AN ORDINANCE AMENDING THE POLICE OFFICERS AND FIREFIGHTERS RETIREMENT PLAN OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING SECTION 6.01(c) TO PROVIDE FOR THE USE OF PREMIUM TAX INCOME UNDER CHAPTER 175, FLORIDA STATUTES, TO FUND A SUPPLEMENTAL BENEFIT TO FIREFIGHTER MEMBERS OF THE RETIREMENT PLAN IN LIEU OF THE CONTINGENT COST OF LIVING BENEFITS PREVIOUSLY PROVIDED; 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 City Council and the Police Officers and Firefighters Retirement System Board of Trustees have determined that it would be in the best interest of the participants of the Retirement Plan to provide for the use of premium tax income received by the Retirement Plan pursuant to Chapter 175, Florida Statutes, to fund an annual supplemental benefit for firefighter members of the retirement plan rather than the contingent cost of living benefits previously provided; and

WHEREAS, each of the concerned members have approved in writing the provision of an annual supplemental benefit in lieu of the contingent cost of living benefits previously provided; and

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

WHEREAS, the City Council has received an actuarial impact statement regarding said benefit indicating no additional cost to the plan or to the City; and

WHEREAS, the previous method of calculating and paying contingent cost of living increases was difficult to administer, leading to errors in the payment of pensions, which errors must be corrected by collecting overpayments from or making payments for underpayments to pensioners and retirees; and

WHEREAS, the creation of the supplemental retirement benefits herein provides a means for reimbursement of overpayments without reducing a retiree's or pensioner's monthly pension payments; and

WHEREAS, the repayment plan agreed to by the firefighters and the pension board provides for the recovery by the plan of all overpayments and the normalization of all benefit calculations upon payment of the January 2009 supplemental benefit.

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. Subsection (c) of Section 6.01 of the Retirement Plan relating to Supplemental Retirement Benefits for Firefighters is hereby amended[1] as follows:

6.01 Normal Retirement

(c) **Police Cost of Living Adjustments and Firefighter Supplemental Benefits**

Police COLA. 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.

~~Commencing March 1, 1997, and on the first day of each March thereafter, the monthly income payable to each firefighter participant who retired on or after December 30, 1988, including those firefighter participants who participate in the Benefit alternate computation Deferred Retirement Option Plan, shall be increased by 2%, provided that the City of North Miami Beach continues to receive a rebate of fire insurance premium tax monies pursuant to Chapter 175, Florida Statutes. Should the payment to the City of North Miami Beach of the premium tax rebate monies by the State of Florida be discontinued or be reduced in any year so as to require an additional City contribution in order to fund this cost of living adjustment, then the amount of the cost of living adjustment in that year shall be reduced so that additional City contributions shall not be required. Commencing March 1, 2002 and on the first day of each October thereafter, investment returns in excess of the actuarially assumed rate of return and all state premium tax funds shall be applied towards insuring the actuarial soundness of the Retirement Plan. If the portion of the Retirement Plan's actuarial liability attributable to former firefighters is fully funded, any funds remaining thereafter shall be utilized to provide an increase of up to two and one-half percent (2.5%) to the monthly income payable hereunder for each firefighter participant who retired, or any such participant's surviving beneficiary, pursuant to actuarial analysis.~~

~~**Supplemental Retirement Benefit:** In addition to all other benefits provided herein, an annual supplemental retirement benefit is hereby provided for all firefighter retirees and beneficiaries and survivor annuitants of deceased firefighters. Entitlement to such supplemental retirement benefit shall be determined annually contingent upon the receipt by the Plan of any "additional premium tax revenues," as defined in sub-section 175.351(1) (b), Florida Statutes, or upon the accumulation of any "additional premium tax revenues" received in prior years. The total amount of "additional premium tax revenues" that is available to be distributed shall be determined by the Board, upon advice of the Board's actuary, after the amount currently allowed to be applied to the Plan's contribution requirement has been determined. Payment of such supplemental retirement benefit shall be made annually to each firefighter retiree or beneficiary or survivor annuitant of a deceased firefighter retiree. Such payment shall be made only after receipt of any "additional premium tax revenues" from the state but not later than the first of December of each year, beginning with the year 2005. Payment to eligible recipients shall be made only after it has been confirmed in writing that the recipient was alive on October first of that year. The amount of each such supplemental retirement benefit shall be equal to the sum of: (1) Half of the "additional premium tax revenues"~~

[1] The Supplemental Retirement Benefits for police officers remain unchanged by this ordinance.

~~available to be distributed multiplied by the total Credited Service at retirement for the retired or deceased firefighter upon whose service the benefit is based, divided by the total Credited Service at retirement for all retired firefighters and all deceased firefighters whose beneficiaries or survivor annuitants received benefits as of October first of that year, plus (2) Half of the "additional premium tax revenues" available to be distributed multiplied by the monthly benefit paid to the retired firefighter, beneficiary or survivor annuitant, divided by the total monthly benefits paid to all retired firefighters, beneficiaries and survivor annuitants on October first of that year; provided that each annual supplemental retirement benefit shall not exceed twenty thousand dollars. Such supplemental retirement benefit shall be paid in a lump sum, with the first payment to be made within 60 days after adoption of this ordinance retroactive to December 1, 2005.~~

Firefighter Supplemental Retirement Benefit. In lieu of the cost of living adjustments previously provided, commencing January 1, 2009, there is hereby provided for all firefighter retirees and pensioners alive as of each October 1st prior to the payment of this benefit an annual supplemental retirement benefit.

(i) Entitlement to such supplemental retirement benefit is contingent upon and shall be determined annually based upon the receipt by the Plan of any premium tax income pursuant to sections 175.121(2) and 175.351(1), Florida Statutes. The total amount of premium tax income that is available to be distributed as supplemental retirement benefits hereunder shall be determined by the Board, upon advice of the Board's actuary, after the maximum amount that is allowed to be placed in the pension plan to become an integral part of the firefighters' pension plan so as to be applied to the City's contribution requirement has been determined and placed in the firefighters' pension plan.

(ii) Payment of such supplemental retirement benefit shall be made annually in January of each year, based upon the amount of undistributed premium tax income received during previous calendar year, or if the payment of a year's premium tax income is delayed until after December 31st of that year, then payment of the supplemental retirement benefit shall be paid within 90 days after receipt.

(iii) Payment to each firefighter retiree or pensioner is contingent upon and can only be made after receipt of premium tax income from the state in excess of the maximum amount that is allowed to be placed in the pension plan to offset any required City contribution to become an integral part of the firefighters' pension plan and only after it has been confirmed in writing that the recipient was alive on the prior October 1st.

(iv) The amount of each such supplemental retirement benefit shall be equal to the sum of: (1) Half of the premium tax income available to be distributed as supplemental retirement benefits hereunder multiplied by the total Credited Service at retirement for the retired or deceased firefighter upon whose service the benefit is based, divided by the total Credited Service at retirement for all retired firefighters and all deceased firefighters whose beneficiaries or survivor annuitants received supplemental retirement benefits as of the prior October 1st, plus (2) Half of the premium tax income available to be distributed as supplemental retirement benefits multiplied by the monthly benefit paid to the retiree or pensioner on the prior October 1st, divided by the total monthly benefits paid to all retirees and pensioners on the prior October 1st.

Section 3. The supplemental benefit paid pursuant to this ordinance to each firefighter or his beneficiary in January 2009 shall be reduced by his then total outstanding debt to the plan caused by prior overpayment of benefits.

Section 4. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

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 affect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

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.

Section7. This Ordinance shall take effect upon adoption.

APPROVED BY TITLE ONLY on first reading this **3rd day of February, 2009.**

APPROVED AND ADOPTED on second reading this **17th day of February, 2009.**

ATTEST:

SOLOMON ODENZ
CITY CLERK

RAYMOND F. MARIN
MAYOR

(CITY SEAL)

APPROVED AS TO FORM

DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Mayor and City Council