

CITY OF CORAL GABLES

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50 OF THE "CODE OF THE CITY OF CORAL GABLES," ENTITLED "PENSIONS," PROVIDING FOR CERTAIN CHANGES IN ORDER TO COMPLY WITH THE PROVISIONS OF CHAPTERS 175 AND 185, FLORIDA STATUTES; PROVIDING FOR AN EFFECTIVE DATE; AND REPEALING ALL ORDINANCES INCONSISTENT HEREWITH.

WHEREAS, the Coral Gables Retirement System is subject to certain provisions of Chapters 175 and 185, Florida Statutes and the City is desirous of maintaining the System's compliance therewith; and

WHEREAS, these amendments are not bargainable because they do not affect the terms or conditions of employment of any employees represented for bargaining purposes by a labor organization.

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

SECTION 1. That the recitals and findings contained in the Preamble of this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

SECTION 2. That the pertinent parts of Section 50-25 of the "Code of the City of Coral Gables" pertaining to "Pensions" are hereby amended to read as follows:

Deferred retirement option plan or *DROP* means an election an eligible employee may make pursuant to section 50-246 to retire for all purposes of the plan and defer receipt of retirement benefits into a *DROP* account while continuing employment with the city for up to (but not to exceed) an additional 60 months for all participants except firefighter participants—~~whose positions of employment are within the bargaining unit represented by Local 1210, International Association of Fire Fighters~~, who may continue employment for up to (but not to exceed) an additional 96 months. (This section recognizes and clarifies that all participants except those in the fire fighter bargaining unit have had a *DROP* period of no more than 60 months since no later than 2003 and, in some cases earlier, and will continue to do so.)

Total earnings means all remuneration paid by the city to the employee, including compensation, overtime, educational payments, shift differentials, special assignments, and the like, but exclusive of lump-sum payments for unused annual and sick leave upon employee termination, or of the value of any automobile furnished to the employee by the city, and uniform, equipment and like allowances. Provided, however, that "total earnings" shall not include amounts paid for overtime hours worked in excess of 300 overtime hours in any year, as "year" is defined for purposes of "highest three-year average." Further provided, however, that

~~for police participants whose positions of employment are within the bargaining unit represented by Fraternal Order of Police Lodge No. 7, "total earnings" shall not include amounts paid for overtime hours worked in excess of 600 overtime hours in any year, as "year" is defined for purposes of "highest three-year average" (this sentence shall be effective as of June 8, 2004, and this 600-hour cap shall not affect averages prior to June 8, 2004. (Definition as amended September 23, 1998, is retroactive to November 21, 1989, at which time by reenactment of the retirement ordinance, the city continued the established policy of excluding lump-sum payments of unused annual and sick leave in calculating total earnings upon termination.)~~

SECTION 3. That Section 34 of the "Code of the City of Coral Gables" pertaining to "Pensions" is hereby amended to read as follows:

Sec. 50-34. Employee contributions.

All participants except ~~those whose positions of employment are within the bargaining unit represented by Fraternal Order of Police Lodge No. 7~~ police officers shall contribute five percent of their total earnings to the system. (This section recognizes and clarifies that these participants have made contributions to the retirement system since 2004 and will continue to do so at the current rate of five percent.)

SECTION 4. That Section 50-246 of the "Code of the City of Coral Gables" pertaining to "Pensions" is hereby amended to read as follows:

Sec. 50-246. Deferred retirement option plan (DROP).

(a) *Eligibility.*

(1) The effective date of the DROP is January 1, 1999.

(2) Any active participant under the system may retire and participate in the DROP upon becoming eligible for normal retirement either as defined in section 50-25, if the employee has 25 years of service, or the employee is age 65, if earlier. A participant must make a written election to participate in the DROP within 180 days of attaining eligibility to participate in the DROP, or if eligible as of January 1, 1999, no later than 180 days from January 1, 1999. If an election is not made within the time frame provided herein, the participant will not be eligible to participate in the DROP in the future. Provided, however, that for firefighter participants ~~whose positions of employment are within the bargaining unit represented by Local 1210, International Association of Fire Fighters~~, participation in the DROP may be elected no earlier than the earlier of the date the employee satisfies the "Rule of 70" (i.e., the provisions of subsection (2) of the definition of normal retirement date in section 50-25), or attains 25 years of service, or reaches age 65. Further provided, however, that for firefighter participants ~~whose positions of employment are within the bargaining unit represented by Local 1210, International Association of Fire Fighters~~, the election to enter the DROP must be made no later than six months after the later of the date the employee satisfies the "Rule of 70," or the date the employee attains 25 years of credited service. Also further provided, however, that for firefighter participants ~~whose positions of employment are within the bargaining unit represented by Local 1210, International Association of Fire Fighters~~, if such participant becomes eligible to enter the DROP by virtue of attaining age 65, the participant must elect to enter the DROP within six months of attaining age 65.

(3) The maximum DROP participation period will be a fixed 60-month period for all participants, except firefighter participants whose positions of employment are within the bargaining unit represented by Local 1210, International Association of Fire Fighters, commencing upon entry into the DROP and will be a fixed 96-month period for firefighter participants whose positions of employment are within the bargaining unit represented by Local 1210, International Association of Fire Fighters, commencing upon entry into the DROP. (This section recognizes and clarifies that all participants except those in the fire fighter bargaining unit have had a DROP period of no more than 60 months since at least 2003 and in some cases earlier and will continue to do so.)

(b) *Written election to participate.* A participant electing to participate in the DROP shall execute such forms and shall provide such information and documentation as may be required by the retirement board. The election to participate in the DROP shall be effective on the first date of the month following the date of (timely) election. An application to participate in the DROP must be received by the retirement administrator or postmarked within 180 days of the participant attaining eligibility to participate in the DROP, except as otherwise expressly provided in subparagraph (a)(2) of this section.

(c) Limitations on participation and disqualification from receiving other benefits.

(1) Election to participate in the DROP will be irrevocable at the time the employee enters the DROP.

(2) A participant may participate in the DROP one time only. After DROP participation commences, a participant may not rejoin the system as an active employee nor shall the participant be eligible to receive disability or pre-retirement death benefits from the system. Post-retirement death benefits will be based on the form of payment elected by the participant.

(3) Any employee who does not elect to enter the DROP will continue participation in the system, unaffected by the DROP provisions.

(d) *Cessation of contributions.* The city shall not be required to make contributions for the normal cost of benefits to the retirement system on behalf of a participant as a result of the participant's continued service to the city during the participant's DROP period.

(e) *Benefit calculations.*

(1) Upon entry into the DROP, the participant's benefits will be calculated as of the effective date of that participant's DROP participation. The monthly amount of benefits will be the same as if the participant had elected normal retirement benefits. The participant will have the right to elect an optional form of payment (such as joint and survivor). These monthly benefits will be paid to an account within the system for the credit of the beneficiary and will be credited with interest at a rate equal to the actual rate of return on investment from a minimum of three percent to a maximum of the assumed rate of return, compounded annually. (This section recognizes and clarifies that the DROP interest rate has been as set forth in the previous sentence since at least 2004.)

(2) No participant shall receive any payment from a DROP account until the period of DROP participation expires or the employee leaves the employ of the city prior to completing the maximum DROP period and the participant actually leaves the employ of the city.

(3) Once the participant leaves the employ of the city at or any time before the expiration of the DROP period, the participant will be paid the value of the DROP account either in a lump sum, in annual or monthly installment payments whereby the participant's DROP account no longer accrues any interest, or by rollover to another qualified retirement plan as defined in subsection 50-247(a). The form of payment shall be at the participant's option. The participant will also

begin to receive monthly retirement benefits directly from the system instead of through the DROP account. In the event of an emergency and contingent upon the approval of the city manager, a participant may have an extension of up to 45 days after the participant leaves the employ of the city in which to opt the manner of payment of the value of the participant's DROP account. During the extension period of up to 45 days, the participant's DROP account will be credited with interest. The decision of whether to approve an extension rests in the discretion of the city manager.

(4) No DROP payment may be made in a manner inconsistent with state or federal law. The retirement board will ensure that the method of distribution does not jeopardize the tax qualification of the plan as mandated by the Internal Revenue Code. The retirement board may accelerate or alter any payment schedule as may be necessary by the provisions of the Internal Revenue Code, however, such payment accelerations or alterations shall not diminish the total value or the total payout amount of the participant's account.

(f) *Termination of employment upon conclusion of DROP participation.* Once a participant reaches the end of the maximum participation period in the DROP, the participant shall be automatically separated from employment with the city.

(g) Implementation of DROP expressly contingent upon several pre-conditions.

(1) These DROP provisions will not become effective unless first approved by the state division of retirement.

(2) If any of these DROP provisions are deemed not to be in full compliance with the IRC (including but not limited to ~~FE.S.~~ 26 U.S.C. §§ 401(a)(9) and 415), the city will immediately bring these provisions into compliance. For any employees represented by a labor organization, any necessary changes will be implemented by engaging in impact bargaining.

SECTION 5. That all sections or parts of sections of the City Code of the City of Coral Gables, all ordinances or parts of ordinances, and all laws of the City of Coral Gables in conflict herewith, shall be and they are hereby repealed insofar as there is a conflict or inconsistency.

SECTION 6. That this Ordinance shall become effective upon adoption.

PASSED AND ADOPTED THIS	DAY OF	A.D., 2007.
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(Moved: / Seconded:)
(Yea:)

DONALD D. SLESNICK, II
MAYOR

ATTEST:

WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY