

## THE CITY OF CORAL GABLES



OFFICE OF CITY MANAGER

The City Beautiful

CITY HALL 405 BILTMORE WAY  
CORAL GABLES, FLORIDA 33134

March 20, 2009

It has come to my attention that effective October 1, 2008, you authorized the full crediting of annual and sick leave in employees' leave banks at the beginning of each fiscal year (October 1) in advance of being earned and that, further, employees are allowed to receive full payment of their leave banks should they leave anytime after the advance balances are posted in October.

It is the City's position that under the applicable provisions of both the City Charter (Section 24) and the Code of Ordinances (Section 2-196), you did not have the authority to change the Personnel Rules and Regulations in this regard. Upon this Office's realization that this policy had been implemented without the required Commission authority, it was immediately rescinded. As a result of these unauthorized changes, you received an additional \$25,398.73 upon separation from the City for unearned annual and sick leave. Therefore, you are requested to return said amount within the next sixty (60) days in the form of a check made payable to the City of Coral Gables.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Maria Alberro Jimenez".

Maria Alberro Jimenez  
Interim City Manager

Enclosures

c. Don Nelson, Finance Director

## **ARTICLE III. CITY MANAGER**

### **Sec. 20. Appointment, term, removal, absence or disability.**

The City Manager shall be the chief executive officer of the city. The Manager shall be chosen by the Commission solely on the basis of his executive and administrative qualifications, and need not when appointed be a resident of the city or of the state. No member of the City Commission shall during the time for which elected be chosen as City Manager. The Manager shall be appointed for an indefinite term but shall be removed at the pleasure of the Commission. The action of the Commission in suspending or removing the Manager shall be final; it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Commission. In case of absence or disability of the Manager, the Commission may designate some qualified person to perform the duties of the office during such absence or disability.

(Compiled Charter § 23)

### **Sec. 21. Responsibility, duties, authority, appointments; generally.**

The City Manager shall be responsible to the Commission for the proper administration of all affairs of the city placed in his charge and to that end he shall have the power to appoint and remove all officers and employees in the administrative service of the city. But the Manager may authorize the head of a department or officer responsible to him to appoint and remove subordinates in such department or office. Appointments made under the authority of the City Manager shall be on the basis of executive and administrative ability and on the training and experience of such appointees and the work which they are to perform.

(Compiled Charter § 24)

### **Sec. 22. Authority over officers and employees; removal, suspension, reduction; requests for cause and hearing; trial board.**

Officers and employees appointed by the City Manager or under his authorization may be removed, suspended, laid off, or reduced in grade by the City Manager, or by the officer by whom appointed, at any time for any cause which will promote the efficiency of service. Such action, if by a department head, shall be subject to the approval of the City Manager. Any such officers or employees, except common laborers and officers and employees in the service of the city for less than six months, or police officers or firemen in the service of the city for less than 12 months, continuously, may within five days after such action file with the City Manager a written request for a written statement of the reasons for such action, which written statement shall be furnished to him by the City Manager within five days after such request; a sworn reply to such statement of reasons may be filed with the City Manager by such officer or employee within five days thereafter, accompanied by a demand for a hearing thereon. The failure of any such officer or employee to request such written statement of reasons or to reply thereto, within the period provided therefor, shall constitute a full waiver of any further rights. In the event of such request and reply thereto the matter shall then be referred to the special trial board hereinafter authorized, which trial board shall thereupon investigate

and determine the propriety of such action, and, at the conclusion of its investigation shall render a decision or verdict which shall be final. The trial board may, in its discretion, conduct hearings, summon witnesses and hear evidence. In its decision the trial board may determine whether such officer or employee is entitled to any compensation, allowance or adjustment, which decision shall likewise be final.

For the purpose of effectuating this section the Commission shall by ordinance provide for the establishment of a special trial board to be composed of five citizens of the City of Coral Gables, none of whom shall be officers or employees of the city; two of whom shall be appointed or elected by the city employees; two of whom shall be appointed or elected by the City Commission and the fifth of whom shall be selected by the four members so chosen, as provided for and prescribed in said ordinance. In the event that the four members shall fail to agree on the fifth member, such member shall be appointed by the County Judge of Dade County, Florida.

(Compiled Charter § 25; Laws of Fla. ch. 23221(1945), § 1; Laws of Fla. ch. 25738(1949), § 1; Laws of Fla. ch. 27481(1951), § 1; Ord. No. 2133, § 2(E), 1-21-1975, referendum 4-8-1975)

### **Sec. 23. Lines of authority between manager and commission.**

The Commission, by resolution duly adopted, may direct or require appointments, suspensions, or discharges of city officers or employees by the City Manager. But none of the commissioners may otherwise direct or request the appointment of any person to or his removal from, the service of the city by the City Manager or any of his subordinates. Except for the purpose of inquiry, the Commission and its members shall otherwise deal with that portion of the administrative service for which the Manager is responsible solely through the Manager, and neither the Commission except in open session, nor any member thereof, shall give orders to any subordinate of the Manager. Any violation of the provisions of this section by a member of the Commission shall work a forfeiture of the office of such member.

(Compiled Charter § 26)

### **Sec. 24. Specific powers and duties.**

Power and duties of the City Manager shall be:

- (1) To see that the laws and ordinances are enforced.
- (2) To appoint and remove except as herein provided all persons and employees.
- (3) To exercise control of all departments that may be created by the Commission.
- (4) To recommend to the Commission for adoption such measures as he may deem necessary or expedient.
- (5) To keep the Commission fully advised as to the financial condition of the city.
- (6) To perform such other duties as may be required of him by resolution or ordinances of the Commission.

(Compiled Charter § 27)

**Sec. 25. Participation in commission meetings.**

The City Manager, and such other officers of the city as may be designated by vote of the Commission shall be entitled to seats in the meeting of the Commission, and to take part in the discussion of all matters coming before the Commission, but shall have no vote therein.

(Compiled Charter § 28)

**Sec. 26. Authority of commission over departments.**

The administrative departments now in operation in the City of Coral Gables shall remain established departments of the city, but the Commission may by ordinance adopted by vote of at least three members of the Commission create any department, and combine two or more departments into one department, or discontinue any department, and determine, combine, and distribute the functions and duties of departments and subdivisions thereof, excepting as herein otherwise provided.

(Compiled Charter § 29; Laws of Fla. ch. 21161(1941), § 5)

## **ARTICLE IV. OFFICERS AND EMPLOYEES\***

**\*State law references:** Public officers and employees, F.S. ch. 110 et seq.

### **Sec. 2-196. Compensation of officers and department heads; others.**

The salaries or compensations so fixed shall be uniform for like service in each grade of the service as the same shall be framed or classified by the city manager in accordance with the rules and regulations adopted by the commission.

(Compiled Charter § 94; Laws of Fla. ch. 13972(1929), § 89; Ord. No. 3299, § 1, 12-16-1997)

### **Sec. 2-197. Oath of city officers.**

Every officer of the city shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation, to be filed and kept in the office of the commission, that he will support, protect and defend the Constitution and laws of the United States and of the state, and the Charter and all ordinances of the city, and in all respects faithfully discharge the duties of his office.

(Compiled Charter § 95; Laws of Fla. ch. 13972(1929), § 90)

### **Sec. 2-198. Authority of officers to administer oaths.**

The city clerk, all deputy city clerks appointed by resolution of the city commission, and the secretary of the planning and zoning board, are hereby given the right, privilege and power to administer oaths to all persons appearing before them, or the boards represented by them in the capacities stated.

(Compiled Charter § 19; Laws of Fla. ch. 13972(1929), § 17A ; Laws of Fla. ch. 25740(1949), § 1; Ord. No. 3293, § 1, 12-16-1997)

### **Sec. 2-199. City archives and records management program; duties of departments, the mayor and city commission offices.**

City officials and city department directors shall annually certify and file with the city clerk the departmental/office records disposition compliance authorization form provided by the office of the city clerk within seven days after the end of each fiscal year. The foregoing procedure is established to ensure compliance with the provisions of F.S. § 119.041(1), F.S. § 257.36(6)d and F.A.C. 24-002.

(Ord. No. O-2003-31, § 2(2-132), 8-26-2003)

## **Sec. 2-200. Indemnification of public officers, board members and employees.**

(a) The city shall protect and indemnify the city officials listed in (b) hereof from personal liability to the fullest extent authorized by F.S. §§ 111.071 and 111.072, but only to the extent that the official is not otherwise protected and indemnified by insurance purchased by the city or otherwise provided.

(b) The officials referred to in (a) above consist solely of all members of the city commission, all members of all city boards and committees, the city manager, the city clerk, city attorney and all city department heads.

(c) Nothing in this section shall constitute a waiver of sovereign immunity or a waiver of any other defense or immunity to such lawsuits.

(d) Nothing in this section shall create any private right of action against the city by any third party, nor shall any insurance company providing insurance to the city or one of its boards have any subrogation rights against the city.

(Ord. No. O-2003-7, § 1, 2-25-2003)

**Editor's note:** Ord. No. O-2003-7, § 1, adopted February 25, 2003, amended the Code by adding provisions designated as § 2-133. At the discretion of the editor, said provisions have been redesignated as § 2-200 for purposes of classification. See also the Code Comparative Table.

**Secs. 2-201--2-221. Reserved.**