

**ORDINANCE NO. 2004-11**

**AN ORDINANCE AMENDING THE POLICE OFFICERS AND FIREFIGHTERS RETIREMENT PLAN OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING ARTICLE V, ADMINISTRATION OF PLAN, SECTION 5.01, MEMBERSHIP, TO CHANGE THE BOARD COMPOSITION TO INCLUDE DROP PARTICIPANTS; AMENDING ARTICLE VII, PARTICIPANTS, SECTION 7.05, BENEFITS NOT ASSIGNABLE, TO COMPLY WITH CHAPTER 2004-21, LAWS OF FLORIDA, TO PROVIDE THAT A RETIREE MAY AUTHORIZE DIRECT THIRD PARTY PAYMENTS AS A DEDUCTION FROM NET BENEFITS FOR SPECIFIC PURPOSES; ADDING A DEFINITION FOR "EMPLOYMENT", PROVIDING FOR CREDITED SERVICE FOR FORMER PARTICIPANTS OF THE FORMER CITYWIDE RETIREMENT PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE, PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Police Officers and Firefighters Retirement Plan of the City of North Miami Beach, Florida have requested that DROP participants be included in the membership of the Retirement Committee; and

**WHEREAS**, the 2004 Florida Legislature enacted Chapter 2004-21, Laws of Florida, which authorizes the trustees of the City's Police and Firefighters Retirement Plan, when authorized by a retiree or retiree's dependent, to make certain deductions from monthly retirement payments; and

**WHEREAS**, an amendment to the City Code is necessary to permit such deductions; and

**WHEREAS**, the trustees of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach have requested and approved such an amendment as being in the best interests of the members and beneficiaries and improves the administration of the plan; and

**WHEREAS**, an actuarial impact statement is not necessary since this amendment is not a change in plan benefits; and

**WHEREAS**, certain current police officers who are members of the police pension plan also participated in the former citywide retirement plan while employed in more than one classification covered by that plan and would have received service for all employment under that plan had not the separate police and firefighters' plan been created effective January 1, 1990; and

**WHEREAS**, a plan amendment is required to correct this omission in coverage; and

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**WHEREAS,** the police officer participants, in a ballot conducted pursuant to plan provisions, have voted overwhelmingly in favor of these plan amendments; and

**WHEREAS,** the City Council has received and reviewed an actuarial impact statement prepared by the Plan Actuary regarding this benefit; and

**WHEREAS,** it has been determined that the City of North Miami Beach pension plan for police officers requires a certain technical amendment to define “employment”; and

**WHEREAS,** the trustees of the Police Officers and Firefighters Retirement Plan have determined that the amendments provided herein are appropriate and in the best interests of the plan participants; and

**WHEREAS,** the Mayor and City Council of the City of North Miami Beach have determined that the amendments provided herein are appropriate and in the best interests of the plan participants as well as the residents and citizens of the City of North Miami Beach.

**NOW, THEREFORE,**

**BE IT ORDAINED** by the City Council of the City of North Miami Beach, Florida.

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** Section 5.01, Administration by Retirement Committee, subsection (a) of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach shall be amended as follows:

**§5.01 Administration by Retirement Committee**

(a) **Membership** – There is hereby created a Retirement Committee for the Plan, which shall be solely responsible for administering the Plan. Effective January 1, 1990 and thereafter, the Committee shall consist of five members: (1) two of whom, unless otherwise prohibited by law, shall be legal residents of the City who shall be elected officials or original appointment designees. The designees shall have no direct or indirect vested interest in the Plan; (b) two of whom shall be police officers, including participants in the DROP, and/or firefighters as defined in Article II who shall be elected by a majority of the police officers, including DROP participants and firefighters who are members of the Plan. Provided that there are no firefighters available or capable of serving as a member, the remaining board members may elect an individual to serve in the firefighters member position. Upon receipt of such persons’ names, the City Council shall, as a ministerial duty, appoint such persons to the committee; and (c) the fifth member shall be chosen by a majority of the previous four members, and such person’s name shall be submitted to the City Council. Upon receipt of the fifth person’s name, the City Council shall, as a ministerial duty, appoint such person to the committee as its fifth member. The fifth member shall have the same rights as each of the other four members appointed or elected as herein provided and may succeed

himself in office. The priority of the four members shall be to choose the fifth member to the Committee. Thereafter, the chosen fifth member will serve concurrent terms with the other four members. Each resident member shall serve as trustee for a period of two (2) years, unless sooner replaced by the City Council at whose pleasure he shall serve, and may succeed himself as committee member. Each police officer and/or firefighter member shall serve as committee member for a period of two (2) years, unless he sooner leaves the employment of the City as a police officer and/or firefighter, whereupon the City Council shall choose his successor in the same manner as an original appointment. Each police officer and/or firefighter may succeed himself in office. The Committee shall meet at least quarterly each year. The committee shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature and description.

**Section 3.** Section 7.05, Benefits Not Assignable, of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach shall be amended as follows:

**§7.05 BENEFITS NOT ASSIGNABLE**

(a) **In General** – No benefits, rights or accounts shall exist under the plan which are subject in any manner to voluntary or involuntary anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge; and any attempt to so anticipate, alienate, transfer, assign, pledge, encumber or charge the same shall be void., except a retiree receiving any monthly benefit may authorize the board of trustees to withhold from the monthly benefit those funds necessary to pay for the benefits being received through the City, to pay the certified bargaining agent of the City, and to make any payments for child support or alimony.

**Section 4.** Article II of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended to add the following definition:

“Employment” means full-time employment by the City as an employee as defined herein.

**Section 5.** Section 3.04(a) of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended as follows:

**§3.04 Credited Service**

(a) **Defined** - The credited service of each employee or participant will be the total period of his service as defined in Section 3.02 (Service) computed in completed calendar months, from the date of employment until the first day of the month coincident with or next following his date of actual retirement or termination of employment. (See Section 6.04(a)(5)(C)).

For police officer participants who served in more than one of the city’s employment classifications prior to January 1, 1990, (when this separate police officers’ and firefighters’ retirement plan was established) and earned or were eligible to earn service under the citywide Retirement Plan for Employees of the City of North Miami Beach then in effect, credited service for purposes of this Retirement

Plan for Police Officers & Firefighters shall include all continuous service in all employment classifications in which the employee served while covered by the former citywide Retirement Plan for Employees. Such police officer participants shall not receive or be entitled to any benefits from the former citywide Retirement Plan.

**Section 6.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 7.** If any section, subsection, clause or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

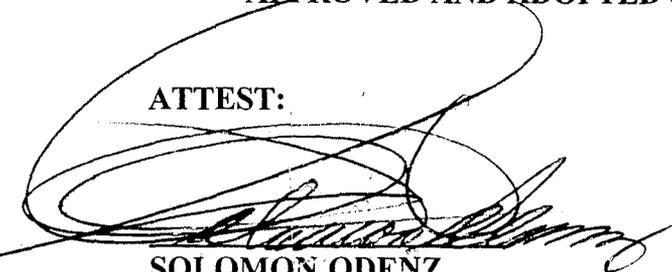
**Section 8.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the city of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

**Section 9.** This ordinance shall take effect upon adoption.

**APPROVED BY TITLE ONLY** on first reading this 17th day of August, 2004.

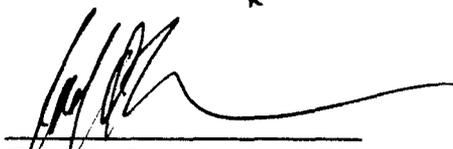
**APPROVED AND ADOPTED** on second reading this 14th day of September, 2004.

ATTEST:



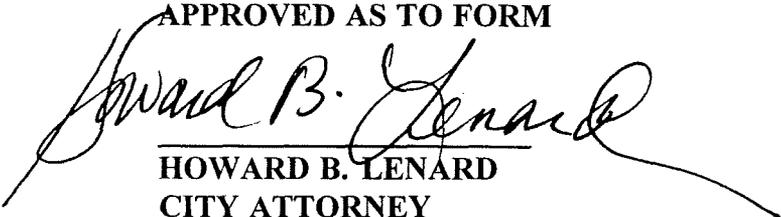
SOLOMON ODENZ  
CITY CLERK

(CITY SEAL)



JEFFREY A. MISHCON  
MAYOR

APPROVED AS TO FORM



HOWARD B. LENARD  
CITY ATTORNEY

Sponsored by: Mayor and City Council