**ORDINANCE NO. 09-44**

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, DIVISION 2. BOARD OF TRUSTEES, OF THE CODE OF ORDINANCES, AND IN PARTICULAR, REVISING HIALEAH CODE § 70-131. ENTITLED "APPOINTMENT AND TERMS" TO ALLOW EMPLOYEES IN THE DEFERRED RETIREMENT OPTION PROGRAM (DROP) TO BE ELIGIBLE FOR APPOINTMENT AS A TRUSTEE TO THE RETIREMENT SYSTEM, AND TO PROVIDE MISCELLANEOUS REVISIONS; 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,** the purpose and intent of this ordinance is to amend the provisions of the Retirement Code is to allow employees in the DROP to be eligible for appointment as Trustees of the Retirement System for the four categories of trustees identified in Hialeah Code § 70-131(a)(3); and

**WHEREAS**, this amendment will not financially impact the City of Hialeah; and

**WHEREAS,** AFSCME Local 161; IAFF, Local 1102; and Dade County Police Benevolent Association, as union representatives of their respective bargaining units, consented or raised no objections to the proposed revisions to the Retirement Code; and

**WHEREAS,** the Board of Trustees of the Employees General Retirement System reviewed and recommended approval of this ordinance in substantial form at a meeting on January 27, 2009.

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

* * *

## ARTICLE IV. EMPLOYEES GENERAL RETIREMENT SYSTEM

* * *

### DIVISION 2. BOARD OF TRUSTEES

**Sec. 70-131. Appointment and terms.**

(a) There is created a board of trustees in whom is vested the general administration, management and responsibility for the proper operation of the retirement system and for making effective this article. The board of trustees shall consist of seven trustees appointed and elected in the following manner:

(1) One trustee shall be appointed by the mayor. This trustee shall be an elector of the city.

(2) One trustee shall be appointed by the city council. This trustee shall be an elector of the city.

(3) Four trustees shall be appointed, one from each group; management, AFSCME Local ~~3032~~, IAFF Local ~~1102~~, and PBA. The appointee must be an active member of the retirement system <u>or of the deferred retirement option program (DROP)</u>. Term of office for each trustee so elected shall be for a two-year period, and the trustee shall be voted into office and elected as determined by each group.

(4) The seventh trustee shall be elected from the membership by majority vote by the trustees appointed pursuant to subsections (a)(1) through (3) of this section as soon as practicable after their appointment. This appointee shall be an elector of the city. The trustee so appointed shall serve for two years.

**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 9th day of June, 2009.

Carlos Hernandez
Council President

Attest:

Rafael E. Granado, City Clerk

Approved on this 23 day of June, 2009.

Mayor Julio Robaina

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

This is corrected Ordinance 09-44. A scrivener's error was reported at the City Council meeting of August 11, 2009.

S:\WMG\LEGISLAT\ORD\Ordinance 2009\ch70amndretirementcodeeligibilityDROPreitireesastrustees.docx

Ordinance was adopted by a unanimous vote with Councilmembers Caragol, Casals-Munoz, Cue, Garcia-Martinez, Gonzalez, Hernandez and Yedra voting "Yes".

(5) All appointments shall be made on the second Tuesday in December, and the appointed trustees shall take office on the following January 1.

(6) The even members of the board shall serve for a period of two years.

(b) Each trustee shall, immediately after ~~his~~ the trustee's appointment or election, take an oath of office to be administered by the city clerk or notary public.

* * *

**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 punished by 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.