

**ORDINANCE NO. 94-37**

**AN ORDINANCE AMENDING ARTICLE VI: RETIREMENT BENEFITS OF THE CITY OF NORTH MIAMI BEACH RETIREMENT PLAN FOR POLICE OFFICERS AND FIREFIGHTERS ENACTING AND ADDING §6.10 ELECTION FOR DIRECT ROLLOVER OF ELIGIBLE DISTRIBUTIONS REQUIRED BY INTERNAL REVENUE SERVICE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE.**

**WHEREAS,** the Unemployment Compensation Amendments Act of 1992 (the Act) Effective January 1, 1993, imposed a 20% withholding tax on a pension plan distribution that is eligible for rollover treatment but that is not directly rolled over to an eligible retirement plan or IRA; and

**WHEREAS,** the Act established that as to such distributions made on or after the effective date, a distributee shall have the right to elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover; and

**WHEREAS,** the Act required compliance by pension plans as of January 1, 1993, and amendment of plans by December 31, 1994, such amendments to apply retroactively to January 1, 1993; and

**WHEREAS,** the City of North Miami Beach Retirement Plan for Police Officers and Firefighters has been operating in compliance with the Act from January 1, 1993; and

**WHEREAS,** the Mayor and City Council now desires to amend the City of North Miami Beach Retirement Plan for Police Officers and Firefighters to incorporate the provisions of the Act as required by Federal Law.

**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.** The City of North Miami Beach Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by the addition of Article VI §6.10, titled, Election for Direct Rollover of Eligible Distributions Required by Internal Revenue Service, which shall state as follows:

**Article VI. Retirement Benefits.**

**§6.10 Election for Direct Rollover of Eligible Distributions  
Required by Internal Revenue Service.**

**A. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.**

**B. Definitions.**

**(1) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal revenue Code; and the portion of any distribution that is not includible in gross income.**

**(2) Eligible retirement plan: An eligible retirement plan is an individual retirement account described in §408(a) of the Internal Revenue Code, an individual retirement annuity described in §408(b) of the Code, an annuity plan described in §403(a) of the Code, or a qualified trust described in §401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.**

**(3) Distributee: A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse.**

**(4) Direct rollover: A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.**

**Section 3.** All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**Section 4.** If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

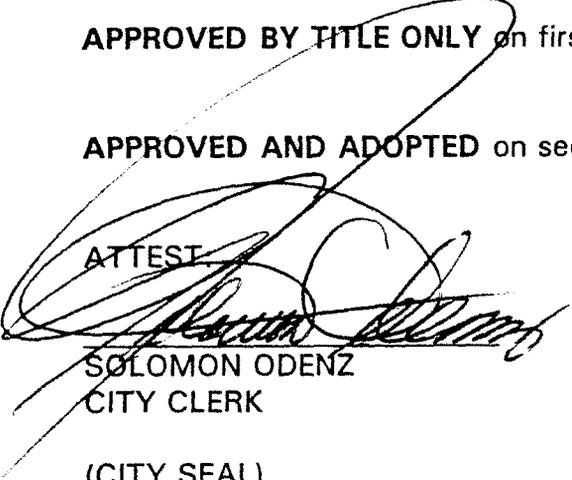
**Section 5.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made

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 6th day of December 1994.

**APPROVED AND ADOPTED** on second reading this 2<sup>nd</sup> day of December 1994.

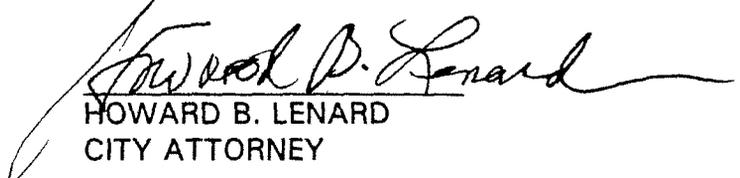
ATTEST

  
SOLOMON ODENZ  
CITY CLERK

(CITY SEAL)

  
JEFFREY A. MISHCON  
MAYOR

APPROVED AS TO FORM:

  
HOWARD B. LENARD  
CITY ATTORNEY

SPONSORED BY: Police Officers and Firefighters Retirement Board  
Mayor and City Council

NOTE: Underlining denotes additions and cross-outs denote deletions.