

**ORDINANCE NO. 2014-28**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA PROVIDING FOR A 10% DEFERRED COMPENSATION BENEFIT BASED ON ANNUAL COMPENSATION FOR ANY CITY ATTORNEY AND ASSISTANT CITY ATTORNEY FIRST EMPLOYED ON OR AFTER APRIL 1, 2014 WITHOUT AFFECTING ANY PENSION BENEFITS OR DEFERRED COMPENSATION BENEFIT PROVIDED TO THE CITY ATTORNEY OR ASSISTANT CITY ATTORNEYS WHO HAVE VESTED IN THE ELECTED OFFICERS RETIREMENT TRUST, OR WHO ARE CONTINUING PENSION CONTRIBUTIONS TOWARDS VESTING OR WHO ARE RECEIVING DEFERRED COMPENSATION BENEFITS; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, pursuant to Hialeah, Fla., Ordinance 13-49 (Aug. 28, 2013), the City of Hialeah closed the Elected Officers Retirement Trust for new entrants as January 1, 2014 and at the same time, required the payment of a 7% pension contribution from non-vested participant members, including an assistant city attorney; and

**WHEREAS**, pursuant to Hialeah Charter § 7.03, the City Council shall adopt the terms and conditions for either a deferred compensation benefit or a pension benefit for the city attorney or assistant city attorneys upon employment; and

**WHEREAS**, since the pension benefit is no longer available for attorneys hired after January 1, 2014, then the alternative, a deferred compensation program is required to be adopted or reaffirmed by the City Council as a benefit to employment for new attorneys.

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

**Section 1:** The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

**Section 2:** The City Council of the City of Hialeah, Florida hereby adopts the provision of a 10% deferred compensation benefit based on annual compensation (comprising of

base salary, education incentive pay and longevity pay) for any City Attorney and Assistant City Attorney first employed on or after April 1, 2014.

**Section 3:** The adoption of this deferred compensation benefit for new attorneys does not affect any accrued or accruing pension benefits or deferred compensation benefits provided to the City Attorney or Assistant City Attorneys who have vested in the Elected Officers Retirement Trust, or who are continuing pension contributions towards vesting or who are receiving deferred compensation benefits.

**Section 4:** 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 or suspension of licenses or permits.

**Section 5:** Severability Clause.

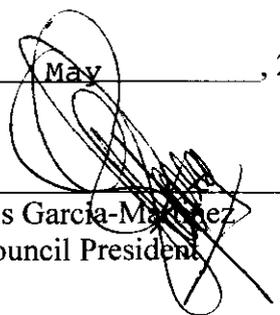
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

**Section 6:** Effective Date.

This ordinance shall become effective when passed by the City Council of the City of Hialeah, Florida and signed by the Mayor of the City of Hialeah, Florida or at the next regularly

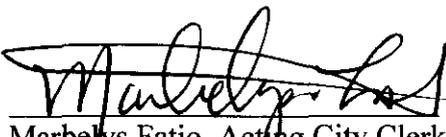
scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 13 day of May, 2014.

  
\_\_\_\_\_  
Isis Garcia-Martinez  
Council President

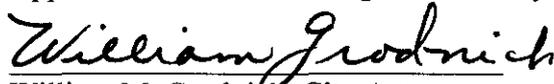
Attest:

Approved on this 16 day of May, 2014.

  
\_\_\_\_\_  
Marbelys Fatjo, Acting City Clerk

  
\_\_\_\_\_  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-0-1 vote with Council Members Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Hernandez, & Lozano voting "Yes", and Council Vice President Gonzalez absent.