

ORDINANCE NO. 2016-4048

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING ORDINANCE NO. 1335, THE **CLASSIFIED EMPLOYEES' LEAVE ORDINANCE**, BY AMENDING THE PROVISIONS IN SECTION 12, ENTITLED "OTHER LEAVES WITH COMPENSATION," TO PROVIDE FOR PAID PARENTAL LEAVE; AND, BY AMENDING THE PROVISIONS IN SECTION 16, ENTITLED "COLLECTIVE BARGAINING CONTINGENCY," TO PROVIDE PAID PARENTAL LEAVE BENEFITS **SUBJECT TO COLLECTIVE BARGAINING AND UNION APPROVAL FOR EMPLOYEES IN CLASSIFICATIONS GOVERNED BY UNION CONTRACTS**; PROVIDING FOR REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

**SECTION 1.**

That Section 12 of Classified Leave Ordinance No. 1335, as amended, shall be amended to read as follows:

\* \* \*

**12. Other leaves with compensation.**

- a) With the approval of the city council, other leaves of absence with pay may be granted by the city manager in addition to regularly allowed leave when such is recommended by the appointing officer for the purpose of promoting efficiency or other good causes.
- b) All employees, after six months of continuous service with the city, will be entitled to use one day of bereavement leave upon the death of a member of their immediate family effective with the first pay period in 1975. Bereavement leave will increase to two days effective with the first pay period in 1976. Detailed administrative regulations defining immediate family and procedures for using bereavement leave will be issued prior to January 1, 1975. (Ord. No. 74-2016, § 12, 12-11-1974)

c) All employees, after one year of continuous service with the city, will be entitled to up to six weeks of paid parental leave for the purpose of caring for his or her newborn, newly-adopted, or newly-placed foster child or children. This leave shall apply equally to parents regardless of gender, as well as to same-sex couples, in the event of a natural birth by any method, adoption, surrogacy, stillbirths, or foster care placement in the employee's home.

The paid parental leave shall be up to six weeks in duration, and may be taken by the day or week anytime during the first year after the birth, adoption, or foster care placement of the child or children in the employee's home. The leave period shall not exceed six weeks per birth, adoption, or foster care placement regardless of the number of children born, adopted by the employee, or placed in the employee's home through foster care.

During the leave period, the employee shall be paid 100 percent of his or her base wages for the first two weeks, 75 percent of his or her base wages for the following two weeks, and 50 percent of base wages for the remaining two weeks. Employees shall be eligible to use any accrued leave in order to receive compensation up to 100 percent of base pay during the weeks reimbursed at the rates of 75 percent and 50 percent.

This leave shall occur concurrently with, count against, and not be added to periods of unpaid or job protected leave for which the employee may also be eligible, including the federally-mandated 12 weeks of Family and Medical Leave Act (FMLA) leave, and/or any other unpaid leave offered by the city due to childbirth or adoption. The number of paid parental leave periods an employee may take is unlimited over the duration of his or her employment with the city, but employees are only eligible for one six-week paid leave per birth, adoption, or foster care placement.

If both parents are city employees, each employee is entitled up to a six-week leave period and they may take their parental leave period concurrently, subsequently, or in any other combination they wish.

The Director of Human Resources for the city shall have full authority to issue policies and procedures relative to paid parental leave benefits offered pursuant to this Ordinance for any purpose, including, but not limited to, notification requirements for employees requesting leave, employee eligibility, and documentation requirements for births, adoptions, and foster care placements. The city's employee leave manual shall include provisions consistent with the requirements of this subsection for paid parental leave.

**16. Collective bargaining contingency.**

As to employees in classifications governed by union contracts, implementation of the measures hereby amended in sections 5, 11(c), 12(c), and this section, is contingent upon the collective bargaining and approval by the unions to the extent such approval is necessary. Should any inconsistencies exist between this chapter and the union contracts, then the language of the union contracts shall supersede. (Ord. No. 2007-3573, § 17, 10-17-2007)

**SECTION 2. REPEALER.**

That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 3. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 4. EFFECTIVE DATE.**

This Ordinance shall take effect on the 29 day of October, 2016.

**PASSED AND ADOPTED** this 19 day of October, 2016.

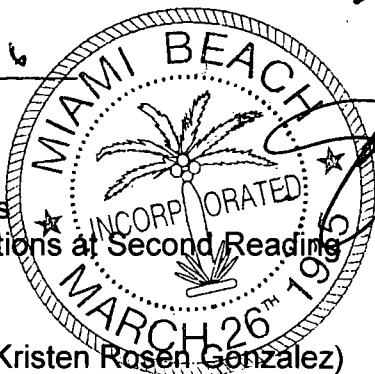
\_\_\_\_\_  
Philip Levine, Mayor

**ATTEST:**

RE 10/27/16  
\_\_\_\_\_  
Rafael E. Granado, City Clerk

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

Underline denotes additions  
~~Strikethrough~~ denotes deletions  
Double underline denotes additions at Second Reading



\_\_\_\_\_  
City Attorney

10/12/16  
Date

(Sponsored by Commissioner Kristen Rosen Gonzalez)

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Jimmy L. Morales, City Manager  
DATE: October 19, 2016

**11:25 a.m. Second Reading Public Hearing**

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING ORDINANCE NO. 1335, THE CLASSIFIED EMPLOYEES' LEAVE ORDINANCE, BY AMENDING THE PROVISIONS IN SECTION 12, ENTITLED "OTHER LEAVES WITH COMPENSATION" TO PROVIDE FOR PAID PARENTAL LEAVE, AND, BY AMENDING THE PROVISIONS IN SECTION 16, ENTITLED "COLLECTIVE BARGAINING CONTINGENCY," TO PROVIDE PAID PARENTAL LEAVE BENEFITS SUBJECT TO COLLECTIVE BARGAINING AND UNION APPROVAL FOR EMPLOYEES IN CLASSIFICATIONS GOVERNED BY UNION CONTRACTS; PROVIDING FOR REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

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### **RECOMMENDATION**

The Administration recommends the City Commission approve the amendment to the Classified Employees' Leave Ordinance No. 1335, Section 12 and Section 16.

### **ANALYSIS**

#### **BACKGROUND**

It has been determined through surveying of various government entities that granting of paid parental leave for its employees is becoming common. While no federal laws require us to provide paid parental leave, it is a valuable benefit to our employees as well as to their families. Additionally, implementing a paid parental leave policy is an attractive tool that is useful in recruiting talented workers.

Workers oftentimes face tension in balancing their roles as parents and workers, especially if there are adverse consequences for missing too much time from work due to the birth, adoption or foster placement of a child. The Family Medical Leave Act ("FMLA") provides certain employees with up to 12 weeks of unpaid, job-protected leave a year for serious health conditions, or even bonding with a new child. Employees are eligible for FMLA leave if they have worked for the City for at least 12 months, worked at least 1,250 hours or more during the 12-month period immediately preceding the commencement date of leave, and had not taken 12-weeks of FMLA leave within the same calendar year. A paid parental leave policy would be an added benefit to those employees (women and men) who need that continued income following the birth, adoption or foster placement of a child.

## ANALYSIS

If adopted, this Ordinance will provide paid parental leave to City workers, after one year of continuous service with the City. Employees will be entitled to up to six weeks of paid parental leave for the purpose of caring for his or her newborn, newly-adopted, or newly-placed foster child or children. This leave shall apply equally to parents regardless of gender, as well as to same-sex couples, in the event of natural birth by any method, adoption, surrogacy, stillbirths, or foster care placement in the employee's home.

The paid parental leave shall be up to six weeks in duration, and may be taken by the day or week anytime during the first year after the birth, adoption, or foster care intake of the child or children. The leave period shall not exceed six weeks per birth, adoption, or foster care placement regardless of the number of children born, adopted by the employee, or placed in the employee's home through foster care.

During the leave period, the employee shall be paid 100 percent of his or her base wages for the first two weeks, 75 percent of his or her base wages for the following two weeks, and 50 percent of base wages for the remaining two weeks. Employees shall be eligible to use any accrued leave in order to receive compensation up to 100 percent of base pay during the weeks reimbursed at the rates of 75 percent and 50 percent.

This leave shall occur concurrently with, count against, and not be added to periods of unpaid or job protected leave for which the employee may also be eligible, including the federally-mandated 12 weeks of Family and Medical Leave Act (FMLA) leave, and/or any other unpaid leave offered by the City due to childbirth or adoption. The number of paid parental leave periods an employee may take is unlimited over the duration of his or her employment with the City, but employees are only eligible for one six-week paid leave per birth, adoption, or foster care placement.

If both parents are City employees, each employee is entitled up to a six-week leave period and they may take their parental leave period concurrently, subsequently, or in any other combination they wish.

The Director of Human Resources for the City shall have full authority to issue policies and procedures relative to paid parental leave benefits offered pursuant to this Ordinance for any purpose, including, but not limited to, notification requirements for employees requesting leave, employee eligibility, and documentation requirements for births, adoptions, and foster care placements. The City's employee leave manual shall include provisions consistent with the requirements of this subsection for paid parental leave.

## **CONCLUSION**

On second reading, a minor amendment to the language in Section 12 and 16 is proposed to clarify that there is only one leave period per birth, adoption, or foster care placement regardless of the number of children born, adopted by the employee, or placed in the employee's home through foster care.

The Administration recommends approving the proposed Ordinance amendment with the minor

additional proposed revision.

### **FINANCIAL INFORMATION**

After the first reading, leave history was gathered from our FMLA administrator, Unum, and is included below to show the average number of maternity/paternity leaves for the 20-month period between January 1, 2014 and August 31, 2016:

<u>Leave Reason - Actual Claimants</u>	<u>Average Duration in Days</u>	<u>Average Duration in Weeks</u>
Pregnancy Related Only – 3	52	7
Newborn Maternity Bonding Only – 1	30	4
Pregnancy plus Maternity Bonding – 20	77	11
Newborn Paternity Bonding – 149	21	3

Historically, leave usage is taken into account as part of the City's annual budget development process. All City employees, with the exception of Fire personnel who work a 48-hour week, are budgeted for 2,080 hours annually. Most City employees accumulate 96 hours of leave for sick and 96 hours for vacation annually (IAFF Shift employees accumulate 144 hours of vacation and 96 hours of sick annually). So whether employees work or utilize their accrued leave, the funding to pay that employee's salary is included in the budget. Additionally, there are some departments that take into account both anticipated and unanticipated leave usage that occur during the year to ensure City services are not interrupted by budgeting overtime or use of temporary staffing. Generally, during extended employee's leave work may be distributed among existing staff.

With the adoption of this Paid Parental Leave Ordinance, employees could have more accrued leave available in the future, and therefore could potentially have higher separation payments upon leaving the City. Upon implementation of this Paid Parental Leave policy, we can collect data to revisit the financial impact, if any, that this leave policy will have on the City's budget.

### **Legislative Tracking**

Human Resources

### **Sponsor**

Commissioner Kristen Rosen Gonzalez

### **ATTACHMENTS:**

#### **Description**

- Ordinance