

**ORDINANCE NO. 1463**

**AN ORDINANCE OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING ARTICLE IV, EMPLOYEES' RETIREMENT SYSTEM (ORD. NO. 691) AND ARTICLE V, POLICE PENSION PLAN (ORD. NO. 748); AMENDING SECTION 15-63, MISCELLANEOUS PROVISIONS; AMENDING SECTION 15-96, MANDATORY DISTRIBUTION DATE; AMENDING SECTION 15-100, RETIREMENT INCENTIVE PROGRAM, AMENDING SECTION 15-103; MISCELLANEOUS PROVISIONS; AMENDING SECTION 15-135, MANDATORY DISTRIBUTION DATE; AMENDING SECTION 15-143, STATE FUNDS IN PLACE; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of North Miami (the "City") established the Clair T. Singerman Employees Retirement System ("Plan 691") for members of the Plan as defined in Section 15-61 of the City's Code of Ordinances ("Members");

**WHEREAS**, the City is the Plan Sponsor of the Police Pension Plan ("Plan 748");

**WHEREAS**, the City is the Plan Sponsor of the Special Police Officers' Fund ("Plan 592.1")

**WHEREAS**, Plan 691, Plan 748, and Plan 592 are all closed to new members;

**WHEREAS**, changes to the Internal Revenue Code happen quickly and frequently. There is a benefit in authorizing the Boards of Trustees to make appropriate changes to their respective Plans in order to maintain the Plans' tax qualified status; and

**WHEREAS**, the City Council finds that it is in the best interest of the City and its employees to amend the City Code to implement the aforementioned changes.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:**

**Section 1.**     **Recitals.**    The following recitals are true and correct and are incorporated herein by reference.

**Section 2.**     **City Code Amended.**    That Section 15-63 “Miscellaneous Provisions” of Article IV, “Employees Retirement System” of Division 1 “Generally” of the City Code of Ordinances, is hereby amended to read as follows:

**Sec. 15-63. – Miscellaneous Provisions.**

\*       \*       \*

(m)    Compliance with the Internal Revenue Code. It is intended that the Plan be administered at all times in accordance with the provisions of the Internal Revenue Code and the corresponding Treasury Regulations applicable to a governmental defined benefit retirement plan.

(1)    In recognition of the changing requirements of plan qualification, the board shall adopt an administrative policy setting forth the required provisions for tax qualification. Such a policy shall be amended by the board as required to maintain continuing compliance with the Internal Revenue Code and that policy and any amendments shall have the force of law as if adopted by the City Council.

\*       \*       \*

**Section 2.**     **City Code Amended.**    That Section 15-96 “Mandatory Distribution Date” of Article IV, “Employees Retirement Plan” of Division 5 “Benefits” of the City Code of Ordinances, is hereby amended to read as follows:

**Sec. 15-96. – Mandatory Distribution Date.**

(a) A member's retirement allowance shall be distributed to him not later than the April 1 of the calendar year following the later of the calendar year in which he attains age seventy-two (72) and one-half (70½) years provided the member had not attained age seventy and one-half (70½) by December 31, 2019. Alternatively, distributions to a member must begin no later than the April 1 following such calendar year and must be made over the life of the member (or the lives of the member and the member's designated beneficiary) or the life expectancy of the member (or the life expectancies of the member and his designated beneficiary).

\* \* \*

(d) Notwithstanding any other provision of this plan to the contrary, where a form of retirement income payment has commenced and the member dies before his entire interest in the plan has been distributed, the remaining portion of such interest in the plan shall be distributed no less rapidly than under the form of distribution in effect at the time of the member's death. If the member's death occurs before the distribution of his interest in the plan has commenced, member's entire interest in the plan shall be distributed within five (5) years of member's death, unless it is to be distributed in accordance with the following rules:

- (1) The member's remaining interest in the plan is payable to his spouse, issue or dependent;
- (2) The remaining interest is to be distributed over the life of the spouse, issue or dependent or over a period not extending beyond the life expectancy of the spouse, issue or dependent; and
- (3) Such distribution begins within one (1) year of the member's death unless the member's spouse, is the sole designated beneficiary, in which case the distribution need not begin before the date on which the member would have attained age seventy-two (72) ~~and one-half (70½)~~ and if the member's spouse dies before the distribution to the spouse begins, this section shall be applied as if the spouse were the member.

**Section 3. City Code Amended.** That Section 15-100 "Retirement Incentive Program" of Article IV, "Employees Retirement Plan" of Division 5 "Benefits" of the City Code of Ordinances, is hereby amended to read as follows:

**Sec. 15-100. – Retirement Incentive Program.**

\* \* \*

(c) *Retirement incentive program benefit.*



- (4) *Compliance with the Internal Revenue Code.* The retirement incentive program is meant to comply with all provisions of the Internal Revenue Code, and the city and the board of trustees will take no action that would jeopardize the tax qualification of the system including the right to accelerate payments to comply with Section 401(a)(9) of the Internal Revenue Code and the right to defer payments to comply with Section 415 of the Internal Revenue Code.

- a. In recognition of the changing requirements of plan qualification, the board shall adopt an administrative policy setting forth the required provisions for tax qualification. Such a policy shall be amended by the board as required to maintain continuing compliance with the Internal Revenue Code and that policy and any amendments shall have the force of law as if adopted by the City Council.

**Section 4. City Code Amended.** That Section 15-103 “Retirement Incentive Program” of Article V, “Police Pension Plan” of Division 1 “Generally” of the City Code of Ordinances, is hereby amended to read as follows:

\* \* \*

**Sec. 15-103. – Miscellaneous Provisions.**

- (i) *Compliance with the Internal Revenue Code.* It is intended that the Plan be administered at all times in accordance with the provisions of the Internal Revenue Code and the corresponding Treasury Regulations applicable to a governmental defined benefit retirement plan.

- (1) In recognition of the changing requirements of plan qualification, the board shall adopt an administrative policy setting forth the required provisions for tax qualification. Such a policy shall be amended by the board as required to maintain continuing compliance with the Internal Revenue Code and that policy and any amendments shall have the force of law as if adopted by the City Council.

**Section 5. City Code Amended.** That Section 15-135 “Mandatory Distribution Date” of Article V, “Police Pension Plan” of Division 5 “Benefits” of the City Code of Ordinances, is hereby amended to read as follows:

**Sec. 15-135.- Mandatory Distribution Date.**

- (a) A member's retirement allowance shall be distributed to him not later than the April 1 of the calendar year following the later of the calendar year in which he attains age seventy-two (72), ~~and one-half (70½) years~~ provided the member had not attained age seventy and one-half (70½) by December 31, 2019. Alternatively, distributions to a member must begin no later than the April 1 following such calendar year and must be made over the life of the member (or the lives of the member and the member's designated beneficiary) or the life expectancy of the member (or the life expectancies of the member and his designated beneficiary).
- (b) For purposes of this section, the life expectancy of a member and the beneficiary of a participant (other than in the case of a life annuity) may be redetermined, but not more frequently than annually.
- (c) Notwithstanding any other provision of this plan to the contrary, a form of retirement income payable from this plan, shall satisfy the following conditions:
  - (1) If the retirement income is payable before the member's death:
    - a. It shall either be distributed or commence to the member not later than April 1 of the calendar year following the later of the calendar year in which the member attains age seventy-two (72), ~~and one-half (70½) years~~ provided the member had not attained age seventy and one-half (70½) by December 31, 2019, or the calendar year in which member retires;
    - b. The distribution shall commence not later than the calendar year defined above; and (a) shall be paid over the life of the member or over the lifetimes of the member and spouse, issue or dependent, or (b) shall be paid over the period extending not beyond the life expectancy of the

member and spouse, issue or dependent. Where a form of retirement income payment has commenced in accordance with the preceding paragraphs and the member dies before his entire interest in the plan has been distributed, the remaining portion of such interest in the plan shall be distributed no less rapidly than under the form of distribution in effect at the time of the member's death.

(2) If the member's death occurs before the distribution of his interest in the plan has commenced, member's entire interest in the plan shall be distributed within five (5) years of member's death, unless it is to be distributed in accordance with the following rules:

- a. The member's remaining interest in the plan is payable to his spouse, issue or dependent;
- b. The remaining interest is to be distributed over the life of the spouse, issue or dependent or over a period not extending beyond the life expectancy of the spouse, issue or dependent; and
- c. Such distribution begins within one (1) year of the member's death unless the member's spouse, is the sole designated beneficiary, in which case the distribution need not begin before the date on which the member would have attained age seventy-two (72) ~~and one-half (70½)~~ and if the member's spouse dies before the distribution to the spouse begins, this section shall be applied as if the spouse were the member.

**Section 6.** **City Code Amended.** That Section 15-143 "State funds placed in" of Article VI, "Police Officers' Retirement Fund" of Division 5 "Benefits" of the City Code of Ordinances, is hereby amended to read as follows:

**Sec. 15-143. - State funds placed in.**

The funds heretofore and hereafter obtained from the state under F.S. Ch. 185 shall be placed in the special police officers' fund of the city.

(a) Compliance with the Internal Revenue Code. It is intended that the Plan be

IWO #21-240 (JLW) 6



administered at all times in accordance with the provisions of the Internal Revenue Code and the corresponding Treasury Regulations applicable to a governmental defined benefit retirement plan.

- (b) In recognition of the changing requirements of plan qualification, the board shall adopt an administrative policy setting forth the required provisions for tax qualification. Such a policy shall be amended by the board as required to maintain continuing compliance with the Internal Revenue Code and that policy and any amendments shall have the force of law as if adopted by the City Council.

**Section 7. Conflicts.** All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.


**Section 8. Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 9. Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “article” or any other appropriate word.

**Section 10. Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

**PASSED AND ADOPTED** by a 4-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 25th day of May, 2021.

**PASSED AND ADOPTED** by a 4-0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 22nd day of June, 2021.

  
PHILIPPE BIEN-AIME  
MAYOR

ATTEST:

  
\_\_\_\_\_  
VANESSA JOSEPH, ESQ.  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

  
\_\_\_\_\_  
JEFF P. H. CAZEAU, ESQ.  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Galvin

Seconded by: Bien-Aime

**Vote:**

Mayor Philippe Bien-Aime  
Vice Mayor Scott Galvin  
Councilwoman Kassandra Timothe, MPA  
Councilwoman Mary Estimé-Irvin  
Councilman Alix Desulme, Ed.D.

<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)
<u>X</u>	(Yes)	_____	(No)
_____	(Yes)	_____	(No) Absent