking at all times while operating a City vehicle. Any employee operating a City vehicle must have an applicable valid Florida driver's license, which must be on, or accompanying the employee when driving such a vehicle. Seat belts shall be worn by all City employees and passengers while operating or riding in a City vehicle in accordance with State Statutes. The use of cell phones or other electronic devices without a hands-free device is prohibited. No unauthorized firearms or weapons may be transported in the vehicle. Failure to comply with these policies will cause the employee to be subject to disciplinary action up to and including termination.

At the beginning of each shift, employees assigned to City vehicles shall carefully inspect the vehicle to ensure that it is in serviceable and safe operating condition and is not damaged. This inspection shall include but not be limited to all safety and first aid equipment located in the trunk or storage compartments. Defects/and or damage shall be immediately reported to the employee's supervisor. Employees shall promptly report any mechanical problems to the Motor Pool Supervisor and Department head. No accessories or equipment may be added to the vehicle without prior written approval of the Public Works Department and no unauthorized sticker, sign, apparatus or appendage may be affixed to the assigned vehicle. No fuel, oil, lubricant or additive may be added to the vehicle other than those authorized by the Motor Pool Supervisor.

#### **Accidents Involving City Owned Vehicles**

If an employee has an accident while operating a City-owned vehicle, which results in personal injury or property damage, the employee shall notify the Human Resource Division and Police Department immediately, and then notify his supervisor. This should be done regardless of how minor the accident appears. The employee shall insist that all parties and

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property concerned remain at the scene of the accident until police officers can investigate the incident. Supervisors shall report all accidents to the Personnel Manager.

Any theft of a City vehicle or any equipment from an assigned vehicle shall be immediately reported to the immediate supervisor, the South Miami Police Department, and Human Resources Division.

## **Use of Private Vehicles for City Business**

If employees are required to use a personal car in the performance of official duties for the City per approval of the City Manager, they may receive a mileage rate as established by the Internal Revenue Service. Expenses for mileage must be submitted to and approved by the employee's Department head and the City Manager.

## **Driver License Reviews**

The City reserves the right to quarterly review the driving record of all employees who are authorized to drive a City vehicle or receive an automobile allowance and are required by their job description to hold a Florida valid driver's license. This screening takes place in order to protect the City and its citizens from liability in the event that a City employee has an accident and someone is injured or property is damaged and to help ensure accountability and responsibility for safe driving when public funds are involved.

It is the employee's responsibility to immediately report to the City Human Resources Division Manager when your driver's license is revoked or suspended.

## **Employee Dispute Procedure**

The City Manager shall have the authority, with or without Department head request, to initiate disciplinary action against any employee in the Municipal Service. Department heads and supervisors have a responsibility and a duty to initiate disciplinary measures whenever policies of the City including Administrative Orders, rules, and this Employee Manual warrant.

The dispute resolution procedure is a mechanism to resolve disciplinary actions taken against an employee not covered by a Collective Bargaining Agreement in the Municipal Service; members of a collective bargaining unit may have a different procedure. It is the policy of the City of South Miami that every employee is treated fairly at all times with courtesy and respect. Conversely, each employee is expected to extend the same treatment to his/her associates, supervisors, and especially to the public.

**Step 1:** Employees who believe they have a dispute may address their concerns in writing, within five (5) working work days from the event causing the dispute. The written statement shall contain the date, time, place, and nature of the dispute and relief requested and shall be filed with their immediate supervisor. Within five (5) working days of the receipt, the supervisor shall inform the employee, in writing, of the disposition of the appeal or, advise the employee, in writing, of his/her inability to settle the dispute. At this point, the employee

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may proceed to Step 2. Notwithstanding the above, a sexual discrimination or harassment complaint may be filed up to two months from the event causing the dispute.

**Step 2:** An employee who is not satisfied with the response to Step 1 may, within three (3) working days following the Step 1 response, file the written statement and a copy of the supervisor's response to his/her Department head. The Department head will provide a copy to the Human Resource Division. The Department head shall, within five (5) working days of receipt, provide a written response to the employee. If not satisfied with the response from the Department head, employees may proceed to Step 3.

**Step 3:** An employee who is not satisfied with the response to Step 2 may, within three (3) working days following the Step 2 response, file the written statement along with copies of the supervisor's response and the Department head's response with the City Manager. The City Manager shall, within fifteen (15) working days of receipt, meet with the employee. The City Manager's decision shall be final, binding, and not appealable.

**Withdrawing of Dispute:** An employee may withdraw a dispute at any point in writing or by permitting the time requirements to lapse without appeal.

Employees selecting a dispute resolution procedure under an applicable collective bargaining agreement are excluded from processing the same dispute under this system.

While the employee dispute procedure referred to above is used to appeal disciplinary actions taken by management, a less formal alternative is available to resolve other employee problems, concerns, or to put forth suggestions.

The vast majority of employee problems or complaints involve misunderstandings that can be resolved informally through discussion with your immediate supervisor. We believe strongly that open communication promotes mutual understanding and provides management with valuable information about working conditions and the quality of service we give to the residents of South Miami. When an employee has a problem or complaint that is not the subject of a formal written dispute, or a suggestion, he or she should schedule a mutually agreeable time to discuss the matter with his or her immediate supervisor.

In the event that an employee ever feels that their complaint, problem, or suggestion has not been answered to their satisfaction, they have the right to discuss it with successively higher levels of supervision, up to the City Manager if necessary. They simply notify their supervisor that they want to discuss their problem, complaint, or suggestion with the next level of supervision. The supervisor will instruct the employee where and with whom to make the appointment. All levels of the City Management are available to listen to employee complaints, problems, or suggestions. It is the City policy that such informal complaints, suggestions, or problems needing resolution move along the chain as quickly as possible.

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## **Discipline Policy**

The City recognizes that all employees should have clear guidelines that will enable them to perform their duties with maximum efficiency and to fully understand and appreciate their rights and responsibilities as City employees. Any employee who violates these rules and regulations, or who otherwise violates reasonable standards of conduct, is subject to discipline up to and including termination of employment. The guidelines below set forth specific kinds of disciplinary action that may be taken in response to employee misconduct. All disciplinary action will be considered on a case-by-case basis to determine the appropriate disciplinary action. When warranted by the facts, any disciplinary alternative, including termination, may be imposed for a first offense.

This policy is designed to serve as a guideline that will enhance employees' understanding of the City's general discipline policy; it does not necessarily include all forms of employee misconduct that may occur and does not prescribe all forms of disciplinary action that may be taken. The City expressly reserves the right to impose discipline deemed to be most appropriate based upon the misconduct.

Employees may be placed on Administrative Leave for alleged violations of any Employee Code of Conduct or other Departmental or City policy by the Department head or City Manager pending an investigation into the allegations of misconduct. Such a situation would then be brought to the attention of the City Manager immediately. Upon completion of the investigation, the employee may be subject to disciplinary action as outlined in these policies.

## **Verbal Warning**

A verbal warning may be issued by any supervisor in the employee's chain of command. Verbal warnings are generally reserved for incidents where an employee has engaged in relatively minor forms of misconduct. Verbal warnings should be administered during an individual conference with the employee and should explain the nature of the violation and should stress the importance of future compliance with the rules, including a clear warning that continued violation will result in more severe disciplinary action. Supervisors should document all verbal warnings, but they shall not be made a part of an employee's permanent personnel file.

## **Written Reprimand**

Employees who persist in committing minor offenses for which a verbal warning has been previously issued or who commit more substantial forms of misconduct will be subject to a written reprimand. A reprimand is a written statement that contains a specific description of the conduct for which the employee is being reprimanded. The statement must also explain the importance of future compliance with the rules and regulations and include a clear warning that continued misconduct will result in further disciplinary action, up to and including termination of employment. Reprimands may be initiated by any supervisor in the employee's chain of command. The written statement shall be reviewed in person with the employee. Upon conclusion of the conference, the employee must be asked to sign the statement to acknowledge that it has been received and discussed. In the event that an employee refuses to sign, the signature of one witness other than the supervisor shall be

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sufficient to confirm receipt and discussion. One copy of the reprimand must be given to the employee, while another copy must be placed in the employee's personnel file.

### **Suspensions**

Employees may be suspended by the City Manager, their Department head, or his designee, without pay up to twenty (20) working days. A suspension is initiated in writing to the employee and must contain specific statements relating to the misconduct or inadequate performance for which the employee is being suspended. It must also indicate the effective date upon which the suspension begins and the effective date upon which the employee is to return to active service. The time covered by the suspension must cover working days. As with other forms of disciplinary action, the notice of suspension must explain the importance of future compliance with the rules and regulations and include a clear warning that continued misconduct will result in further disciplinary action, up to and including termination of employment.

Employees aggrieved by this action may file an appeal to the action in compliance with the procedures set forth herein. The filing of an appeal to a suspension with the City Manager shall stay the suspension until the City Manager's decision is rendered.

### **Termination**

Employees may be terminated from the service of the City for violations of this manual, any Administrative Order or other rule of the City, the Employee Code of Conduct, or as otherwise determined by the City Manager. Termination of employment for disciplinary reasons may occur as a result of one of the following three categories or any combination thereof:

- (a) The employee has engaged in a violation of this manual, which calls for termination for the initial offense or for successive offenses.
- (b) The employee has failed to meet satisfactorily the terms of a disciplinary probation.
- (c) The employee has within a 12-month period either received three written reprimands or been twice placed on suspension.

Although all employees of the City are employed at-will, an employee whose termination has been recommended for disciplinary reasons shall be given the opportunity to address the City Manager before a final decision is made. The City Manager must approve all terminations. An employee may be suspended pending the disposition of this meeting. The City Manager or his specific designee shall be the only person with the authority to terminate an Employee. The City Manager shall have the authority to immediately terminate an employee for infractions of this Employee Manual deemed to be sufficient for such immediate termination in the opinion of the City Manager.

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## **Recruitment**

The Human Resources staff may post all vacant positions in the City website, and appropriate recruiting websites during the period when applications are actively being accepted. Vacancy announcements may be distributed to local area governments, schools, employment agencies, and other recruitment services as determined to be appropriate by the Human Resources Department and the hiring Department. Consistent with its EEO status, the City only uses recruitment services that do not discriminate on the basis of race, color, sex, religion, age, national origin, marital status, political affiliation, familial status, sexual orientation, or disability.

In cases of vacancies for promotional status positions, the position may be posted internally upon approval of the City Manager. In such cases, the position shall not be required to be posted for the purpose of receiving applications from the public at-large, but shall be posted to City employees for the recruitment of qualified candidates. In such cases, an employee with meritorious service, which demonstrates an aptitude and ability to fulfill the requirements of the job, may be directly promoted to the vacant position.

Applications will be accepted only for specific vacancies. The Human Resources Division will post job announcements for a minimum of one (1) week for regular full-time and regular part-time positions. An application shall be active for ninety (90) days from the date it is filed or until the position is filled, whichever occurs first. During this period, an applicant may notify Human Resources Division to have the application considered for any other opening specified by the applicant. A new application must be completed for any vacancy, which opens after the application becomes void. Incomplete applications will not be considered.

Applications for a position received after the published closing date will not be considered. If there are not sufficient qualified candidates at the closing date, the position may be re-opened and/or re-advertised at the discretion of the Department Director, after consultation with the Personnel Manager.

Each applicant must meet the established minimum qualifications in order to be eligible for employment in the position. The City Manager or Designee establishes the minimum qualifications necessary to perform the essential functions of each job in the City service; these qualifications are set forth on the official job description and posted with each vacancy announcement.

## **Employment of Relatives**

The employment of relatives is discouraged. Approval will not be granted for the employment, promotion, or transfer of a member of the immediate family of an employee (father, mother, spouse, children whether natural or otherwise, brother, sister, mother-in-law, father-in-law, sister-in-law, brother-in-law, or other members of employee's household) to a position where a relative may be either supervising or influencing the activities of the employee. No employee shall exercise direct supervision over persons related to him or her by family or marriage. For purposes of this policy, persons related

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by family or marriage are defined as any spouse, parent, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, in-laws, and persons for whom the employee has been assigned legal responsibility in a guardianship capacity.

## **Disqualification of Applicants**

Applicants may be disqualified from consideration for employment for any lawful reason including, but not limited to, the following:

1. The failure to possess the minimum qualifications for the job.
2. An unsatisfactory employment record and/or other record as evidenced by information contained on the application form or by the results of a background and/or reference check.
3. Incorrect, incomplete, false statements, or omissions of any material facts or deception in the application or during any other part of the selection process, including but not limited to interviews and background investigations, if appointed, such employee may be terminated for this reason at any time.
4. Physically or otherwise unable to perform the essential duties and functions of the position with or without reasonable accommodation, in accordance with state and federal laws.
5. Ineligibility to work as determined by state and federal laws.

## **Pre-Employment Testing and Background Checks**

A pre-employment medical examination (for certain positions), drug screen, and background check are required of new employees. Upon making a conditional offer of employment to an applicant, the Human Resources Division will arrange the required examinations and screenings.

A background check may include verification of employment, criminal history, and driving record. Some candidates may also be required to clear a credit check. All candidates must sign a confidentiality waiver authorizing the required verifications. Failure to satisfactorily clear the required pre-employment screenings will result in the withdrawal of the conditional employment offer. In the event that the candidate has started his employment when the City receives notification of the failure to meet pre-employment standards, such failure is grounds for the immediate termination of employment.

## **Probationary Employment Status**

All new employees, including employees promoted or voluntarily transferred to a new position within the City service shall be in probationary employment status. The probationary period provides an opportunity to orient and train the new employees in

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the work assignments, performance standards, and workplace conduct required in the new position. It permits Department heads to observe the new employee's work, to train and assist the new employee in adjusting to their new position, and to screen out any employee whose performance does not meet required work standards.

### **Duration of Probationary Period**

The probationary period shall be for a period of one year. All probationary employees will be evaluated during the probationary period. The probationary period will be extended if employee utilizes extended leave by an amount of time equal to the amount of leave taken. Additionally, upon written request from the supervisor setting forth sufficient justification demonstrating that performance so warrants, the probationary period may be extended for an additional period not to exceed six (6) months.

### **Dismissal During Probationary Period**

Probationary employees are "at will" employees and may be terminated with or without a stated reason, with or without notice at any time during the probationary period. The City shall have no obligation to create a new position or terminate any other employee, regardless of status, to accommodate said formerly classified employee. Any termination prior to the expiration of the probationary period shall be final, with no right of appeal.

### **Transfer During Probationary Period**

If an employee is transferred to another position in the same class and the same Department prior to the completion of the employee's probationary period, the total time employed shall be counted towards the probationary period. In a case of transfer from one Department to another, the required twelve months probationary period shall begin at the date of transfer to the new Department.

A minimum of 12 months in current position is required. Prior employees can transfer to another Department if approved by City Manager.

### **Classified Employment Status**

A full-time employee who has satisfactorily completed the probationary period shall be designated as a classified employee. Classified employees may be dismissed either at will (without cause) or for cause. Classified employees may not appeal a termination without cause. Classified employees who are transferred at the initiation of the Department Director or the City Manager in the interests of the City (involuntarily transferred) are not required to serve a probationary period in the new position.

Only employees who have attained classified status shall have the right to appeal disciplinary actions involving loss of time and/or pay in accordance with the procedures set forth herein.

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## Other Changes in Employment Status

### Lateral Transfer

A lateral transfer is the re-assignment of an employee from one position to a substantially similar position within the same job classification and the same pay scale. In such cases, a transfer is considered lateral even where the employee receives a pay increase in the new position. A lateral transfer may be voluntarily initiated by the employee (i.e. the employee submits an internal employment application for an announced vacancy) or involuntary to accommodate the needs of the City (the transfer is initiated by appropriate supervisory personnel).

### Direct Promotion

In the event that a vacancy occurs within a Department which represents a promotion in classification and/or rank for Departmental personnel, upon written request from the Department Head and approval from the City Manager, the position may be filled by direct promotion of an internal applicant with demonstrated experience and qualifications which support the promotion.

### Interim Appointment

An interim or acting appointment occurs when an employee is requested to temporarily fill a vacant position to carry out the duties and responsibilities thereof for a limited period of time. Typically, such appointments are for the sole purpose of carrying out essential functions until the hiring cycle is complete and a full-time employee fills the vacancy or brief absences due to vacation, illness or other short-term conditions. An employee who fulfills a position in a higher classification than his or her current position for more than 10 consecutive working days on an interim basis may be paid up to additional compensation equal to 10% of his or her current salary unless a larger rate is determined by the City Manager.

### Demotion

A demotion is the re-assignment of an employee to a position within a lower classification and/or a lower pay scale. Demotion may be the most appropriate option where an employee's job performance in the current position is unsatisfactory and additional training and appropriate supervisory intervention has been unsuccessful in improving performance, but where the employee demonstrates aptitude and ability to perform the essential functions of the job in the lower classification. Demotion necessarily results in the reduction of the employee's salary. A demotion may only take place upon prior written notification to the employee. The employee shall have the right to appeal the demotion in accordance with the appeal procedures.

### Appointment

Upon receipt of the Department head and Personnel Manager's recommendations, the City Manager shall approve or deny all appointments.

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## Types of Appointments

**Regular Appointment:** The appointment of an individual to the Municipal Service.

### **Other Types of Appointments:**

To fill positions of a seasonal, part-time, or temporary nature the following appointments may be made (such appointments will confer no rights of status, appeal or related rights):

**Seasonal and Temporary:** Such appointments may be made for work, which is seasonal in nature or temporary in its requirements. All applicants for such position shall meet the requirements set forth by the Department head.

**Part-time:** May be made for work, which requires the services of an employee for less than the number of hours of a typical work week. Applicants for such position shall meet the requirements set forth by the Department head.

**Substitute:** May be made to fill a vacant position due to an extended leave of absence or other authorized leave. A substitute appointment shall confer no status or rights under the rules except those of the lower classification when such appointment is made from among existing employees.

**Special Administrative Appointments:** In the event of a vacancy in the position of Department head, the City Manager may request that an employee accept such a position in an acting capacity. Such acceptance will not entitle the employee to subsequent administrative appointment to that position. Any employee in the Municipal Service accepting such an acting position will not forfeit any rights or benefits, even though the acting position is exempted from the Municipal Service. Such appointments, in an acting capacity, shall continue for an initial period of not more than six (6) months duration and may be renewed, for an additional period thereafter, by the City Manager. Any employee appointed to an acting position may receive a temporary salary increment of up to ten percent (10%) over his/her current earnings, but in no case shall the temporary salary be more than that budgeted for the Department head position.

## **Employee Attendance and Leave**

Efficient operation of the City requires that all personnel report to work as scheduled and work diligently at their assigned tasks. Employees are expected to be on time daily and to remain at their assigned workstations throughout the scheduled working hours unless otherwise excused by the supervisor. Employees are responsible for managing their time and attendance in compliance with the Manual and any applicable Departmental directives. Accordingly, employees who have a pattern of excessive absenteeism and/or habitual tardiness will be subject to disciplinary action, up to and including termination.

## **Work Schedules**

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## **Full time Employment**

All full-time non-salaried employees are required to work a 40-hour work-week, normally comprised of five (5) days of eight (8) hour shifts. The scheduled days and hours of work shall be assigned by the Department Director to serve the needs of the City. Salaried employees are expected to work a minimum of 40 hours per work-week but will typically work more hours than 40.

## **Part-time Employment**

Part-time employees may be assigned to work up to a maximum of 30 hours per week as assigned unless otherwise provided for by Federal or State laws. Part-time employees are not guaranteed any minimum number of work hours and shall only report to work as specifically assigned. The scheduled days and hours of work shall be assigned by the Department Director to serve the needs of the City.

## **Breaks and Rest Periods**

Employees who work an eight (8) hour day are provided with one un-paid one-hour meal period. Employees who work a six (6) hour day are provided one unpaid thirty-minute meal period. During the meal period, employees must be completely relieved of work-related duties and responsibilities. Employees are expected to return to work at the end of their meal period and within the allotted time as determined by their Department Head. All employees required to use a timeclock must clock-out prior to beginning their meal period and clock-in prior to resuming work. Working through a meal period is not permitted to make up time previously missed unless prior approval is granted by the Department Head.

In addition to the designated lunch period, employees may be allowed two paid (2) 15-minute breaks during the day; one break prior to the lunch period and one break after the lunch period. Break periods must be taken on City work premises. Rest periods and lunch periods are non-cumulative and may not be combined for purposes of extending the lunch period, arriving later to work, and/or leaving work earlier.

## **Overtime Work Assignments**

The City's established pay week begins at 12:01 a.m. on Monday and ends at 12:00 midnight the following Sunday. All non-exempt, full-time employees are paid on an hourly basis and as set forth above, the regular work schedule for such employees is forty (40) hours per pay week. Under extraordinary circumstances, such employees may be required to work additional hours during the pay week. All overtime work requires the prior approval of the supervisor. In such cases, the employee shall be compensated as provided in the Fair Labor Standards Act (FLSA). This means that employees who are not exempt from the overtime provision of the FLSA will be paid overtime at the rate of time and one-half for all hours actually worked in excess of forty (40) hours in the established typical work week.

This rule does not apply to those positions determined to be exempt from overtime under the Fair Labor Standards Act.

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No paid absences shall be counted in the computation of overtime. Overtime is based on “actual hours worked”, therefore, vacation, sick, holiday, personal day, compensatory time and other such leaves will not be used in the computation of overtime worked.

There shall be no duplication or pyramiding in the computation of overtime pay and nothing in this manual shall be construed to require the payment of overtime or other premium pay more than once for the same hours actually worked.

Employees shall be given as much advance notice as practicable when overtime is required.

Employees who are not exempt from the overtime provisions of the FLSA are to work overtime hours only when assigned and authorized. “Volunteered time”, though well intentioned and appreciated, is not permitted. This includes early and late work hours and working through lunch periods.

Overtime shall, whenever practicable, be distributed in a fair and equitable manner among all employees qualified to perform the work.

### **Compensatory Time**

An employee who is otherwise eligible for overtime payment under the provisions of this policy may elect to or may be directed to receive Compensatory Leave Time in lieu of payment for overtime worked with the approval of the City Manager. In such cases, the employee shall indicate on the Payroll System, or other designated means, his or her intent to be credited with Compensatory Time rather than paid overtime. Compensatory time shall be given at the rate of one and one-half hour of leave for every hour of overtime worked. Employees may accrue a maximum of 120 hours of Compensatory time. Compensatory Time may be taken as operational conditions permit with prior approval by the City Manager.

Department Heads are authorized to adjust an employee’s work schedule to avoid assigning overtime. Non-exempt employees shall not work either before or after their scheduled hours of work unless they have obtained prior approval as set forth in the provisions of this policy. Violation of this policy is grounds for disciplinary action up to and including termination.

### **Call back time**

If a full-time employee is called back to work at a time outside normal working hours, and at least two (2) hours before the beginning of the shift or immediately after the end of the shift, the employee shall be paid for the actual time worked multiplied by time and one-half their hourly rate or a minimum of three (3) hours, whichever is greater, for each callback. However, an employee who has not worked a forty (40) hour work-week will be compensated for the call back at straight time up to forty (40) hours and then compensated at time and one-half for all time over forty (40) hours.

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## Reporting Overtime Work

All overtime must be reported on the same date and time that the employee's regular work hours are reported for payroll purposes. Such report shall be made using the City's established Payroll System or other means designated by the Human Resources Division.

## Attendance and Time Keeping

The employee time and attendance record is the official record of attendance and hours worked; each employee must document all hours worked on a daily basis. Each employee must review and verify his or her time and attendance record on the City's approved payroll system at the end of the pay period. Such verification attests to the accuracy and completeness of the employee's time and attendance reflected therein. Employees are strictly prohibited from falsifying any time and attendance report (i.e. clocking in or out for a co-worker, altering hours worked, etc.). Falsification of a time and attendance record is grounds for immediate termination of employment upon the first occurrence.

## Emergency Closings

In the event of an emergency situation, which requires the cessation of normal City operations, employees will receive notification from the City Manager's Office that employees are excused from work. In such cases, all employees who have not been assigned duties related to managing the specific crises and/or emergency situation shall cease work and report to a safe location. All full-time employees who are excused from their duties shall continue to be paid for the duration of the emergency. Part-time, temporary, and/or seasonal personnel who are unable to work as a result of the declared emergency will be paid for hours actually worked on the date of the City's closure, but will not be paid for hours not worked during the emergency situation.

## Accommodating Religious Observances

The City maintains a strict anti-discrimination policy and does not discriminate against employees on the basis of religion. Any employee who needs a workplace religious accommodation must submit a written request setting forth the accommodation requested, the dates of such accommodation, where applicable, and any other details deemed necessary to assist the City in determining how to reasonably accommodate the request. All reasonable requests will be granted, provided that the accommodation does not create an undue hardship and does not impact health and/or safety of the City.

## Designated Holidays

All full-time employees shall be paid for the following designated holidays. Under no circumstances shall temporary, seasonal or part-time employees be entitled to the provisions of this section.

New Year's Day  
Martin Luther King Jr.'s Birthday  
Presidents Day

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Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veterans' Day  
Thanksgiving Day  
Friday after Thanksgiving  
Half Day before Christmas  
Christmas Day  
Half Day before New Year's Day  
Employee's Birthday (Must be taken before the employee's anniversary date each year)  
Floating Holiday (2 days) (Must be taken before the employee's anniversary date each year)

Employee Birthday and Personal Days must be used in the anniversary year in which they accrue and may only be taken after one full year of city service in a full-time position. Unless provided otherwise by the City Manager, holidays falling on Saturdays shall be observed on the preceding Friday, and holidays days falling on Sundays shall be observed on the following Monday.

Employees given holiday work assignments that fail to report for and perform such work for any reason other than verified significant illness as documented by a Doctor, or emergency, shall not receive pay for the unworked holiday and may be subject to disciplinary action.

If an employee is on authorized leave when a holiday occurs, that holiday shall be charged to holiday pay and not to vacation, sick or other such leaves.

Part-time employees shall not be entitled to Holiday Pay. Part-time employees will be paid for any hours actually worked on a holiday.

Holiday pay shall not be counted as "hours worked" and will not be included in computing overtime in any pay period. Employees must be on active pay status and/or work their scheduled hours on the regularly scheduled working day immediately prior to a holiday and the regularly scheduled working day immediately following a holiday in order to be eligible to receive holiday pay.

Floating Holidays and Birthday hours will not be paid out if employee leaves City employment.

### **Holidays on Scheduled Work Day**

Non-exempt employees who are required to work on such days, shall be paid at a rate of time and one half for hours worked in addition to Holiday pay.

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Exempt employees eligible for holiday leave who are scheduled to work on the designated holiday shall be granted an alternative day off in lieu of the holiday. The alternative holiday must be taken during the same month in which it accrues. Carryover of holiday leave may be approved by the City Manager.

## Voting

Employees are encouraged to exercise their right to vote in public elections outside of their scheduled working hours. Department Directors are encouraged to allow time flexibility for employees wishing to vote, but not at the expense of service to the public of the City of South Miami.

## Annual Leave

Full time employees shall be entitled to earn and accrue annual or vacation leave with pay. Under no circumstances shall temporary, seasonal, provisional or part-time employees be entitled to the provisions of this section.

Effective May 1, 2017, Employees hired in the position of Directors and qualified Senior Managers, as determined by City Manager, will be eligible for a minimum of 15 days of Annual Leave per full year of service.

## Computation of Annual Leave

The City recognizes that time off is valuable and provides an opportunity for a period of rest and relaxation, which promotes the overall well-being and increased productivity of its employees. Accordingly, all full-time employees shall accrue Annual Leave on the following prorated basis:

<b>Years of Uninterrupted Service</b>	<b>Monthly Accrual Rate</b>	<b>Amount of Annual</b>	<b>Maximum Leave Balance</b>
1 – 4	8 hours	12 days – 96 hours	24 days – 192
5 – 14	10 hours	15 days – 120 hours	30 days – 240 hours
15 – 19	12 hours	18 days – 144 hours	36 days – 288 hours
20 years or more	14 hours	21 days – 168 hours	42 days – 336 hours

Annual leave may be taken as earned by the employee subject to the approval of the Department Director. All requests for annual leave must be submitted in writing in advance using the City’s authorized Payroll System. The Director shall have the discretion to deny requested Annual Leave when such request conflicts with the needs of the Department and the City. Employees shall not be permitted to accrue Annual Leave in excess of the maximum leave balance set forth above unless approved by City Manager.

The minimum unit of Annual Leave that may be charged to a non-exempt employee is 1 hour. The minimum unit of Annual Leave that may be charged to an exempt employee is 2 hours. Annual Leave may not be used to “make up” time missed from work due to

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tardiness. An employee who separates from the City in good standing with accrued, but unused Annual Leave, shall be paid for the unused Annual Leave at the employee's rate of pay at accrual. Such payment shall be issued at the time the employee receives his or her final paycheck.

## **Scheduling of Annual Leave**

Department heads shall schedule annual leave of employees in their Department with due consideration to the needs of the City, wishes of the employees, and the employees seniority. The Department head's determination of the schedule of leaves shall be final unless revised by the City Manager. Requests for vacation leave for Directors and Deputy City Manager shall be approved by the City Manager prior to the dates of leave. Except in the event of an unforeseen emergency, vacation leave must be scheduled and approved by the supervisor in advance.

## **Payment in Lieu of Annual Leave**

Employees who have a balance of 60 hours or greater of accrued, unused, annual leave shall be eligible to convert up to 40 hours of annual leave within a consecutive twelve (12) month period to a cash payment. However, should a Department Director determine that an employee has not worked to a sufficient standard during the applicable fiscal year, the Director may deny such conversion.

The calculation of leave, which is received in lieu of taking time off, shall be made on the basis of the straight time rate of pay in effect on December 31<sup>st</sup> of the year such leave was earned. The pay-out of said leave shall be in the order it was earned, thereby paying out from the oldest leave toward the more recently accrued leave.

## **Sick Leave**

Sick leave is a benefit provided to all full-time employees of the City to provide paid leave in the event that the employee is unavoidably absent from work due to illness, pregnancy, medical or dental appointments, or other health reasons. Sick leave may not be used to "make up" time lost from work due to tardiness for reasons not otherwise eligible for the use of sick leave. Employees are urged to take sick leave when appropriate to lessen the opportunity to transmit the disease to coworkers and the public. Employees are prohibited from reporting to work when they have been advised by a healthcare provider that they have a contagious illness.

## **Accrual of Sick Leave**

Full-time employees shall accrue sick leave at the rate of one day (8 hours) of sick leave for each calendar month not to exceed twelve (12) days per year.

Part-time, seasonal, or temporary employees are not granted sick leave benefits. No employee will receive credit toward sick leave accrual for time not actually expended on the job, except for designated holidays, vacation, sick leave, and other authorized leaves

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with pay. Sick leave shall not accrue when an employee is on leave without pay for more than ten consecutive days.

### **Limitation of Sick Leave accumulation**

Effective October 1, 1995, employees may accumulate sick leave without a maximum limit. Employees hired prior to October 1, 1995, who voluntarily terminate employment from the City, shall receive payment for 100% of leave deposited in their sick bank, up to 600 hours. Employees hired on or after October 1, 1995 who, upon voluntary termination from the City, have a minimum of 300 hours of leave deposited in their sick leave bank, shall be entitled to a termination payout of 150 sick leave hours. Employees hired on or after October 1, 1995 with less than 300 hours of sick leave will not be entitled to a sick leave payout upon termination.

### **Use of Sick Leave**

Sick leave is granted to employees when they are incapacitated from the performance of their duties at the City because of:

- a) The employee's own sickness or injury;
- b) Pregnancy or pregnancy-related complications of the employee or employee's spouse;
- c) Serious illness in the employee's immediate family (mother, father, brother, sister, spouse, child, grandparent, or domestic partner (significant other) that requires the presence of the employee);
- d) Attendance at medical or dental examinations of the employee, employee's spouse, or children; or
- e) Any reason that qualifies for Family and Medical Leave.

Sick leave will not be granted to an employee who is not available for scheduled work because of a reason unrelated to health or medical needs as described in the policy.

### **Reporting use of Sick Leave:**

When the need for sick leave is unforeseeable, an employee requesting sick leave must give notice to his or her immediate supervisor or Director no later than one hour after the scheduled start time. All reasonable attempts should be made to report such absence before the beginning of the scheduled work period for which the employee is requesting sick leave so that duties can be reassigned in an orderly manner.

Where the need for sick leave is foreseeable, the employee should complete a leave request in advance of the requested leave, indicating the reason for leave and the expected date of return.

An employee's failure to submit a leave request or to notify his or her immediate supervisor will result in loss of compensation for the absence and may be grounds for disciplinary action, up to and including termination.

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In all cases, an employee on sick leave is responsible for keeping his or her immediate supervisor informed regarding his or her anticipated return date. A certificate signed by a physician or other health care provider specifying the need for sick leave may be required for all sick leave absences in excess of three (3) work days, and for absences of less than three (3) work days when the Personnel Manager and/or Department head so directs. The City retains the right in all cases of reported illness to require the employee to be examined by a reputable physician of the City's selection at the City's expense. Failure to provide such documentation or to submit to an examination, when required by the City, shall result in the loss of compensation for such absence and may be grounds for disciplinary action, up to and including termination.

Employees taking more than two (2) days of sick leave for reasons other than their own illness must obtain the specific approval of their Department Director.

Employees taking leave for reasons that also qualify for Family and Medical Leave Act (FMLA) are required to also apply for and exhaust such FMLA leave.

### **Abuse of Sick Leave**

Abuse of sick leave includes, but is not limited to, using sick leave for a non-qualified reason; excessive use of sick leave; failure to follow appropriate procedure for timely requesting sick leave; failure to submit a doctor's note when required; repeat use of sick leave in conjunction with days off, or other failure to follow the spirit and directives of this policy. Abuse of sick leave will subject the employee to disciplinary action up to and including termination of employment.

### **Verification of Illness**

The City reserves the right to require an employee returning from sick leave to provide a statement from the treating physician releasing the employee to return to work. The employee shall be responsible for obtaining the release at his or her own expense. The City reserves the right to refer the employee for examination by physicians of its choosing at its expense for additional opinions concerning the employee's medical fitness to return to work.

### **Conversion of Sick Leave**

Wellness is a benefit to the City of South Miami. Employees who have not utilized more than thirty-two (32) hours of sick leave within a consecutive twelve (12) month period and who have a sick leave balance greater than 30 days (240 hours) shall be eligible to convert up to 5 days (40 hours) of sick leave to annual leave, provided that the employee retains a sick leave minimum balance of 200 hours. However, should a Department Director determine that an employee has worked when they should have taken sick leave (i.e. not taking sick leave when warranted, which could endanger other employees) the Director may deny such conversion.

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## City Wide Shared Sick Leave Program

Occasionally, extraordinary and unavoidable circumstances may arise which render an employee unable to report to work due to an extended, non-work-related illness or injury, and /or catastrophic circumstance. In such cases, where the affected employee has exhausted all paid leave time in his or her individual account, he or she may be eligible to request and use sick leave donated by fellow employees to remain in pay status during the absence. All such requests and donations must comply with the provisions of this policy.

Requests to receive donated leave time must be completed in writing and shall specify the nature of the illness, injury and/or catastrophic medical emergency that requires the use of donated leave, and the expected duration of the condition. The employee shall be required to apply for Family and Medical Leave Act Leave ("FMLA Leave") to be eligible to use shared leave under this policy. The employee's Department head and the City Manager must approve the request prior to the solicitation of donated leave time under this policy. In reviewing such request, consideration shall be given to the designated employee's previous leave history and the nature of the illness, injury, or catastrophic medical emergency. Request for use of Shared Sick Leave may be denied to employees with a history of excessive use of sick leave as determined by the Department head and City Manager.

Upon approval of the leave application requests, the Human Resources Division shall notify all City employees of the need for donated sick leave and shall offer employees the opportunity to make donations to the Shared Sick Leave Bank. Sick Leave Donation forms are available in the Human Resources Division. All donations must be made freely and voluntarily by the individual employee. No employee may solicit or request donations under this policy except for authorized personnel from the Human Resources Division. Any employee who makes a request outside of the provisions of this policy shall be subject to disciplinary action. Any employee who has received approval for use of shared sick leave who solicits or causes another to solicit leave in violation of this policy shall have said approval revoked and shall be ineligible to submit a request under this policy for twelve (12) months from the date of such revocation.

As donor forms are completed, they shall be forwarded to the Human Resources Division. Donated time will be credited to the absent employee, as needed.. Donors name can be shared at the discretion of the donor's approval.

A maximum of 400 hours of donated leave time will be permitted per incident as requested by an individual, full-time employee. An employee may request donated sick leave once during a consecutive twelve (12) month period. Employees may donate up to a maximum of 80 hours of accrued leave per individual request.

Time donated for this purpose will not be considered "sick leave used" for the purpose of employee evaluations and conversion of sick leave to annual leave.

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## Family and Medical Leave Act (FMLA)

The City offers leaves of absence in accordance with the Family and Medical Leave Act of 1993 (“FMLA”) and the FMLA expansion under The Support for Injured Service Members Act of 2007. All eligible employees shall be entitled to a maximum of twelve weeks of unpaid, job protected leave during a twelve-month period for qualifying reasons under the procedures set forth herein. Employees are eligible for up to 26 weeks of job-protected leave in a 12-month period to care for a military service member who is injured or ill with an active duty service connected injury or illness.

### Requirements for FMLA Eligibility

To be eligible for FMLA leave, employees must meet the following requirements:

Employed by the City for at least 12 months and have actually worked at least 1,250 hours during the 12 months immediately preceding the start of FMLA leave. Annual Leave, Sick Leave, or other authorized leave are not included in calculating the minimum hour’s requirement.

Except when leave is unforeseeable, the employee must provide the City at least 30 days advance notice of requested leave by obtaining and completing the Employee Request for FMLA Leave and Certification of Health Care Provider (available from Human Resources Division). In cases where 30 days-notice is not possible, notice must be given as soon as practical.

For leave involving the serious illness of the employee, spouse, child, or parent, medical certification is required. Failure to provide advance notice and medical certification when required can result in leave being delayed for up to 30 days or being denied.

When certification of a medical condition is required, the employee should ensure that the certification contains the date when the condition began; its expected duration; a brief statement of treatment; a statement that the employee is unable to perform one or more specified essential functions of the employee’s position or a statement that a covered family member requires assistance and that the employee’s presence is required; and any other pertinent information.

The City reserves the right to require a second opinion of any medical certification provided by a medical provider of the City’s choice at the City’s expense. If there is a conflict between the original certification and the second opinion, the City may require a third medical opinion. The third opinion will be final.

### FMLA Qualifying Events

FMLA Leave is intended for serious health conditions and specified family reasons. For purposes of this Policy, a serious health condition shall be defined in accordance with the FMLA. Employees with questions about whether specific illnesses, injuries,

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impairments, or physical or mental conditions are covered under this policy or under the City's Sick Leave Policy are encouraged to meet with the Personnel Manager. In general, eligible employees are entitled to FMLA Leave for one or more of the following qualified family and/or medical reasons:

1. Pregnancy, birth of a child, and to care for a newborn;
2. Placement of a child through adoption or foster care and to care for the newly placed child;
3. To care for an employee's seriously ill parent, spouse, or child.
4. When the employee's own serious health condition makes the employee unable to work;

A covered family member's active duty or call to active duty in the Armed Forces (spouse, son, daughter, or parent) in support of a contingency operation for the purpose of attending certain military events and related activities, arranging for alternative childcare, attending certain counseling sessions, attending post-deployment reintegration briefings and additional activities not encompassed in the other categories, but agreed to by the employer and employee;

An employee is also eligible for a leave up to 26 weeks in a 12-month period to care for a covered service member who is injured or ill with an active duty service connected injury or illness.

### Procedures for Requesting Leave

Requests for FMLA leave must be submitted, in writing, on the appropriate form, to the Human Resources Division with required medical certification for approval or disapproval. Forms are available in the Human Resources Office.

Following receipt of an FMLA request, the Human Resources Division will provide a written response to the employee, either approving, denying, or requesting further information within five (5) business days. Following confirmation that the employee is eligible for FMLA leave, the Human Resources Division will notify the employee's Department head of the approval of FMLA and the start date of such leave and, if known, the employees anticipated return to work date.

While on leave, employees may be required to report periodically to the City regarding the status of the medical condition and their intent to return to work. Employees will be advised of any such requirement during their leave.

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## Calculation of Leave Period

The 12-month period during which the employee may take 12 weeks of FMLA leave is a rolling 12-month period starting with the date the employee first uses medical leave. Each time an employee takes leave, the City will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks (or 26 weeks for the care of an injured or ill service member) of available leave, with the balance remaining being the amount the employee is entitled to take at that time.

In certain cases, the City may authorize intermittent use of the twelve (12) weeks of family or medical leave. Employees wishing to use leave intermittently or to utilize a reduced workweek for FMLA purposes will need to discuss such use with the employee's Department Director and the Personnel Manager. In the event that intermittent leave is approved, the employee shall be required to notify his or her supervisor and the Human Resources Division each time leave taken is for FMLA purposes.

## Pay During FMLA Leave

An employee must use any accrued Annual and Sick Leave during an approved FMLA leave. If an employee's accrued Annual and Sick Leave is exhausted but the employee is still eligible for additional leave under the FMLA, the remainder of the employee's FMLA leave will be unpaid, with the exception of any temporary disability benefits under the Florida Workers' Compensation Law. All leave time runs concurrently, with only a total of 12 weeks allowed under FMLA (or 26 weeks for the care of an injured or ill service member).

Employees who are on approved FMLA Leave retain the right to apply for use of the Shared Sick Leave Program. Application and award of such leave shall be governed solely in accordance with the policies and procedures of the Shared Sick Leave Program.

## Continuation of Benefits:

An employee shall be entitled to maintain group health, dental, vision and supplemental insurance coverage on the same basis as if he/she had continued to work at the City. To maintain uninterrupted coverage, the employee must continue to pay his/her share of insurance premium payments. This payment will continue to be deducted from the employee's pay during periods of paid leave. If the employee's leave is unpaid, payment must be made either in person or by mail to the Human Resources Division by the first day of each month. If the employee's payment is more than thirty (30) days overdue, the coverage will be dropped for non-payment of premium.

If the employee informs the City that he/she does not intend to return to work at the end of the leave period, the City's obligation to provide health benefits ends.

If the employee contributes to any voluntary insurance plans, the City will continue making payroll deductions to cover premiums while the employee is on paid leave. While the employee is on unpaid leave, the City will request that the employee continue to

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make those payments, along with the other insurance premium payments. If the employee does not continue these payments, the voluntary coverage will be dropped for non-payment of premiums.

### **Return to Work**

In order to return to work from FMLA leave for his or her own serious health condition, the employee is required to provide a fitness for duty certification from the employee's doctor on or before the day the employee returns to work. The fitness for duty certification must address the employee's ability to perform the essential functions of his or her position as listed in the job description (applicable job descriptions may be obtained from the Human Resources Division). If the employee is released to return to work with any medical restrictions, the fitness for duty certification shall specify those medical restrictions and the expected duration of the restrictions.

The employee must pay any costs associated with the completion of a fitness for duty certification (including the costs of the applicable healthcare provider) and the employee is not entitled to be paid for the time or travel costs spent to obtain the fitness for duty certification.

If the employee fails to provide a timely fitness for duty certification, the City may delay the employee's restoration to employment until the completed fitness for duty certification is provided. Failure to adhere to the return to work policy stated herein may result in disciplinary action up to and including, termination of employment.

An employee who fails to return to work more than one (1) day after the expiration of his or her approved FMLA leave will be treated as a voluntary resignation, absent a request and authorization for an extension of leave or an accommodation under the Americans With Disabilities Act (ADA). Any such request must be submitted in writing to the Human Resources Division at least two (2) weeks prior to the expiration date of the employee's approved FMLA leave of absence, or as soon as reasonably practicable after determining the basis for the extension request. The effective date of an employee's voluntary resignation will be the day following the expiration of his or her FMLA leave.

### **Reinstatement Rights**

Upon return from FMLA Leave, employees will be reinstated to their former position or to a position of equivalent status with equivalent employment benefits, pay, and other terms and conditions of employment, according to the provisions and limitations of the FMLA.

### **Workers' Compensation Policy**

Florida's Workers' Compensation Laws apply to all City employees. The eligibility and entitlement to benefits for all on the job injuries are governed by the applicable Florida Statutes. Employees who must leave work on the day of the accident due to injury will

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be compensated for a full 8 hours of regular pay. Employees who are temporarily totally disabled due to job injury and are unable to report to work as a result of such injury may be eligible for disability leave for a period not to exceed 90 days, provided that the employee is approved for lost time compensation under Workers' Compensation Law.

Disability leave pay shall be computed on the basis of the difference between the regular straight time earnings of the employee and the benefits paid under the Florida Worker's Compensation Law for a maximum period not to exceed ninety (90) days per injury.

If an employee is injured on the job and the injury qualifies as a serious health condition under the FMLA, and all other FMLA requirements are met, the City requires that the time-off for the injury be deducted from the employee's FMLA leave entitlement rather than other available leave categories.

### **Injury Reporting Requirements**

All accidents that occur while on duty must be reported immediately to the employee's immediate supervisor and/or Department head who shall forward the same to the Human Resources Division. The report of injury/accident must set forth the date and time of the accident; a brief summary of the occurrence; the names and contact information of any witnesses; and whether the employee was utilizing required safety equipment at the time of the accident. Immediately upon report of the injury, the employee will be sent for mandatory post-accident drug and alcohol testing. In the event the accident occurs after hours, the Personnel Manager must be immediately notified via telephone of the accident. After-hours on-site testing will be authorized in such cases. Any employee who fails to immediately report a work place accident will be subject to appropriate disciplinary action, up to and including termination of employment.

Employees failing to report injuries within one (1) hour from occurrence of such injury will be excluded from any disability leave pay benefit under this policy. Additionally, the employee may be disciplined for failure to comply with the workers compensation procedures.

### **Return to Work Program**

The City believes that it is in the best interests of the City and its employees to permit workers who sustain injuries during the course of their employment to return to work as soon as practicable. Therefore, the City makes every reasonable effort to accommodate bona fide functional limitations with transitional/light duty assignments.

### **Eligibility for Transitional/light duty**

The purpose of this policy is to provide Department heads and employees with guidelines governing Light Duty Assignments.

This policy contains the following sections:

Light Duty Definitions

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Light Duty Procedures  
Light Duty Prohibitions  
Cancellation of Light Duty Assignments  
Permanent Inability to Perform duties

All full-time employees with physical or emotional impairments, which affect their ability to perform normal duty functions, may, upon request and at the discretion of the City Manager, be assigned to a Light Duty Assignment. The City Manager maintains the sole authority and discretion to grant the request for Light Duty Assignment. The employee is not granted herein with any entitlement for a Light Duty or other special assignment. If there is a rejection of any request for Light Duty or other special assignment, the employee shall utilize their available sick time with normal established procedures. The provisions of an applicable collective bargaining agreement will supersede this directive for bargaining unit members where any conflict exist.

## Light Duty - Definitions

**Light Duty Assignment** – Means any limited duty status while recuperating from an injury, illness, or other condition where employee is temporarily unable to perform regular assignments. A Light Duty Assignment may be granted to all full-time employees with physical or emotional impairments that have satisfied their probationary period, at the discretion of the City Manager. Light duty Assignments will prohibit an employee from performing certain functions described within this policy. The decision to grant Light Duty status will be based on a specific need of the City and/or Department. Light Duty Assignments are temporary and shall not be considered permanent.

**Rolling Year** – Calculated by measuring backward twelve (12) months from the date the employee is approved for light duty assignment.

- 1) If the employee has not worked in a light duty assignment in the preceding twelve (12) months, the employee is eligible to use up to the total of ninety (90) calendar days.
- 2) If the employee has worked a portion of the allowable ninety (90) calendar days in the rolling year, the employee is eligible to use the balance of the ninety (90) calendar days.
- 3) Employee may be eligible for a one time ninety (90) calendar day extension to their light duty status based on an established medical and departmental need as long as documentation is provided by the treating physician.
- 4) Light Duty Assignment will be tracked by Personnel Manager, with copies of the documents filed in the employee's personnel file.

## Light Duty - Procedures

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## **Criteria considered for transfer to light duty assignment:**

Employees requesting a Light Duty Assignment shall provide a Light Duty Request Form to the City Manager through their Department head and/or chain of command detailing the facts relating to their request including information regarding the probable duration of the injury and recovery. Do not include protected medical information. The memorandum shall be forwarded to the Personnel Manager and must be accompanied by documentation from a licensed medical physician or other health care provider indicating the expected recovery time and a detailed description of the work restrictions, which are necessary given the employee's condition. It should also include the follow-up scheduled appointment date. Prior to returning to full active duty, the member shall also provide documentation from a physician, releasing them from Light Duty Assignment to Full Duty.

Employees approved for a Light Duty Assignment will be placed on an eligibility list. Eligibility for a Light Duty Assignment will be on a first come, first serve basis based on the date the member submitted the memorandum required. If two members should submit a memorandum on the same date, skill level and seniority shall apply.

The City Manager and Department head shall decide the location, schedule, work hours, and duties of the Light Duty Assignment and will provide that information to the employee by way of memorandum prior to the assignment.

The employee operating in a Light Duty Assignment will be evaluated on a regular basis by their assigned Supervisor and will be subject to removal if their performance and abilities do not fulfill the current need of the Department.

Light duty assignments are at the sole discretion of the City Manager and may be revoked at any time in the best interest of the Department. If revoked, the employee will rely upon worker's compensation or sick leave, whichever is applicable.

Employees given a Light Duty Assignment will report directly to the appropriate Supervisor in the Department of which they are temporarily assigned.

An employee with an on-the-job injury/medical condition, job-related psychological condition, or is pregnant will receive preference for a light duty assignment. There shall be no expectation by an employee to be granted a light duty assignment resulting from injury or other medical condition that is not job-related.

## **Light Duty - Prohibitions**

Employees granted a Light Duty Assignment shall adhere to physical limitations as advised by the treating physician.

Employees on Light Duty Assignment shall not wear their official Department uniform. Civilian clothing will be worn as directed by the City Dress Code Policy. Police Officers are not

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to wear a badge and any police identification shall be displayed while on Light Duty Assignment.

Employees shall not drive City vehicles and/or Police Department vehicles while on Light Duty Assignment. Employees on Light Duty Assignment shall be required to surrender their assigned take home vehicle for the duration of their Light Duty Assignment.

Employees on Light Duty Assignment will not be allowed to work off-duty details or overtime.

Light Duty Assignments will not exceed ninety (90) calendar days on a rolling year basis, with the below exceptions:

Employees who are pregnant and wish to assume light duty status may request a light duty assignment for the duration of their pregnancy at any point during their pregnancy. All procedures for being approved for a light duty assignment still apply. This is in accordance with the federal Pregnancy Discrimination Act (PDA). If approved for light duty the pregnant employee will continue to be evaluated on a regular basis by their assigned supervisor and will be subject to removal if their performance and abilities do not fulfill the current need of the Department.

Employees may be eligible for a one time ninety (90) calendar day extension to their light duty status based on an established medical and Departmental need. A Light Duty Request Form and other medical documentation will be required as outlined in Section II (A) in order for the extension to be considered.

If an employee requesting a Light Duty Assignment or currently in a Light Duty Assignment becomes limited in their abilities where they are unable to fill the need of the Department, the employee will be ineligible.

### **Cancellation of Light Duty Assignments**

When an employee is able to return to full duty status or has completed a 90-day light duty assignment, whichever comes first, the employee shall provide documentation from the treating physician allowing them to return to full duty status without any restrictions. The documentation should be sent immediately upon receipt to the City Manager, Personnel Manager, and the Department head.

The Personnel Manager will notify the Department head of the employees effective date to their regular assigned work status.

### **Permanent Inability to Perform Duties**

If an employee's treating physician determines that the employee has reached maximum medical improvement, but has a permanent inability to perform essential job functions as outlined in the job description, the employee will inform the Department head.

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The Department head will notify the Personnel Manager and provide the supporting documentation. The Personnel Manager will advise the employee of the available options as follows:

1. The procedures and eligibility of long-term disability benefits will be discussed, if applicable.
2. The employee may elect to retire or resign.
3. If neither option is selected, the employee will be terminated in accordance with the City personnel rules and regulations and/or any applicable collective bargaining agreement.

### **Outside Employment**

No full-time employee is permitted to hold any employment other than employment with the City, including self-employment, while working for the City or in a light duty capacity with the City without obtaining prior written approval from the City Manager. Violation of this provision may result in reduction or loss of Workers' Compensation benefits as provided by law; ineligibility for disability leave pay; and appropriate disciplinary action, up to and including termination of employment.

### **Other leaves with pay**

The following types of leave with pay may be granted upon recommendation of the Department head, by the City Manager.

### **Domestic Violence and Sexual Violence Leave**

The City provides leave from work to employees who require time off to deal with the issue or effects of domestic, or repeated violence, or sexual violence.

- A. Employees who are victims of domestic or sexual violence are entitled to a total of thirty (30) work days of, job protected domestic or sexual violence leave during any twelve (12) month period for one or more of the following:
  1. To obtain or receive medical and/or dental assistance for a medical and/or dental problem resulting from domestic or repeat violence, including obtaining such services for the employee's family or household member;
  2. To obtain and receive legal assistance relating to domestic or repeat violence, including but not limited to criminal prosecution, injunction for protection, protective order, divorce, custody of children, and child support;
  3. To attend court appearances relating to domestic or repeat violence, including but not limited to criminal prosecution, injunction for protection, protective order, divorce, custody of children, and child support;
  4. To attend counseling or support services, including counseling or support services for dependent children;
  5. To make the employee's home secure from the perpetrator of the domestic violence

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- or to seek new housing to escape the perpetrator; or
6. To make any other arrangements necessary to provide for the safety and well-being of an employee subject to domestic or repeat violence.
  7. Other valid reasons as approved in advance by the City Manager or designee.

### **Requesting Domestic or Sexual Violence Leave**

An employee seeking domestic or sexual violence leave must provide the City with written notice of his or her request for leave as far in advance of the desired leave as possible. The request should be submitted to the Human Resource Division. If the need for leave is not foreseeable, the employee must provide notice (verbal or written) as soon as is practicable under the facts and circumstances of the particular case and in accordance with his or her department's procedures for unforeseeable absences.

An employee must use any accrued Annual and Sick Leave during an approved domestic or sexual violence leave. If an employee's accrued Annual and Sick Leave is exhausted but the employee is still eligible for additional leave, the remainder of the employee's domestic or sexual violence leave will be unpaid. Employees who are on approved Domestic or Sexual Violence Leave retain the right to apply for use of the Shared Sick Leave Program. Application and award of such leave shall be governed solely in accordance with the policies and procedures of the Shared Sick Leave Program.

Except in case of imminent danger, an employee must submit a request for leave to his/her immediate supervisor or the Human Resources Division for approval along with sufficient documentation of the act of domestic or sexual violence.

An employee may take domestic or sexual violence leave intermittently or on a reduced leave schedule and the City will account for the leave in ¼ hour (15-minute) increments. However, if an employee requests an intermittent leave or reduced leave that is foreseeable based on a planned schedule, the City may require that such employee transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits, and better accommodates recurring periods of leave.

Domestic or sexual violence leave may be taken in addition to family leave under the City's Family and Medical Leave Act policy (See Policy No. 7.1) provided that the employee qualifies for FMLA leave.

### **Certification and Confidentiality**

A request for domestic violence or sexual violence leave must be supported by certification issued by an authorized person such as a health care provider, attorney of record, counselor, law enforcement agency, clergy, domestic violence advocacy agency, domestic violence center, or domestic violence shelter. The certification will be sufficient if it indicates that the employee is being subjected to domestic or repeat violence, or sexual violence, and needs time off to attend to one of the aforementioned matters.

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To the extent possible, information regarding the employee's request for leave under this policy will be kept confidential.

If the employee took leave to obtain or receive medical and/or dental assistance for him/herself, the employee must provide a fitness for duty certification from the employee's health care provider in order to return to work. The employee must pay the cost of obtaining the fitness for duty certification and the employee is not entitled to be paid for the time or travel costs spent to obtain the certification. If the employee fails to provide such a certification before the leave ends, the City may delay the employee's restoration to employment until the fitness for duty certification is provided to the City. If the employee never produces the certification, the employee may be terminated from employment.

### **Employment and Benefits Protection**

The taking of leave will not result in the loss of any employment benefits accrued prior to the date on which the leave commenced.

Upon his or her return to work from a domestic or sexual violence leave, the employee shall be entitled to: restoration to the position of employment held by the employee when leave commenced; or restoration to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment.

An employee on domestic or sexual violence leave must periodically report to the Human Resources Division on the status and intention of the employee to return to work.

### **Continuation of Benefits:**

An employee shall be entitled to maintain group health, dental, vision and supplemental insurance coverage on the same basis as if he/she had continued to work at the City. To maintain uninterrupted coverage, the employee must continue to pay his/her share of insurance premium payments. This payment will continue to be deducted from the employee's pay during periods of paid leave. If the employee's leave is unpaid, payment must be made either in person or by mail to the Human Resources Division by the first day of each month. If the employee's payment is more than thirty (30) days overdue, the coverage will be dropped for non-payment of premium.

If the employee informs the City that he/she does not intend to return to work at the end of the leave period, the City's obligation to provide health benefits ends.

If the employee contributes to any voluntary insurance plans, the City will continue making payroll deductions to cover premiums while the employee is on paid leave. While the employee is on unpaid leave, the City will request that the employee continue to make those payments, along with the other insurance premium payments. If the employee does not continue these payments, the voluntary coverage will be dropped for non-payment of premiums.

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## **Prohibition Against Retaliation**

The City prohibits discrimination or retaliation against any employee for exercising his or her rights under this policy. If an employee believes that he or she is being retaliated against, the employee must report the alleged retaliation to the Human Resources Division.

## **Definitions**

Domestic violence means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member, or any crime the underlying factual basis of which has been found by a court to include an act of domestic violence.

Family or household member means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

Sexual violence means sexual violence, as defined in Florida Statutes § 784.046, or any crime the underlying factual basis of which has been found by a court to include an act of sexual violence. Florida Statutes § 784.046 defines “sexual violence” to mean any one incident of: (1) sexual battery; (2) a lewd or lascivious act, committed upon or in the presence of a person younger than 16 years of age; (3) luring or enticing a child; (4) sexual performance by a child; or (5) any other forcible felony wherein a sexual act is committed or attempted, regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the State Attorney

## **Jury Duty**

Full-time employees who are summoned to Jury Duty by a court of competent jurisdiction shall be granted time off with pay provided the employee gives a copy of the summons to his/her supervisor at least five (5) work-days prior to commencement of service as a juror. Any employee, who is released from Jury Duty and has half a day or more of regularly scheduled work time remaining, shall report to work as soon as possible. Proof of time served on Jury Duty shall be required. According to Florida Statute Section 40.24, each juror who serves more than three (3) days is entitled to be paid by the state for the fourth day of service and each day thereafter at the rate of thirty dollars (\$30) per day of service. The City shall withhold from the employee’s usual wages or salary an amount equal to the statutory fees to which the employee is entitled for serving as a juror as permitted in the Miami-Dade County Code, Section 11-32. The employee must provide documentation from the Court verifying the dates of service, confirming the employees’ attendance, and, if applicable, setting forth the amount of payment received prior to the leave approval and compensation.

# Employee Policies and Procedures Manual

## **Court Appearances**

An employee who is a litigant, witness, defendant, or otherwise required to appear in Court for their own personal purposes or for an action unrelated to the scope of their employment, must use annual or personal leave to be compensated for such absences. Sick leave may not be used as a substitute for other paid leave for these purposes.

## **Military Leave**

The City complies with the Uniformed Services Employment and Re-employment Rights Act of 1995 (USERRA). Full-time employees are eligible for military leave without pay and have rights of re-employment and restoration of seniority, status and pay as set forth in USERRA. Leave may be granted for a period of two (2) years, or for such time less than two years that the employee remains in active duty military service. This time-period is subject to extension as provided in USERRA.

Employees who, by reason of membership in the Florida National Guard or other reserve components of the Armed Forces of the United States, are ordered by appropriate authority to attend a training period shall, upon presentation of his or her official orders, be entitled to leave of absence with pay not to exceed thirty (30) work days in any one annual period pursuant to Florida Statute Chapter 115.

## **Bereavement Leave**

Full-time employees may, upon request, be granted time off with pay not to exceed four (4) consecutive days in the event of a death in their immediate family. Two (2) additional days of leave may be granted if travel in excess of 250 miles is required. The employee's immediate family shall be defined as the employee's spouse, domestic partner, grandparents, parents, children, stepchildren, grandchildren, step grandchildren, brothers, stepbrothers, sisters, stepsisters, father-in-law, mother-in-law, brother-in-law and sister-in-law.

Upon approval of the City Manager, additional time off may be granted but will be charged to vacation. To qualify for this bereavement leave allowance, an employee must actually attend the funeral and provide proof of death in the immediate family in the form of a copy of the death certificate or published obituary.

## **Leave of Absence without pay**

Upon recommendation of the Department Head and approval of the City Manager, leaves without pay may be granted for the following:

- Employees may be granted leaves for any reason deemed by the City Manager to be in the best interest of the City; but such leaves shall not be granted for a period longer than six months unless required by operation of law;
- An employee who is required to be absent from work due to reasons specified in the Family and Medical Leave Act, shall be granted such unpaid leave as provided for and as limited by the Family and Medical Leave Act Policy outlined in this Manual.

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No fringe benefits shall accrue while an employee is on leave of absence without pay with the exception that an individual entitled to military leave will receive all benefits as required by Federal and State law. Upon return from Leave without Pay status, the City will make every effort to provide re-employment in the same position held prior to leave if the position is still available.

## Health Benefits Insurance

All full-time employees shall be eligible for coverage by the group insurance plan provided by the City. The coverage under this plan will be effective the first of month following active full-time employment status. The plan may include medical, dental, vision, short and long-term disability, and life insurance coverage. The cost of premiums for coverage of dependents is optional and shall be paid by the employee. Insurance benefit information may be obtained through the Human Resources Division.

The City Manager may authorize the filling of a position by provisional appointment. Provisional appointments may be eligible for insurance benefits as prior authorized by the City Manager.

## COBRA Continuation Rights

The City complies with its obligation to provide insurance continuation rights under the Consolidation Omnibus Budget Reconciliation Act (COBRA). Therefore, employees who separate from the City's employment for any reason are entitled to temporarily continue their insurance benefits as provided for in the Act. Employees are provided with individual notice of their rights and any applicable deadlines upon their separation from employment.

## Retiree Health Insurance

- 1) Eligibility:
  - a. Eligible full-time employees of the City that are participants in the City's Health Insurance plans (the Plan) at the time of their retirement shall be afforded the option of continuing to participate in the Plan(s) as a Retiree. A "Retiree" is defined as an employee who voluntarily withdraws from one's position and qualifies as a retiree under Section 112.0801(2), Florida Statutes. The Retiree and any eligible dependent(s) may continue participation under the Plan(s) effective the first day of the subsequent month following the employee's separation of service. Retirees can elect to continue coverage only for dependents that are enrolled in the Plan(s) or elect to remove the dependents.
  - b. The benefits continued under retiree coverage include the same health, vision, and dental coverage that the employee received as an active participant in the Plan.
- 2) Procedure:
  - a. Upon retirement, the Personnel Division will notify the employee of the option to continue the health benefits. Employees wishing to continue coverage as a Retiree must elect the coverage within sixty (60) days from the date of retirement. The City utilizes a third-party administrator for election notifications and payment administration. Coverage through the active group terminates at the end of the month in which the employee retires, providing premiums are paid in full. Coverage as a Retiree begins the first of the month following retirement, providing payment is timely received. The option to enroll in the City's health insurance plan upon retirement is a one-time option, which

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- must be exercised on or before the last day of employment with the City.
- b. The Retiree must pay a monthly Retiree contribution rate applicable to the covered class (i.e., employee, employee plus spouse, employee plus children, or family) elected for continuation. The Retiree contribution rate is established at 100% of the determined costs for the class of coverage elected and is assessed annually for changes effective on October 1<sup>st</sup>. The City will not pay the costs, or a portion thereof, of any such continuation coverage for its Retirees and eligible dependent(s).
  - c. Retiree health insurance payments are due on the first day of each month of continuation coverage. If the Retiree fails to make a monthly payment, they will lose all rights to continuation coverage under the Plan and the benefits will be terminated.
  - d. If Retiree health insurance coverage is terminated, it cannot be reinstated and COBRA continuation coverage will not be available.
  - e. Retirees may cancel health, dental, and/or vision coverage during the year, however, they may not rejoin the plan at a later date once coverage is cancelled. The change will become effective the end of the month the request is received. If cancellation is due to other insurance coverage, the cancellation will be done to coincide with the effective date of the new coverage providing proof of other insurance is provided, the request is timely, and claims have not been incurred under the plan Retiree is cancelling. Dependent coverage ceases upon cancellation of Retiree coverage. At that time, Dependents will be offered continuation coverage under the provisions of COBRA.
  - f. Dependents may be added mid-year or outside of the annual benefits open enrollment period if there is a "Qualifying Life Event." Qualifying Life Events are defined by the IRS and include:
    - i. Change in the Retiree's legal status including marriage, divorce, and death of spouse/domestic partner.
    - ii. Change in the number of dependents the Retiree has for federal income tax purposes due to events such as birth, adoption, placement for adoption, or death.
    - iii. The termination or commencement of employment of the Retiree's spouse/domestic partner or other enrolled dependent.
    - iv. An event that causes the Retiree's dependent child to satisfy or cease to satisfy the requirements for coverage due to attainment of age.
    - v. A court order or judgment, decree or change in legal custody including a qualified health child support order
    - vi. Entitlement to or loss of Medicare eligibility for Retiree and/or dependents.
    - vii. Entitlement to or loss of Medicaid/Children's Health Insurance Program (CHIP) eligibility)
    - viii. Differences in the open enrollment periods between the City and another employer affecting the Retiree's spouse or dependent.
  - g. Requests to add a new dependent must be received by the Personnel Division within 30 days of the event (60 days for newborns/adoptions/placement for adoption/entitlement to or loss of Medicaid/CHIP). If the supporting documentation (example: marriage certificate, birth certificate, etc.) is not readily available, the Retiree must provide it as soon as it becomes available. The types of documentation required to support the change in status will be determined by the Personnel Division and communicated to the Retiree upon request for enrollment. Once approved, the change will become effective the first day of the month following receipt of the request, providing supporting documentation is submitted.
  - h. Dependent children ages 26-30 are eligible for group health coverage. Chapter 627.6562

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of the Florida Statutes, stipulates that the child must be unmarried without any dependents, a resident of the State of Florida, or a full-time or part-time student and is not provided coverage or is not a covered person under any other group health insurance policy or individual health benefits plan, or is not entitled to benefits under Title XVII of the Social Security Act. Retirees enrolling a new dependent child age 26 + must provide supporting documentation that the child was continuously covered by other credible coverage without a gap in coverage of more than 63 days.

- 3) Employees covered under a Collective Bargaining Agreement should refer to the Collective Bargaining Agreement for additional benefits, procedures, and information relating to this policy.

### **Educational Incentive Program**

The City wishes to encourage its employees to continuously improve their skills and abilities in order to increase performance. Accordingly, the City provides an educational incentive program for its employees.

Guidelines for reimbursement are as follows:

- a) 50% reimbursement of the course cost for a grade of "C" or better for undergraduate courses;
- b) 50% reimbursement of the course cost for a grade of "B" or better for graduate courses;
- c) Any such reimbursement shall be made only upon submission of proof of the grades as provided in sub-sections a and b, above;

The credit hour cost of any courses approved shall be capped at the rate used by the local publicly funded universities and/or community colleges. An employee shall be reimbursed based on the Florida public institution they attended and the cost actually paid per credit, provided however, an employee who attends a prior approved course at a prior approved private educational institution will receive reimbursement according to the percentages above and based on the cost per credit hour at Florida International University for similar programs, at the time the course was taken.

Employees requesting tuition reimbursement must have a current satisfactory performance evaluation on file.

All coursework must be completed at an accredited educational institution and/or an accredited educational or certification program. In order to be eligible for the incentive, the employee must obtain prior approval from his or her Department Head and must demonstrate that the course or plan of study will improve the employee's effectiveness as a public employee.

Expenses, including but not limited to, those for books, supplies or non-laboratory fees, are the employee's responsibility and are not eligible for reimbursement from the City.

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To receive reimbursement, the employee must complete the City's tuition reimbursement form and provide the Human Resources Division with proof of grade and payment, within six (6) months of the courses completion.

The employee shall be required to refund the City any money paid under this program in the event that the employee terminates his or her employment for any reason within two (2) years of receiving an educational incentive payment. The employee shall be required to execute an acknowledgment of this policy prior to the disbursement of any funds.

### **In-Service Training**

It will be the responsibility of the Personnel Manager under the direction of the City Manager to foster and promote in-service training of employees for the purpose of improving the skills necessary for more effective job performance. The Personnel Manager shall develop training programs, and may develop award certificates or other forms of recognition and assist Department heads in developing programs to meet their particular needs and develop supervisory and management training programs for all Departments.

### **Cost of Living Adjustments**

Based on the availability of funds and policy, an employee may receive a salary or wage modification based on a cost-of-living adjustment. The cost-of-living adjustment typically takes into consideration changes to the Consumer Price Index. The cost-of-living data and trends are a guide in making pay level adjustments. When the employee's anniversary date falls on the same date as the cost-of-living adjustment, the adjustment will be calculated prior to any other applicable increases.

### **Longevity Pay Plan**

The Longevity Pay Plan is intended to create an incentive to retain City employees and to reward employees for continuous, faithful, satisfactory service to the City. Longevity pay increases are awarded on the basis of such service as well as a sustained high level of job proficiency and meritorious achievement.

There are three longevity pay increases based on years of service. Each longevity pay will be three (3%) percent. The longevity increases are made on the employee's anniversary date of 10, 15, and 20 years of continuous satisfactory service.

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In order to receive the longevity pay increase the employee must have a current performance evaluation on file that reflects satisfactory performance.

## Retirement Plans General Employees' Pension Plan

### Tier 1 Pension (Closed to all new employees)

Below are the applicable pension benefit multiplier percentages. Benefits earned between the specific dates below, are calculated at the respective multiplier percentage for that period.

- a. Effective October 1, 1995, the benefit accrual rate (multiplier) shall be increased from 1.6 to 1.8 %.
- b. Effective October 1, 1996, the benefit accrual rate (multiplier) shall be increased from 1.8 to 2.0 % (historical data).
- c. Effective October 1, 1997, the benefit accrual rate (multiplier) shall be increased from 2.0 to 2.25% (historical data).
- d. Effective October 1, 1998, the benefit accrual rate (multiplier) shall be increased from 2.25 to 2.5% (historical data).
- e. Effective October 1, 1999, the benefit accrual rate (multiplier) shall be increased from 2.5 to 2.75% (historical data).
- f. Effective October 1, 2011, the benefit accrual rate (multiplier) shall be reduced from 2.75% to 2.25%

The following are applicable to all Tier 1 General Employees' Pensions Plan:

- a. The definition of Final Monthly Compensation (FMC) is the average of the final sixty (60) months of basic compensation but not less than current Final Monthly Compensation as of September 30, 2011. Basic compensation excludes commissions, overtime pay, bonuses and any other forms of additional compensation outside of base wages.
- b. Benefits earned prior to September 30, 2011 are frozen and payable under the prior terms of the Plan at the defined normal retirement date; attainment of age fifty-five (55) and completion of ten (10) years of credited service. Benefits earned after September 30, 2019, will be payable at the current normal retirement date; the later of attainment of age sixty (60) and completion of ten (10) years of credited service.
- c. Tier 1 General Employees participants will receive supplemental benefit Cost of Living Adjustment (COLA) on all accrued benefits.

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- d. Should the total contribution be actuarially determined to exceed 14%, both the City and the employees will share equally the excess amount (e.g., should the total contribution be actuarially determined to be 16%, the City shall contribute a total 8.00% and the employee shall contribute a total of 8%), however, the employees contribution amount is capped at 10%.

### Tier 2 Pension & AMSC Members

All employees hired on or after October 1, 2016, are given an opportunity to participate in one of the following retirement plan options:

**Option 1:** A new second tier of the City General Employees' Pension Plan, which shall contain the following provisions:

- a. Full vesting upon completion of ten (10) years of credited service.
- b. Future service benefit multiplier is 1.60%.
- c. Final Average Compensation will be the average of the highest eight (8) years of compensation.
- d. Normal Retirement Date is the earlier of (a) age 65 and completion of ten (10) years of credited service; or (b) completion of thirty-three (33) years of credited service.
- e. The employee contribution will be three percent (3%) of compensation.
- f. No cost-of-living adjustments will be provided on retirement benefit

**Option 2:** Defined Contribution plan with the following provisions:

- a. Employees are required to contribute 3% of compensation.
- b. City contributes 7% of compensation.
- c. Employees will be fully vested after one year of service.

### The Administrative Management Service Class (AMSC)

The *AMSC Members* composed of the persons who hold only the following positions:

- City Manager
- City Attorney
- City Clerk
- Assistant or Deputy City Manager
- Finance and Administration Director, C.F.O.
- Police Chief
- Planning Director

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- Building Director
- Public Works Director
- Chief Administrative Officer
- Chief Procurement Officer
- Parks and Recreation Director
- Community Redevelopment Agency Director
- Personnel Manager/Human Resources Director
- Project Manager
- Special Assistant to the Manager (vacant)
- Superintendent of Maintenance
- Assistant Director of Parks and Recreation

AMSC shall be fully vested in the pension plan upon completion of five (5) years of continuous service. Also, the required contribution is seven percent (7%), with the multiplier for the AMSC class being three percent (3%).

At each annual open enrollment period, members who previously opted out of the City's Defined Benefit Plan or elected to participate in the City's Tier 2, Option 2, defined contribution plan, are provided an opportunity to choose Option 1, City General Employees' Pension Plan, in their respective plan of classification. This provides everyone an opportunity to join the City's South Miami Pension Defined Benefit Plan, annually.

The employees will be given an opportunity to buy-back any and all years of service up to the number of years they have worked at the City at any time while employed at the City in a position eligible for participation in the Plan. Employees must pay the full actuarial cost of the service they buy back and such buy-back will be at the employee's sole expense as calculated by the Retirement Plan's actuary.

Tier 2 Defined Benefit Plan and AMSC participants will receive supplemental benefit Cost of Living Adjustment (COLA) on all accrued benefits.

### **Police Officers Pension Plan**

Police Officer participants, shall be one hundred (100) percent vested in the City's Police Pension retirement plan upon completion of ten (10) years continuous full-time sworn police service.

Police Officers shall be eligible for retirement with full pension benefits after the completion of twenty-five (25) years of credited police service, regardless of age, or attainment of age fifty-five (55) and completion of ten (10) years of credited police service.

A police Officer participant may elect an early retirement date, which may be the first day of any calendar month coincident with, or subsequent to the participant's fiftieth birthday and completion of ten (10) years of credited service.

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Below are the applicable pension benefit multiplier percentages. Benefits earned between the specific dates below, are calculated at the respective multiplier percentage for that period.

- a. Pension benefit accrued rate (multiplier) for sworn police personnel shall not be less than two percent (2.0%) for all years of service.
- b. Effective October 1, 1995, the pension benefit accrual rate (multiplier) shall be increased from 1.9 percent to 2.25 percent for services performed in the 1995-1996 fiscal year.
- c. Effective October 1, 1996, the pension benefit accrual rate (multiplier) shall be increased from 2.25 percent to 2.50 percent for services performed in the 1996-1997 fiscal year.
- d. Effective October 1, 1997, the pension benefit accrual rate (multiplier) shall be increased from 2.50 percent to 2.75 percent, for services performed in the 1997-2001 fiscal year.
- e. Effective October 1, 2001, the pension benefit accrual rate (multiplier) for sworn police personnel shall be increased from 2.75 percent to 2.80 percent for services performed in the 2001-2002 fiscal year.
- f. Effective October 1, 2002, the pension benefit accrual rate (multiplier) for sworn police personnel shall be increased from 2.80 percent to 2.90 percent for services performed in the 2002-2003 fiscal year.
- g. Effective October 1, 2003 and thereafter the pension benefit accrual rate (multiplier) for sworn police personnel shall be increased from 2.90 percent to 3.00 percent.
- h. Notwithstanding the above subsection, the pension benefit accrual rate (multiplier) for sworn police personnel shall not be less than two (2) percent for all years of service.

Effective October 1, 2004, if the total Police Officer participants contributions and employer contribution exceeds fifteen (15) percent of covered police payroll for any fiscal year, the excess over fifteen (15) percent shall be shared equally by the employer and Police Officer participants. Police officer participant contributions shall be deposited in the plan immediately after each pay period. Police Officer pension benefit contributions is capped at 12%.

Effective October 1, 2001, an amount actuarially determined, to provide for certain minimum benefits required by Chapter 185, F.S. shall be paid from the South Miami Police Officers Retirement Trust Fund to the plan each year, regardless of the growth or diminution in future Chapter 185, F.S. funds.

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At each annual open enrollment period, officers who previously opted out of the City's Defined Benefit Plan (Pension) are provided an opportunity to join the City of South Miami Police Pension Plan. This provides everyone an opportunity to join the City's South Miami Police Pension Defined Benefit Plan, annually.

### **Deferred Retirement Option Program (DROP)**

Officers and Sergeants and all other City Employees who are eligible to retire with full benefits without penalty, will be allowed to enter the DROP.

The Deferred Retirement Option Program (DROP) provides an employee with an alternative method for payment of an employee's retirement benefits for a specified and limited period if the employee is an eligible Pension Plan member. Under this program, an employee stops earning service credit toward a future benefit and their retirement benefit is calculated at the time their DROP participation begins. While an employee is in the DROP, their monthly retirement benefits accumulate in the Fund, earning interest while they continue to work for the City. Upon termination, the DROP account is paid to an employee as a lump sum payment, a rollover or a combination partial lump sum payment and rollover. Monthly benefits are paid to the employee in the amount as calculated upon entry into DROP.

Furthermore, the member's DROP account shall be credited with interest in an amount equal to fifty (50) percent of the net yearly interest earned by the retirement system for the preceding fiscal year, up to a maximum of five (5) percent. In this case "net" means gross return minus investment expense. If the net yearly interest earned by the retirement system is zero (0) percent or less, the member's DROP account will not be credited with interest, nor will it be debited with any investment losses.

The most up-to-date information pertaining to the City's pension plans can be found in Chapter 16 of the City of South Miami Code of Ordinances.

### **ICMA-RC defined contribution (DC) 457 plan**

City employees are NOT required to contribute to the DC 457. This program is completely optional, and the City does NOT match any amount. Employees will be eligible to change their respective ICMA-RC DC 457 contribution percentage at any time.