

ORDINANCE NO. 2016-4

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE RETIREMENT PLAN FOR POLICE OFFICERS AND FIREFIGHTERS OF THE CITY OF NORTH MIAMI BEACH; AMENDING SECTION 1.05, AMENDMENT OF PLAN; AMENDING ARTICLE II, DEFINITIONS; AMENDING SECTION 4.01, PARTICIPANT'S CONTRIBUTION ACCOUNT; AMENDING SECTION 4.02, CONTRIBUTIONS; AMENDING SECTION 6.01, NORMAL RETIREMENT; AMENDING SECTION 6.01A DEFERRED RETIREMENT OPTION PROGRAM; AMENDING SECTION 6.02, EARLY RETIREMENT AND RETIREMENT INCOME; AMENDING SECTION 6.04, BENEFITS OTHER THAN ON RETIREMENT; AMENDING SECTION 6.11, VOLUNTARY SUPPLEMENTAL BENEFIT; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 2013-20; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of North Miami Beach has established and maintains a Retirement Plan for Police Officers of the City of North Miami Beach ("Retirement Plan"); and

WHEREAS, City police officers participate in the Retirement Plan and are in the bargaining unit represented by the International Association of Police Associations, Local 6005, AFL-CIO ("IUPA"); and

WHEREAS, the City and IUPA have entered into a collective bargaining agreement for 2016-2018; and

WHEREAS, the collective bargaining agreement contains numerous changes to the Retirement Plan; and

WHEREAS, to implement the retirement plan changes contained in the collective bargaining agreement, it is necessary to amend the Retirement Plan; and

WHEREAS, the City has obtained an actuarial impact statement concerning the Retirement Plan changes;

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

Section 1. Article I, Section 1.05 of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach, entitled "Amendment of Plan", is proposed to be amended as follows:

Section 1.05 AMENDMENT OF PLAN

(a) ~~Ordinance~~Resolution of City – The Plan may be amended by the City from time to time in any respect whatever, by ~~ordinanceresolution~~ of the City Council of North Miami Beach, specifying such amendment, subject only to the applicable requirements of federal and state law, including the Florida collective bargaining law for public employees, following limitations: A report and recommendation from the City Manager and the actuary and/or any other pension board consultant may be considered before the Plan is amended by the City Council.

(1) ~~Approval of Participants~~ — Approval of 60% of the active members shall be required before the Plan may be amended by the City Council.

(A) ~~Such consent shall not be required if such amendment pertains to the actuarial soundness of the Plan as determined by the actuary employed by the City Council in accordance with Section 5.06 or if such amendment shall be necessary to comply with any laws or regulations of the United States or of any State to qualify this as a tax exempt plan and trust.~~

(2) ~~Report and Recommendation from the City Manager and the actuary and/or any other pension board consultant shall be required before the Plan may be amended by the City Council.~~

* * *

Section 2. Article II, Definitions, definition of "Basic Compensation for Police Officers", is proposed to be amended as follows:

ARTICLE II DEFINITIONS

* * *

Basic Compensation for Police Officers means, as per the State Statute, the total cash remuneration paid to a police officer for services rendered and shall include any elective deferral (as defined in Code Section 402(g)(3)), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in Section 6.08(C) hereof, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Code. Effective February 1, 2016, basic compensation for police officers employed on January 31, 2016 shall exclude overtime pay in excess of 300 hours in any calendar year. Basic compensation for police officers hired on or after February 1, 2016 shall exclude overtime pay in excess of 100 hours in any calendar year.

* * *

Section 3. Article VI, Section 4.01 of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach, entitled "Participant's Contribution Account", is proposed to be amended as follows:

* * *

(b) Amount of Contribution Each police officer will contribute toward the cost of the Plan an amount equal to 11.18% of his basic annual compensation as defined in Article II. Notwithstanding the preceding sentence, no Participant contribution shall be due on overtime payments made between January 1, 2014 and the effective date of this ordinance. Such contributions shall be paid from the accumulated balance of premium tax revenues that have not been allocated to fund benefits as provided in section 4.02(b)(2), and by the city, and shall not be part of the Participant's contribution account., effective as of his date of service. Effective June 17, 2003, the rate of each police officer's contribution will increase from 8% to 10.5% of his basic annual compensation. If the additional tax revenues provided under Section 185, Florida Statutes are insufficient to fund the benefit provided under Subsection (c) of Section 6.04 hereof, the employees' contribution shall increase to 11.1% effective 10/01/06, except as provided otherwise in an applicable collective bargaining agreement.

Section 4. Article VI, Section 4.02 of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach, entitled "Contributions", is proposed to be amended as follows:

Section 4.02 CONTRIBUTIONS

* * *

(b) State Contributions. The monies received from the State of Florida under Chapters 175 and 185 of the Florida Statutes shall be transferred to the trust fund as established in the trust agreement of which this plan is a part, for the exclusive benefit of the firefighters and police officers and their beneficiaries.

(1) The City must satisfy the relevant requirements of Chapters 175 and 185 on a current basis during that calendar year.

(2) By mutual agreement of the City and the union representing police officers, all annual premium tax revenues received pursuant to Chapter 185, Florida Statutes, shall be used to reduce the City's annual required contributions to the Plan, and the accumulated balance of premium tax revenues that have not been allocated to fund benefits on the effective date of this ordinance shall be used to offset the participant contributions on overtime payments included in compensation for the purpose of this plan between January 1, 2014 and the effective date of this ordinance.

(3) Notwithstanding any other provision of the Plan, if during the term of the 2016-2018 collective bargaining agreement between the city and the union representing police officers, Chapter 185, Florida Statutes is amended or interpreted in a manner that results in the loss of future premium tax revenues, or that allows a normal retirement date of age 62 or older, the normal retirement date provided in section 6.01(b) for police officers with less than 10 years of credited service on January 31, 2016, and police officers hired after that date, will be the first day of the month coincident with or next following the earlier of attainment of age 62 with 10 or more years of credited service, or 25 years of credited service regardless of age.

(4) In accordance with section 185.35(6), F.S., a defined contribution plan component ("share plan") is hereby established as part of the Plan. However, the City and the union representing police officers have mutually agreed that no Ch. 185 premium tax revenues will be allocated to the share plan during the term of this Agreement. The City and union have further agreed that the share plan shall not be activated until Ch. 185 premium tax revenues are allocated to the share plan. At such time as Ch. 185 premium tax revenues are allocated to the share plan, the parties will negotiate the details of the share plan.

Section 5. Article VI, Section 6.01 of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach, entitled "Normal Retirement", is proposed to be amended as follows:

Section 6.01 NORMAL RETIREMENT

(a) Normal Retirement Defined - Normal retirement under the Plan is retirement from the service of the City on or after the normal retirement date.

(b) Normal Retirement Date

(1) Firefighters – [No change]

(2) Police Officers - The normal retirement date for each police officer will be the first day of the month coincident with or next following the earlier of the completion of 20 years of credited service or attainment of age 52. However, a police officer may continue in the service of the City beyond his or her normal retirement date and retire as of the first day of any month beyond his or her normal retirement date which is coincident with or next following his or her actual termination of service. Notwithstanding any other provision of this paragraph, the normal retirement date for any police officer who has completed less than 10 years of credited service on January 31, 2016, and any police officer hired after that date, will be the first day of the month coincident with or next following the earlier of attainment of age 55 with 10 or more years of credited service, or 25 years of credited service regardless of age.

(c) Cost of Living Adjustments

Commencing October 1, 1998 and on the first day of each October thereafter, the monthly income payable hereunder to each police participant who retired under Section 6.01 hereof on or after December 30, 1988, and who as of that October 1st has been retired for three or more years, or who retired under the Early Retirement Incentive set forth in Section 6.01(f), or to any such participant's surviving beneficiary, shall be increased by two and one-quarter percent, increasing to 2.5% commencing October 1, 2002. Notwithstanding the preceding sentence:

(1) The monthly income payable hereunder to a police officer who has completed 10 or more years of credited service but has not reached the normal retirement date as of January 31, 2016 and retires under Section 6.01 hereof on or after that date shall be increased by two and one-half (2.5) percent annually for benefits earned on or before January 31, 2016, commencing three years after retirement or exit from the DROP, whichever is later; and one and eight-tenths (1.8) percent annually for benefits earned on and after February 1, 2016, commencing four years after retirement or exit from the DROP, whichever is later.

(2) The monthly income payable hereunder to a police officer who has completed less than 10 years of credited service on January 31, 2016 and retires under Section 6.01 hereof on or after that date shall be increased by two and one-half (2.5) percent annually for benefits earned on or before January 31, 2016, commencing at age 62; and one and one-half (1.5) percent annually for benefits earned on and after February 1, 2016, commencing at age 62.

(3) The monthly income payable hereunder to a police officer hired on or after February 1, 2016 who retires under Section 6.01 hereof shall be increased by one and one-half (1.5) percent annually commencing at age 62.

(d) Firefighter Supplemental Retirement Benefit. [No change]

(ed) Amount of Retirement Income

(1) Firefighters [No change]

(2) Police Officers – Retroactively effective December 30, 1988, to a police officer who retires on or after normal retirement date: the monthly amount of retirement income payable to each participating police officer who retires on or after his or her normal retirement date shall be an amount equal to 3% (.0300) of his or her final monthly compensation multiplied by his or her years of credited service.

(fe) Payment of Retirement Income – [No change]

(f) ~~Early Retirement Incentives-~~

~~Notwithstanding the provisions of subsection 6.01(d) above, those police officer participants who, as of March 31, 1996, are eligible for regular retirement under Section 6.01 hereof, and those participants who lack 36 or fewer months of service or age in order to be eligible for normal retirement pursuant to Section 6.01 shall be permitted to retire on or before January 1, 1997, on a date designated by the City Manager, and upon retirement shall receive a service pension equal to the following percentages of the participant's final monthly compensation as defined below, for each year of service as defined in Section 3.02 hereof, according to their years of service as of their retirement date:~~

Less than 10 years	4.22%
10 but less than 20 years	3.76%
20 but less than 21 years	3.53%
21 but less than 22 years	3.51%
22 but less than 23 years	3.49%
23 but less than 24 years	3.47%
24 but less than 25 years	3.46%
25 but less than 26 years	3.45%
26 but less than 27 years	3.44%
27 but less than 28 years	3.42%
28 but less than 29 years	3.41%
29 but less than 30 years	3.40%

~~rather than the 3 percent provided by subsection (d) above, under the terms and conditions set forth below.~~

~~The first payment to participants retiring hereunder on or before October 4, 1995 will be made on the participant's retirement date. For participants retiring after~~

~~October 4, 1995, the first payment shall be made in accordance with Section 6.01(e).~~

~~For purposes of determining a police officer participant's average final compensation under this subsection, such compensation shall be computed for the twelve (12) month period immediately preceding the participant's retirement date.~~

~~Terms and conditions for Early Retirement Incentive.~~

- ~~(1) The application for retirement must be received by the Retirement Plan no later than 5:00 p.m. on September 27, 1996, unless extended by the City Manager;~~
- ~~(2) As a condition of receiving a pension at the rates set forth above, the participant shall make an irrevocable application to the Retirement Plan for normal retirement on a date designated by the City Manager which must be before January 1, 1997 and shall retire on the date so designated unless the retirement date is extended by the mutual agreement of the participant, the Retirement Committee and the City Manager;~~
- ~~(3) Any accrued leave remaining due to a participant as of his or her designated retirement date, with a limit of 320 hours of annual leave, and otherwise pursuant to the Contract provisions relevant to each applicant, shall be paid to the participant in three (3) equal annual installment payments, without interest, commencing after the participant's designated retirement date, with the remaining two (2) installment payments to be made in January, 1997 and January, 1998, for participants retiring before April 1, 1996, and in January, 1998 and January 1999, for participants retiring after April 1, 1996 pursuant to this section.~~
- ~~(4) Participants who lack four or fewer years of credited service in order to be eligible for the Early Retirement Incentive set forth in subsection (f) above, or are eligible for and retire under said Early Retirement Incentive, may purchase credits for military or other government law enforcement service. The years or fractional parts of years that such a participant served full time active duty in the military service of the Armed Forces of the United States, voluntarily or involuntarily, or other government law enforcement service, prior to the participant's first or initial employment with the City shall be added to the participant's years of credited service only for participants who retire under the Early Retirement Incentive, provided that:

 - ~~(i) The participant did not receive a dishonorable discharge from the Armed Forces.~~~~

- (ii) ~~The participant did not receive credited service for the time spent in the Armed Forces or other government law enforcement service from any other private, governmental or military retirement or pension system.~~
- (iii) ~~The participant contributes to the Retirement Plan the full actuarial cost of all military or other law enforcement service credits purchased.~~
- (iv) ~~The purchase of credited military or other law enforcement service under this subsection by a participant shall be paid in full prior to the participant's retirement date or, at the participant's option, in three equal annual installment payments, without interest, commencing on the participant's designated retirement date, with the remaining two installments payable on the first and second anniversary dates of the participant's designated retirement date, and in accordance with all terms, rules, procedures or regulations established by the Retirement Committee.~~
- (v) ~~The maximum credit which may be purchased by a participant for any military service in the Armed Forces of the United States or other government law enforcement service under this section shall be four years.~~
- (5) ~~Participants who lack four or fewer years of credited service in order to be eligible for the Early Retirement Incentive set forth in subsection (f) above, or are eligible for and retire under said Early Retirement Incentive, but are not eligible to purchase credits for military or other law enforcement service under paragraph (4) above, may retire under the Early Retirement Incentive set forth above except they shall receive a service pension equal to the following percentages of the participant's final monthly compensation as defined below, for each year of service as defined in Section 3.02 hereof, according to their years of service as of their retirement date:~~
- | | |
|---------------------------------------|------------------|
| but less than 17 1/2 years | 4.05% |
| but less than 23 years | 3.98% |

~~provided that the participant contributes to the Retirement Plan the full actuarial cost of the higher benefit rate which contribution is made under the same terms and conditions as the purchase of military or other law enforcement service set forth in paragraph (4)(iv) above.~~

~~For purposes of determining a police officer participant's average final compensation under this subsection, such compensation shall be computed for~~

~~the twelve (12) month period immediately preceding the participant's retirement date.~~

- (6) ~~Non-bargaining unit employees who retire under the Early Retirement Incentive set forth in subsection (f) and thereafter are re-employed by the City shall not accrue additional credited service hereunder, shall not be eligible for disability or pre-retirement death benefits and shall not make contributions to the Plan; however, their service pension paid pursuant to the Early Retirement Incentive shall not be suspended or interrupted due to such re-employment.~~
- (fg) Notwithstanding any of the foregoing, distributions under the Plan shall commence not later than the "required beginning date", in accordance with IRC Section 401(a)(9).
- (gh) Benefit Alternate Computation - Deferred Retirement Option Plan for Firefighters (BAC-DROP") – [No change]

Section 6. Article I, Section 6.01A of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach, entitled "Deferred Retirement Option Program (DROP)", is proposed to be amended as follows:

Section 6.01A DEFERRED RETIREMENT OPTION PROGRAM (DROP)

- (a) [No change]
- (b) [No change]
- (c) [No change]
- (d) [No change]
- (e) A police officer who has completed 10 or more years of credited service on January 31, 2016 is eligible to enter the DROP upon attaining twenty (20) years of service, or upon reaching age fifty-two (52) with the completion of 15 years of service. Years of service may be acquired by actual eligible credited service to the City, by the purchase of credited service for prior military or law enforcement service (§304(e)(1)), by the purchase of permissive service credit (§304(g)) or any allowable combination thereof. A police officer who has completed less than 10 years of credited service on January 31, 2016, and police officers hired after that date, may enter the DROP upon attaining age fifty-five (55) with the completion of 15 or more years of credited service, or upon completion of 25 or more years of credited service regardless of age.

(f) ~~The total years of participation in the DROP may not exceed five (5) years.~~ Any Employee who is employed by the City as sworn police on or after January 1, 2008 may participate in the DROP for up to eight (8) years. The eight year limit shall apply even if the member had entered DROP prior to January 1, 2008 if they were still employed by the City on January 1, 2008. Notwithstanding any provision of this subsection, the total years of participation in the DROP may not exceed five (5) years for police officers with less than 10 years of credited service on January 31, 2016, and police officers hired after that date.

(g) [No change]

(h) The DROP account is a bookkeeping account within the Fund. The money that is credited to a member's DROP account will be commingled with all other monies in the fund. Each member's DROP account will be credited with interest at the assumed interest assumption for the Plan, as it may change from time to time. Notwithstanding the preceding sentence:

i. The DROP account of members with 10 or more years of credited service on January 31, 2016, who enter the DROP after that date, will be credited with interest at the rate of four and one-half (4.5) percent annually.

ii. The DROP account of members with less than 10 years of credited service on January 31, 2016 will be credited with interest at the rate of three and one-half (3.5) percent annually.

iii. The DROP account of members hired on or after February 1, 2016 will be credited with interest at the rate of one and one-half (1.5) percent annually.

(i)

(j) [No change]

(k) [No change]

(l) [No change]

(m) [No change]

(n) [No change]

(n) [No change]

(o) [No change]

- (p) [No change]
- (q) [No change]
- (r) [No change]
- (s) [No change]

Section 7. Article I, Section 6.02 of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach, entitled “Early Retirement and Retirement Income”, is proposed to be amended as follows:

Section 6.02 Early Retirement and Retirement Income

- (a) [No Change]
- (b) Payment Governed By - In the event of early retirement, payment of retirement income will be governed by the following provisions:
 - (1) Early Retirement Date - The early retirement date will be the first day of the month coincident with or next following the date a participant retires from the service of the City under the provisions of this section, prior to his or her normal retirement date.
 - (2) Cost of Living Adjustments - Commencing October 1, 1998 and on the first day of each October thereafter, the monthly income
 - (i) payable hereunder to each police participant who retired under Section 6.02 hereof on or after December 30, 1988, after completing at least twenty years of credited service, who has attained age 52, and who, as of that October 1st has been retired for three or more years, shall be increased by two and one-quarter percent, increasing to 2.5% commencing October 1, 2002, or
 - (ii) payable to the surviving beneficiary of a participant who retired under Section 6.02 hereof on or after December 30, 1988, after completing at least 20 years of credited service and who died before reaching age 52, shall be increased by two and one-quarter percent and commencing October 1, 2002, by 2.5%, on the October 1st after the participant, had she or he or she survived, would have attained age 52 and would have been retired for three or more years and on the 1st day of each October thereafter.
 - (iii) Notwithstanding any other provision of this paragraph (2):

- a. The monthly income payable hereunder to a police officer who has completed less than 10 years of credited service on January 31, 2016 and retires on or after that date after completing at least twenty years of credited service, or the surviving beneficiary of such member, shall be increased by two and one-half (2.5) percent annually for benefits earned on or before January 31, 2016, commencing on the date the member attains or would have attained 62; and one and one-half (1.5) percent annually for benefits earned on and after February 1, 2016, commencing on the date the member attains or would have attained age 62.
- b. The monthly income payable hereunder to a police officer hired on or after February 1, 2016, who retires after completing at least twenty years of credited service, or the surviving beneficiary of such member, shall be increased by one and one-half (1.5) percent annually commencing on the date the member attains or would have attained age 62.

* * *

Section 8. That Ordinance No. 2013-20 is hereby repealed in its entirety.

Section 9. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 10. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

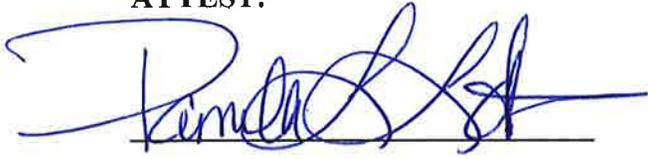
Section 11. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or 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 12. This ordinance shall take effect immediately upon adoption.

APPROVED BY TITLE ONLY on first reading this 17th day of May, 2016.

APPROVED AND ADOPTED on second reading this 7th day of June, 2016.

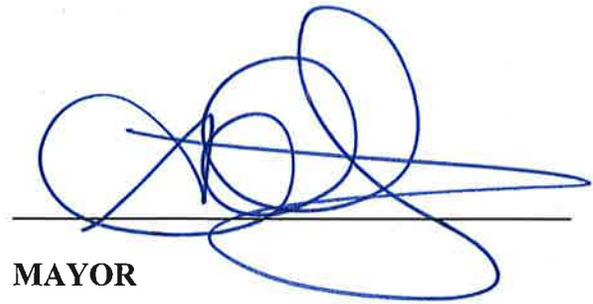
ATTEST:



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CITY CLERK

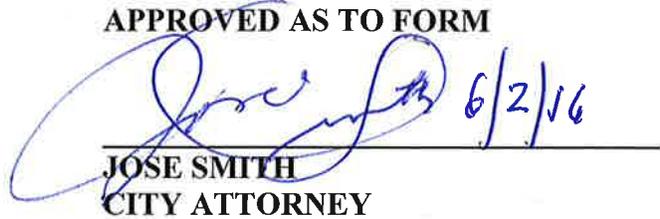
(CITY SEAL)



A large, stylized handwritten signature in blue ink, written over a horizontal line.

MAYOR

APPROVED AS TO FORM



A handwritten signature in blue ink, appearing to read 'Jose Smith', followed by the date '6/2/16', written over a horizontal line.

**JOSE SMITH
CITY ATTORNEY**

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