

## ARTICLE VII. - CIVIL SERVICE AND MERIT SYSTEM

### Sec. 78. - Establishment of merit system; repeal of previous act.

All appointments and promotions in the administrative service of the city shall be made according to merit and fitness to be ascertained, so far as practicable, by competitive tests. In order to permit the adoption and use of a modern merit system which is efficient and fair to officials, employees and the public, Chapter 23296, Acts of 1945, and all acts amendatory thereto are hereby repealed and a merit system is hereby created which shall conform to the provisions hereinafter set forth.

### Sec. 79. - Classified and unclassified service.

The following shall constitute the unclassified service of the city and shall be exempt from the provisions of this chapter [article]:

- (a) Members of the city commission and all elected officials.
- (b) The city manager, city clerk, city auditor, city attorney, personnel officer, director of finance, chief of police, department heads, and all members of any board or commission or any individual in a specialized field appointed by the city commission.
- (c) Part-time or temporary employee[s].

The classified service shall include all other positions now existing or hereafter created, and the provisions of this act shall apply thereto except as hereinabove set out.

(Laws of Fla., Ch. 65-1556, § 4; Laws of Fla., Ch. 65-1557, § 2; Ord. No. G-356, § 6, 8-1-77)

**Amendment note**— Ch. 65-1556, § 4, amended § 79(c) by deleting the words "day laborer." Ch. 65-1557, § 2, amended § 79(a) by including all elected officials and § 79(b) by adding the prosecuting attorney and department heads to the unclassified service.

### Sec. 80. - Status of present employees.

Any person holding a position in the classified service when this act takes effect, who shall have served in such position for a period of at least six (6) months, shall be retained without preliminary or performance tests and shall thereafter be subject in all other respects to the provisions of this act. Any other persons in the classified service at the time this act takes effect shall be considered as having been given probationary appointments at the time this act takes effect.

### Sec. 81. - Personnel officer.

There shall be a personnel officer, who shall be appointed or removed by the city manager with the approval of the commission. The personnel officer shall administer the merit system of the city in accordance with this charter and the personnel rules adopted thereunder. To this end, his powers and duties shall be:

- (a) To prepare competitive examinations and tests of various types for all appointments in the classified service, restricted to persons reasonably qualified to perform duties of the position;
- (b) To give wide publicity through appropriate channels in each case to all announcements of competitive examinations to the end of encouraging qualified persons to take such examinations;
- (c) To prepare and recommend to the city manager such rules as he may consider necessary, appropriate or desirable to carry out the provisions of this chapter [article] except rules, regulations and procedure pertaining to suspension, removal or demotion of any person in [the] classified service;
- (d) To prepare, install, and maintain a classification plan based on the duties, authority and responsibility of positions in the city service;
- (e) To prepare and submit to the city manager and the city commission for its consideration a pay plan for the city service;
- (f) To establish and maintain a roster of all persons in the municipal service in which there shall be set forth, as to each officer and employee, (1) the class title of the position held, (2) salary or pay, (3) any changes in class title, pay or status, and (4) such other data as may be deemed desirable or useful to produce significant facts pertaining to personnel administration;
- (g) To certify all payrolls for persons in the classified service. No payment for personal service to any person in the classified service of the city shall be made unless the payroll vouchers bear the certification of the personnel officer or his authorized agent that the persons mentioned therein have been appointed and employed in accordance with the provisions of this act;
- (h) To assist the city manager in developing and establishing training and educational programs for persons in the municipal service, so that wherever possible vacancies may be filled within the service;
- (i) To perform such acts, consistent with this charter and the personnel rules adopted thereunder, as he may deem desirable to administer the provisions of this chapter [article].

Sec. 82. - Civil service appeals board created.

- (a) Upon the taking effect of this act, the board of civil service created by Chapter 23296, Acts of 1945, shall be abolished and shall be superseded by a civil service appeals board consisting of five (5) members. Two (2) members shall be appointed by the city commission of said city, and two (2)

members shall be elected by the members of the civil service of said city. The fifth member shall be named by the other four (4) members. In the event said four (4) members shall not agree upon the fifth member within fifteen (15) days after said four (4) members take office, the county judge of St. Lucie County, Florida, shall designate such fifth member. The said board shall elect one of their members to be chairman. The two (2) members named by the city commission and the two (2) members of the board named by the employees shall serve for a term or a period of two (2) years except the first member appointed by the city and the first member appointed by the employees shall serve for a term of only one year, but thereafter all terms of members of the board shall be for two (2) years. The fifth member of the board named by the other members of the civil service [sic] shall hold office for a period of one year. All members of the appeals board shall hold office until their successors are duly elected or named and qualified.

- (b) The city commission of said city shall elect two (2) alternate members of the civil service appeals board and the members of civil service of said city shall elect two (2) alternate members of the civil service appeals board. The five (5) members of the said board shall elect two (2) alternate members of the civil service appeals board to serve in the event of disqualification or absence of the five (5) members of the said board.
- (c) If there exists any ground which under the laws of the State of Florida would disqualify the judge of any court, or which is a ground of challenge for cause to disqualify any juror then such procedure shall apply to members of the civil service appeals board and any member who shall be disqualified shall not be permitted to hear and determine any cause wherein he is disqualified.
- (d) Whenever a person [sic] to any charge or proceeding, shall make and file an affidavit that he fears a fair trial cannot be had before said board, where charges are pending, on account of the prejudice of any member or members of said board against the applicant or in favor of the adverse, and thereupon, such member or members shall proceed no further therein, but an alternate or alternates for such member or members shall be designated in the manner prescribed for the substitution of members for the trial of any case when any member is disqualified.

The member or members may, however, examine the affidavit supporting the motion to disqualify any of them for prejudice, to determine its legal sufficiency but shall not pass on the truth of the facts alleged nor [ad]judicate the question of disqualification.

Every such affidavit shall state the facts and the reasons for the belief that any such bias or prejudice exists, and such affidavit shall be filed not less than forty-eight (48) hours before the time the case is called for hearing or good cause shown for the failure to so file the same within such time.

Any such affidavit so filed, shall be accompanied by a certificate of counsel representing the applicant stating that such affidavit and application are made in good faith and the facts stated as a basis for making the said affidavit shall be supported in substance by affidavits of at least two (2) reputable citizens of St. Lucie County, not kin to the applicant or of the counsel for the applicant. Provided, however, that when a suggestion of disqualification of any member or members has been made and the disqualification of such member or

members shall have been admitted and an alternate member acting in lieu of the member so held to be disqualified [is designated], the said alternate member shall not be disqualified on account of alleged prejudice against the party making the suggestion in the first instance, or in favor of the adverse party unless such alternate member shall admit that it is then a fact that he, the said alternate member does not stand fair and impartial between the parties and if the alternate member shall state and hold that he does stand fair and impartial between the parties and their respective interests, he shall cause such statement or holding to be entered on the minutes of the said board and shall proceed to serve as member of said board in the pending case. The foregoing holding or ruling may be reviewed by the appellate court, as are other rulings of the said board.

- (e) In event a member of the civil service appeals board shall refuse to qualify as such member, or if said office shall become vacant by reason of death, resignation or otherwise, the proper alternate shall become a member of the civil service appeals board for the unexpired term of the member vacating said office, and a first alternate shall be elected as herein provided for the election of a second alternate.

(As amended by Laws of Fla., Ch. 59-1290, § 1)

#### Sec. 83. - Qualifications of board members.

Each member of the civil service appeals board shall be a resident of St. Lucie County, shall be known to be in sympathy with the merit principle as applied to the civil service, shall neither hold nor be a candidate for any other public office or position, and shall not be a member of any local, state or national committee of a political party or an officer in any partisan political club or organization. No person who has been convicted of a crime involving moral turpitude, or who is an officer or employee of said city shall be eligible to hold said office.

(Ord. No. J-17, §§ 1, 2, 5-4-92)

#### Sec. 84. - Term of office; employees; meetings and compensation.

Members of the civil service appeals board elected as herein provided shall take office within ten (10) days after their election or appointment. The oath of office shall be administered to each member of the civil service appeals board by the city clerk.

The personnel officer shall act as secretary to the appeals board of civil service. The city commission may employ such additional personnel for said board as said city commission shall deem necessary.

The civil service appeals board shall hold not less than one regular meeting each month and may hold special meetings when required for the transaction of business by said board. Such members may be called by the chairman or any three (3) members of the board, upon giving each member written notice thereof served personally, or left at the members usual place of residence. A majority of the board shall constitute a quorum for all meetings; except, however, for all hearings there shall be a full board.

Members of the civil service appeals board shall each receive compensation in the amount of ten dollars (\$10.00) per meeting, contingent upon attendance at the meeting, payable on a quarterly basis. Responsibility for reporting attendance to receive compensation shall be placed with the board's staff coordinator.

(Ord. No. I-12, § 1, 6-6-83; Ord. No. K-288, § 1, 10-4-04)

Sec. 85. - Duties of board.

It shall be the duty of the civil service appeals board:

- (a) To make any investigation which it may deem desirable concerning personnel administration in the classified service and to that end, any member of the board shall have the power to administer oaths.
- (b) To report to the city commission and expose publicly any abuses or improper practices which it may find in the classified service of the city.
- (c) To provide rules for the procedures and grounds for suspension, demotion and dismissal of employees, said rules being subject to the approval of the city commission, and for the filing of appeals with the civil service appeals board herein created.
- (d) To sit as a body to hear appeals of any person in the classified service who is dismissed, demoted, suspended or transferred.
- (e) To supervise the holding and grading of all competitive examinations held under the merit system.

(Laws of Fla., Ch. 65-1557, § 2)

Amendment note—Ch. 65-1557, § 2, amended § 85 to provide for approval of the rules by the commission in paragraph (c).

Sec. 86. - Existing rules and regulations stand until superseded.

The rules and regulations of the board of civil service which are in effect upon the taking effect of this chapter [article] shall remain in full force and effect until superseded by the rules adopted under this chapter [article].

Sec. 87. - Personnel rules.

Immediately after the taking effect of this act, the personnel officer shall prepare personnel rules to govern the merit system and carry out the provisions of this chapter [article]. The city manager shall approve them with or without modification. When approved by him they shall be submitted to the city commission and shall become effective thirty (30) days after the commission by resolution adopts them, with or without amendment.

Thereupon, the rules and regulations of the board of civil service passed on June 19, 1944, and amended as of July 15, 1954, shall be automatically repealed and superseded by the rules herein provided, except rules promulgated by the civil service appeals board under subsection (c) of section 85 of this act.

The personnel rules shall provide for:

- (1) The classification of city positions which classification shall be based on the duties, authority and responsibility of each position;
- (2) A pay plan for all city positions embodying the principle [of] equal pay for equal work which plan shall become effective when the commission by resolution adopts it with or without amendment;
- (3) The method of holding competitive tests for fairly determining the merit and fitness of candidates for appointment and promotion;
- (4) The establishment, maintenance and certification of eligible lists for filling vacancies;
- (5) The order and manner in which layoffs may be effected;
- (6) Hours of work, attendance, regulations and provisions for sick and vacation leave;
- (7) The procedure governing provisional or probationary appointments;
- (8) Other practices and procedures necessary for effective administration of the merit system under the provisions of this charter;
- (9) To make rules and regulations for the selection of a grievance committee by members in the classified service.

Sec. 88. - Rules to incorporate principle of merit and fitness.

The rules required by section 87 shall be so prepared that all decisions on personnel matters shall be made solely on the basis of merit and fitness of the individual, and the various practices and procedures established thereunder which are to govern these decisions shall incorporate established professional standards and techniques which will serve to further that end.

Sec. 89. - Causes for suspension and dismissal.

Any member of the civil service under this act who shall be incompetent, neglect his duty, be guilty of insubordination, immorality, drunkenness, any felony or crime involving moral turpitude or for the violation of any rules and regulations adopted by the civil service appeals board pursuant to subsection (c) of section 85 of this act shall be subject to reduction, suspension, fine or dismissal; provided, however, that no officer or employee shall be fined a sum in excess of one month's compensation.

**Annotations—** Grounds for discharge interpreted generally, see *Bloodworth v. Suggs*, 60 So.2d 768(1952); *City of St. Petersburg v. Pfeiffer*, 52 So.2d 796(1951); *Becker v. Merrill*, 20 So.2d 912(1944); *Barron v. Vailles*, 26 So.2d 449(1944); *Nelson v. State ex rel Quigg*, 23 So.2d 136, 90 L. Ed. 1016(1945).

Sec. 90. - Removals, fine and appeals.

- (a) The city manager may at any time fine or suspend or dismiss or demote or transfer any employee of the classified service for any cause which will promote the efficiency of the service but only in accordance with the rules and regulations of the merit system and the civil service appeals board.
- (b) The members of the civil service appeals board shall not discuss the facts or merits of any case which may be tried before them with any person or persons whomsoever, except to receive the list of witnesses by any person or which the said city desires to subpoena before the board.
- (c) Violations of the foregoing provisions of this section by any member of the board shall be grounds for disqualifications.
- (d) In investigation of charges each member of the civil service appeals board shall have the power to administer oaths, and said board is hereby authorized to compel by subpoena the attendance of witnesses, [and] the production of books and papers relevant to such investigation, said subpoena to be served by a member of the police department.
- (e) It shall be unlawful for any person to fail or refuse to respond to any subpoena duly issued by the civil service appeals board, without a legitimate excuse therefor, and such failure or refusal to respond is hereby declared to be a misdemeanor and shall be punishable as is now provided by [the] criminal code of the city for violation of misdemeanors.
- (f) All witnesses demanding witness fees for attendance shall be entitled to a per diem of one dollar (\$1.00) to be paid by the city, but no employee of the city summoned before said civil service appeals board to testify shall be entitled to any compensation.
- (g) Upon dismissal, suspension or demotion, the city manager shall within twenty-four (24) hours give the employee a written statement of the reasons for his dismissal, suspension or demotion and shall immediately file a copy thereof with the civil service appeals board. If the employee desires, he may within seven (7) days file with the board a request for a hearing upon the dismissal or suspension or demotion. Any employee under the classified service of the city transferred within the classified service shall also have the right of appeal to the civil service appeals board within seven (7) days after such transfer upon written request to the board. The board upon receiving such notice of appeal, shall within five (5) days set a date for a hearing. Notice of the time and place of such hearing shall be served upon the city manager and the employee either personally or by registered mail at least five (5) days before the date of hearing.
- (h) The board shall conduct the hearing at the time set, which hearing shall be public and may adjourn the hearing from time to time upon cause shown, or upon its own motion, provided that such adjournment in all shall not extend beyond thirty (30) days from the date of dismissal or fine or demotion or transfer, except for good cause shown. Both the affected employees and the city manager shall be given full opportunity to be heard in person or with counsel. The personnel officer shall spread on the official minutes of the board the facts contained in the appeal, the board's findings and its decision which shall be final. Such decisions shall be transmitted to the city manager and executed by him.

**Amendment note**— Ch. 65-1557, § 2, amended § 90(h) by providing that a hearing may be extended beyond thirty days for good cause shown.

**Annotation**— Appeals, procedure. See *City of Miami v. Huttoe*, 38 So.2d 819(1949).