

**CITY OF CORAL GABLES, FLORIDA**

**EMERGENCY ORDINANCE NO. 2015-21**

**AN EMERGENCY ORDINANCE AMENDING CHAPTER 50 OF THE “CODE OF THE CITY OF CORAL GABLES,” ENTITLED “PENSIONS,” AMENDING SECTION 50-26, COMPULSORY PARTICIPATION; FURTHER AMENDING SECTION 50-239(A), LIMITATION ON PAYMENT OF RETIREMENT INCOME, AND PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City intends to hire a new Department Director by mid-September; and

**WHEREAS**, the City would like the ability to hire a recently retired employee on a part-time basis in the near future; and

**WHEREAS**, the City Attorney opines under section 2-201(e)(1) and (8) of the City Code, following consultation with outside counsel, that an amendment to the pension code is required to allow the Department Director to elect to participate in a defined contribution retirement plan, instead of the Coral Gables Retirement System; and

**WHEREAS**, the City Attorney opines under section 2-201(e)(1) and (8) of the City Code, following consultation with outside counsel, that section 50-239 of the pension code, along with the definitions of “employee” and “normal retirement” in the pension code, presently implies that the City may hire a retired member of the Coral Gables Retirement System as a part-time employee following retirement, with the part-time employee continuing to be eligible to receive his or her retirement benefit, but that it is preferable for the pension code to be amended to state this expressly and to provide a 30-day break in service; and

**WHEREAS**, pursuant to section 13 of the City Charter, along with section 166.041(3)(b) of the Florida Statutes, and because of the time sensitivity of these emergent matters, the City Commission has determined it is in the best interests of the City to enact these provisions as part of an emergency ordinance, which requires the affirmative vote of four Commissioners;

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES:**

**SECTION 1.** That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**SECTION 2.** Section 50-26 of the “Code of the City of Coral Gables” pertaining to “Pensions” is hereby amended to read as follows:

**Sec. 50-26. Compulsory participation.**

- (a) Each employee in the service of the city shall, as a condition of employment, become a participant in the retirement system as of the employee’s date of employment and will be subject to all provisions of the system beginning on such date.
- (b) Provided, however, it shall not be mandatory for any appointed official of the city or any assistant city manager or deputy city attorney to participate in the system, but such official shall have the option of participation in the system. In the event that any of the appointed officials or assistant city manager or deputy city attorney elect to participate in any retirement plan other than the system, the city may contribute a sum not to exceed the maximum limit provided by law to that plan.
- (c) Further provided, however, that it shall not be mandatory for any elected official of the city to participate in the system, but such elected official shall have the option of participation in the system. A member of the city commission may exercise his option to decline participation in the system at any time. In the event that any of the elected officials choose to participate in a retirement plan other than the system, the city will contribute a sum not to exceed 6½ percent of the elected official's compensation to that plan. The effective date of the option to participate shall be the date the elected official takes office. Notwithstanding the foregoing, elected officials who take office on or after October 1, 2008, shall become members of the Florida Retirement System in accordance with applicable law, and shall not participate in the city retirement system.
- (d) Further provided, however, it shall not be mandatory for any department director, hired on or after September 8, 2015, to participate in the system, but such department director shall have the option of participation in the system or in another retirement plan, and must exercise that option within thirty days following their date of hire. In the event that the department director elects to participate in any retirement plan other than the system, the city may contribute a sum not to exceed the maximum limit provided by law to that plan.

**SECTION 3.** Section 50-239(a) of the “Code of the City of Coral Gables” pertaining to “Pensions” is hereby amended to read as follows:

**Sec. 50-239. Limitation on payment of retirement income.**

- (a) Notwithstanding the fact that the monthly retirement income is payable for life, if any person receiving a monthly retirement income, other than a retired police officer or firefighter, should receive or become entitled to receive any compensation for personal services currently performed under substantially full-time continuous employment by the

city at the regular compensation for the type services being performed, the monthly retirement income shall cease during the period for which such compensation is payable. Such monthly retirement income shall, however, be resumed again at the same rate when such compensation thereafter ceases to be payable. The monthly retirement income payable to a retired police officer or firefighter shall cease during any period of reemployment as a city police officer or firefighter and, upon subsequent retirement, the monthly retirement benefit shall be adjusted to reflect the additional credited service and compensation earned during such period of reemployment. A city employee may retire from full-time employment with the city, and following a break in service of at least thirty (30) days may be rehired in a part-time capacity with the city, and continue to receive monthly retirement income during such part-time employment.

#### **SECTION 4. SEVERABILITY**

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

#### **SECTION 5. REPEALER.**

All ordinances or parts of ordinances in conflict herewith, are hereby repealed.

#### **SECTION 6. CODIFICATION.**

It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions. Specifically, Division 3 "Permit Fees," of Article III of Chapter 105 is renumbered as Division 2, Article II of Chapter 105.

#### **SECTION 7. EFFECTIVE DATE.**

This ordinance shall become effective upon adoption.

PASSED AND ADOPTED THIS EIGHTH DAY OF SEPTEMBER, A.D., 2015.

(Moved: Lago / Seconded: Quesada)

(Yeas: Quesada, Slesnick, Keon, Lago, Cason)

(First Roll Call)

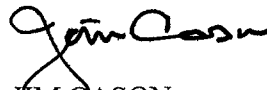
(Yeas: Slesnick, Keon, Lago, Quesada, Cason)

(Second Roll Call)

(Unanimous: 5-0 Vote)

(Agenda Item: E-1)

APPROVED:



JIM CASON  
MAYOR

ATTEST:



WALTER J. FOEMAN  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:



CRAIG E. LEEN  
CITY ATTORNEY