

ORDINANCE NO. 2014-05

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 70 ENTITLED "RETIREMENT AND PENSIONS", ARTICLE IV. EMPLOYEES GENERAL RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES, AND IN PARTICULAR, TO REVISE LANGUAGE IN ORDER TO COMPLY WITH CHANGES IN FEDERAL LAW TO BECOME A QUALIFIED RETIREMENT PLAN PURSUANT TO THE INTERNAL REVENUE CODE AND TO ADD AN ADDITIONAL SECTION, HIALEAH CODE § 70-259.1 ENTITLED "FEDERAL TAX PROVISIONS" IN FURTHERANCE THEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 27, 2013, the Department of Treasury, Internal Revenue Service, issued a favorable determination letter that the proposed or restated Hialeah Retirement Plan qualifies as a Governmental plan under section 414(d) of the Internal Revenue Code: and

WHEREAS, the favorable determination is condition on the adopted of the proposed changes contained in this Amendment and that such adoption should occur on or before January 31, 2014; and

WHEREAS, this Amendment will not negatively impact the City of Hialeah pension plan financially; and

WHEREAS, the proposed Amendment was reported to the Board of Trustees of the Employees General Retirement System at a meeting on December 17, 2013.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 70 entitled "Retirement and Pensions", Article IV. Employees General Retirement System, of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

Chapter 70

RETIREMENT AND PENSIONS

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ARTICLE IV. EMPLOYEES GENERAL RETIREMENT SYSTEM

DIVISION 1. GENERALLY

Sec. 70-96. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accumulated member contributions means the sum of all amounts deducted from the compensation of a member and credited to the member's individual account in the annuity savings fund, together with regular interest thereon.

Actuarial equivalent means a benefit of equal value when computed at regular interest upon the basis of such mortality tables as the board shall from time to time adopt. The assumptions currently adopted by the board of trustees are 7.0% interest compounded annually and the male rates from the 1971 Group Annuity Mortality Table for participants and the female rates from the 1971 Group Annuity Table for beneficiaries.

Annuity means payment derived from the accumulated contributions of a member, either lump sum or payments for life.

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Original member means any employee with prior service credited to his service account as of January 1, 1956.

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Sec. 70-204. Termination of membership; effect of reemployment.

(a) Except as otherwise provided in this article, if a member separates from the services of the city, except to become a retirant or for death, the member shall forfeit the member's credited service at the time of separation; and the member shall thereupon cease to be member. However, if such person is reemployed by the city within a period of four years from and after the date of the member's last separation from service, the credited service forfeited by the member at the time of the member's last separation from service shall be restored to the member's credit. This section shall apply in all cases of separation from the employment of the city except as provided in section 70-205.

(b) Nothing in this article is intended to construe that a person upon ceasing to be a member of this plan shall not have the right to withdraw the total amount that the member has contributed to the annuity savings fund; such person shall not receive any part of the funds deposited in the pension reserve fund by

the city or any instrumentality of the city. The withdrawal of any funds from the annuity savings fund shall not affect any vested rights. Any withdrawal by a former member under this paragraph shall be permitted only upon a written request by the former member in a form and manner determined by the board of trustees.

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DIVISION 5. BENEFITS

Sec. 70-236. Eligibility for retirement from service.

Any member who has attained his eligible retirement requirements, as defined in section 70-203, may retire from city service upon written application to the board of trustees.

Sec. 70-237. ~~Compulsory retirement age; extensions; reemployment.~~ Reemployment.

~~At the age of 70, all members of the retirement system shall be separated from city service, except any such member may remain in city service with the majority approval of the board of trustees subject to the following conditions:~~

~~(1) The employee requests to be continued in service by filing his written application with the board.~~

~~(2) Continued service is approved by the administrative head of the city and the personnel director or civil service board, as the case may be, provided that:~~

~~a. No such continuation in service shall be for any one period longer than one year. At the expiration of any such period, the member may be continued in service for renewed periods upon completing the application described in subsection (1) of this section; and~~

b. No person who shall have been retired from the city service under this retirement plan shall be eligible for reemployment by the city while receiving benefits from the retirement system, except that this shall not prohibit such person from holding public office and receiving the salary therefrom and except under the following limited circumstances: Where there is a documented operational necessity involving life safety concerns, the city may reemploy a retiree to perform the duties of a public safety communications officer, without affecting the employee's retirement benefits, as a contract employee, after one year of separation from service with the city, for up to 30 hours a week.

Sec. 70-238. Service retirement allowance.

(a) *Prior to October 5, 1990.* Upon retirement from service as provided in sections 70-236 and 70-237, a member who has ten or more years of service credited to the member's service account shall receive a service retirement allowance consisting of the following:

(1) *Annuity.* An annuity which shall be the actuarial equivalent of the member's accumulated contributions standing to his or her credit in the annuity savings fund at the time of retirement; and

(2) *Basic pensions.* A basic pension as follows:

~~Period Basic Pension~~

~~October 1, 1982 through September 30, 1983 — \$1,400.00~~

~~October 1, 1983 through September 30, 1984 — \$1,600.00~~

~~October 1, 1984 and after — \$1,800.00~~

TABLE INSET:

Period Basic	Pension
October 1, 1982 through September 30, 1983	\$1,400.00
October 1, 1983 through September 30, 1984	1,600.00
October 1, 1984 and after	1,800.00

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Sec. 70-249. Disability benefits.

(a) Upon retirement for total and permanent disability as provided for in section 70-248, whether or not disabled member is eligible for city retirement and whether or not the disabled member has elected the lump sum withdrawal option of his annuity savings.

(1) *Disability benefits Option 1 and Option 2.* A retiree for a total and permanent disability under section 70-248 for line-of-duty injuries may elect a service pension as provided in section 70-238 subject to and limited by the following options: Option 1: A service pension limited to and only to a maximum of 75 percent of the average compensation of three years of membership service that represents three individual years of the highest annual salary to which an annuity contribution has been paid to the retirement system, with insurance benefits for group health insurance as if the employee retired under normal retirement, with the retiree responsible for payment of the full health insurance premium for single dependent and/or family coverage, if the retiree desires such coverage; and Option 2: A service pension limited to and only to a maximum of 66 2/3 percent of the average compensation of three years of membership service that represents three individual years of the highest annual salary to which an annuity contribution has been paid to the retirement system, with insurance benefits for group health insurance as if the employee retired under normal retirement, with the retiree responsible for payment of the active rate for single dependent and/or family coverage, if the retiree desires such coverage. The employee election between Option 1 and Option 2 shall be made one time only at the time of retirement and is irrevocable. In any event, at age 65, upon being eligible for and enrolling in Medicare Part A and Part B, the city shall pay the full cost of the premium for individual health insurance coverage for the retiree only.

(2) *Enhanced disability benefits.* A retiree for a total and permanent disability under section 70-248 for line-of-duty injuries shall be eligible for enhanced disability benefits if the disability is caused by a severe injury in the line of duty, which is the direct result of one specific violent event, involving a

substantial physical impact to the employee-retiree. If the employee-retiree contracts Acquired Immune Deficiency Syndrome (AIDS) or Hepatitis-C through the transmission of bodily fluids as a direct result of one specific event occurring in the line of duty, documented at the time of the event, and the employee, at the time of the event exercised universal precautions and complied with the all applicable standard operating procedures and policies of the city, then such employee-retiree is entitled to enhanced benefits provided herein. The enhanced benefits are not available to an employee-retiree who has contracted AIDS or Hepatitis-C through sexual transmission or drug use. The enhance benefits shall be a service pension limited to and only to a maximum of 75 percent of the average compensation of three years of membership service that represents three individual years of the highest annual salary to which an annuity contribution has been paid to the retirement system, with the retiree only responsible for payment of the active rate for health insurance for single dependent and/or family coverage, if the retiree desires such coverage.

The provisions of section 70-249(a)(1) and (a)(2) do not apply to firefighters and police officers who have applied for total and permanent disability under section 70-248 on or before January 1, 2007 and later retire with such disability under section 70-248, or general employees who have applied for total and permanent disability under section 70-248 on or before April 1, 2008 and later retire with such disability under section 70-248.

(b) Disability benefits not connected with the line of duty for members shall have a service pension under section 70-238 but limited to and only to a maximum of 66 2/3 percent of the average compensation of three years of membership service that represents three individual years of the highest annual salary to which an annuity contribution has been paid to the retirement system, with group health insurance benefits as provided in section 70-249(c). Members hired after October 10, 2006 shall pay the active rate for individual health insurance coverage, calculated at the rate on the date of retirement. In any event, at age 65, upon being eligible for and enrolling in Medicare Part A and Part B, the city shall pay the full cost of the premium for individual health insurance coverage for the retiree only.

(c) The insurance benefits provided to a disabled member pursuant to this subsection shall only accrue to eligible employees injured in circumstances not connected with line of duty of injuries and circumstances that are non job-related with a minimum of ten years of continuous service. The city shall pay 100 percent of the cost of the insurance premium of an eligible disabled member for single coverage. The eligible disabled member shall pay the cost of the insurance premium for double or family coverage; provided, however, the eligible disabled members, as described below, shall receive a credit towards payment of the premium based on the following criteria:

TABLE INSET:

~~Total monthly income from city. Credit amount.~~

~~From 0 to and including \$2,000.00 — 75%~~

~~Greater than \$2,000 to and including \$3,250.00 — 50%~~

~~Greater than \$3,250.00 to and including \$4,500.00 — 25%~~

Total monthly income from city	Credit amount
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From zero (0) to and Including \$2000.00	75%
Greater than \$2,000.00 to and including \$3,250.00	50%
Greater than \$3,250.00 to and including \$4,500.00	25%

All rates are subject to periodic adjustments.

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Sec. 70-255. Vesting and early retirement.

Upon reaching age 50, any firefighter member or police officer member in good standing, with at least ten years of credit service, and upon retirement and proper application to the board of trustees, shall be eligible to receive an early retirement benefit equal to the normal service retirement allowance under section either 70-238(c) or 70-252, whichever is greater, actuarially reduced to take into account the firefighter member's or police officer member's younger age and the earlier commencement of retirement benefits. In no event shall the firefighter member's or police officer member's early retirement reduction exceed three percent for each year by which the member's age at retirement preceded the member's normal retirement age.

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Sec. 70-257. War service credit.

In determining service credit of any firefighter member or police officer member, credit for up to five years of the time spent in the military service of the armed forces of the United States shall be added to the member's years of actual service at no cost to the member if:

- (a) The member is in the active employ of the city immediately prior to such service and leaves a position for the purpose of voluntary or involuntary service in the armed forces of the United States.
- (b) The member is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act.
- (c) The member returns to the member's employment with the city as a firefighter or police officer within one year from the date of release from such active service.
- (d) Notwithstanding any provisions of this plan to the contrary, effective as of December 12, 1994, contributions, benefits and service credit with respect to qualified military service

will be provided according to section 414(u) of the Internal Revenue Code of 1986, as amended, USERRA or chapters 175 and chapter 185, Florida Statutes, as applicable.

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Sec. 70-259.1. Federal tax provisions.

- (a) No pension provided hereunder shall be assignable and no part of the corpus or income of the fund shall be used for, or diverted to, purposes other than for the exclusive benefit of members and their beneficiaries, and until those liabilities are satisfied, all city contributions will remain in the fund for the benefit of the members or beneficiaries if the plan is terminated or city contributions cease.
- (b) Upon termination of the plan or on the complete discontinuance of contributions under the plan, each member shall have non-forfeitable, 100% vested rights to benefits accrued to date of the termination or discontinuance to the extent funded at that time.
- (c) Notwithstanding any other provisions of this plan to the contrary, all distributions from the plan (including the DROP) shall conform to the regulations issued under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit provision of section 401(a)(9)(G) of the Internal Revenue Code. Further, such regulation shall override any plan or DROP provision that is inconsistent with section 401(a)(9) of the Internal Revenue Code.

Notwithstanding any other provision of this plan to the contrary, a form of retirement income payable from this plan shall satisfy the following conditions:

- (1) If the retirement income is payable before the member's death:
 - a. It shall either be distributed or commence to the member not later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70½, or the calendar year in which member retires.
 - b. The distribution shall commence not later than the calendar year defined above; and (i) shall be paid over the life of the member or over the lifetimes of the member, and spouse, designated beneficiary, issue or dependent, or (ii) shall be paid over the period extending not beyond the life expectancy of the member and spouse, designated beneficiary, issue or dependent.

Where a form of retirement income payment has commenced according to the preceding paragraphs and the member dies before the member's entire interest in the plan has been distributed, the remaining portion of such interest in the plan shall be distributed no less rapidly than under the form of distribution in effect at the time of the member's death.

- (2) If the member's death occurs before the distribution of the member's interest in the plan has commenced, the member's entire interest in the plan shall be distributed within five years of the member's death, unless it is to be distributed according to the following rules:
- a. The member's remaining interest in the plan is payable of the member's spouse, issue or dependent:
 - b. The remaining interest is to be distributed over the life of the spouse, issue or dependent or over a period not extending beyond the life of expectancy of the spouse, designated beneficiary, issue or dependent; and
 - c. Such distribution begins within one year of the member's death unless the member's spouse, is the sole designated beneficiary, in which case the distribution need not begin before the date on which the member would have attained the age of 70½ and if the member's spouse or dies before the distribution to the spouse or begins, this section shall be applied as if the spouse were the member.
- (d) In addition to other applicable limitations set forth in the plan, and notwithstanding any other provision of the plan to the contrary, for the plan years beginning on or after January 1, 1996, the annual compensation of each employee taken into account under the plan shall not exceed the annual compensation limit of section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost-of-living.
- (e) Notwithstanding any other provisions of this plan, the retirement benefit of a member shall be reduced to the extent that it exceeds amounts specified in section 415 of the Internal Revenue Code, as applicable.
- (f) The limitation year is the calendar year.
- (g) A member's normal retirement benefit is non-fortfeitable upon attainment of normal retirement age, as provide in section 411(a) of the Internal Revenue Code.
- (h) Rollover of distributions. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision herein to the contrary that would otherwise limit a distributee's election under this section, a distributee may 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, as provided in section 401(a)(31) of the Internal Revenue Code.

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Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered, as appropriate, to conform to the uniform numbering system of the Code.

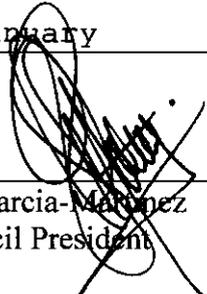
Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

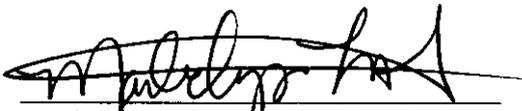
PASSED AND ADOPTED this 28 day of January, 2014.



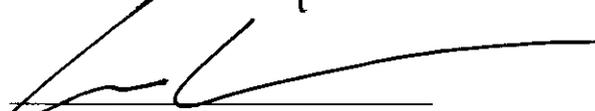
Isis Garcia-Martinez
Council President

Attest:

Approved on this 30 day of JANUARY, 2014



Marbelys Fatjo, Acting City Clerk



Mayor Carlos Hernandez

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition. The two inserted tables are additions.

Ordinance was adopted by a (7-0) unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".