

ORDINANCE NO. 2018-097

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 70 ENTITLED "RETIREMENT AND PENSION", ARTICLE IV. EMPLOYEES GENERAL RETIREMENT SYSTEM, DIVISION 4 ENTITLED "MEMBERSHIP" IMPLEMENTING THE CHANGES TO THE PENSION PLAN BARGAINED FOR BETWEEN THE FRATERNAL ORDER OF POLICE, LODGE NO. 12 AND THE CITY FOR POLICE OFFICER MEMBERS, IN PARTICULAR REVISING § 70-208 ENTITLED "PURCHASE OF MEMBERSHIP SERVICE CREDIT TIME"; REVISING § 70-210 ENTITLED "MEMBER CONTRIBUTIONS TO RETIREMENT PLAN"; REVISING § 70-238 ENTITLED "SERVICE RETIREMENT ALLOWANCE" IN DIVISION 5, ENTITLED "BENEFITS"; AND REVISING § 70-260 ENTITLED "ELIGIBILITY" IN DIVISION 6, ENTITLED "ADDITIONAL BENEFITS FOR FIREFIGHTER AND POLICE OFFICER MEMBERS REQUIRED BY CHAPTERS 175 AND 185, FLORIDA STATUTES AND OTHER BENEFITS ALREADY PROVIDED"; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PENALTIES HEREOF; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Hialeah and the Fraternal Order of Police (FOP) Lodge No. 12 recently ratified a collective bargaining agreement for a term beginning on August 15, 2018 and ending on September 30, 2021; and

WHEREAS, the collective bargaining agreement contains certain changes to the City of Hialeah Employees' Retirement System; and

WHEREAS, the changes to the Retirement System affecting the benefits of police officer members have been negotiated fairly by the parties as required by the Public Employees Relation Act; and

WHEREAS, none of the proposed plan benefit changes were represented by the City to the FOP Lodge No. 12 or intended by either of the parties as a termination of the plan as provided under Chapter 185, Florida Statutes and more specifically §185.37, Florida Statutes; and

WHEREAS, the proposed plan benefit changes are intended to meet the minimum plan benefits guaranteed police officers by Chapter 185, Florida Statutes; and

WHEREAS, the City intends to continue to participate in the municipal police officers' retirement trust funded by the State from insurance premium tax revenues as provided by Chapter 185, Florida Statutes; and

WHEREAS, the City shall continue to make the retirement contributions to the Retirement System sufficient to meet the normal cost of the plan and to amortize the unfunded liability as determined by the plan's actuary; and

WHEREAS, the plan's actuary has prepared a statement of the actuarial impact of the proposed benefit changes dated September 17, 2018 and certified compliance with Part VII, of Chapter 112, Florida Statutes; and

WHEREAS, to implement the changes to the Retirement System it is necessary to adopt an ordinance amending said Retirement System; and

WHEREAS, the City has presented this ordinance to the Board of Trustees of the Retirement System for its review at its regular meeting of August 21, 2018; and

WHEREAS, the plan actuary presented the statement of impact to the Board of Trustees of the Retirement system at its regular meeting of September 18, 2018.

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 is hereby amended as follows:

Chapter 70

RETIREMENT AND PENSIONS

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**ARTICLE IV. EMPLOYEES GENERAL
RETIREMENT SYSTEM**

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DIVISION 4. MEMBERSHIP

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Sec. 70-208. - Purchase of membership service credit time.

A member of the retirement system shall be permitted to purchase up to a maximum of four years of membership credit service time. The cost to buy the time shall be paid totally by the employee. The retirement board's actuary shall provide the city with the appropriate tables to ensure no cost to the retirement system or the city. Effective December 1, 2017, general employee members with less than 16 years of actual service with the city (excluding any service credit purchased pursuant to this section) and 62 points on that date shall be prohibited from purchasing membership credit service time. Effective December 1, 2017 for general employee members, the purchase of membership credit service time pursuant to this section shall be irrevocable, and any such member who has purchased membership credit service time shall be prohibited from selling such service time back to the retirement plan. Effective [insert effective date of ordinance], police officer members with less than 16 years of actual service with the city (excluding any service credit purchased pursuant to this section) and 66 points on that date shall be prohibited from purchasing membership credit service time, except that police officer members with 16 or more years of actual service with the city but less than 66 points on [insert effective date of ordinance] shall be eligible to purchase up to two years of membership credit service time upon reaching 25 years of actual service with the city (not to exceed a total maximum of four years of membership credit service time purchased altogether), contingent on paying the full actuarial cost of such membership credit service time and immediate separation from city employment. Effective [insert effective date of ordinance] for police officer members, the purchase of membership credit service time pursuant to this section shall be irrevocable, and any such member who has purchased membership credit service time shall be prohibited from selling such service time back to the retirement plan.

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Sec. 70-210. Member contributions to retirement plan.

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- (c) Police officer members shall make pension contributions as follows:
- (1) Effective March 2, 2014 through September 30, 2014, police officer members hired before that date shall contribute five percent of compensation to the retirement plan. Effective October 1, 2014 through September 30, 2018 and thereafter, police officer members ~~hired before March 2, 2014~~ shall contribute four percent of compensation to the retirement plan. ~~Police officer members hired on or after March 2, 2014 shall contribute four percent of compensation to the retirement plan.~~ Effective October 1, 2018, all police officer members, except those who became eligible for normal retirement on or prior to March 2, 2014, shall contribute six percent of compensation to the retirement plan; effective October 1, 2019, police officer members shall contribute eight percent of compensation to the retirement plan; and effective October 1, 2020, police officer members shall contribute ten percent of compensation to the retirement plan. Effective October 1, 2018, police officer members who became eligible for normal retirement on or prior to March 2, 2014, shall contribute 2% of compensation to the retirement plan; 4% of compensation, effective October 1, 2019; and 6% of compensation, effective October 1, 2020. ~~If the retirement plan funding level as reported in the actuarial valuation, exceeds 80 percent, effective the month next following the actuarial valuation in which the funding level was reported, police officer members shall contribute three percent of compensation to the retirement plan. If the retirement plan funding level as reported in the actuarial valuation, exceeds 100 percent, effective the month next following the actuarial valuation in which the funding level was reported, no member contribution shall be required.~~
 - (2) Compensation used for determining member contributions shall include the same components of compensation that are used to determine retirement benefits.
 - (3) Police officer member contributions may be made in lieu of or in addition to annuity fund contributions as provided in section 70-203.
 - (4) A police officer member who separates from city employment prior to vesting may obtain a refund of member contributions made on and after October 1, 2018, with interest at the rate of three percent per annum, in lieu of receiving any benefits from the retirement plan.

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DIVISION 5. BENEFITS

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Sec. 70-238. Service retirement allowance.

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(k) Notwithstanding any other provision of the retirement plan, the accrued benefits of all police officer members, except as otherwise provided in subsection (m) below, shall be frozen on [insert effective date of ordinance], as provided herein. The frozen accrued benefit of each member who is employed and not participating in the DROP on [insert effective date of ordinance] shall be calculated based on the retirement plan provisions in effect on [insert effective date of ordinance], and each member's credited service and average final compensation on that date. All such members shall be 100% vested in the frozen accrued benefit earned prior to [insert effective date of ordinance], and shall be eligible to receive the frozen accrued benefit upon reaching the normal retirement date in effect prior to [insert effective date of ordinance] (the date on which a member's age plus years of credited service is equal to at least 70, or 76 for police officer members hired on or after March 2, 2014, and the member has at least 20 years of credited service), and the member separates from City employment, or upon reaching eligibility for retirement in accordance with section 70-239. Such members shall accrue benefits on and after [insert effective date of ordinance] in accordance with subsection (l) below. Police officer members who are employed, not participating in the DROP, and have not reached normal retirement eligibility before [insert effective date of ordinance], except as otherwise provided in subsection (m) below, shall be eligible for a retirement benefit in two parts: (1) the frozen accrued benefit based on the member's credited service, average final compensation and the retirement plan provisions in effect on [insert date that is the day before effective date of ordinance], payable upon entry into DROP or separation from City employment on or after the normal retirement date in effect on [insert date that is the day before effective date of ordinance]; and (2) the accrued benefit based on credited service and the retirement plan provisions in effect on and after [insert effective date of ordinance], payable upon entry into DROP at age 52 with 25 or more years of credited service, or upon separation from City employment on or after age 55 with 10 or more years of credited service or age 52 with 25 or more years of credited service, or upon separation from service following completion of the years of actual service with the city as provided in subsections (m), (n) and (o) below.

(l) Notwithstanding any other provision of the retirement plan, police officer members, except as otherwise provided in subsection (m) below, shall accrue benefits on and after [insert effective date of ordinance] in accordance with the provisions of the retirement plan in effect on [insert date that is the day before effective date of ordinance], except as follows:

1. The benefit multiplier shall be 2.75% for credited service earned on and after [insert effective date of ordinance], and the 1.5% additional benefit multiplier for service after 25 years shall be eliminated.
2. The maximum benefit at retirement shall be 79.5% of average final compensation, and shall apply to benefits earned before and after [effective date of the ordinance]; provided, in no event shall a police officer member's benefit (including the basic pension) be less than 2.75% of average final compensation for all years of credited service.
3. Average final compensation shall be the average of the highest annual compensation received by a member during the highest 5 years of credited service; provided, in no event will a member's average final compensation be less than the highest 3 year average as of [insert effective date of ordinance].
4. The normal retirement date shall be age 55 with 10 or more years of credited service or age 52 with 25 or more years of credited service.
5. Compensation shall be base pay only. All other types of compensation shall be excluded for retirement purposes.
6. There shall be no cost of living adjustment on benefits based on credited service earned on or after [insert effective date of ordinance].
7. Members shall not be eligible to purchase additional credited service pursuant to section 70-208 on or after [insert effective date of ordinance], except as provided in section 70-208.
8. A member may enter the DROP upon attaining age 52 with 25 years of credited service, and may participate in the DROP for a maximum of 5 years.

(m) The provisions of subsections (k) and (l) above shall not apply to any police officer member who reached normal retirement eligibility before [insert effective date of ordinance]; nor shall such provisions apply to any police officer member who has at least 16 years of actual service with the city (excluding any service credit purchased pursuant to section 70-208) and has at least 66 points on

[insert effective date of ordinance], except that the 2.75% benefit multiplier shall apply after such member attains 20 years of credited service. However, if such member has more than 20 years of credited service on [insert effective date of ordinance], the 3% benefit multiplier will apply to all years of credited service earned before [insert effective date of ordinance], and the benefit multiplier will be 2.75% for credited service earned after the pension changes take effect, up to the 79.5% maximum benefit multiplier; provided, in no event shall a police officer member's benefit (including the basic pension) be less than 2.75% of average final compensation for all years of credited service. Police officer members who have at least 16 years of actual service and 66 points on [insert effective date of ordinance] shall be eligible to participate in the DROP for a maximum of 5 years.

(n) In addition to the normal retirement date provided in paragraph (l)(4) above, police officer members who have at least 16 years of actual service with the city (excluding any service credit purchased pursuant to section 70-208) but do not have 66 points on [insert effective date of ordinance] shall be eligible for normal retirement upon completion of 27 years of credited service, regardless of age; and such members shall be eligible to purchase up to two years of membership credit service time upon reaching 25 years of actual service (not to exceed a maximum of four years of membership credit service time purchased altogether), contingent on paying the full actuarial cost of such membership credit service time and immediate separation from city employment. Members who have at least 16 years of actual service with the city but do not have 66 points on [insert effective date of ordinance] shall be eligible to participate in the DROP for a maximum of 5 years upon completion of 27 years of actual service. All other benefit reductions in subsections (k) and (l) above shall apply to such members.

(o) In addition to the normal retirement date provided in paragraph (l)(4) above, police officer members who have at least 10 years of actual service with the city (excluding any service credit purchased pursuant to section 70-208) but do not have 16 years of actual service on [insert effective date of ordinance] shall be eligible for normal retirement upon completion of 27 years of credited service, regardless of age. Police officer members who have at least 10 years of actual service but less than 16 years of actual service with the city on [insert effective date of ordinance] shall be eligible to participate in the DROP for a maximum of 5 years upon completion of 27 years of actual service. All other benefit

reductions in subsections (k) and (l) above shall apply to the police officer members specified in this paragraph.

(p) Notwithstanding any other provision of the retirement plan, police officer members who are participating in the DROP on [insert effective date of ordinance] shall have the option of extending their DROP participation period by up to two years, for a total maximum DROP participation period of five years.

(q) Notwithstanding any other provision of the retirement plan, in no event shall a police officer member's benefit (including the basic pension) be less than 2.75% of average final compensation for all years of credited service.

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**DIVISION 6. ADDITIONAL BENEFITS FOR
FIREFIGHTER AND POLICE OFFICER MEMBERS
IMPLEMENTING MINIMUM BENEFITS REQUIRED BY
CHAPTERS 175 AND 185, FLORIDA STATUTES AND
OTHER BENEFITS ALREADY PROVIDED**

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Sec. 70-260. - Eligibility.

A member of the city's retirement system, except as provided in section 70-261, who is employed by the city may enter into the deferred retirement option program (DROP), on the first day of any month following completion of 25 years of membership service credit, provided that the sum of the member's age and years of service is 70 points or more; or for police officer members hired on or after March 2, 2014 and firefighter members hired on or after November 15, 2013, the sum of the member's age and years of service is 76 points or more. The member must have actually worked for at least 25 years of civil service and the member shall not be allowed to buy time in order to be eligible for the DROP. The maximum duration for participation in the DROP shall not exceed 36 months, and participation will end if the employee resigns, dies, or is terminated for good cause prior to completion of the 36 months. Participation in the DROP shall not violate section 70-237(2)b. of the Hialeah Code. Effective on the effective date of this Ordinance, firefighter members must be in full duty status to elect to participate in the DROP, and DROP participation will end if such a member is placed on permanent light duty status. Effective on the effective date of this Ordinance, police officer members must

be in full duty status or temporary or permanent light duty status based on a job-related injury to elect to participate in the DROP, and DROP participation will end if such a member is placed on permanent light duty status for a nonjob-related injury. Notwithstanding any provision of this section, effective [insert effective date of ordinance] police officer members shall be eligible to participate in the DROP as provided in section 70-238, for up to five years; and police officer members who are participating in the DROP on [insert effective date of ordinance] shall have the option of extending their DROP participation period by up to two years, for a total maximum DROP participation period of five years.

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Section 2: Repeal of Ordinances in Conflict.

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

Section 3: Penalties.

Every person convicted of a violation of 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 to conform to the uniform numbering system of the Code.

Section 5: Interpretation; Savings Clause

In adopting this Ordinance, it is the intent of the City Council to give full effect to the pension plan benefit changes bargained with the Fraternal Order of Police (FOP) Lodge No. 12, on behalf of police officer members and contained in the collective bargaining agreement ratified by the City Council through Resolution No. 2018-063 (August 14, 2018). In negotiating pension plan benefits, neither the FOP Lodge No. 12, police officer members, or the City intend the provisions of Article 33 of the collective bargaining agreement or the provisions of this Ordinance to be interpreted as a plan termination as such term may be interpreted under Chapter 185, Florida Statutes, or any other law, by a court of competent jurisdiction. If this Ordinance is declared to be or result in a plan termination by a court of competent jurisdiction, it shall be null and void ab initio.

Section 6: Severability Clause.

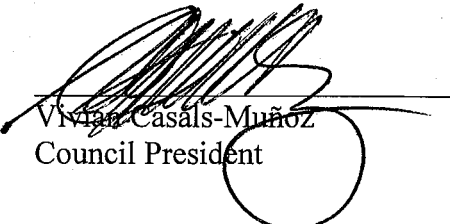
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

Section 7: 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.

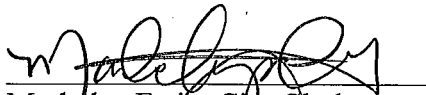
PASSED AND ADOPTED this 25 day of September, 2018.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Vivian Casals-Muñoz
Council President

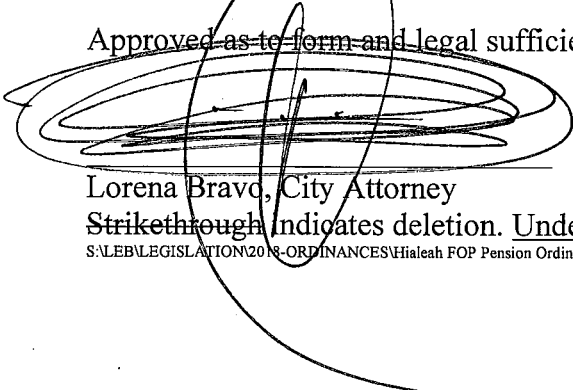
Attest:

Approved on this 1 day of October, 2018.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena Bravo, City Attorney

Ordinance was adopted by a 5-0-2 vote with Councilmembers, Zogby, Lozano, Casals-Munoz, Hernandez, and Caragol voting "Yes" Cue-Fuente abstaining from voting and Garcia-Martinez absent.

Strikethrough indicates deletion. Underline indicates addition.