

ORDINANCE NO. 2011-8

AN ORDINANCE AMENDING THE POLICE OFFICERS AND FIREFIGHTERS RETIREMENT PLAN OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, PROVIDING FOR COMPLIANCE WITH CHAPTER 2009-97, LAWS OF FLORIDA; AMENDING ARTICLE VII, BENEFITS NOT ASSIGNABLE; AMENDING ARTICLE I, TERMINATION OF PLAN; AMENDING ARTICLE IV, ADMINISTRATION OF FUNDS; 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 2009 Florida Legislature enacted Chapter 2009-97, Law of Florida, which mandates certain amendments to the City Police Officers and Firefighters' Retirement Plan; and

WHEREAS, recent changes to State statutes require several amendments to the Plan in order to maintain eligibility for receipt of state premium tax revenues; and

WHEREAS, an amendment to the City Code is necessary to permit such new obligations and conditions; and

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

WHEREAS, the trustees of the City of North Miami Beach Retirement Plan for Police and Firefighters' have requested and approved such an amendment as being in the best interests of the participants and beneficiaries as well as improving the administration of the plan, and

WHEREAS, the City Council has received and reviewed an actuarial impact statement related to this change and attached as such; and

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WHEREAS, these amendments have been approved by a majority of the Plan's active participants voting in a referendum.

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

Section 1. The foregoing WHEREAS clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Article VII, Section 7.05, Benefits Not Assignable, of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by adding the following underlined language and deleting the stricken language.

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. The Board of Trustees may, upon the written request of the retiree of the pension plan, authorize the plan administrator to withhold from that retiree's benefit payment those funds that the retiree directs to pay for premiums for accident, health, and long-term care insurance for the retiree and the retiree's spouse and dependents. The pension plan, and its Board of Trustees, shall not incur any liability for participation in this permissive program for actions taken in good faith. The actual cost of this program may be deducted from the retiree's benefit payment.

Section 3. Article I, Section 1.06, Termination of Plan, of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by adding the following underlined language and deleting the stricken language.

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(c) In the event of termination or partial termination of the plan, each participant's accrued pension benefit shall become nonforfeitable (100 percent vested). The board shall determine the date of distribution and the asset value required to fund all nonforfeitable benefits after taking into account the expenses of such distribution. The board shall inform the then current Plan sponsor if additional assets are required in which event the then current Plan sponsor shall continue to financially support the pension plan until all nonforfeitable benefits have been funded. At such time, the funds shall be appropriated and distributed in accordance with the provisions of Section 175 and 185, Florida Statutes.

Section 4. Article IV, Section 4.04, Administration of Funds, of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by adding the following underlined language and deleting the stricken language.

(d) The Retirement Committee shall establish a written investment policy, with the advice and counsel of such advisors as the Retirement Committee deems necessary, and said investment policy shall set forth the types of securities and other types of investments into which shall be placed the assets of the fund. The policy shall further set forth appropriate limitations on those investments, including, but not limited to, anticipated rate of return, quality of investment, class of investment and acceptable risk. The Retirement Committee shall identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in Florida Statutes, Section 215.473, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in such company beginning January 1, 2010 and shall thereafter be prohibited from purchasing or holding such securities. The divestiture of any such security must be completed by September 30, 2010. In accordance with Ch. 2009-97, Laws of Florida, no person may bring any civil, criminal, or administrative action against the board or any employee, officer, director, or advisor of such board based upon the divestiture of any security pursuant to this paragraph. The board shall have the authority to invest and reinvest the assets of the plan in such securities or property, real or personal, as the board deems appropriate.

Section 5. 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

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provision or application, and to this end the provisions of this Ordinance are declared to be severable. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. 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.

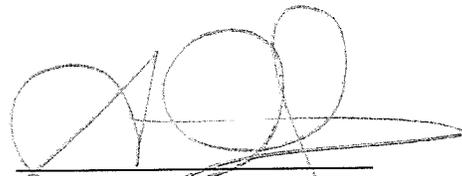
Section 7. This Ordinance shall take effect upon adoption.

APPROVED BY TITLE ONLY on first reading this **5th day of July, 2011.**

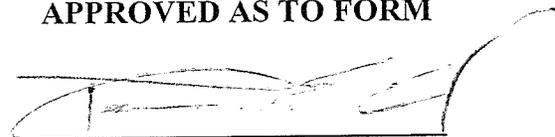
APPROVED AND ADOPTED on second reading this **19th day of July, 2011.**

ATTEST:


PAMELA L. LATIMORE
CITY CLERK


GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM


DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored: Mayor & Council

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