

ORDINANCE NO. 2019-01

AN ORDINANCE OF MIAMI SHORES VILLAGE, FLORIDA AMENDING THE VILLAGE'S POLICE OFFICERS' RETIREMENT SYSTEM; PROVIDING FOR IN-SERVICE DISTRIBUTION OF BENEFITS; PROVIDING FOR RETROACTIVE APPLICATION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Miami Shores Village ("Village") sponsors the Village's Police Officers' Retirement System (the "System"); and

WHEREAS, the Village has a duty to maintain the System in accordance with the terms of applicable rules, federal/state laws and regulations for qualified governmental plans; and

WHEREAS, the Village has been informed that certain federal tax law qualification defects have occurred in the System as a result of the commencement of retirement benefit payments to certain members who were re-employed by the Village (or whose employment with the Village did not terminate); and

WHEREAS, the Village decided to correct these qualification defects retroactively via the adoption of this Ordinance and filing an application with the IRS under its Voluntary Correction Program, subject to the IRS approval of such correction, in order to preserve the tax qualified status of the System; and

WHEREAS under certain conditions a public employer may re-employ retired employees while permitting in-service distributions; and

WHEREAS, the program of rehiring and continued distribution of retirement benefits is in the best interests of the Village and the taxpayers of the Village; and

WHEREAS, the Village submitted its Voluntary Correction Program application to the IRS on February 1, 2016; and

WHEREAS, in order to approve the retroactive correction of the above-referenced qualification defects, the IRS requested certain revisions to the corrective Ordinance originally proposed by the Village;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF MIAMI SHORES VILLAGE, FLORIDA THAT:

{CODING: Words in ~~strike-through~~ type are deletions from existing law;
Words in underlined type are additions.

SECTION 1. The foregoing "WHEREAS" clause is hereby ratified as being true and correct and incorporated herein by this reference.

SECTION 2. The Council of Miami Shores Village hereby amends the Village's Code of Ordinances by adding a new Section 18-110, entitled "In-service distribution" as follows:

Sec. 18-110 In-service distribution

(a) Notwithstanding any other provision of this Code of Ordinances to the contrary, a retired member who has terminated employment with the village on or after normal retirement date may be rehired by the village. In such an event, the rehired member shall continue to receive retirement benefits from this plan, payments from the member's DROP account, and, if applicable, continued earnings on the members' DROP account (in accordance with section 18-107).

(b) A member shall become 100% vested in benefits provided by the plan upon attaining normal retirement age.

SECTION 3. It is the intention of the Council of Miami Shores Village that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Miami Shores Village, Florida. The Sections of this ordinance may be re-numbered, re-lettered and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

SECTION 4. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

SECTION 5. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

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SECTION 6. Upon satisfaction of each of the three following requirements set forth below, the terms and provisions of this Ordinance shall become effective upon second reading:

- (a) the Village Council has received and has accepted a report establishing the actuarial soundness of these amendments or a letter of opinion from the Plan Actuary that the amendment has no actuarial impact; and
- (b) the Ordinance and impact statement have been sent to the State of Florida Division of Retirement.

SECTION 7. The provisions of this ordinance shall be retroactive to January 1, 1995. All payments or actions taken subsequent to the retroactive date are hereby ratified as if this Ordinance had been in full force in effect.

Passed on first reading this 6 day of November, 2018.

Passed and adopted on second reading this 19 day of February, 2019.

ATTEST:



Ysabely Rodriguez, MPA, CMC



Mac Adam Glinn, Mayor

APPROVED AS TO FORM:



Richard Sarafan
Village Attorney

FINAL VOTES AT ADOPTION

Council Member Steven Zelkowitz	<u>Yes</u>
Council Member Jonathan Meltz	<u>Yes</u>
Council Member Alice Burch	<u>Yes</u>
Vice-Mayor Sean Brady	<u>Yes</u>
Mayor MacAdam Glinn	<u>Yes</u>

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