

**ORDINANCE NO. 2005-6**

**AN ORDINANCE AMENDING THE POLICE OFFICERS AND FIREFIGHTERS RETIREMENT PLAN OF THE CITY OF NORTH MIAMI BEACH, FLORIDA; AMENDING ARTICLE III, MEMBERSHIP, SECTION 3.04, CREDITED SERVICE, TO PROVIDE FOR THE PURCHASE OF CREDITED SERVICE FOR FAMILY MEDICAL LEAVE; AMENDING ARTICLE V, ADMINISTRATION OF PLAN, SECTION 5.01, MEMBERSHIP, TO CHANGE THE BOARD COMPOSITION TO PROVIDE PREFERENCE TO RETIREES IN FILLING THE FIFTH MEMBER POSITION; AMENDING ARTICLE VI, RETIREMENT BENEFITS, SECTION 6.02, EARLY RETIREMENT AND RETIREMENT INCOME, TO SET THE EARLY RETIREMENT REDUCTION FACTOR AT 3%, EFFECTIVE OCTOBER 1, 2004, IN COMPLIANCE WITH STATUTORY MINIMUM BENEFIT REQUIREMENTS; AMENDING SECTION 6.04, BENEFITS OTHER THAN ON RETIREMENT, TO PROVIDE A MINIMUM IN-SERVICE DEATH BENEFIT EQUAL TO 60% OF THE DECEASED PARTICIPANT'S FINAL MONTHLY COMPENSATION; AMENDING SECTION 4.01 TO PROVIDE FOR THE COST OF THE MINIMUM IN-SERVICE DEATH BENEFIT UNDER SECTION 6.04; AMENDING SECTION 6.11, VOLUNTARY SUPPLEMENTAL BENEFIT, TO ALLOW PARTICIPANTS TO PAY FOR SAID BENEFIT BY DIVERSION OF PAYMENTS FROM THE DEFERRED RETIREMENT OPTION PLAN (DROP); PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE.**

WHEREAS, the City North Miami Beach, Florida grants family medical leave (FMLA) to participants in the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach; and

WHEREAS, the City and Retirement Committee desire to offer participants who are absent due to family medical leave the opportunity to purchase credited service for the time of such leave by paying the full actuarial cost thereof; and

WHEREAS, the Retirement Plan must be amended to specifically provide for the purchase of such credited service for family medical leave; and

WHEREAS, the City Council has received an actuarial impact statement showing that there is no actuarial impact to this amendment; and

WHEREAS, this amendment has been approved by more than the required 60% of the Plan's active participants voting in a referendum; and

**WHEREAS,** the Police Officers and Firefighters Retirement Plan of the City of North Miami Beach, Florida have requested that preference be given to retirees when filling the fifth member position; and

**WHEREAS,** this amendment has been approved by more than the required 60% of the Plan's active participants voting in a referendum; and

**WHEREAS,** increases of Chapter 185 funds from the funding level of Calendar Year 1997 have enabled the pension plan to meet the statutory minimum regarding the early retirement reduction factor by establishing said factor as three percent (3%) per year effective October 1, 2004; and

**WHEREAS,** the City Council has determined that it would be in the best interest of the participants of the Retirement Plan to provide a minimum death benefit for the beneficiaries of participants who die while on duty or in the line of duty; and

**WHEREAS,** the Retirement Plan must be amended in order to provide said benefit; and

**WHEREAS,** the City Council has received an actuarial impact statement regarding said benefit; and

**WHEREAS,** this amendment has been approved by more than the required 60% of the Plan's active participants voting in a referendum; and

**WHEREAS,** the City Council has determined that it would be in the best interest of the participants of the Retirement Plan to amend the Plan to permit the participants to purchase, the Voluntary Supplemental Benefit set forth in Section 6.11 of the Code of Ordinances through the diversion of payments due from the DROP; and

**WHEREAS,** the City Council has received an actuarial impact statement showing that there is no actuarial impact to this amendment; and

**WHEREAS,** this amendment has been approved by more than the required 60% 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 recital 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.** Section 3.04, Credited Service, of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by adding the following subsection:

**(g) Purchase of Credited Service for Family Medical Leave.**  
For a participant who was absent due to family medical leave (FMLA) for thirty-one (31) days or more, the months or fractional parts of months that such Participant was absent in excess of thirty (30) days (the first thirty (30) days being included in the Participant's credited service pursuant to Section 3.04(b) above) shall be added to the Participant's months of credited service provided that the Participant contributes to the Retirement Plan the full actuarial cost of all service credits purchased hereunder. The Participant, as part of the application for the purchase of family medical leave credited service, shall elect to purchase the family medical leave service credit either:

- (1) In the manner set forth in subsection (e)(1), above (i.e. lump sum contribution or employer pick-up); or
- (2) Inter-plan transfer as set forth in subsection (f), above.

**Section 3.** 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: (a) 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 firefighter 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, who shall give preference to retirees, 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 except, before appointing a non-retiree to the committee as the fifth member, the City Council shall first inquire of the Retirement Committee as to why a retiree was not chosen as the 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 shall 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 4.** Section 6.02(b)(3) of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach shall be amended as follows:

**§6.02(b)(3) Amount of Retirement Income**

Amount of Retirement Income – The monthly amount of retirement income payable to an employee who retires prior to his normal retirement date under the provisions of this section shall be an amount equal to 3% (.0300) of his final monthly compensation multiplied by his years of credited service, multiplied by the actuarially-equivalent reduction factor to take into account the participant's younger age at retirement and the earlier commencement of retirement income payments. Effective October 1, 2004, ~~upon the commensurate increase of Chapter 175 and 185 funds from the funding levels of Calendar Year 1997~~, the early retirement reduction factor shall be three percent (3%) per year for each year by which the employee's age at early retirement precedes his normal retirement age as provided in Section 6.01(b).

**Section 5.** Section 6.04(b) of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach shall be amended as follows:

**§ 6.04 Benefits Other Than on Retirement**

(b) Benefit Payable in Event of Non-Service Related Death on or Prior to Normal Retirement Date while in Service.

(1) AMOUNT – If the service of a Participant is terminated by reason of death on or prior to his normal retirement date, and such death does not occur while the participant is on duty or in the line of duty, there shall be payable to the participant's designated beneficiary (or beneficiaries) the monthly retirement income, beginning on the first day of the month coincident with or next following the date of his death which can be provided by (i) or (ii), whichever is greater, where:

(i) is the single-sum value of his accrued deferred retirement income commencing at his normal retirement date, which sum has accrued to the date of his death, where the single-sum value will be calculated in a manner similar to the way the reserve is accumulate under a typical retirement income contract; and

(ii) is (a) or (b), whichever is smaller, where (a) is 24 times his rate of monthly compensation on the October 1<sup>st</sup> preceding the date of his death, and (b) is 100 times the participant's anticipated monthly retirement income commencing at normal retirement date.

**Section 6.** Section 6.04 of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by adding the following new subsection (c) and by redesignating the former subsection(c) as subsection (d).

#### **§6.04 BENEFITS OTHER THAN ON RETIRMENT**

##### **(c) Benefit Payable in Event of Death On-Duty or In Line of Duty, On or Prior to Normal Retirement Date.**

(1) Effective July 1, 2004, the monthly retirement income payable upon the death of a participant who is survived by a spouse and/or dependent child(ren), and whose death occurs while the participant is on duty or in the line of duty shall be the greater of (i) the monthly retirement income determined in accordance with Subsection 6.04(b)above, and (ii) 60% of the participant's final monthly compensation at the date of the death of the participant. Said retirement income shall be payable to the participant's surviving spouse, or, if the participant was not married at the time of death, in equal parts to any surviving dependent children (including adopted children and step-children) of the participant. Should the surviving spouse die after the commencement of payments hereunder, but prior to the date upon which any of the participant's dependent children ceases to be a dependent, then the payments provided hereunder shall be made to any such child(ren), in equal parts, until such time as said child(ren) ceases to be a dependent. For the purposes of this Section, the term dependent child shall mean: (i) an unmarried child who is less than age 19; (ii) an unmarried child who is at least 19 years of age, but less than 23 years of age, and who is a registered, full-time student in a state-accredited high school, college, university, junior college, or community college; (iii) a child who is 19 years of age or older, and who is mentally or physical disabled. If the total benefits paid under this subsection are less than the total contributions made to the Plan by the Participant, then the balance shall be paid to the Participant's designated beneficiary.

(2) The designated beneficiary or beneficiaries of a Participant whose death occurs while on duty or in the line of duty and who is not survived by either a spouse or a dependent child, shall receive the benefit provided in subsection (b) above.

(3) A Participant may waive this benefit so that the benefit provided in subsection (b) above will be paid upon the Participant's death to the Participant's designated beneficiary, instead of the benefit provided in this subsection (c) being paid to the Participant's surviving spouse and/or dependent children. Such a waiver must be signed by the Participant and received by the Retirement Plan in order to be effective, and may be revoked by the

Participant at any time by a written revocation received by the Retirement Plan.

**Section 7.** Section 4.01(b) 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:

**§4.01 Participant's Contribution Account**

**(b) Amount of Contribution** – Each police officer will contribute toward the cost of the Plan an amount equal to 8% of his basic annual compensation as defined in Article II, 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 8.** Section 6.11 of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach, Voluntary Supplemental Benefit, is hereby amended to read as follows:

**§6.11 Voluntary Supplemental Benefit**

**(A)** A participant who has completed ten years of credited service may elect to increase his retirement benefit by an amount no greater than 5% of his final monthly compensation under the following conditions:

(1) The participant contributes to the Retirement Plan the full actuarial cost of the supplemental benefit purchased hereunder. As part of the application for the purchase of such supplemental benefit, the Participant shall elect either (i) to contribute to the Retirement Plan the cost of such purchased supplemental benefit, which contribution may include, in whole or in part, the diversion of payments due to the Participant from the Deferred Retirement Option Plan (DROP), or (ii) to have all or a portion of the contributions for the cost of said supplemental benefit picked up by the City. If the Participant elects to have contributions picked up by the City, the Participant must execute an irrevocable, binding payroll deduction authorization form with respect to these contributions, the employee shall not be entitled any option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Retirement Plan and the employee while employed by the City shall not be able to make payment directly to the Retirement Plan for such supplemental benefit. With respect to any Participant's contributions which are picked up by the City, the effective date of the pick up by the City shall be the later of the adoption of this ordinance or the execution of the payroll deduction authorization form. This pick up does not apply to any contributions made before the effective date or to any contribution that relates to compensation earned for services before the effective date. Participant contributions made pursuant to a binding irrevocable payroll deduction authorization to have such contributions picked up for the

purpose of purchasing a supplemental benefit hereunder shall be designated and considered as employee contributions, even though they are being paid by the City in lieu of the contributions paid directly by the Participant. Any payroll deduction authorizations in effect for the purchase of such supplemental benefit as of the effective date of this ordinance are void. The contributions made pursuant to this section are designated as being picked up by the city and paid from the same source as the payment of salary and wages to these Participants. If the cost of the purchased supplemental benefit is not paid in full prior to the termination of the Participant's employment (or by the conclusion of participation in the DROP, if the Participant elected to divert payments from the DROP), then the balance due to the Retirement Plan for the purchased supplemental benefit shall be picked up by the City from any payment due to the Participant by the City for unused accrued leave (termination pay) and the irrevocable payroll deduction authorization form described above, shall so provide, except pick up from termination pay is allowed only if said form was signed three (3) months or more before the employee's termination date. Should, after termination of the Participant's employment (or participation in the DROP) and the City pick-up of any remaining contribution due from the Participant's payment for accrued unused leave (which only includes payments available upon termination which would be reportable on Form W-2 as taxable wages but for the pick up) a balance still remain due for the purchase of the supplemental benefit, then, at the Participant's option, the Retirement Plan shall reduce the amount of supplemental benefit purchased to conform with the amount of contributions therefore picked up by the City and paid to the Retirement Plan, or the Participant may elect to make an after-tax lump-sum contribution for the balance due subject to the limitations of Section 415 of the Internal Revenue Code. If the Participant elects to make a lump-sum contribution for the balance due, such payment shall be made by the Participant prior to the date that the Participant's first monthly pension benefit payment is due, or, if the Participant elected to divert payments from the DROP, then within 30 days of the conclusion of participation in the DROP. The supplemental benefit purchase shall not be recognized or credited by the Pension Plan until the Participant has completed ten (10) years of credited service. If the Participant terminates employment before completing ten (10) years of service, all contributions made by the Participant for a supplemental benefit shall be refunded to the Participant.

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

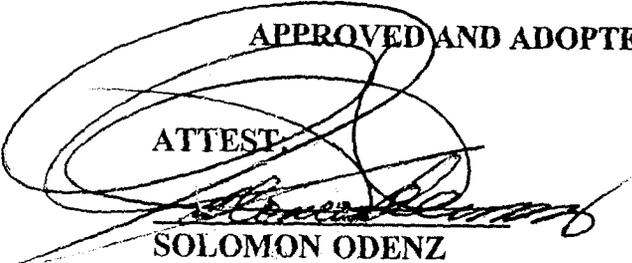
**Section 10.** If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

**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.

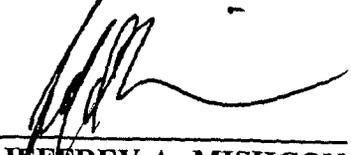
APPROVED BY TITLE ONLY on first reading this 15th day of March, 2005.

APPROVED AND ADOPTED on second reading this 5th day of April, 2005.

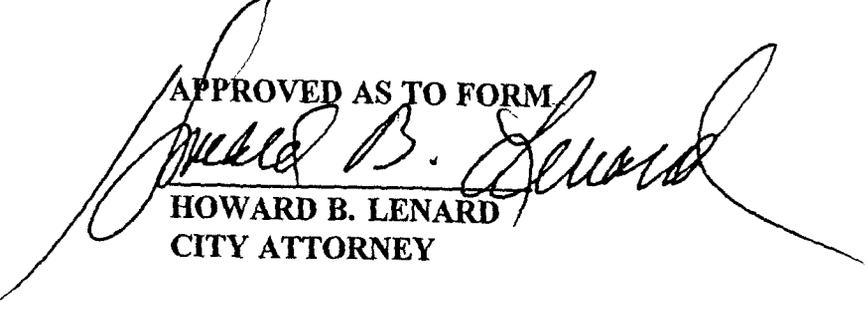
ATTEST

  
SOLOMON ODENZ  
CITY CLERK

(CITY SEAL)

  
JEFFREY A. MISHCON  
MAYOR

APPROVED AS TO FORM

  
HOWARD B. LENARD  
CITY ATTORNEY

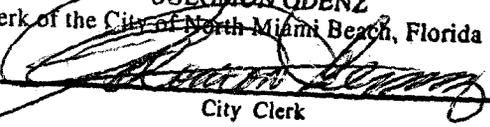
Sponsored by: Mayor and City Council

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE  
CITY OF NORTH MIAMI BEACH:

I, SOLOMON ODENZ, City Clerk of the City of North Miami Beach, do hereby certify that the attached and foregoing is a true and correct copy of the original thereof on file in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 5th day of April, A.D. 2005.

SOLOMON ODENZ  
City Clerk of the City of North Miami Beach, Florida

By:   
City Clerk

ORDINANCE NO. 2005-6