

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, RESTATING ARTICLE III ENTITLED “BOARDS, COMMITTEES, AND COMMISSIONS”, CHAPTER 7 ENTITLED “CIVIL SERVICE BOARD”, PROVIDING FOR SIMPLIFIED, UPDATED, AND CLARIFIED LANGUAGE; PROVIDING A NEW DEFINITION FOR THE STANDARD OF REVIEW; UPDATING THE CREATION, SELECTION, AND TERM OF BOARD MEMBERS; CLARIFYING QUALIFICATIONS FOR BOARD MEMBERS; AMENDING THE DEFINITION FOR THE CLASSIFIED AND UNCLASSIFIED SERVICES; ESTABLISHING AN ELIGIBILITY ROSTER FOR REEMPLOYMENT; EXTENDING THE PERIOD FOR EMERGENCY APPOINTMENT; PROVIDING FOR REMEDY FOR APPEALING DISCIPLINARY ACTIONS; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City Riviera Beach requested a Restatement of the Code of Ordinances, Article III, Boards, Committees, and Commissions, Chapter 7, Civil Service Board (hereinafter the “Civil Service Board”) to make the Chapter clearer and easier to use; and

WHEREAS, the City Council desires to simplify and modernize the language used within the Civil Service; and

WHEREAS, the Civil Service Board does not contain a definition for the standard of review, and the City Council desires to clarify the competent and substantial evidence standard for an employee’s discharge; and

WHEREAS, the creation, selection and term of Board members is updated; including additional qualification of Civil Service Board members; and

WHEREAS, the definition for the Classified and Unclassified services did not specifically define the Unclassified service distinguishing exactly which positions are not subject to the Civil Service Board, and the City Council requests more clarity; and

WHEREAS, the City Council desired a uniform and specific method of reemployment for employees who have been discharged, including the establishment of an eligibility roster for reemployment; and

WHEREAS, the Civil Service Board does not provide for a specific duration for emergency appointments to serve, and such term needs to be specific; and

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WHEREAS, the Civil Service Board requires updates to keep with the changes in laws and practices and changes to the City administration.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, that:

SECTION 1: Article III of Chapter 7 of the City's Code of Ordinances, governing the Riviera Beach Civil Service Boards, is hereby restated and amended to read as follows:

Sec. 2-126. Definitions

As used in this division, the following terms shall have the following meanings ~~unless the context clearly indicates otherwise:~~ :

Civil Service Board shall mean ~~each of the eCivil Sservice Bboards created pursuant to the City of Riviera Beach City Charter: one (1) Board herein provided for general employees; and one (1) Board for and~~ police and fire employees.

City shall mean the City of Riviera Beach.

City Council shall mean the Ceity Ceouncil of the City of Riviera Beach.

Department Hheads shall mean the director, chief, or head of ~~each the~~ departments created by this chapter or from time to time by the Ceity Ceouncil under this division.

Hearing Oeofficer shall mean the person who ~~adjudicates~~ presides over employee a Civil Service Board hearings; and provides findings of fact and recommendations to the Civil Service Board. ;

~~Members of the civil service shall mean the persons employed by the city on a regular, full-time basis as a firefighter and police officer who shall be responsible to the police and fire civil service board and all other employees shall be considered under the general civil service board and who are subject to the civil service provisions of this division.~~ Classified Service shall mean the definition set forth in Sec. 2-131 below.

Unclassified Service shall mean the definition set forth in Sec. 2-131 below.

Sec. 2-127. - Civil Service bBoard created; composition; qualifications and removal of Mmembers; quorum; meetings.

- (a) *Creation; selection; term.* There shall be two (2) Ceivil Sservice Bboards for the eCity: - ~~One (1) Bboard for general, regular, full-time employees; and one (1) Bboard for regular, full-time sworn police officers, as well as regular, full-time and~~ uniform fire employees. Each ~~b~~Board shall consist of seven (7) Mmembers. Five (5) of the Mmembers shall be selected by the Ceity Ceouncil and shall be composed of persons who are ~~sympathetic understanding and knowledgeable with respect to~~ the principles of personnel management and administration. The remaining Mmembers shall be elected as directed by the eCity Cecharter which ~~says~~ states in part:

The fire department, police department and the general employees of the city shall have the right to elect from their respective departments at least two of their fellow employees who shall serve on the board on all matters pertaining to their respective departments.

Each Member of each Board shall serve for a period of two (2) years. In addition, two (2) alternate Board Members shall be selected ~~for each Board for each board~~, one (1) alternate to be selected by the City Council and one (1) alternate to be elected by the employees of the applicable Board. ~~the general, uniform fire and sworn police employees, respectively.~~ Alternate Board Members shall be selected and elected for a term of one (1) year to serve in the absence of any of the regular Members of the Civil Service Board to which they are appointed. Each individual Member of each Board shall serve until their successor ~~s has~~ been selected and qualified.

Terms of appointed Members of each Board shall end at 5:00 p.m. on the date of the second regular City Council meeting in April. The term of office of elected Members of each Board shall end April 30th.

All Members of each Board shall serve without compensation, ~~recompense~~ unless provided by the City Council ~~legislative body~~.

- (b) *Qualifications.* ~~All~~ Each Member of each Board, except elected employee Board Members, shall be a registered voters of the City; ~~However, that no person who has been convicted of a crime involving moral turpitude shall be eligible to serve on a Board to hold such office.~~
- (c) *Removal.* Each Member of each Board may be removed by the City Council for incompetency, neglect of duty, or malfeasance in office. In the event of resignation or death of a Board Member or his Member's removal from office, the City Council shall, within thirty (30) 30-days, appoint a person to fill the unexpired term of office.
- (d) *Quorum.* A majority of each Board (i.e., four (4) Members) shall constitute a quorum necessary for the conduct of the business of the Board.
- (e) *Meetings.* The Board shall hold not less than one (1) regular meeting each month quarter and may hold other meetings at the call of the Chairperson ~~man~~ as may be required for the transaction of the business of the Board.

Sec. 2-128. - ~~Same~~—Function and duties.

It shall be the function of the Civil Service Boards to encourage and promote a proper personnel system for the City, to inspire public confidence in the City-service and its employees, to assist, through a proper personnel system, administrative officials in the efficient performance of their tasks, and to provide employees ~~in within the~~ classified Service, an opportunity for honorable and productive ~~useful~~ employment. The Civil Service Boards shall have specific functions to be outlined in the following provisions and shall also have a general responsibility for creating-promoting standards of conduct and service which will be of mutual advantage to the City and its employees.

Sec. 2-129. - ~~Same~~—Reports.

~~The Each Board shall make prepare and distribute periodic reports, of their activities at least once a year, of the activities, as well as of the board and of the needs of the city relating to the city manager recommendations relating to personnel matters.~~

Sec. 2-130. - Same— Authority to adopt rules and regulations.

~~Subject to the requirements set forth in this division, The each Board shall adopt, and amend as necessary, a code of rules and regulations which pertain to their own operating procedure. Each The Board shall adopt rules and regulations regarding the hearing and adjudication of grievances relating to demotion, suspension, and dismissal only, upon appeal from a decision of the City Manager. The rules and regulations are subject to approval of the City Council.~~

Sec. 2-131. — “Classified” and “Unclassified service.”

- (a) ~~Division of employment; jurisdiction of Boards. For purposes of the Civil Service Boards, All employment within the City service shall be divided into the “Classified Service” or the “Unclassified Service.” The authority of each the Civil Service Boards shall extend only to those positions within “the Classified Service.”~~
- (b) ~~Classified Service. “Classified Service” is that employment within the City that is subject to the jurisdiction of the Civil Service Boards. In this regard, all employment other than Unclassified Service will be considered Classified Service. Notwithstanding the foregoing, an employee within Classified Service is not eligible for participation in a Civil Service Board hearing if he or she has not completed the applicable probationary period. See Section 2-138.~~

~~Unclassified service. The unclassified service shall extend to persons elected by public vote, and appointments made by the city manager, and city council such as, but not limited to, the city manager, the city attorney, and assistant city attorney, members of boards or commissions or committees appointed by the city council, intermittent employees, persons employed under limited term contractual service to perform specialized technical and professional services for the city, and such other additional positions as the city council may include because of the specialized or confidential nature of the position.~~

- (c) ~~Unclassified Service. Certain positions within the City are not subject to the Civil Service Boards and thus constitute “Unclassified Service.” Such “Unclassified Service” includes persons elected by public vote, as well as appointments made by the City Manager and City Council, including, but not limited to the City Manager, the City Attorney, and Assistant City Attorney, members of boards or commissions or committees appointed by the City Council, intermittent/temporary employees, part-time employees, persons employed under limited term contractual service to perform specialized technical and professional services for the City, and such other additional positions as the City Council may include because of the specialized or confidential nature of the position. Classified service. All other employment in the city shall be deemed to be within the classified service and shall be subject to the jurisdiction of the civil service boards.~~
- (d) ~~Transfer between Services. Any employee in within the C-classified Service holding regular or probationary status who accepts a temporary position in the Unclassified Service shall generally have the right to return to the position held in the Classified~~

Sservice or a comparable position upon completion of his or her service in an Unclassified Service position. Credit for pension benefits or time in service shall not be adversely affected by service in an unclassified Service position.

Sec. 2-132. - Title and compensation of employees.

No employee in the eClassified Service shall be employed under a position title, nor paid a salary ~~not in accordance~~ that is inconsistent with the provisions of any schedule, if any, set by the Ceity Council establishing a list of approved class titles and compensation rates for such titles.

Sec. 2-133. -- Examinations/Assessment of Qualifications and Experience.

The ~~department of h~~ Human Resources Department ~~shall may~~, ~~by rule~~, provide for the conduct of the implementation and use of examinations and assessments for positions or vacancies in a manner which will fairly and accurately test and/or assess the ability, qualifications, experience, and/or aptitude capacity of individuals applying admitted to the examination for such positions or vacancies. The ~~department of H~~ Human Resources Department may establish reasonable and job-related standards and qualifications for admission to examinations or assessments. Examinations and assessments of qualifications and experience may consist of any one, all or a combination of the following:

Written test, oral test, performance test, evaluation of training and experience, seniority, efficiency rating, physical and medical examination, or any other type or combination of examination and assessment which may reasonably and accurately establish the merit and fitness of applicants for the position.

Subject to the outcome of a Civil Service Board hearing, any ~~Any civil service~~ -employee in Classified Service who is dismissed for misconduct or delinquency or who resigns while charges are pending shall not be eligible for future employment by the eCity.

Sec. 2-134. -- Appointment of Chairperson; Establishment of Eligibility Registers oster.

The Each Ceivil sService Board shall appoint a eChairperson, ~~and~~ The director of the department of Human Resources Department shall provide for the establishment and maintenance of an eligible Eligibility Roster registers. ~~A~~ The Eligibility Roster register shall may consist of ~~one or more~~ of the following lists: “Reemployment List,” “promotional List,” and “Open List.”

The “Reemployment List” shall contain the names of employees within Classified Service who completed their probationary period and were ~~who have been~~ separated from a position in the classified service, and who left against their own will and against their own will, but in good standing (for example, due to a reduction in force), ~~after completion of the probationary period.~~ The Reemployment List will be compiled in a manner consistent with language contained in relevant collective bargaining agreements.

The “Promotional List” shall consist of the names of individuals ~~who are in the civil service~~ who are within Classified Service and who have ~~and~~ qualified through open

competitive examination and/or assessment of qualifications and experience for a position ~~on the list, vacancy or position.~~

The "Oopen Llist" shall contain the names of persons who have qualified by open examination and/or assessment of qualifications and experience, but are not at presently employed by the City in Classified Service ~~members of the civil service of the city.~~

~~The~~ The name of an individual on the "Ppromotional List" and "Oopen Llist" shall remain on such list for a period of one (1) year from the date of qualification. ~~remain in effect for one year from date of qualification. Provision may be made for examination and combination of the eligible lists resulting therefrom, either in the order of respective final grades in the examinations or in the order of the dates of examinations.~~

The Eligibility Roster shall be provided to each Civil Service Board on a quarterly basis or upon request by a Board's Chairperson.

Sec. 2-135. - Appointments.

(a) No person shall be appointed or promoted to any position ~~in within the Cclassified civil Sservice,~~ except upon requisition request by the Ddepartment Hhead and upon certification by the applicable Civil Service bBoard Cchairperson and ddirector of department of Hhuman Rresources DDepartment from the an eligible lists set forth on the Eligibility Roster described in prepared in accordance with sections 2-133 and 2-134 of this division. To fill existing positions ~~in within the city service~~ Classified Service, the DDepartment Hhead, in concert with the director of the Human Resources Department, shall determine the duties and responsibilities of the position or promotion to be filled. The Ddepartment Hhead, after certification of names of persons on the eligible list Eligibility Roster have been made by the director of the Human Resources Department, shall make requisitions selections from the lists set forth therein. ~~from the certified eligible list for employment; the position, if filled, must be filled by the appointment and employment of one of the persons certified. Management~~ The Department Head shall first consider those individuals on the Rreemployment Llist. Next, the Department Head shall consider individuals ; second those individuals on the Ppromotional Llist. Lastly, the Department Head shall consider ; and third those persons whose names are on the Oopen Llist. ~~When a person on the reemployment or promotional list is not chosen, the reason, in writing, for such action shall be filed with the department of human resources.~~ The Ddepartment Hhead may, in the event there are five (5) or more names on the list, choose one of the top five (5) and not necessarily in order of standing. If there are less fewer than five (5) names on the list, he may choose one or reject all. If there is one (1) name on the list, he or she may choose to accept or reject the individual. When a person on the Reemployment List or Promotional List is not chosen, the reason, in writing, for such action shall be prepared and submitted to the Human Resources Department.

(b) Notwithstanding the foregoing, ~~N~~nothing in this section shall prevent the filling of the position by reinstatement, transfer, or demotion of an existing Classified Service employee.

Sec. 2-136. -- Emergency Appointments Employment.

~~(a) *Regular, temporary and part-time employment.* Employment in the city service shall be divided into categories of regular employment or temporary employment. Regular employment shall be defined as employment in the positions which have an expected duration of more than six months and after the satisfactory completion of the probationary period following probationary appointment or promotion. Temporary employment shall be defined as employment in a position which has a duration of not more than one year or less. No extension of the duration of employment of temporary employment shall be allowed by the department head and/or city manager. Part-time employment shall be defined as employment which requires a weekly work schedule of less than 40 hours. Part-time and temporary employees do not receive benefits assigned to those of regular employment.~~

~~(ab) *Emergency appointments.* The City Manager may, in time of emergency or to prevent the stoppage of public business, make emergency appointments not to exceed thirty (30) days of any person to any position without regard to Civil Service procedures.~~

Sec. 2-137. - Probationary period.

Individuals appointed from the lists set forth on the Eligibility Roster ~~a certified list~~ to regular employment shall serve a probationary period of a minimum of six (6) months, but which shall not extend for more than twelve (12) months. Sworn police officers and uniform fire personnel shall serve a minimum of twelve (12) months probation ~~months' probation~~ but which shall not extend for more than eighteen (18) months. An employee appointed to a temporary or part-time position does not serve a probationary period and accordingly, such service shall not count in completing a probationary period.

Sec. 2-138. - Procedure for discharge, suspension, and demotion of employees.

(a) *Probationary period.* During the probationary period, the City Manager may, at his or her discretion, discharge, suspend, or demote an employee.

Notice of discharge, suspension, and or demotion shall be personally given to the employee or sent by certified mail, return receipt requested, to the last known address. The decision of the City Manager shall be final.

No probationary employee has the right to appeal any disciplinary action or dismissal by the City Manager for any cause whatsoever to the applicable Civil Service Board or Hearing Officer. The Civil Service Boards do not have ~~has no~~ jurisdiction over probationary employees.

(b) *Probationary period completed.* The City Manager may discharge an employee who has completed the probationary period from the employee's position at any time, by outlining in writing, the specific reason(s) for discharge. The written charge(s) must be given personally to the employee or sent by certified mail, return receipt requested, to the last known address of the employee and discharge cannot be made effective until this notice has been given to or sent to the last known address of the employee. The employee may, within ten (10) calendar days after receipt of this notice, file a request

for a hearing with the applicable eCivil sService Bboard to determine whether there is competent and, substantial evidence to support the discharge. The Hhearing Oefficer shall begin such hearing within thirty (-30) calendar days following the Bboard's granting of the request for hearing. The failure of an employee to file a request for hearing within such ten (10) day period shall constitute a waiver to request a Civil Service hearing.

In a hearing, the Hhearing eOfficer shall not be bound by rules of technical evidence but shall use reasonable grounds and discretion to secure a fair and complete hearing of the facts in the case. The employee, the Ddepartment Hhead or the Ceity Mmanager, may be represented by counsel, if desired. Written notice shall be given to the dismissed person employee, so dismissed with a copy to the Ceity Mmanager, director of the Hhuman Rresources Department, and Ddepartment Hhead, of the time and place of the hearing. The hearings shall always be open to the public.

Upon completion of the hearing, the Hhearing eOfficer shall present the finding of facts and recommendation within fifteen (15) calendar days to the applicable eCivil sService Bboard for the applicable Board's review and consideration. The Civil Service Bboard must then accept, reject, and/or modify the Hearing Officer's recommendation and file its final order within thirty (-30) days after rendering its decision thereafter. The decision of athe Ceivil Sservice bBoard shall be final and binding on the employee, the eCity Mmanager, and the legislative bodyCity Council, unless an appeal is taken to civil court. AThe eCivil sService Bboard may overturn the action of the Ceity Mmanager only upon a finding that the Ceity Mmanager's action is not supported by competent and substantial evidence.

- (c) *Suspension without pay.* The Ceity Mmanager may suspend, without pay, an employee for a period not to exceed thirty (30) calendar days in any one (1) calendar year, for purposes of discipline. Such suspension by the Ceity Mmanager shall be subject to notice to the employee, and to appeal by the employee through the proper grievance procedure. If the grievance is not resolved, then the employee may file a request for a hearing in the same manner previously provided for discharge of an employee.
- (d) *Demotion.* The Ceity Mmanager may demote an employee for purposes of discipline. Such demotion by the Ceity Mmanager shall be subject to notice to the employee, and to appeal by the employee, through the proper grievance procedure. If the grievance is not resolved, then the employee may file a request for a hearing in the same manner previously provided for discharge and suspension of an employee.
- (e) *Refusal to obey subpoena.* It shall be unlawful for any person to refuse to respond to any subpoena duly issued by the Hhearing Oefficer without a legitimate excuse therefore as determined by the Hearing Officer, and such failure or refusal to respond may be declared a misdemeanor and shall be punishable as now provided for by section 1-11 of this Code.
- (f) *Witnesses before Hhearing Oefficer.* All Ceity witnesses demanding witness fees for attendance shall be entitled to the per diem of \$105.00 to be paid by the Ceity. In the event an -but no-employee of the eCity is summoned before the Hhearing Oefficer to testify, he or she shall receive his regular hourly rate for the time spent in attendance at the same. The City will consider time spent in attendance during a hearing as a witness as time worked for purposes of calculating entitlement to overtime under applicable

~~wage and hour laws. shall be entitled to any compensation nor suffer any loss of pay for such attendance. The aggrieved employee requesting the hearing shall be responsible for all witness fees, if any, summoned by him for witnesses summoned by him for the hearing.~~

- (g) ~~Pre-determination conference/disciplinary review hearing.~~ Nothing in this division shall prevent the Ceity from making any necessary investigation, prior to or subsequent to the filing of charges, in an attempt to mediate and resolve the matter. Regular, general, full-time employees shall be entitled to a pre-determination conference hearing. ~~—prior to disciplinary action to refute the charges. Sworn police and uniform fire personnel shall be entitled to a departmental disciplinary review hearing prior to any disciplinary action.~~
- (h) Election or Remedy. An eligible employee shall have the right of appeal disciplinary action, either through any negotiated grievance procedure set forth within an applicable collective bargaining agreement, or the Civil Service Board, but not both. See Fla. Stat. § 447.401.
- (i) Nothing herein shall be interpreted to prohibit an employee from exercising his or her rights under Florida Law Enforcement Officers' Bill of Rights, Section 112.531, et seq., Florida Statutes, or the Firefighters' Bill of Rights, Section 112.80, et seq., Florida Statutes, as applicable.

A final decision by a Civil Service Board must be made by a majority of the Board Members present, subject to the quorum requirement set forth in Sec. 2-127.

Sec. 2-139. - Demotion, suspension, dismissal of employees—Causes generally.

~~Any member of the civil service employee within Classified Service under this division who is found to have committed an act of shall be guilty of incompetence, malfeasance, nonfeasance, misfeasance, misconduct, neglect of his duty, insubordination, immorality, drunkenness, or violation of any law, policy, or rules of the department or the Ceity, including, but not limited to the City's Policy for Discipline and Control, shall be subject to demotion, suspension, or dismissal.~~

Sec. 2-140. - Hearing officer.

Services of a ~~H~~Hearing ~~O~~Officer may be secured by contract, which may be on a case-by-case basis or an annual basis for all hearings under civil service. Contract for ~~H~~Hearing ~~e~~efficer shall be made only with members of the Florida Bar in good standing, and who have the requisite overall qualification, as demonstrated by past experience.

City staff attorneys shall not serve as a ~~H~~Hearing ~~O~~Officer ~~for civil service.~~for the Civil Service Boards.

Sec. 2-141. - Appropriation for administration of division.

A sufficient sum of money shall be appropriated each year by the ~~e~~eCity ~~C~~Council to carry out the provisions of the division. The amount of such appropriation shall be at the discretion of the Ceity Ceouncil.

Secs. 2-142—2-150. - Reserved.

Section 2: Should any section or provision of this Ordinance or portion hereof, any paragraph, any sentence, or word, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this ordinance.

Section 3: All sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, shall be and the same are hereby repealed to the extent of such conflict.

Section 4: Authority is hereby granted to codify this Ordinance.

Section 5: That this Ordinance shall be in full force and effect immediately upon its final passage and adoption.

PASSED AND APPROVED on first reading this ____ day of _____, 2018.

PASSED AND ADOPTED on second and final reading this ____ day of _____, 2018.

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PASSED AND APPROVED on the first reading this _____ day of _____,
2018.

PASSED AND ADOPTED on second and final reading this _____ day of _____,
2018.

APPROVED:

THOMAS A. MASTERS
MAYOR

TONYA DAVIS JOHNSON
CHAIRPERSON

ATTEST:

LYNNE L. HUBBARD
CHAIR PRO TEM

CLAUDENE L. ANTHONY,
CERTIFIED MUNICIPAL CLERK
CITY CLERK

KASHAMBA MILLER-ANDERSON
COUNCILPERSON

JULIA A. BOTEL
COUNCILPERSON

TERENCE D. DAVIS
COUNCILPERSON

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1ST READING

2ND & FINAL READING

MOTIONED BY: _____

MOTIONED BY: _____

SECONDED BY: _____

SECONDED BY: _____

L. HUBBARD _____

L. HUBBARD _____

K. MILLER-ANDERSON _____

K. MILLER-ANDERSON _____

T. DAVIS JOHNSON _____

T. DAVIS JOHNSON _____

J. BOTEL _____

J. BOTEL _____

T. DAVIS _____

T. DAVIS _____

REVIEWED AS TO LEGAL SUFFICIENCY

ANDREW DEGRAFFENREIDT, CITY ATTORNEY

DATE: _____

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CERTIFICATION OF PUBLICATION

I hereby certify that notice of the proposed enactment of this ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

DATE

**Claudene L. Anthony, Certified Municipal Clerk
City Clerk**