

Subpart A CHARTER¹

PREAMBLE

We, the people of the City of Miami Beach, in order to secure for ourselves the benefits and responsibilities of home rule and in order to provide for a municipal government to serve our present and future needs, do hereby adopt this Charter and as part thereof adopt the following Citizens' Bill of Rights.

CITIZENS' BILL OF RIGHTS

- (A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:
1. *Convenient access.* Every person has the right to transact business with the City with a minimum of personal inconvenience. It shall be the duty of the City Manager and the City Commission to provide, within the City's budget limitations, reasonably convenient times and places for required inspections, and for transacting business with the City.
 2. *Truth in government.* No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.
 3. *Public records.* All audits, reports, minutes, documents and other public records of the City and its boards, agencies, departments and authorities shall be open for inspection at reasonable time and places convenient to the public.
 4. *Minutes and ordinance register.* The City Clerk shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances and resolutions^{1 2}listed by descriptive title. Written minutes of all meetings and the ordinance register

¹Editor's note(s)—Printed herein is the Charter of the City of Miami Beach, as adopted by referendum November 2, 1993, and effective on November 3, 1993. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

State law reference(s)—Municipal home rule powers, F.S. ch. 166.

²Editor's note(s)—The following footnote to this section on citizen's bill of rights was adopted with the Charter:¹ "Ordinance" means an official legislative action of the Miami Beach City Commission, which action is a regulation of a general and permanent nature and enforceable as a local law. "Resolution" means an expression of the Miami Beach City Commission concerning matters of administration, an expression of a

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shall be available for public inspection not later than thirty (30) days after the conclusion of the meeting.

5. *Right to be heard.* So far as the orderly conduct of public business permits, any interested person has the right to appear before the City Commission or any City agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the City. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit the City or any agency thereof from imposing reasonable time limits for the presentation of a matter.
6. *Right to notice.* Persons entitled to notice of a City hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.
7. *No unreasonable postponements.* No matter once having been placed on a formal agenda by the City shall be postponed to another day except for good cause shown in the opinion of the City Commission, or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.
8. *Right to public hearing.* Upon a timely request of any interested party a public hearing shall be held by any City agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the law department of the City nor to any body whose duties and responsibilities are solely advisory.

At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.
9. *Notice of action and reasons.* Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.
10. *Managers' and attorneys' reports.* The City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions.
11. *Budgeting.* In addition to any budget required by state statute, the City Manager shall prepare a budget showing the cost of each department for each budget year. Prior to the City Commission's first public hearing on the proposed budget required by state law, the City Manager shall make public a budget

temporary character, or a provision for the disposition of a particular item of the administrative business of the Miami Beach City Commission.

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- summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefor, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.
12. *Quarterly budget comparisons.* The City Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.
 13. *Adequate audits.* An annual audit of the City shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. The independent City Auditor shall be appointed by the City Commission; both appointment and removal of the independent City Auditor shall be made by the City Commission. A summary of the results of the independent City Auditor's annual audit, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy. Duties, method of selection, and method of compensation of the independent City Auditor shall be established by ordinance.
 14. *Representation of public.* The City Commission shall endeavor to provide representation at all proceedings significantly affecting the City and its residents before state and federal regulatory bodies.
 15. *Natural resources and scenic beauty.* It shall be the policy of the City of Miami Beach to conserve and protect its natural resources and scenic beauty, which policy shall include the abatement of air and water pollution and of excessive and unnecessary noise.
 16. *Nondiscrimination.* No person shall be deprived of any rights and privileges conferred by law because of race, color, national origin, religion, gender, sexual orientation, disability, marital status, familial status, or age.
 17. *Nondiscrimination in City Employment and Benefits.* The City of Miami Beach shall not discriminate in employment practices and benefits offered based upon an employee or applicant's race, color, national origin, religion, gender, sexual orientation, gender identity, disability, marital status, familial status, or age.
 18. *Ethics in Government.* The public's confidence and trust in City of Miami Beach operations and government must meet the most demanding ethical standards and demonstrate the highest level of achievement in its adherence to ethics laws. City of Miami Beach officials and employees are agents of the people and hold their positions for the benefit of the public—as public servants, they are to observe in their official acts a high standard of conduct and to discharge faithfully the duties of their office regardless of personal considerations and interests, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern. In upholding the values of accountability and responsibility, all city officials and employees shall abide by applicable codes of ethical conduct, and be subject to all penalties provided for in such regulations.
 19. *Improvement of Public Educational Facilities available to Miami Beach Citizenry.* It shall be the policy of the City of Miami Beach to cooperate with the Miami-Dade County public schools, and with other appropriate governmental agencies, which will strive to improve the quality and quantity of public educational facilities available to the citizenry of the City of Miami Beach, Florida.
 20. *City Assistance to Condominium and Co-op Owners.* The City of Miami Beach hereby acknowledges the purpose and duties of the City's Administration as assisting condominium and co-op owners to navigate through the City's permitting process; to facilitate the resolution of other condominium-

related issues with other outside agencies; and to act as a liaison between condominium or co-op owners, management firms and the City.

- (B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City of Miami Beach. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the City. The orderly, efficient and fair operation of government requires the intelligent participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.
- (C) Remedies for violations. In any suit by a citizen alleging a violation of this Bill of Rights filed in the Dade County circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the court. Any public official or employee who is found by the court to have willfully violated this article shall forthwith forfeit his office or employment.
- (D) Construction. All provisions of this article shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this article shall be declared invalid, it shall not affect the validity of the remaining provisions.

(Res. No. 2003-25288, 7-30-03; Res. No. 2003-25391, 7-30-03; Res. No. 2003-25443, 12-10-03; Res. No. 2009-27152, 7-22-09; Res. No. 2013-28299, 7-19-13; Res. No. 2013-28302, 7-19-13; Res. No. 2013-28303, 7-19-13)

ARTICLE I. CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWER

Sec. 1.01. Corporate existence; form of government; Charter.

The City of Miami Beach (hereafter "City") in Dade County, Florida, which was created by the Florida Legislature, shall continue as a municipal corporation with a Commission-City Manager form of government as provided herein and with this document as the Charter for the City.

Sec. 1.02. Description of corporate boundary.

The area described in Appendix A of this Charter shall constitute the corporate boundary of the City of Miami Beach.

Sec. 1.03. Powers of City.

- (a) *General.* The City shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as expressly prohibited by law or this Charter.
- (b) *Disposition of City Property.*
 - 1. The sale, exchange, conveyance, or lease of ten (10) years or longer (including option periods) of City-owned park, recreation, or waterfront property shall require approval by a majority vote of the voters in a City-wide referendum. This provision shall be liberally construed in favor of the preservation of all park, recreation and waterfront lands.

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2. The sale, exchange, conveyance or lease of ten years or longer of the following properties shall also require approval by a majority vote of the voters in a City-wide referendum: (1) *Lots West of the North Shore Open Space Park*: All City-owned property bounded by 87th Street on the North, Collins Avenue on the East, 79th Street on the South, and Collins Court on the West; (2) *Cultural Campus*: All City-owned property bounded by 22nd Street on the North, Park Avenue on the West, 21st Street on the South, and Miami Beach Drive on the East; (3) *72nd Street Parking Lot*: The City-owned surface parking lot bounded by 73rd Street on the North, Collins Avenue on the East, 72nd Street on the South, and Harding Avenue on the West; and (4) *Lincoln Road Parking Lots*: All City-owned surface parking lots in the vicinity of Lincoln Road located within the area bounded by 17th Street on the North, Euclid Avenue on the East, 16th Street on the South, and West Avenue on the West.
 3. The sale, exchange, conveyance or lease of ten years or longer of the following properties shall require approval by vote of at least sixty (60) percent of the City's voters voting thereon in a City-wide referendum: (1) *Convention Center Parking Lots*: All City-owned surface parking lots located in the Civic and Convention Center District, generally bounded by Lincoln Lane on the South, Washington Avenue on the East, Meridian Avenue on the West and Dade Boulevard on the North; (2) *Convention Center Campus*: All City-owned property, except for the Convention Center and Carl Fisher Club House, located within the Civic and Convention Center District (includes City Hall, 1701 Meridian Street, 555 17th Street, 21st Street Community Center, The Fillmore Miami Beach/Jackie Gleason Theater, and the 17th Street Parking Garage). All local laws, charter provisions and ordinances of the City in conflict with this provision are hereby repealed. This provision shall become effective immediately upon acceptance of the certification of election results by the City Commission.
 4. The sale, exchange, conveyance or lease of ten years or longer of all remaining City-owned property (other than public beach rights-of-way — see (d) herein below, and other than those properties addressed more specifically in this Charter section 1.03) shall, as provided by Ordinance, require approval by a majority 4/7 vote of all members of the Planning Board and 6/7 vote of the City Commission. The sale, exchange, conveyance or lease of ten years or longer of property owned by the Miami Beach Redevelopment Agency (Agency) shall require approval by a majority 4/7 vote of all members of the Planning Board and 7/8 vote of the Agency.
 5. The terms of this Charter section shall not apply to any valid written contractual commitments or bids or bonded indebtedness, which commitments, bids or indebtedness existed prior to January 14, 2004; nor shall this Charter section apply to any City property which is the subject of a settlements of a claim which the City had notice of as of January 14, 2004.
- (c) The floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio as it exists on the date of adoption of this Charter Amendment [November 7, 2001], including any limitations on floor area ratios which are in effect by virtue of development agreements through the full term of such agreements, unless any such increase in zoned floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach. The provision shall not preclude or otherwise affect the division of lots, or the aggregation of development rights on unified abutting parcels, as may be permitted by ordinance, except that all or a portion of any street, alley, right-of-way, or any public property, may not be vacated, deeded, or otherwise sold or conveyed, if it has the effect of aggregating the floor area of any unified abutting parcels, unless such aggregation of floor area is first approved by a vote of the electors of the City of Miami Beach. In addition, this provision shall not apply to settlements of any claims the City has notice of as of December 10, 2003. This Charter Amendment shall become effective on the day after its approval by the voters of the City of Miami Beach. No rights in derogation of the provisions of this Amendment under any ordinance or any other action of the Miami Beach City Commission between the time this measure is approved by the Miami Beach City Commission for placement on a ballot and the adoption of this Amendment shall be enforced against the City of Miami Beach.

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- (d) *Public Beach Rights-of-Way.* The sale, exchange, conveyance, lease, or any other transfer of any City interest in a public beach right-of-way (extending eastward from Collins Avenue/Ocean Drive to the erosion control line) shall require approval by a majority vote of the voters in a Citywide referendum, excluding permits of no greater than one year, and excluding the sale, exchange, conveyance, lease or any other transfer not exceeding 10% in width of such public beach right-of-way.
 - (e) *Public Street-Ends Bordering GU, GC, or Waterfront Land.* The sale, exchange, conveyance, lease, or any other transfer of any City interest in any public street-end bordering on land designated "Government Use", "Golf Course" or Waterfront land, shall require either the unanimous approval of those members of the City Commission with power to vote or approval by a majority vote of the voters in a Citywide referendum, excluding a sale, exchange, conveyance, lease, or any other transfer not exceeding 10% in width of such street-end which advances a significant public purpose, and excluding underground utility easements.
 - (f) *Management and Concession Agreements with Private Operators.* The City shall not enter into a management agreement or concession agreement with a private party or operator, having a term of ten (10) years or longer (including option periods), for the management, operation, and/or use of City-owned property, or of a City-owned facility, without obtaining the approval of a majority 4/7 vote of all members of the Planning Board and 6/7 vote of the City Commission. For purposes of this subsection, the term "City property" shall include the City's public beach areas in the City of Miami Beach, from Government Cut to 87th Terrace. The term "private party or operator" shall exclude any political subdivision and/or governmental agencies, departments, and/or divisions of the United States, the State of Florida, or Miami-Dade County.

(Res. No. 97-22413, 6-4-97; Res. No. 98-22763, 6-3-98; Res. No. 2001-24539, 7-18-01; Res. No. 2003-25441, 12-10-03; Res. No. 2004-25464, 1-14-04; Res. No. 2006-26236, 7-12-06; Res. No. 2009-27134, 7-15-09; Res. No. 2009-27153, 7-22-09; Res. No. 2013-28297, 7-19-13; Res. No. 2014-28709, § 3(Exh. A), 7-30-14; Res. No. 2015-29197, 11-9-15; Res. No. 2022-32167, 5-4-22, passed by voters 8-23-22)

Sec. 1.04. Construction.

The powers of the City shall be construed liberally in favor of the City, limited only by the United States and Florida Constitutions, general and special law, and specific limitations in this Charter.

The term "City Commission" includes the Mayor and the six (6) City Commissioners.

Sec. 1.05. Public vote required prior to enacting less stringent standards to city's code of conduct.

Any change to the City of Miami Beach code of conduct, set forth in City Code Chapter 2, Article VII, whether through exemption, repeal or otherwise, which creates less stringent standards of conduct shall first be approved by a majority vote of the electors of the City of Miami Beach.

(Res. No. 2007-26598, 7-11-07)

Sec. 1.06. Public vote required prior to enacting reduced powers and duties for Historic Preservation Board, or less stringent historic preservation standards or regulations.

Any change to City Code Chapter 118, Article II, Division 4, "Historic Preservation Board," or City Code Chapter 118, Article X, Divisions 1—4, "Historic Preservation," which, whether through amendment, exemption, repeal, or otherwise, reduces the powers and duties of the City's Historic Preservation Board, or creates less

stringent historic preservation standards or regulations, shall, before becoming effective be approved by a majority of the voters in a Citywide referendum.

(Res. No. 2012-27963, 7-18-12, approved by voters 11-6-12)

Sec. 1.07. Public vote required to repeal, diminish, or otherwise negatively impact a right or duty established in Miami Beach City Code Chapter 62 that inures to the benefit of a member of the classification categories of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital status, familial status, and age as defined in City Code Section 62-31.

Any revision to Chapter 62 of the Code of the City of Miami Beach, entitled Human Relations, that repeals, diminishes, or otherwise negatively impacts a right or duty established in that section that inures to the benefit of a member of the classification categories of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital status, familial status, and age as defined in section 62-31 must be approved by a majority of the voters in a city-wide referendum.

(Res. No. 2013-28287, 7-17-13)

ARTICLE II. CITY COMMISSION

Sec. 2.01. Number and selection.

The City Commission shall consist of six (6) City Commissioners and a Mayor who shall be elected at large. Each City Commissioner shall be a qualified elector of the City. City Commissioners shall be elected for groups numbered and designated I—VI. No candidates for the office of Commissioner shall be permitted to qualify for more than one (1) group, or for the office of Mayor.

Commissioners in groups numbered I, II and III shall be elected at the general election to be held on the first Tuesday in November, 1997 and at each general election each four (4) years thereafter. Commissioners in groups numbered IV, V, and VI shall be elected at the general election to be held on the first Tuesday in November, 1995 and at each general election each four (4) years thereafter. The Mayor shall be elected at the general election to be held on the first Tuesday in November, 1995 and at each general election each two (2) years thereafter.

A candidate must receive a majority of the votes cast to be deemed elected. If no candidate receives a majority of the votes cast, there will be a runoff election between the two candidates in each group receiving the highest number of votes; should a tie result, the outcome shall be determined by lot. This runoff election shall occur two weeks from the date of general election.

In the event that no candidate has qualified in any group, or for Mayor, a vacancy shall be deemed to have occurred, and shall be filled as provided by the Charter of the City of Miami Beach for the filling of a vacancy.

(Res. No. 2003-25289, 7-30-03; Res. No. 2003-25391, 7-30-03)

Sec. 2.02. Term, term limits and compensation.

The term of office of the Mayor shall be two (2) years. The term of office of the City Commissioners shall be four (4) years.

The lifetime term limit for Miami Beach Commissioners shall be two (2) four-year terms and the lifetime term limit for Miami Beach Mayor shall be three (3) two-year terms respectively, measured retroactively from their first elections, said terms not including time served as a member of the City of Miami Beach Commission as a result of having filled a vacancy in the Commission pursuant to Section 2.07 of the City of Miami Beach Charter so long as such time served in filling a vacancy does not exceed 50 percent of that subject term. Service by a Commission member in excess of 50 percent of any term of office shall be considered a full term for purposes of the term limit provisions in this section.

The annual compensation for the Office of Commissioner shall be six thousand dollars (\$6,000.00) and the compensation for the Office of Mayor shall be ten thousand dollars (\$10,000.00); any increase in salary for Mayor and/or Commissioner shall require approval of a majority of the electorate voting at a City election.

(Res. No. 96-22083, § 8, 7-17-96/11-6-96; Res. No. 2014-28603, 5-21-14, passed by voters 8-26-14)

Sec. 2.03. Powers of the city commission.

All powers of the City shall be vested in the City Commission except those powers specifically given to the Mayor, the City Manager, the City Attorney, and the City Clerk, as provided in this Charter and except those powers specifically reserved in this Charter to the electors of the City. Moreover, the City Commission shall have all powers and privileges not inconsistent herewith, granted to the City Commission of cities and towns by the general laws of the State of Florida, and shall have power to do and perform all things necessary for the government of the City not inconsistent with the constitution of the State of Florida, the Constitution and laws of the United States, and the terms and provisions of this Charter.

The City Commission shall appoint a City Manager, a City Attorney, and a City Clerk; the City Commission shall have the power to remove the City Manager, City Attorney, and/or City Clerk at any time by a majority vote of the Commission, or, in the event of an employment agreement between the parties removal shall occur pursuant to the terms of said agreement.

The Commission may also investigate the official acts and conduct of any City official, and by similar investigations may secure information upon any matter. In conducting such investigations, the Commission may require the attendance of witnesses and the production of books, papers and other evidence.

The Inspector General shall be appointed by the Ad Hoc Inspector General Selection Committee, as further established by ordinance; however, before any appointment by the Ad Hoc Inspector General Selection Committee shall become effective, the appointment must be approved by a majority vote of the City Commission. The Inspector General may be removed from office upon a five-sevenths (5/7) vote of the City Commission.

The independent City Auditor shall be appointed by the City Commission; both appointment and removal of the independent City Auditor shall be made by the City Commission. Duties, method of selection and method of compensation of the independent City Auditor shall be established by ordinance.

(Res. No. 2003-25291, 7-30-03; Res. No. 2012-27962, 7-18-12, passed by voters on 11-6-12; Res. No. 2018-30437, 7-25-18, passed by voters on 11-6-18)

Sec. 2.04. Election of Vice-Mayor and meetings.

The City Commission shall, at its first meeting after each general election (or at its first meeting after the runoff election, if a runoff election is held), initially elect from its membership a Vice-Mayor who, during the absence or disability of the Mayor, shall perform the duties of Mayor. In the absence or disability of both the Mayor and Vice-Mayor, the said duty shall be performed by another member appointed by the Commission.

The City Commission shall meet at such times as may be prescribed by ordinance or resolution. The Mayor, or the City Manager, may call special meetings of the Commission upon at least twenty-four (24) hours written notice to each member, served personally, or left at his usual place of abode; provided, however, that the requirement of such written notice may be waived at a special meeting by the unanimous vote of the Commission. In addition, special meetings of the City Commission may be called by a majority of the members of the Commission upon written notice to the City Clerk and in accordance with the procedures set forth in a resolution of the City Commission.

No member of the City Commission shall, during the time for which he/she was elected, be appointed or elected to any City office that has been created or the emoluments thereof shall have been increased during such time.

(Res. No. 2012-27903, approved by electorate Aug. 14, 2012; Res. No. 2014-28604, 5-21-14, passed by voters 8-26-14)

Sec. 2.05. Procedures for passing ordinances generally.

The City Commission shall have the power to make, establish and ordain for the government of the City of Miami Beach and the officers of said City, ordinances in writing not inconsistent with this Charter, the Constitution and laws of the State of Florida and of the United States, as it may deem necessary provided a majority of the City Commission shall consent thereto.

Each ordinance shall be introduced in writing and shall embrace one subject and matters properly connected therewith. The subject shall be clearly stated in the title. The enacting clause shall be "BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION..." No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection. A proposed ordinance may be read by title, or in full, on at least two (2) separate dates and shall, at least ten (10) days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting, the title or titles of proposed ordinances, and the place or places within the municipality where such proposed ordinance or ordinances may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance or ordinances. No ordinances shall be declared invalid by reason of any defect in publication or title if the published summary gives reasonable notice of its intent. At the time and place so advertised, or at any time and place to which such public hearing may, from time to time, be adjourned, the ordinance shall be read by title and a public hearing shall be held. After the hearing, the City Commission may pass the ordinance with or without amendment. The effective date shall not be earlier than ten (10) days after its enactment.

Proposed ordinances which enact or amend the City's Zoning Ordinance or comprehensive Plan of the City of Miami Beach shall be adopted according to the procedures set forth in the City of Miami Beach's Zoning Ordinance.

To meet a public emergency affecting life, health, property or public safety, the City Commission by two-thirds (⅔) vote of the members of the City Commission may adopt an emergency ordinance at the meeting at which it is introduced and may make it effective immediately. After adoption of an emergency ordinance, the City Commission shall cause it to be published in full within ten (10) days in a newspaper of general circulation in the municipality. No emergency ordinance shall be enacted which enacts or amends a land use plan or which rezones private property.

State law reference(s)—Uniform minimum mandatory procedure for passage of ordinances, F.S. § 166.041.

Sec. 2.06. Duties of elected mayor.

The Mayor shall be the presiding officer at the meetings of the Commission and shall bear the title of Mayor and shall have a voice and a vote in the proceedings of the City Commission but no veto power, and he/she may use the title of Mayor in any case in which the execution of legal instruments in writing or other necessity arising from the general laws of the state so requires; he/she shall sign all deeds, contracts, bonds or other instruments of writing to the which the City is a party when authorized to do so by ordinance or resolution of the City Commission, but he/she shall not have the administrative or judicial functions and powers of the Mayor under the general laws of the state. He/she shall be recognized as the official head of the City by the Courts for the purpose of serving civil processes, by the Governor in the exercise of military law and for all ceremonial purposes and he/she shall, in addition thereto, perform such other duties as may be by ordinance prescribed by the City Commission. The Mayor shall be the appointing authority for the employees in the Mayor's Office who are in the unclassified service.

Sec. 2.07. Vacancies in City Commission.

Any vacancy occurring in the City Commission shall be filled as follows:

- (a) *Vacancy for reasons other than resignation.* The City Commission shall, within 30 days after the vacancy occurs, decide whether to fill said vacancy by City election or by Commission appointment. Should the Commission choose to appoint, said action shall be taken by vote of the majority of the remaining members of the City Commission within 30 days after the expiration of the above subject initial 30-day period, with the appointee serving the remainder of the unexpired term until the next succeeding General City Election and with any further remainder of said unexpired term to be filled by a Commission member elected at said General Election. If the members of the City Commission shall choose instead to fill such vacancy by election, then a Special Election shall be called to be held within 90 days after the expiration of the subject 30-day period to elect a Commission member to fill such vacancy for the remainder of the unexpired term.
- (b) *Vacancy due to resignation.* Resignations from office shall be filed with the City Clerk and shall be irrevocable upon such filing, thus creating a vacancy in office. The Commission shall, within 30 days from submittal of a resignation to the City Clerk, decide whether to fill said vacancy by City election or by Commission appointment.
 1. Should the Commission choose to appoint, said action shall be taken by vote of the majority of the remaining members of the Commission within 30 days after expiration of the subject 30-day period (referenced in (b) above), with the appointee serving the remainder of the unexpired term from the date the resigning official would take office, if elected (assuming the resignation was filed pursuant to Section 99.012, Florida Statutes) until the next succeeding General City Election, and with any further remainder of the unexpired term to be filled by a Commission member elected at said General Election. However, if the resignation was not filed pursuant to Section 99.012, Florida Statutes, then the appointee shall serve the remainder of the unexpired term from either the resignation's effective date or from the date the appointee is appointed, whichever occurs later, and shall serve until the next succeeding General City Election, and with any further remainder of the unexpired term to be filled by a Commission member elected at said General Election.
 2. If the members of the City Commission shall choose instead to fill such vacancy by election, then a Special Election shall be called to be held within 120 days after expiration of the subject initial 30-day period (referenced in (b) above) to elect a Commission member to fill such vacancy for the remainder of the unexpired term; but if a City or County-wide election is otherwise scheduled to be held during the intervening period from expiration of the subject initial 30-day period

through and including the resignation's effective date, the Special Election to fill the vacancy for the unexpired term as provided above may occur at any such City or County-wide election. Any person who has been elected to fill a vacancy due to resignation filed pursuant to Section 99.012, Florida Statutes, shall be installed and take office following the date the resigning official would take office, if elected; any person who has been elected to fill a vacancy due to resignation not filed pursuant to Section 99.012, Florida Statutes, shall be installed and take office following the effective date set forth in said resignation.

- (c) *Resolution calling Special Election.* Provisions related to a Special Election called pursuant to this section, including the qualifying period and Runoff Election (if required), shall be established in the City Resolution calling the Special Election.

(Res. No. 2019-30901, 7-17-19)

Sec. 2.08. Removals and suspensions from office of city commission.

The mayor and any City Commissioner, in addition to being removed by recall pursuant to State law, may be removed from office pursuant to the Miami Beach City Code.

ARTICLE III. CITY ATTORNEY

Sec. 3.01. City attorney; duties generally; appointment of personnel.

There shall be appointed by the City Commission of the City of Miami Beach, a City Attorney.

His/her compensation shall be fixed by the City Commission by ordinance. The City Attorney shall be the head of the Office of City Attorney and in this capacity shall have the following powers:

- (a) To act as the legal advisor for the municipality and all of its officers in all matters relating to their official powers and duties.
- (b) To prepare or review all ordinances, resolutions, contracts, bonds and other written instruments in which the municipality is concerned, and shall endorse on each his/her approval of the form, language, and execution thereof.
- (c) When required by the Commission, he/she shall prosecute or defend, for and in behalf of the City, all complaints, suits and controversies in which the City is a party, before any court or other legally constituted tribunal.
- (d) To attend all meetings of the City Commission.
- (e) He/she shall recommend to the City Commission for adoption, such measures as he/she may deem necessary or expedient.
- (f) He/she shall render opinions and/or reports on legal matters affecting the City as the Commission may direct.
- (g) He/she shall perform such other professional duties as may be required of him/her by ordinance or resolution of the Commission or by this Charter.
- (h) To appoint and remove all unclassified personnel in the Legal Department, including outside counsel representing the City.

ARTICLE IV. CITY MANAGER, CITY CLERK AND ADMINISTRATIVE ORGANIZATION

Sec. 4.01. City manager—Compensation and qualifications.

The City Manager's compensation shall be fixed by the City Commission by ordinance. The Manager shall be chosen upon the basis of his/her qualifications.

Sec. 4.02. City manager—Functions and powers.

The City Manager shall be the chief executive officer and head of the administrative branch of the City government. Except as specifically provided otherwise in this Charter, the City Manager shall be responsible to the City Commission for the proper administration of all affairs of the City. The functions and powers of this office shall be:

- (a) To see that the laws and ordinances are enforced.
- (b) To appoint all directors of the several departments now existing, or to be created, with the consent of the City Commission, and to remove the same at will, except for the Legal Department and the City Clerk's Office.
- (c) To appoint and remove, at will, the division heads of departments or divisions now existing or to be created by law or ordinance, except for the Legal Department and the City Clerk's Office.
- (d) To appoint and remove at will, all other officers or employees in the unclassified service of the City, except the Mayor and City Commissioners, or those individuals appointed by the Commission, the employees in the Mayor's Office who are in the unclassified service for whom the Mayor shall be the appointing authority, the unclassified personnel in the Legal Department who shall be appointed and removed by the City Attorney, and the unclassified personnel in the City Clerk's Office who shall be appointed and removed by the City Clerk.
- (e) To attend all meetings of the City Commission, with the right to take part in the discussion, but having no vote.
- (f) To recommend to the City Commission for adoption, such measures as he/she may deem necessary or expedient.
- (g) To keep the City Commission fully advised as to the financial condition and needs of the City.
- (h) To have general and special supervision and control, subject to the control by the City Commission, of the several departments now existing, except for the Legal Department and the City Clerk's Office, or hereafter to be created, and the City Manager shall be the purchasing agent of the City, with authority to delegate such duty.
- (i) To negotiate all contracts and agreements in which the City is a party subject to the approval of the City Commission.
- (j) The City Manager shall account to the City Commission for the conduct and acts of the several departments now existing, or hereafter to be created, and he/she shall have supervision and control of the heads of the said departments, and such heads as appointed by the City Manager shall be accountable to the City Manager for the conduct and acts of their departments, except for the Legal Department and the City Clerk's Office.
- (k) To perform such other duties as may be prescribed by the City Commission by ordinance or resolution and which are not in conflict with the duties of the City Clerk.

(Res. No. 2003-25444, 12-10-03; Res. No. 2012-27962, 7-18-12, passed by voters 11-6-12)

Sec. 4.03. City clerk—Appointment and compensation.

The City Clerk shall be appointed by the City Commission and shall be the Department head of the City Clerk's Office. The City Clerk's compensation shall be fixed by the City Commission by ordinance.

(Res. No. 2012-27962, 7-18-12, passed by voters 11-6-12)

Sec. 4.04. City clerk—Duties and authority.

The City Clerk shall have the following duties and authority:

- (a) To give notice of, attend, and keep minutes of all City Commission meetings.
- (b) To serve as the City of Miami Beach's official Records Custodian.
- (c) To maintain records of the City Commission, City Boards, and City Committees.
- (d) To perform all duties and functions relative to municipal elections in accordance with applicable state, county, and City law.
- (e) To appoint all personnel in the City Clerk's Office and to appoint and remove, at will, all unclassified personnel in the City Clerk's Office. To have supervision and control of the City Clerk's Office subject to the control of the City Commission and consistent with the provisions of the City Code and City Charter.
- (f) To perform such other duties as the City Commission may prescribe from time to time which are not in conflict with the duties of the City Manager.
- (g) To maintain the seal of the City of Miami Beach and attest the signatures of the Mayor and City Manager, as the case may be, on all documents if needed.
- (h) To otherwise account to the City Commission for the conduct and acts of the City Clerk's Office.
- (i) To perform such other professional duties as may be required of him/her by ordinance or resolution of the Commission or by this Charter.

(Res. No. 2012-27962, 7-18-12, passed by voters 11-6-12)

ARTICLE V. BUDGET AND FINANCE

Sec. 5.01. General power.

The City of Miami Beach shall have the power to borrow money, contract loans, and issue bonds, notes, and other obligations or evidences of indebtedness in accordance with Florida law.

Sec. 5.02. Budget.

In accordance with Florida law the City Commission shall adopt an annual budget.

The City of Miami Beach shall consider the long-term economic impact (at least 5 years) of proposed legislative actions.

(Res. No. 2003-25442, 12-10-03)

State law reference(s)—Procedure for adoption of budget, F.S. § 205.065.

Sec. 5.03. Tax on occupancy of hotels, etc., and on certain foods and beverages.

The City of Miami Beach is authorized and shall have the right to impose, levy and collect a tax on the rent of every occupancy of a room or rooms in any hotel, motel, or apartment house when the renting is for the period of occupancy for imposition of a transient rental tax as established by F.S. § 212.03 (as amended); and upon the total sales price of all items of food and alcoholic beverages sold at retail by any establishment engaged in the sale of alcoholic beverages and/or food; said tax to be paid by the person paying the rent or paying for the food and/or alcoholic beverage herein specified, and to be collected by the person renting said rooms or selling said food or alcoholic beverage for the use and benefit of the City. Sales or rentals exempted by F.S. ch. 212 shall also be exempt from the tax hereby authorized. The total receipts from the above tax levy shall be kept and maintained in a separate fund and shall in no event be transferred to the general fund, and the said fund shall be used for the promotion of the tourist industry, which shall include, but not be restricted to the following: publicity, advertising, news bureau, promotional events, convention bureau activities, capital improvements, and the maintenance of all physical assets in connection therewith; and for the payment of the reasonable and necessary expenses of collecting, handling, and processing of said tax.

The Commission shall have the authority and power by ordinance to determine and fix the amount of said tax, after public hearing, not in excess of two percent (2%), except that an additional tax of up to two percent (2%) (hereinafter, the Additional Tax) may be imposed, levied and collected on the rent of every occupancy of a room or rooms in any hotel, motel, or apartment house when the renting is for the period of occupancy for imposition of a transient rental tax as established by F.S. § 212.03 (as amended). Such Additional Tax shall be used, subject to the rights of bondholders, as follows:

- a) One percent (1%) of such Additional Tax shall be used:
 1. fifty percent (50%) for public incentives for convention center headquarters hotel development and, upon retirement of all debt related thereto, to be used as in 2. below; and
 2. fifty percent (50%) for promotion of tourism related activities and facilities, and developing, improving, and maintaining tourism related public facilities; provided that this one percent (1%) of such Additional Tax shall not be imposed until such time as the City of Miami Beach has entered into an agreement with a developer for development of a convention center headquarters hotel.
- b) Subject to the passage of an ordinance by the Commission before imposing same, up to another one percent (1%) of such Additional Tax, shall be used solely for the purposes of expanding, enlarging, renovating, and/or improving the Miami Beach Convention Center, including payment of debt service related thereto; and provided, further (i) that this up to one percent (1%) portion of the Additional Tax referenced in this subsection (b) shall not be imposed until such time as the City of Miami Beach has entered into an agreement with a developer for the expansion, enlargement, renovation, and/or improvement of the Miami Beach Convention Center; and (ii) that the excess of this up to one percent (1%) portion of such Additional Tax may be used, after providing for payment of annual debt service and related obligations, to establish and maintain a capital renewal and replacement fund for improving and maintaining the Convention Center.

The authority created pursuant to Section 8 of Chapter 67-930 shall have no right to receive any portion of such Additional Tax.

(Res. No. 2012-27902, approved by electorate Aug. 14, 2012)

Editor's note(s)—The resort tax in this section was authorized by Laws of Fla., ch. 67-930, which required this Charter provision and which general law of local application, Laws of Fla., ch. 67-930, is recognized and continued in F.S. § 125.0104(3)(b).

Sec. 5.04. Pre-collective bargaining analysis of fringe benefits.

Within the six-month period prior to the City Commission's ratification of Collective Bargaining Agreements with the respective labor unions, the City Commission shall consider at a duly noticed public hearing a written report presented by the City Manager or his designee/City Budget Director, detailing the current status and related fiscal impact of fringe benefits, including pension and health insurance plans, provided by the City to its officers and employees.

(Res. No. 2014-28685, 7-21-14, passed by voters 11-4-14)

ARTICLE VI. ELECTIONS³

Sec. 6.01. Electors.

Any person who is a resident of the City of Miami Beach, who has qualified as an elector of the State of Florida and who registers in the manner prescribed by law shall be a qualified elector of the City.

State law reference(s)—Registration of electors, F.S. § 97.105; qualification of electors, F.S. §§ 97.041, 166.032.

Sec. 6.02. Nonpartisan elections.

All elections for the office of City Commission shall be conducted on a nonpartisan basis without any designation or political party affiliation.

Sec. 6.03. Qualifying.

The City Commission shall cause to be placed on the ballot to be used in the general election the name of any qualified elector of the City residing within the City at least one year prior to qualifying and who, within the four (4) consecutive days immediately following the first Monday of September prior to said general election, 1) shall have submitted one (1) or more documents upon which he/she relies upon to evidence that he/she has resided in the City for at least one year prior to qualifying, which type document(s) shall include, but not limited to: a Florida government issued identification, a voter's registration card, driver's license, property tax receipt, homestead exemption, utility bill or lease agreement, 2) shall have paid to the City Clerk of the City of Miami Beach the sum equal to seven and one-half percent (7½%) of the annual salary of the office to which he/she seeks election as a qualifying fee, and 3) shall have been photographed and fingerprinted by the identification bureau of the Police Department of the City, unless such person shall file with the City Clerk no later than noon of the 14th day prior to the first day of qualifying as a candidate for such office, a petition approving his candidacy signed by sufficient qualified and registered voters to constitute not less than two percent (2%) of this number of such voters as the same shall be on the date sixty (60) days prior to the first day of qualifying as a candidate for office; in the event the Miami-Dade County Elections Department has not issued its certificate verifying the required number of valid signatures on the subject qualifying petition by 5:00 p.m. on the second day of the City's four-day qualifying period, the City's 7½% qualifying fee shall be waived by the City in the event the subject candidate should

³State law reference(s)—Florida Election Code, F.S. chs. 97—106.

otherwise qualify for office pursuant to this Charter section. All candidates qualifying for office shall have taken, signed and subscribed to an oath or affirmation in writing in which he/she shall state (1) the title of the office for which he/she is a candidate; (2) that he/she is a qualified elector of the City of Miami Beach, Florida, and has resided in the City at least one year prior to qualifying; (3) his/her legal residence, by street and number; (4) that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of the City of Miami Beach, Florida, to hold the office for which he/she is a candidate.

Such oath or affirmation shall be substantially in the following form:

STATE OF FLORIDA)	
		SS:
COUNTY OF DADE)	

Before me, an officer authorized to administer oaths, personally appeared to me well known who, being sworn, says that he/she is a candidate for the office of City Commissioner (Group No. _____ (or Mayor) for the City of Miami Beach, Florida; that he/she is a qualified elector of said City residing within the City at least one year before qualifying for City of Miami Beach elected office; that his/her legal residence is: _____, Miami Beach, Dade County, Florida; that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of said City to hold such office; and that he/she has paid the required qualification fee.

Signature of Candidate

Sworn to and subscribed before me this ___ day of _____ A.D., 19 ___.

Authorized Officer

The City Commission shall, by ordinance, prescribe the manner of holding general and special elections not inconsistent with the provisions hereof, and shall, by ordinance or resolution, prescribe polling places in the various voting precincts in the City.

(Res. No. 2003-25290, 7-30-03; Res. No. 2003-25391, 7-30-03; Res. No. 2012-27964, 7-18-12, passed by voters 11-6-12; Res. No. 2012-27965, 7-18-12, passed by voters 11-6-12; Res. No. 2022-32166, 5-4-22, passed by voters 8-23-22)

Sec. 6.04. Vacancy in Candidacy.

If the death, withdrawal or removal of a qualified candidate for Miami Beach City Commission following the end of the qualifying period results in fewer than two candidates remaining on the ballot for that office, there shall be one supplemental qualifying period of five (5) days beginning on the first business day following the vacancy in candidacy. No further supplemental qualifying period shall thereafter be established at all if a vacancy in candidacy occurs within forty-five (45) days prior to the date of the election for the office of City Commissioner or Mayor. If within forty-five (45) days prior to the date of the election for the office of City Commissioner or Mayor, there is only one candidate on the ballot for an elected office, said candidate shall be declared elected and no election for that office shall be required.

(Res. No. 2014-28605, 5-21-14, passed by voters 8-26-14)

State law reference(s)—Filling vacancy in candidacy, F.S. § 166.031(6).

ARTICLE VII. INITIATIVE AND REFERENDUM

[DIVISION 1. ORDINANCES]

Sec. 7.01. Power of initiative.

Upon the presentation to the City Commission of a petition or petitions signed by the qualified electors therein, in number equal to ten percent (10%) of the registration asking for a submission to the electors of a proposed ordinance fully set forth in said petition or petitions, being a proposed ordinance that said body has authority to adopt, it must either adopt such measure without alteration within thirty (30) days of the issuance of a certificate of a petition's sufficiency by the Metropolitan Dade County Elections Department or submit the same to its electorate at the next succeeding City election occurring more than sixty (60) days after issuance of the Metropolitan Dade County Election Department's certificate as to the petition's sufficiency. But, if said petition or petitions are signed by qualified electors in number equal to fifteen percent (15%) of said registration, then such measure if not so adopted by the said City Commission, must be submitted to such electorate at a special election to be called within sixty (60) days after issuance of the Metropolitan Dade County Election Department's certificate as to the petition's sufficiency.

Any measure that the said City Commission or the electorate of the City has authority to adopt, as herein provided, said City Commission may submit to a vote of its electors at a general or special election.

Editor's note(s)—Section 5.03 of the Metropolitan Dade County Charter provides for the exclusive method of adopting, amending, or revoking municipal charters or abolishing its existence as authorized in § 11 of Article VIII of the Florida Constitution of 1885, as amended—therefore the term "measure" in City Charter, § 7.01, is limited to proposed ordinances. Dade County Charter § 5.03, which is the mandatory procedure for amending the City of Miami Beach Charter is printed for informational purposes as follows:

"Sec. 5.03. Municipal charters.

Sec. 7.02. Power of referendum.

Upon the presentation to the City Commission of a petition or petitions signed by the qualified electors therein in number equal to ten percent (10%) of the registration asking that any ordinance adopted by the City Commission be repealed, such ordinance must either be repealed by the City Commission within thirty (30) days of the issuance of a certificate of a petition's sufficiency by the Metropolitan Dade County Elections Department or submit same to its electorate at the next succeeding City election occurring more than sixty (60) days after issuance of the Metropolitan Dade County Elections Department's certificate as to the petition's sufficiency. But, if said petition or petitions are signed by qualified electors in number equal to fifteen percent (15%) of said registration, then such measure asking for ordinance repeal, if not so adopted by the said City Commission, must be submitted to such electorate at a special election to be called within sixty (60) days after issuance of the Metropolitan Dade County Election Department's certificate as to the petition's sufficiency.

[DIVISION 2. ORDINANCES AND CHARTER AMENDMENTS]

Sec. 7.03. Form of petition.

The form of petition shall be available in the City Clerk's Office; this petition form shall be used for the purpose of initiative and referendum.

Sec. 7.04. Filing, examination, and certification of petitions.

All petition papers comprising an initiative or referendum petition shall be presented to the City Commission as one (1) instrument. Within ten (10) days after a petition is formally presented to the City Commission, the City Clerk shall determine whether each petition paper is in proper form. Within ten (10) days from determining that the petition is in proper form, the City Clerk shall transmit the petition papers to the Metropolitan Dade County Department of Elections for purposes of determining whether the petition as a whole has been signed by a sufficient percentage of the City electors. The Metropolitan Dade County Elections Department shall complete a certificate as to the petition's sufficiency (concerning requisite number of signatures); such certificate shall specify if it is insufficient, and a copy of this certificate shall be promptly sent to the City Clerk. The City Clerk shall then promptly forward the certificate on to the petition's initiator, and shall also present the certificate to the City Commission.

Sec. 7.05. Amendment of petitions.

An initiative or referendum petition certified as insufficient for lack of the required number of valid signatures may be amended with additional signatures one (1) time; the initiator of the petition may do so by filing with the City Clerk supplementary documents bearing additional signatures within thirty (30) days after receiving the copy of the certificate of the Metropolitan Dade County Elections Department regarding the insufficiency of the petition. No further action on that petition shall be permitted, but the insufficiency shall not prejudice the filing of a new petition for the same purpose.

Sec. 7.06. Results of election.

If the election results of a measure shall be approved by the voters, said measure shall go into effect upon acceptance by the City Commission of the certification of the election results.

If the provisions of two (2) or more measures approved and adopted at the same election conflict, then the measure receiving the highest affirmative vote shall control.

ARTICLE VIII. SCHEDULE, MISCELLANEOUS

Sec. 8.01. Effective date; review.

Upon approval by the City's electorate, this Charter will become effective on November 3, 1993 pursuant to the special election of the City of Miami Beach held on the 2nd day of November, 1993. This Charter shall be reviewed ten (10) years from November 3, 1993 and each tenth year thereafter.

Sec. 8.02. Ordinances preserved.

All ordinances in effect upon the adoption of this Charter, to the extent not inconsistent herewith, shall remain in full force and effect until amended or repealed.

Sec. 8.03. Repeal of former Charter provisions.

Subject to Section 8.06 hereinbelow, all Charter provisions in effect prior to the effective date of this Charter, including but not limited to those contained in Laws of Fla., 1917, ch. 7672 as amended, are expressly repealed.

Sec. 8.04. Precedence over related laws.

In case of conflict between the provisions of this Charter and the provisions of the City's Related Laws, Charter terms shall control.

Sec. 8.05. Officers, employees and agents.

The adoption of this charter, except as otherwise specifically provided, shall not affect or impair the rights, privileges or immunities of persons who are City officers, employees or agents at the time of adoption of this charter. All elected officers holding office on November 2, 1993, shall continue in office for the terms to which elected.

Sec. 8.06. Debts, contracts and assessments preserved.

No debt or obligation of contract of, or assessment by the City shall be impaired as a result of the adoption of this Charter, but all such debts, obligations and assessments shall pass to and be binding upon the City and other parties thereto in accordance with their terms and, to the extent applicable, the charter of the City as in existence at the time of their incurrence or imposition, as applicable. All obligations and rights arising in connection with projects financed pursuant to former City Charter Sections 29 and 30 shall be unaffected and shall remain in full force and effect as if said Sections 29 and 30 had survived the adoption of this Charter.

Sec. 8.07. Existing rights, obligations, duties and relationships.

All rights, obligations, duties and relationships now existing by law or agreement between the City of Miami Beach and other governmental units shall be unaffected and shall remain in full force and effect.

Sec. 8.08. Severability.

If any section, sentence, clause or phrase of this Charter 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 Charter.

Sec. 8.09. Hospital district.

When a hospital district is rezoned, such property shall be rezoned to a district or combination of districts with a floor area ratio no greater than the zoning of abutting land (sharing lot line), except that hospital district property exceeding 15 acres may exceed this limitation if adequate buffers are provided to protect abutting uses.

(Res. No. 2007-26696, 10-17-07)

Editor's note(s)—See also § 142-456(a).

ARTICLE IX. OFFICE OF INSPECTOR GENERAL

[Sec. 9.01. Established.]

The Office of Inspector General is herein established as an independent body to perform investigations, audits, reviews, and oversight of municipal matters including City contracts, programs, projects, and expenditures, in order to identify efficiencies, and to detect, investigate and prevent fraud, waste, mismanagement, misconduct, and abuse of power. The Office shall have the power to subpoena witnesses, administer oaths, and require the production of records, in order to conduct its investigations. The Inspector General shall be appointed by the Ad Hoc Inspector General Section Committee, as further established by ordinance; however, before any appointment by the Ad Hoc Inspector General Section Committee shall become effective, the appointment must be approved by a majority vote of the City Commission. The Inspector General may be removed from office upon a five-sevenths (5/7) vote of the City Commission. Such Office's appointment, reappointment, term, functions, authority, and powers shall be further established by Ordinance.

(Res. No. 2018-30437, 7-25-18, passed by voters 11-6-18)

APPENDIX A

Begin in Dade County, Florida, at a point 1,500 feet East of where the North line of Section 2, in Township 53 South, of Range 42 East, intersect to low water mark of the Atlantic Ocean as shown in Section 5 of the Miami Beach City Code; thence run in a Southerly direction, meandering 1,500 feet East of the low water mark of the Atlantic Ocean to the intersection of the Southeasterly production of a line bearing North 50°50' West, said line being that same course which is described in the deed from the Internal Improvement Fund of the State of Florida to the City of Miami, filed for record on August 31, 1942 in Deed Book 2247 at Page 260 of the Public Records of Dade County, Florida, said course being described in said instrument as, "Thence run North 50°50' West on a line which is 700 feet Northeasterly from and parallel to the Northeasterly side of a tract of land heretofore acquired by the Trustees of the Internal Improvement Fund, through Master's Deed, dated May 21, 1940 and recorded in Deed Book 2065 at Page 487, Public Records of Dade County, Florida, a distance of 4480 feet, more or less, to a point of intersection with the East line of the West one-half of said Section 9"; thence run North 50°50' West, along the above-described line for a distance of 4480 feet more or less, to a point of intersection with the East line of the West half of Section 9, Township 53 South, Range 42 East; thence run Northerly along the East line of the West half of said Section 9 for a distance of 1,320 feet to the point of intersection with a line which is 100 feet North of and parallel with the North boundary of Fisher Island; thence run North 88°04' East along said line being 100 feet North of and parallel with the Northerly boundary of Fisher Island to the point of intersection with the Southerly boundary of Miami Municipal Channel; thence run Northwesterly along the Southerly line of said Miami Municipal Channel to the point of intersection with the Northerly line of the F.E.C. Railway company channel; thence run Easterly, along the Northerly line of F.E.C. Railway Company Channel to a point of intersection with a line which is 80 feet Northeasterly from and measured at right angles to the centerline of the Miami Municipal Channel, said line being the same which is described in the deed from the Internal Improvement Fund of the State of Florida to the City of Miami, filed for records January 21, 1932 in Deed Book 1472 at Page 474 of the Public Records of Dade County, Florida; thence run Northwesterly, along the aforesaid described line to a point of intersection with the East boundary of the City of Miami Corporate Limit as authorized by chapter 116117 (No. 282) 1925 Laws of the State of Florida [Chapter 57-1583 Senate Bill No. 1043].

Thence Northeasterly along the said Easterly Corporate Limits of the City of Miami to a point on the centerline of the General Douglas MacArthur Causeway, said point being 1917.47 feet Northwesterly from the intersection of the Southerly production of the centerline of Fountain Street as shown on the Plat of Palm Island as recorded in plat Book 6 at Page 54 of the Public Records of Dade County, Florida, with the centerline of said General Douglas MacArthur Causeway; thence continue in a Northerly direction to a point on a line running East and West through the center of Sections 22 and 23 in Township 53 South, Range 42 East, produced West, and 10,249.6 feet West of the Northeast corner of the Southeast quarter of said Section 22; thence continue in a Northerly direction

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APPENDIX A

following as near as may be the center of Biscayne Bay to the intersection with the South boundary line of the City of North Bay Village; thence run Easterly, along the South boundary line of the City of North Bay Village to the point of intersection with the East line of Section 9, Township 53 South, Range 42 East, the last described course being parallel to the North line of said Section 9 and, the above mentioned point of intersection located 4,622.70 feet (Measured along the section line) Southerly of the Northeast corner of said Section 9, according to the map of the City of North Bay Village prepared by Geirseh Engineering. Co. dated September 7, 1951; thence run Northerly, along the East line of said Section 9 for a distance of 3,979.37 feet to a point of intersection with the Southeasterly extension of the centerline of the draw bridge of 79th Street Causeway, located on the East viaduct of Biscayne Bay, as shown in the abovementioned map of the City of North Bay Village; thence run Northwesterly through the centerline of said draw bridge to the intersection with the centerline of Biscayne Bay, this course being along the Northeasterly boundary line of the City of North Bay Village; thence run in a Northeasterly direction, following as near as may be the center of Biscayne Bay to the intersection of Biscayne Bay with the North line of Section 2, Township 53 South, Range 42 East projected West; thence run East to a point 1,500 feet East of where the North line of said Section 2 intersects the low water mark of the Atlantic Ocean which is the place of beginning, which territorial boundaries shall include all islands, sand bars and submerged land lying within said described territory.

Excluded from the corporate limits of the City of Miami Beach, the following described lands located in Fisher Island^{2 4}:

Parcel No. 1 (Tracts 1 through 8), Parcel No. 2 and parcel No. 3, known as Garfield E. Wood property, ousted from the City of Miami Beach jurisdiction by court Order No. 24531, recorded in Book 194 at Page 28, of the Public Records of Dade County, Florida and more particularly described as follows:

From a concrete monument designated as Monument "F" which is 1,153 feet West and 2,102 feet South of the Northeast corner of the Northwest quarter of Section 10, Township 54 South, Range 42 East and on the Southern boundary line of the United States Government Reservation, said Monument "F" being the POINT OF BEGINNING of the tract herein described, run North 65°13' West along said Southerly boundary a distance of 884.84 feet to a point; thence run North 24°47' East, along the Westerly boundary of the United States Government Reservation a distance of 400 feet; thence South 88°12'40" West for a distance of 894.20 feet; thence South 88°4' West for a distance of 100 feet to the Northeast corner of Belcher Oil Company property; thence South 1°56' East a distance of 520 feet to a point located on the North right-of-way line of "B" Street, according to the Plat of Commercial Subdivision of Harbor Terminal, recorded in Plat Book 23, Page 67, of the Public Records of Dade County, Florida; thence run North 88°04' East, along the North right-of-way line of said "B" Street for a distance of 966.02 feet to a point marked PRM#5 on the above-mentioned plat of Commercial Subdivision of Harbor Terminal; thence run along the arc of a curve concave to the South having a central angle of 26°43' and a radius of 610.31 feet for a distance of 284.54 feet; thence run South 1°6' East, along the East right-of-way line of First Street as shown in said Plat of Commercial Subdivision of Harbor Terminal for a distance of 1,334.10 feet; thence run South 88°4' West along the South line of "D" Street, shown in said Plat of Commercial Subdivision of Harbor Terminal for a distance of 1,680 feet to the point of intersection with the West right-of-way line of Fifth Street; thence run North 1°56' West along the West right-of-way line of Fifth Street and its Northerly extension for a distance of 1,873.07 feet to a point labeled Mon. "B" in the above-mentioned plat of Commercial Subdivision of Harbor Terminal; thence run South 88°04' West for a distance of 1,975 feet more or less, to a point on the Eastern side of "Lemon City" channel, said point being the Northwest corner of the property described in Trustees of the Internal Improvement Fund of the State of Florida, Deed No. 16936 of the Alton Beach Realty Company, dated August 6, 1920 and recorded in Deed Book 230, at Page 5, of the Public Records of Dade County, Florida; thence run South 9°50' East, a distance of

⁴Editor's note(s)—The following footnote to this provision was adopted with the Charter:² For cases excluding certain lands on Fisher's Island from corporate limits of City, see City of Miami Beach v. State exrel. Wood, (Fla.) 56 So. 2d 520; State exrel. Belcher Oil Co. v. City of Miami Beach, Dade County Circuit Court, 59 L. 1004.

Subpart A - CHARTER
APPENDIX A

650 feet along the Eastern side of said channel to a point; thence South 50°50' East a distance of 3,600 feet plus or minus, to the high-water line of the Atlantic Ocean; thence run Easterly and Northeasterly, meandering said high-water line of the Atlantic Ocean to the point where said shore line intersects the Southern boundary line of the United States Government Reservation; thence run North 65°13' West, along said boundary line to Monument "F" the POINT OF BEGINNING, together with riparian rights and water privileges if any, adjacent, appurtenant or belonging thereto. Also excluded parcel 4 known as Garfield E. Wood property, ousted from the City of Miami Beach jurisdiction by Court Order No. 24531, recorded in Book 194, at Page 28, Public Records of Dade County, Florida, situate, lying and being in Commercial Subdivision of Terminal Harbor, according to the Plat thereof recorded in Plat Book 23, Page 67, of the Public Records of Dade County, Florida, containing the following lots:

Lots 3, 5, 8, 10, 11, 12, 13, 14, 15, 18, 20 and 21 in Block 1

Lots 2, 3, 4, 6, 7, 10, 11, 13, 14, 15, 16, 17, 18, 21 and 22 in Block 2

Lots 1, 2, 3, 4, 7, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21 and 22 in Block 3

Lots 1, 2, 3, 4, 5, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 28, 29, 30, 31, 32, 34, 35, 36, 40, 41, 42, 44 and 46 in Block 4.

An undesignated parcel of land lying in said Block 4 between Lots 5 and 12 for which lot numbers 6 to 11, both inclusive, have been reserved but not indicated on the Plat of records.

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, and 22, in Block 5

Lots 1, 2, 3, 4, 7, 8, 9, 10, 14, 15, 18, 19 and 20 in Block 6 and

Lots 3, 4, 5, 6, 7, 8, 9, 14, 15, 16, 17, 18, 19 and 20 in Block 7.

Also excluded from the corporate limits of the City of Miami Beach the following described lands located in Fisher Island:

Parcels 1, 2, 3 and 4, known as Belcher Oil Company property, located in Section 9 and 10, Township 53 South, Range 42 East, ousted from the City of Miami Beach jurisdiction by Court Order No. 59L1004-M, recorded in Book 437 at Page 144, of the Public Records of Dade County, Florida, dated January 21, 1960 and more particularly described as follows:

From a concrete Monument "F" which is 1,153 feet West and 2,102 feet South of the Northeast corner of the Northwest quarter of Section 10, Township 54 South, Range 42 East, and on the Southern boundary of the United States Government Reservation run North 65°13'00" West a distance of 1,684.59 feet to a point; thence run South 88°04' West for a distance of 100 feet to the POINT OF BEGINNING of the tract herein described; thence run South 1°56' East for a distance of 520 feet to a point on the North line of "B" Street as shown in Commercial Subdivision of Harbor Terminal, according to the Plat thereof recorded in Plat Book 23 at Page 67, of the Public Records of Dade County, Florida; thence run South 88°04' West, along the North line of said "B" Street for a distance of 500 feet; thence run North 1°56' West for a distance of 520 feet to a point located on the bulkhead line of Fisher Island; thence run North 88°04' East for a distance of 500 feet to the POINT OF BEGINNING. Said lands containing 5.968 acres more or less.

Also excluded from the corporate limits of the City of Miami Beach the following described lands located on Fisher Island:

Portion of Section 10, Township 54 South, Range 42 East, deannexed from the jurisdiction of the City of Miami Beach by Ordinance No. 91-72 of the City Commission for the City of Miami Beach and more particularly described as follows:

Commence at the North-Northwest corner of "Lindisfarne on Fisher Island Section 3" according to the Plat thereof as recorded in Plat Book 135, Page 15 of the Public Records of Dade County, Florida; thence South 65°13'00" East,

along the North line of the aforementioned "Lindisfarne on Fisher Island Section 3" a distance of 786.41 feet to the POINT OF BEGINNING of the herein described property; thence continue South 65°13'00" East along said North line a distance of 233.35 feet; thence North 27°39'54" West a distance of 113.80 feet; thence North 79°36'35" West a distance of 124.28 feet; thence South 55°23'23" West a distance of 44.69 feet to the POINT OF BEGINNING. Said lands situate, lying and being on Fisher Island, Dade County, Florida, and containing 0.231 acres more or less.

Subpart B RELATED SPECIAL ACTS⁵

ARTICLE I. ZONING BOARDS AND COMMISSIONS⁶

Sec. 1. Zoning commission.

In order to avail itself of the powers conferred by this Act, said city commission shall appoint a commission to be known as the "Zoning Commission" to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its official report; and said city commission shall not hold its public hearings, or take action, until it has received the official report of such zoning commission.

(Laws of Fla., 1923, ch. 9837, § 6; election of 11-1-77)

Sec. 2. Appointment, composition and duties of board of adjustment.

The board of adjustment shall consist of seven voting members.

Two members shall be appointed as citizens at-large, and five professional members shall each be appointed as follows: one member shall represent the architecture profession, and the remaining four members shall represent one of the following professions (no more than one member per profession) namely: Law, engineering, real estate development, certified public accounting, financial consultation, and general business. The members representing the professions of architecture, law, engineering and public accounting shall be duly licensed by the State of Florida; the member representing general business shall be of responsible standing in the community, and

⁵Editor's note(s)—Printed in this Part I, Subpart B, are the related special acts consisting of special laws relating to the city in addition to the Charter. Each related law is an article in this subpart B, with section numbers added editorially. The official citation for each section is given in parentheses following the section, with amendments subsequent to 1957 shown by date of approval by the electorate of the city. Amendments to the related laws are indicated by parenthetical history notes following amended provisions. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

⁶Editor's note(s)—Sections 1—5 and 8—12 of Laws of Fla., 1923, ch. 9837, have been editorially deleted as any power in a special act which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been converted to an ordinance by F.S. 166.021; and these sections were editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

each member shall be bound by the requirements of the Conflict of Interest Ordinance of the city and shall be subject to removal from office for the violation of the terms thereof. No member shall have any financial or other interest in any matter coming before the board. Commencing with terms beginning on or after January 1, 2007, members shall be appointed for a two-year staggered term by a five-sevenths vote of the city commission. Members of the board of adjustment must be either residents or have their principal place of business in Miami Beach; provided, however, that this amendment shall not affect the term of existing members of the board of adjustment.

Such board of adjustment shall hear and decide appeals from, and review, any order, requirements, decision or determination made by an administrative official charged with the enforcement of the Zoning Ordinance of the City of Miami Beach. Except for those variance requests specified as part of applications for development approval within the jurisdiction of the Design Review Board or Historic Preservation Board, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of said Zoning Ordinance, the board of adjustment shall have the power in passing upon appeals, to vary or modify any regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of the Zoning Ordinance shall be observed, public safety and welfare secured, and substantial justice done. In no case shall the board have any power to amend the Zoning Ordinance with reference to the use of land, or jurisdiction over any request for variance which shall constitute an amendment to the Zoning Ordinance as to the use of land, nor shall the board have power to grant a height variance greater than 3 feet or any variance from a property's allowable number of stories (floors). The board shall fix a reasonable time for the hearing of any matter before it and shall give due notice thereof to the parties.

Upon the hearing, any person may appear in person or by agent or by attorney. The board may require that all testimony given before it shall be under oath. Any order or decision of the board of adjustment shall require an affirmative five-sevenths vote of the board. The decision of the board of adjustment shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

All variance requests shall be first submitted to the city attorney for a determination whether the requested variance is properly such, and does not constitute a change or amendment to the Zoning Ordinance. The jurisdiction of the board of adjustment shall not attach unless and until the board has before it a written certificate of the city attorney that the subject matter of the request is properly before the board. The separate written recommendations of the planning and zoning director and of the public works director shall be before the board prior to its consideration of any matter before it.

(Laws of Fla., 1923, ch. 9837, § 7; election of 5-29-62; election of 11-5-68; election of 4-23-70; election of 3-8-77; election of 11-1-77; Res. No. 2003-25391, election of 11-4-03; Res. No. 2006-26277, 9-6-06, election of 11-7-06; Res. No. 2006-26278, 9-6-06, election of 11-7-06; Res. No. 2014-28606, 5-21-14, passed by voters 8-26-14; Res. No. 2018-30352, 6-6-18, election of 8-28-18; Res. No. 2022-32165, 5-4-22, passed at election 8-23-22)

ARTICLE II. RESERVED⁷

Secs. 3—6. Reserved.

⁷Editor's note(s)—Res. No. 2003-25445, adopted December 10, 2003, and approved at election on March 9, 2004, repealed article II in its entirety, which pertained to the public library and derived from the Laws of Florida, 1949, ch. 26027, §§ 1—4, and the election of November 1, 1983.

ARTICLE III. RESERVED⁸

Secs. 7, 8. Reserved.

ARTICLE IV. CIVIL SERVICE SYSTEM

Sec. 9. Certain officers and employees constituted civil service employees.

Certain officers and employees of the City of Miami Beach, Florida, shall, after the passage and final approval of this Act and its adoption by referendum as hereinafter provided be and are hereby constituted civil service employees of said city and shall be employed, retained, governed, directed and discharged as hereinafter provided.

(Laws of Fla., 1937, ch. 18696, § 1; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 10. Human Resources Department.

There is established a Human Resources Department which shall:

- A. Establish and maintain in suitable form a complete roster of the officers and employees in the classified service of the city showing the title of the officer, the position held, salary or wages paid and every change in title, pay or status of each such officer or employee.
- B. Certify to the chief finance officer of the city before payments of salary or wages are made that the names of persons holding positions in the classified service to whom it is proposed to make payments for personal services were during the period for which payment is proposed to be made on the roster of officers, and employees, that such person [persons] were appointed and employed and were performing services in accordance with the provisions of this Act and the rules and regulations established thereunder, and that the rate of pay proposed has been established in accordance with the provisions of this Act.
- C. Ascertain and keep written records of the duties, responsibilities and authority appertaining to each office and position in the classified service of the city.
- D. Prepare and recommend to the personnel board of [the] classification plan and amendments thereto for the entire classified service of the city, and after adoption by the personnel board, administer the classification plan approved. The classification plan recommended to the personnel board shall include titles for the various classes of positions. Each class shall include all positions in the classified service of the city which are sufficiently similar with respect to duties, responsibilities and authority, so that the same descriptive title may be used to designate each position allocated to the class, that the same requirements as to education, experience, intelligence, general and specialized knowledge, skill, physical condition and other qualifications may be demanded of incumbents for the proper

⁸Editor's note(s)—Res. No. 2003-25445, adopted December 10, 2003, and approved at election on March 9, 2004, repealed article II in its entirety, which pertained to municipal projects and derived from the Laws of Florida, 1941, ch. 21401, §§ 1, 2.

performance of their duties, and that the same tests of fitness may be used in choosing qualified appointees, and that the same schedule of pay may be made to apply with equity under the working conditions.

After adoption of the classification plan the Director of Human Resources shall adopt written specifications for each class, and allocate positions to classes; provided that after August 1, 1951, all class specifications or amendments thereto, and all allocations or reallocations of positions to classes shall be subject only to the approval of the personnel board. The class title shall be used in Human Resources, budget, and financial records and communication, and, if individual positions are designated in the appropriation ordinances, in designating such positions.

The Director of Human Resources, if directed by the personnel board so to do, shall maintain the classification plan by allocating new positions to existing classification or by creating new classifications, or by so reallocating existing positions in which there are substantial changes in duties and responsibilities. Notwithstanding the provisions of section 8 [16], the Director of Human Resources, if directed by the personnel board so to do, shall make class transfers of incumbents in positions so reallocated under rules which shall be part of the personnel rules, and which shall provide that the compensation of no employee so transferred shall be reduced thereby. Reallocations of positions to higher classes shall be subject to the approval by the city manager.

- E. Prepare at least sixty days before the beginning of each fiscal year, for presentation to the City Commission, a pay plan including proposed schedule of pay for each class of positions in the classified service with minimum and maximum rates, and following the adoption of the appropriation ordinances by the City Commission, see that payments to officers and employees holding positions in the classified service are made in accordance therewith.
- F. Establish reemployment lists for the various classes of positions in the classified service containing the names of persons who have previously been in the classified service of the city whose performance, work habits, and conduct have been satisfactory, and who are entitled to appointment or employment when vacant positions are to be filled, over those on employment lists.
- G. Give preliminary competitive tests to determine as far as possible the relative qualifications of those considered for promotion to higher positions or for entrance to the city classified service, and establish employment lists of persons eligible for appointment in the order of their achievement or performance in such tests. Such tests shall be mental or physical or both and shall be appropriate to the positions to which they apply. Upon recommendation by the personnel board, tests may be noncompetitive for positions which require peculiar and exceptional qualifications of a scientific, managerial, professional or educational character, or in case the character of work or the conditions of employment or compensation make it impracticable to secure through competitive tests a sufficient number of qualified eligibles to meet the needs of the service.
- H. Upon written notice of the appointing authority that a position in the classified service is to be filled, certify the names of at least the three persons highest on the reemployment or employment list for the class and willing to accept appointment; provided that no name shall be certified from an employment list as long as there is a reemployment list available from which appointment may be made, [and] the Director of Human Resources may authorize a provisional appointment to a permanent position to continue until a list can be established and certification made. Provided, however, that on original appointment, a person whose name appears on an open competitive eligible list and who is certified and passed over three times, may be removed from the eligible list by the Director of Human Resources with approval of the city manager.
- I. Establish for each class working test periods of not less than six months nor more than twelve months to enable the appointing officer to observe whether new officers and/or employees are able and willing to perform their duties in a satisfactory manner.

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- J. Establish by rule the procedure by which any officer or employee in the classified service may be transferred from a position in one class to another position in the same class or to a position in a different class for which he is qualified and for which no higher maximum rate of pay has been established.
 - K. Provide by rule, to be approved by the personnel board, for the manner of checking attendance and for determining the order of layoff when forces are reduced because of lack of work or funds.
 - L. Establish by rule, a system of service ratings based on records of attendance, performance, conduct and output of each officer or employee in the classified service and designed as far as may be possible to reflect his worth to the city.
 - M. Establish by rule procedure in conformity with section 9 [17] of this Act for making suspensions, reductions, or removals of officers or employees in the classified service for misconduct, inefficiency and other good reasons, and for investigating and hearing the appeals of such suspended, reduced or removed officers or employees.
 - N. At the request of the city manager or the City Commission, or upon the initiative of the personnel board, investigate and report upon the administration and effect of the personnel provisions of this Act and of the rules and regulations adopted thereunder, and any other matter affecting the operation of the civil service system and the personnel in the classified service of the city.
 - O. Do any other act or acts required under this Act necessary to effect its purposes with respect to persons in the classified service of the city.

It is hereby declared to be the purposes of this Act to authorize and provide a complete, adequate and systematic procedure for handling the personnel matters of the city.

(Laws of Fla., 1937, ch. 18696, § 2; Laws of Fla., 1951, ch. 27735, § 1; election of 11-8-66; election of 11-18-69; election of 11-6-90; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 11. Director of Human Resources.

The Director of Human Resources shall be the secretary to the personnel board, and shall perform the functions prescribed in section 2 [10] of this Act, except as otherwise specifically provided in section 4 [12] hereof. The Director of Human Resources shall occupy a full-time position and be the head of the Human Resources department. He shall hold office until the next ensuing city election, and until his successor is duly appointed and qualified. Until August 1, 1951, the Director of Human Resources shall be elected by the City Commission and serve at their pleasure, but thereafter the Director of Human Resources shall be appointed by the city manager by and with the consent of the personnel board. If the appointee of the city manager shall be confirmed by the personnel board, he shall then qualify as such Director of Human Resources and enter upon the discharge of his duties. In the event that such appointment is rejected by the personnel board, the city manager shall be notified of such rejection by the personnel board within forty-eight hours, and thereafter the city manager shall be authorized and empowered to certify another appointee to the personnel board within five days thereafter. If the personnel board rejects such subsequent appointment, or in the event the city manager shall fail or refuse to appoint the Director of Human Resources, as aforesaid, then the personnel board shall proceed to elect such Director of Human Resources.

The personnel board shall have the rights, by resolution adopted by the favorable vote of at least four voting members, to remove the Director of Human Resources.

(Laws of Fla., 1937, ch. 18696, § 3; Laws of Fla., 1951, ch. 27735, § 2; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 12. Personnel board.

Until August 1, 1955, the personnel board shall consist of nine members, being five voting members and four nonvoting members. The five voting members shall be citizens of Miami Beach not in the employ of the city, each having a different vocation, the term "vocation" as used herein meaning the principal means of livelihood of the member. They shall be appointed by the votes of five-sevenths of the City Commission and shall serve for a term of five years. The four nonvoting members of the personnel board shall consist of the Director of Human Resources and three regular employees of the City of Miami Beach to be elected by the probationary and regular employees of the city. One such nonvoting member shall be elected from the employees of regular status in each of the following groups by the employees of probationary and regular status in the respective groups. Group 1 shall consist of the employees of the police department, fire department and beach patrol department. Group 2 shall consist of employees who are in clerical and executive positions; Group 3 shall consist of all other employees. At the first election held by the employees at as early a date as is practicable after June 1, 1951, the three nonvoting employee members shall be elected for terms commencing August 1, 1951. The term of the member representing Group 1 shall be for three years, the term of the member representing Group 2 shall be for two years, and the term of the member representing Group 3 shall be for one year. Thereafter an election shall be conducted for the group in which a term expires, and the term of such member so elected shall be for three years. The city clerk shall conduct and supervise the election of the nonvoting members of the personnel board.

From and after August 1, 1955 the personnel board shall consist of ten members, of whom six shall be citizens of Miami Beach not in the employ of the city, each having a different vocation, the term "vocation" as used herein meaning the principal means of livelihood of the member. At least one citizen must work in the field of human resources. They shall be appointed by the votes of five-sevenths of the City Commission and shall be voting members. The five voting members who are in office on August 1, 1955 shall continue in office as voting members until August 1st of the last calendar year in the term for which such member was appointed, and until his successor is appointed. The vacancy caused by the increase in membership on August 1, 1955 shall be filled by an appointment for a term of two years commencing August 1, 1955. Thereafter, at the expiration of the terms of such members, the vacancy so caused shall be filled by appointment for a term of five years commencing August 1st of the year in which the vacancy as a result of such expiration of term occurs. The other four members of the personnel board shall be the Director of Human Resources, who shall not be a voting member of the board, and three regular employees of the City of Miami Beach, to be elected by the probationary and regular employees of the city in the same manner and from the same group as was in effect immediately prior to August 1, 1955. The employee members of the personnel board who are in office on August 1, 1955 and whose terms have not expired shall continue in office as employee members for their respective unexpired terms. An election shall be conducted for the employee group in which a term expires, and the term of such member so elected shall be for three years. The three employee members shall be entitled to a total of one vote, voting as an employee member unit, in the determination of all matters before the personnel board. A majority of the employee members present shall control the one unit vote of the employee membership; if only two employee members are present and cannot agree, then the unit vote of the employee membership shall be a nullity; if only one employee member is present, then he shall be entitled to cast the one unit vote of the employee membership.

Any nonemployee member of the personnel board, except the Director of Human Resources, may be removed by the City Commission if at least five-sevenths of the members of the City Commission vote for such removal. Vacancies occurring in the membership of the personnel board shall be filled within thirty days in the same manner in which the vacant membership was originally selected. The member so selected shall serve for the unexpired term of his predecessor on the board. Any employee member of the personnel board may be removed if at least twenty-five percent of the total employee members of his group shall sign a petition for an election to determine whether or not such employee member should be removed and the petition is presented to the city clerk, who shall thereupon conduct and supervise such election, and a majority of the members of the group voting at such election shall vote to remove such employee member.

The personnel board shall select its own chairman and vice-chairman from its nonemployee voting members. There shall be regular meetings of the board held once a month, and such additional special meetings as may be required. Special meetings may be called by the chairman, and upon demand by any three or more board members, but only after reasonable notice has been given to all members and the city manager. At least three nonemployee voting members and at least one employee member shall constitute a quorum, but an affirmative vote of not less than three members shall be required for determination of all matters before it, except that in cases of adjournment or recess only a majority vote of those members present shall be required. All regular and special meetings of the board shall be open to the public, but this shall not be construed to prevent private conferences at which no formal action is taken.

The personnel board shall:

- (A) Have authority to require performance of all personnel procedure and operations specified or contemplated by this Act or the personnel rules. The board shall approve the budget request for the Department of Human Resources.
- (B) Approve or disapprove or amend, in accordance with section 6 [14] of this Act, the personnel rules and amendments thereto.
- (C) Approve or disapprove or amend the classification plan, class specification and requirements to be met by applicants for competitive examinations as provided in section 2 D [10 D.] of this Act.
- (D) Hear appeals in case any officer or employee in the classified service is suspended, reduced or removed in accordance with the procedure in section 9 [17] of this Act and the rules made thereunder.
- (E) Hear appeals, make investigations and review administrative interpretations of the personnel rules, and direct administrative action consistent with its findings.

(Laws of Fla., 1937, ch. 18696, § 4; Laws of Fla., 1951, ch. 27735, § 3; Laws of Fla., 1955, ch. 30987, § 1; Ord. No. 93-2868, § 1, 9-22-93; Ord. No. 97-3086, § 4, 7-2-97)

Editor's note(s)—The provisions regarding the personnel board are contained in Code section 78-1. The provisions in Code section 78-1 which are not required to be amended by referendum are controlling in regard to the personnel board. Those provisions which are required by F.S. § 166.021 to be amended by referendum are identical in this section and Code section 78-1.

Sec. 13. Application of these provisions to various positions and persons.

Personnel provisions of this Act shall apply to all positions and persons in the service of the city except:

- A. All elective officers of the city.
- B. City manager and, if any, assistant city manager, executive assistant city manager and management analyst.
- C. Directors and division heads of departments of [or] divisions created by law or ordinance.
- D. Members of boards, commissions or committees.
- E. [Editorially deleted.]
- F. Employees in the legal department of the city.
- G. All secretarial and administrative employees in the city manager's office and in the office of the mayor.
- H. The chief assistants to each department head, when such assistants are of division head status.
- I. Those positions which require peculiar and exceptional qualifications of a scientific, managerial, professional or educational character, which positions do not fall within any existing qualification and

the duties of which do not fall within the scope of the specifications set up for any existing classification, where such positions are created and filled by ordinance or resolution duly enacted by the City Commission, shall be in the unclassified service of the city.

Positions listed in this section under subheads A, B, C, D, E, F, G, H and I shall constitute the unclassified service. All other positions in the service of the city shall constitute the classified service.

(Laws of Fla., 1937, ch. 18696, § 5; Laws of Fla., 1951, ch. 27735, § 4; election of 11-8-66; Ord. No. 93-2868, § 1, 9-22-93)

Editor's note(s)—The reference to municipal court and municipal judge in this section has been editorially deleted as municipal courts were abolished by Fla. Const., art. V, § 20(d)(4).

Sec. 14. Personnel rules.

The Director of Human Resources shall as soon as practicable and in any case within three months after this Act takes effect prepare the personnel rules required by this Act and recommend their adoption by the personnel board, and as soon as practicable after such recommendation, the personnel board shall approve, amend or disapprove such personnel rules. Amendments to the personnel rules may be made from time to time in the manner above specified. Copies of the personnel rules and of the amendments thereto shall be transmitted by the Director of Human Resources to the City Commission for approval or disapproval. After approval these rules shall become effective from the date or dates specified therein; provided, however, that from and after August 1, 1951, the personnel rules and amendments thereto shall not be subject to approval by [the] City Commission. No amendments thereto shall be adopted until thirty days after a copy of such amendment shall have been submitted to the city manager and to a representative of each of the three groups referred to in section 4 [12], such representative to be designated by each of such groups and the name and address of such representative certified to the personnel board.

(Laws of Fla., 1937, ch. 18696, § 6; Laws of Fla., 1951, ch. 27735, § 5; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 15. Limitations on appointments.

No person, except temporary employees in connection with construction projects carried on by the city, shall be appointed in the classified service of the city except after certification by the Human Resources Department, or except upon authorization by the Human Resources Department of a provisional appointment which shall not continue for more than thirty days without approval of the personnel board, provided that, in connection with hurricanes or other similar catastrophic event, emergency appointments for periods not exceeding thirty days may be made without such certification or authorization. No person shall be appointed to, or employed in, a position in the classified service under any title not appropriate to the duties to be performed.

(Laws of Fla., 1937, ch. 18696, § 7; Laws of Fla., 1951, ch. 27735, § 6; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 16. Promotions.

Vacancies in higher positions in the classified service of the city shall, as far as is practicable, be filled by promotion from lower classes following competitive tests; provided, that in case there is an inadequate number of civil service employees eligible in lower classes, the personnel board may direct that promotions to higher positions be made as the result of competitive tests open not only to civil service employees serving in lower classes, but also to persons not in the service of the city. A change from a position in any class to a position in another class for which a higher maximum rate of pay is prescribed shall be considered a promotion. The Director

of Human Resources shall, to the extent he considers such action desirable, indicate the principal or normal lines of promotion to and from each class in the class specifications or in regulations.

(Laws of Fla., 1937, ch. 18696, § 8; Laws of Fla., 1951, ch. 27735, § 7; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 17. Suspensions, reductions and removals.

Any officer or employee in the classified service of the city who is serving under provisional, temporary or emergency appointment may be suspended, reduced in pay or class, or removed at any time by the officer having power to appoint a successor. A copy of the notice of such suspension, reduction or removal shall be transmitted to the Human Resources Department.

Any officer or employee in the classified service of the city who has been appointed following certification for a reemployment or employment list, may be suspended, reduced in pay or class, or removed for reasonable cause at any time during the working test period by the officer having power to appoint a successor, by giving him written notice of such suspension, reduction or removal together with a statement of the reasons therefor. A copy of such statement shall be transmitted to the personnel board.

Any officer or employee in the classified service of the city, who has completed the working test period may be suspended, reduced in pay or class, or removed by the officer having power to appoint a successor, in the manner prescribed in this section as supplemented by the personnel rules. A written notice of the suspension, reduction or removal, stating the reasons therefor, and when it is effective, shall be given to such officer or employee, or mailed to his usual place of residence. Such officer or employee, within ten days after the delivery or mailing to him of such written notice, may appeal in writing to the personnel board for a hearing. The personnel board, not later than ten days after receipt of such appeal, shall fix a place and a time for holding a public hearing within a reasonable time thereafter, at which hearing the officer or employee suspended, reduced or removed shall have the right to appear and be heard in person, or by counsel. The personnel board may, at the request of the officer ordering the suspension, reduction or removal, or of the officer or employee whose suspension, reduction or removal has been ordered, call or subpoena any person or records for the purpose of ascertaining the facts. The hearing shall be informal and designed solely for the purpose of determining the truth or untruth of the charges. Within five working days after the completion of the public hearing, the personnel board shall report its finding in writing. A copy of the written statement given the officer or employee, a copy of any written reply thereto, and a copy of the finding of the personnel board shall be filed as a public record in the office of the Human Resources Department. When an appeal from disciplinary action finally results in a reversal or setting aside of such disciplinary action by the personnel board, or by a competent court, then the employee shall be entitled to recover all wages and emoluments lost by reason of such disciplinary action, and to recover his court costs and reasonable attorney's fees as determined by the personnel board in the event that the final determination of the issue has been made by said personnel board or determined by the court, if final determination is as a result of court action.

The personnel board, through its chairman, may, at the request of an officer ordering the suspension, reduction, or removal of an officer or employee, or at the request of the officer or employee whose suspension, reduction or removal has been ordered, have issued by the judge, through the court, a subpoena requiring the attendance of any person or the production of any records before the personnel board at any hearing or appeal conducted by such board for the purpose of ascertaining the facts, and further providing that failure to obey such subpoena shall be punishable as for contempt of said court.

(Laws of Fla., 1937, ch. 18696, § 9; Laws of Fla., 1951, ch. 27735, § 8; election of 11-18-69; election of 11-7-72; Ord. No. 93-2868, § 1, 9-22-93)

Editor's note(s)—The reference to municipal court and municipal judge in this section has been editorially deleted as municipal courts were abolished by Fla. Const., art. V, § 20(d)(4).

Sec. 18. Status of officers and employees holding positions when this Act takes effect.

Any person holding an office or position in the classified service of the city when this Act takes effect who shall have served in such position for a period of at least six months immediately preceding, shall be retained without preliminary or working tests and shall thereafter be subject in all respects to the provisions of this Act. Other persons in the city service at the time this Act takes effect shall be regarded as holding their positions under probationary appointments; provided, however, that after the effective date of this Act, if and when the City of Miami Beach shall, by appropriate action of its City Commission, acquire or assume as a municipal function the operation, administration or management of any then existing private or quasi-public business or activity, by the terms of which acquisition or assumption the employees or personnel of such then existing business or activity become employees or personnel of the City of Miami Beach, such employees or personnel shall be deemed to have received probationary appointments, effective as of the date such municipal operation begins, to the classifications which embrace their respective positions.

(Laws of Fla., 1937, ch. 18696, § 10; Laws of Fla., 1949, ch. 26028, § 1; election of 11-18-69; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 19. Certification of payrolls.

No public disbursing officer shall pay any salary, wages or other compensation for personal services to any persons holding positions in the classified service of the city unless the payroll or account shall bear the certificate of the Director of Human Resources or his deputy appointed by the City Commission that such persons were appointed or employed and were performing service in accordance with the provisions of this Act and the rules and regulations established thereunder.

(Laws of Fla., 1937, ch. 18696, § 11; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 20. Oaths.

For the purpose of the administration of the personnel provisions of this Act, any member of the personnel board shall have the power to administer oaths.

(Laws of Fla., 1937, ch. 18696, § 12; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 21. Information and access to premises and records.

Every officer or employee in the service of the city shall furnish the Director of Human Resources any information required by him in the administration of the personnel provisions of this Act and the rules and regulations made thereunder and shall allow members of the personnel board and members of the staff of the Human Resources Department reasonable access to premises, buildings and records under his charge and direction.

(Laws of Fla., 1937, ch. 18696, § 13; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 22. Positions abolished, discontinued or vacated.

An employee in a position in the classified service that is to be abolished, discontinued or vacated because of change in departmental organization or through stoppage or lack of work shall be laid off and his name placed, in the order provided in the rules of the personnel board, on the eligible list for the class of the position from which he was laid off.

(Laws of Fla., 1937, ch. 18696, § 14; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 23. Prohibitions.

No person in the classified service of the city or seeking admission thereto shall be appointed, promoted, reduced, removed, or in any way favored or discriminated against because of his political or religious opinions or affiliations. No person shall willfully or corruptly make any false statement, certificate, mark, rating or report in regard to any test, certification, or appointment held or made under the personnel provisions of this Act or in any manner commit or attempt to commit any fraud preventing the impartial execution of such personnel provisions or of the rules and regulations made thereunder. No officer or employee in the classified service of the city shall continue in such position after becoming a candidate for nomination or election to any public office. No person seeking appointment to or promotion in the classified service of the city shall either directly or indirectly give, render, or pay any money, service or other valuable thing to any person for or on account of or in connection with his test, appointment, proposed appointment, promotion or proposed promotion. No person shall orally, by letter or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding a position in the classified service of the city. In other than City of Miami Beach municipal elections and Metropolitan Dade County elections, persons holding a position in the classified service of the city may take part in the management, affairs, or political campaign of any political party or person further than in the exercise of his right as a citizen to express his opinion and to cast his vote.

Any person who himself or with others willfully or corruptly violates any of the provisions of this section shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than five dollars nor more than five hundred dollars, or by imprisonment for a term not exceeding three months, or by both such fine and imprisonment. Any person who is convicted under this section shall for a period of five years be ineligible for appointment to or employment in a position in the city service, and shall, if he be an officer or employee of the city, immediately forfeit the office or position he holds.

(Laws of Fla., 1937, ch. 18696, § 15; election of 11-18-69; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 24. Election on acceptance of Act.

This Act shall not become effective until a majority of the qualified voters of the City of Miami Beach, Florida, voting on the same at a special or general election called for such purpose, shall vote in favor thereof. Said election shall be held and conducted in substantial conformity as to the manner of holding and conducting other elections in said city, so far as the same is applicable. The form of ballot to be used at such election shall be fixed by the City Commission of the City of Miami Beach, Florida, and the caption of this Act shall be a sufficient statement on said ballot of the purpose for which said ballot is cast.

(Laws of Fla., 1937, ch. 18696, § 16; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 25. Construction of Act; separability.

This Act shall be liberally construed and if any clause or section herein shall for any reason be held invalid, the same shall be eliminated and the remaining portions herein shall be and remain in full force and effect as if such invalid clause, provision or section had not been incorporated herein.

(Laws of Fla., 1937, ch. 18696, § 17; Ord. No. 93-2868, § 1, 9-22-93)

Sec. 26. Repeal of conflicting laws.

All laws and parts of laws in conflict herewith are hereby repealed.

(Laws of Fla., 1937, ch. 18696, § 18; Ord. No. 93-2868, § 1, 9-22-93)

ARTICLE V. HEALTH PLAN FOR CITY OFFICERS AND EMPLOYEES⁹

Sec. 27. Authority to establish; cost; membership.

The city commission of the City of Miami Beach, Florida, is hereby empowered to establish by ordinance a health plan for officers and employees of said city, which plan may include the spouse and minor children of said officers and employees. Provisions governing health plan contribution, membership withdrawal/reinstatement shall be established by ordinance.

(Laws of Fla., 1943, ch. 22399, § 1; Laws of Fla., 1951, ch. 27730, § 1; election of 11-18-69; Ord. No. 82-2309, § 3; Ord. No. 85-2496, § 2; Res. No. 2001-24546, 7-25-01)

Sec. 28. Administration of plan.

Any health plan established under this Act shall be administered by the city manager or his designee(s). Said city manager or his designee(s) shall have full power and authority to effect the purposes of this Act by entering into contractual obligations with insurance carriers, cooperative health groups, or by establishing a self-administered plan, or by a combination of contractual and self-administered services; and shall have authority to establish rates of cost based on actuarial analyses, subject to the approval of the city commission.

(Laws of Fla., 1943, ch. 22399, § 3; Laws of Fla., 1951, ch. 27730, § 3; election of 11-7-89)

**ARTICLE VI. PENSION AND RETIREMENT SYSTEM FOR OFFICERS AND EMPLOYEES
GENERALLY¹⁰**

Sec. 29. Authority to establish; cost; additional benefits; actuarial evaluations; effect of separation from service; funds, etc., not subject to legal process.

The city commission of the City of Miami Beach shall have authority to establish by ordinance a pension and retirement system for any or all groups of employees in the service of said city, and to further provide that all lifeguards be permitted to retire upon attaining the age of fifty years and upon completion of twenty years of creditable service. Any system so established may provide for disability and death benefits. Any such pension and retirement system shall be established on a jointly contributory basis, with employee contributions determined by ordinance and the city's contributions based on actuarially determined needs for adequate funding of the system.

⁹Editor's note(s)—Section 2 of Laws of Fla., 1943, ch. 22399, as amended by Laws of Fla., 1951, ch. 27730, § 2, regarding investment of funds of the plan has been editorially deleted as superseded by F.S. § 218.40 et seq.

¹⁰Editor's note(s)—Several of the provisions in this article have been changed by collective bargaining agreements, and the City of Miami Beach pension department should be contacted for the most recent provisions.

The cost of the system shall be determined actuarially on the basis of such mortality and service tables as the pension board shall approve and shall be calculated and contributed as a uniform percentage of the payroll of members. The provisions of the ordinances establishing such a pension and retirement system shall require periodic actuarial evaluations which shall serve as a basis of any changes in the mortality and other experience tables and shall also provide for the maintenance at all times of adequate reserves. Any system established under this Act shall provide that any employee permanently separating from the service of the city for any reason shall receive from the funds of the system a sum at least equal to his contribution. No funds, credits, pensions, rights or benefits herein provided for shall be assignable or subject to attachment, garnishment, execution or other legal process.

- (a) The system established under this section shall provide that the retirement benefits payable under the general employees pension system shall be not less than seventy-five percent of final earnings on service-connected disability, nor less than thirty-five percent of final average earnings on non-service-connected disability.
- (b) [Editorially deleted.]

(Laws of Fla., 1937, ch. 18691, § 1; Laws of Fla., 1949, ch. 26035, § 1; Laws of Fla., 1951, ch. 27732, § 1; Laws of Fla., 1955, ch. 30984, § 1; election of 6-6-67; election of 11-5-68; election of 4-23-70; election of 11-7-89)

Editor's note(s)—The references to requirement to join the civil service system and the service retirement allowance were editorially deleted as superseded by collective bargaining agreements.

Sec. 30. Managerial retirement plan.

- (a) A managerial retirement plan may be established by ordinance, which shall supplement any other pension plan of the City of Miami Beach insofar as those covered under said ordinance are concerned, and nothing herein shall be constructed to in any way affect the operation or benefits of any other pension plan of the City of Miami Beach, Florida.
- (b) The other sections of this article shall not be applicable to the managerial retirement plan referred to herein.
(Ord. No. 86-2527, § I; election of 11-7-89)

Sec. 31. Investment of moneys.

All moneys paid into any pension or retirement system created by this Act, except such moneys as are necessary to meet current operating or pension and retirement payments, shall be invested in the following:

Bonds, notes, securities or other evidences of indebtedness which are the direct obligation of the government of the United States and for which the full faith and credit of the government is pledged.

Loans, insured or guaranteed as to principal and interest by the government of the United States or by any agency or instrumentality thereof, to the extent of such insurance or guaranty.

Bonds, notes and other securities of any state, county or incorporated city in any state of the United States or the District of Columbia, which are the direct obligation of such state, county or city and for payment of which said governmental body has the lawful authority to levy taxes or make assessments.

Bonds, notes or other evidences of indebtedness which are payable from revenues of any structure or improvement owned by any state, county or incorporated city within the United States.

Dividend paying stocks, common or preferred, of any corporation created and existing under the laws of the United States or of any state, provided that the amount so invested shall at no time exceed fifty percent of the total funds invested. Stocks, common or preferred of any corporation not created and existing

under the laws of the United States, or of any state, shall at no time exceed five percent of the total equities. No more than twenty percent of the total equity portfolio may be invested in non-dividend-paying stocks, which are subject to the guidelines set by ordinance.

Bonds, notes or other interest-bearing obligations of any solvent corporation organized under the laws of the United States, or any state, territory or possession of the United States.

Shares or savings accounts of federal savings and loan associations, to the extent that they are insured by an agency or an instrumentality of the government of the United States.

The city commission is authorized, by ordinance, to increase the pension benefits to members of the city pension fund for employees of the City of Miami Beach.

(Laws of Fla., 1937, ch. 18691, § 2; election of 6-1-65; election of 5-24-66; election of 6-6-67; election of 11-7-89)

Sec. 32. Pension board.

Any pension and retirement system established under this section [article] shall be administered by a pension board of nine members, four of whom shall be appointed by the city manager, and three members of the system who shall be elected by employees who are members of the pension system, and two retirees who shall be elected by the retired members of the system. Such election shall be held under such rules as the board shall prescribe.

(Laws of Fla., 1937, ch. 18691, § 3; election of 11-7-89)

Sec. 33. Ordinance elections.

No ordinance enacted under the provisions of this section [article] which makes mandatory any contributions, other than contributions by the City of Miami Beach for the purpose of paying interest on contributions made by employees, shall become effective until a majority of the qualified voters of the City of Miami Beach voting on the same at a special or general election called for such purpose shall vote in favor thereof. Said election shall be held and conducted in substantial conformity with the manner of holding and conducting other elections in the city. The form of ballot to be used at said election shall be fixed by the city commission of the City of Miami Beach, Florida.

(Laws of Fla., 1937, ch. 18691, § 4; Laws of Fla., 1955, ch. 30988, § 1; election of 11-7-89)

Sec. 34. Construction of Act; separability.

This section [article] and the ordinance herein provided for shall be liberally construed and if any clause and section hereof or thereof shall for any reason be held invalid, the same shall be eliminated and the remaining portions hereof and thereof shall be and remain in full force and effect as if such invalid clause, provision or section had not been incorporated herein or therein.

(Laws of Fla., 1937, ch. 18691, § 5; election of 11-7-89)

Sec. 35. Repeal of conflicting laws.

All laws and parts of laws in conflict herewith are hereby repealed.

(Laws of Fla., 1937, ch. 18691, § 6; election of 11-7-89)

ARTICLE VII. FIREFIGHTERS' RELIEF AND PENSION FUND¹¹

Sec. 36. Purpose of Act; supplementary to other Acts.

The purpose of this Act is to implement the provisions of chapter 19112, Acts of Florida, 1939, and to provide means whereby Firefighters of the City of Miami Beach, Florida, may receive benefits from the funds provided for that purpose by Chapter 19112, Acts of Florida, 1939. This Act shall be deemed to supplement any other pension plan of the City of Miami Beach insofar as benefits to Firefighters are concerned, and nothing herein shall be construed to in any way affect the operation or benefits of any other pension plan of the City of Miami Beach, Florida. Sections 5, 6, 7, 8, 9 and 10 of Chapter 19112, Acts of Florida, 1939, shall continue to apply to the City of Miami Beach except as otherwise specifically provided for in this Act.

(Laws of Fla., 1949, ch. 26024, § 1; Ord. No. 2015-3945, § 1, 6-10-15; Ord. No. 2018-4193, § 1, 5-16-18)

Sec. 37. Definitions.

The following words and phrases shall, for the purposes of this Act, have the meanings hereafter respectively ascribed to them. Other words and phrases shall have meanings as commonly understood with respect to the context; the singular shall include the plural, and the masculine the feminine:

- (a) *Account* shall mean the individual account credited on behalf of each Participant with contributions pursuant to this Act, eligible forfeiture contributions and earnings on such contributions.
- (b) *Account Balance* shall mean the value of a Participant's Account as of the last Valuation Date.
- (c) *Active Duty* shall mean actual service as a Firefighter with Regular Status in the fire division of the City of Miami Beach, or absent from duty on an approved leave of absence, all as of the time under consideration.
- (d) *Board* shall mean the Board of Trustees of the Miami Beach Firefighters' Relief and Pension Fund, as provided for herein.
- (e) *City* shall mean the City of Miami Beach, Florida.
- (f) *Code* shall mean the Internal Revenue Code of 1986, as amended from time to time.
- (g) *Designated Beneficiary* shall mean any person, persons or entity designated by a Participant to receive any benefits payable under the Fund in the event of the Participant's death under Code Section 401(a)(9) and Treasury Regulation Section 1.401(a)(9)-4. If no Designated Beneficiary has been so designated by a Participant prior to the Participant's death, or if no person, persons or entity so designated survives the Participant, the Participant's surviving spouse, if any, shall be deemed to be the Designated Beneficiary; otherwise the Designated Beneficiary shall be the Participant's estate.
- (h) *Direct Rollover* shall mean a payment by the Fund directly to the eligible retirement plan specified by the Distributee.

¹¹Editor's note(s)—Several of the provisions in this article have been changed by collective bargaining agreements, and the City of Miami Beach pension department should be contacted for the most recent provisions.

State law reference(s)—Firefighter's pension trust fund, F.S. ch. 175.

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- (i) *Distributee* shall mean a Firefighter or former Firefighter. In addition, effective for distributions made after December 31, 2001, the Firefighter's or former Firefighter's surviving spouse or former spouse who has an interest in the Firefighter's benefits under the Fund pursuant to a domestic relations order honored by the State or the City (if any) are Distributees with regard to such interest.
- (j) *Eligible Retired Public Safety Officer* shall mean a Participant who has retired from the fire division of the City (i) by reason of disability or (ii) on or after his or her Normal Retirement Age and who is also a "public safety officer" as defined in Section 402(1)(4)(C) of the Code and any applicable guidance thereunder.
- (k) *Eligible Retirement Plan* shall mean, effective for distributions made after December 31, 2001, any of the following types of plans that accept the Distributee's Eligible Rollover Distribution: (i) a qualified plan described in Section 401(a) of the Code; (ii) an annuity plan described in Section 403(a) of the Code; (iii) an individual retirement account or individual retirement annuity described in Section 408(a) or 408(b) of the Code, respectively; (iv) effective for plan years after December 31, 2001, an annuity contract described in Section 403(b) of the Code; and (v) effective for plan years after December 31, 2001, an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Fund.
- (l) *Eligible Rollover Distribution* shall mean, effective for distributions made after December 31, 2001, any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's Designated Beneficiary, or for a specified period of ten years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and (iii) effective for plan years after December 31, 2001, after-tax amounts unless such amount is transferred to an individual retirement account or individual retirement annuity described in Section 408(a) or 408(b) of the Code, respectively, or transferred to a defined contribution plan qualified under Section 401(a) of the Code that agrees to separately account for such amount.
- (m) *Firefighters* include the fire chief, officers, inspectors, enginemen, firefighters, and such other employees of the fire division of the City as the Board shall determine to be engaged directly in firefighting or fire prevention work, shall be deemed Firefighters for the purposes of this Act.
- (n) *Fund* shall mean the Miami Beach Firefighters' Relief and Pension Fund, as provided for herein.
- (o) *Fund Year* shall mean the calendar year.
- (p) *Normal Retirement Age* shall mean attainment of age 50; provided, however, that "normal retirement age" shall be adjusted to be the same as such term used in the City Pension Fund for Firefighters and Police Officers in the City of Miami Beach, as amended from time to time.
- (q) *Participant* shall mean every Firefighter of the City eligible to have moneys credited to his Account and to receive benefits therefrom under the Fund and this Act.
- (r) *Qualified Health Insurance Premiums* shall mean premiums for coverage for the Eligible Retired Public Safety Officer (and his or her spouse and dependents, if applicable) under accident and health insurance (including an accident or health plan within the meaning of Section 105(e) of the Code) or qualified long-term care insurance contract as defined in Section 7702B(b) of the Code.
- (s) *Qualified Health Insurance Premium Distribution* shall mean an amount deducted from an Eligible Retired Public Safety Officer's benefit payment under the Plan and paid directly to the insurer providing coverage for which Qualified Health Insurance Premiums are paid. Such amount may not exceed the amount of the Qualified Health Insurance Premiums.

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- (t) *Qualified Military Service* means any service in the uniformed service (as defined in chapter 43 of title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service (Section 414(u)(5) of the Internal Revenue Code).
 - (u) *Regular Status* shall have the meaning ascribed to it by Chapter 18696, Acts of Florida, 1937, commonly known as the Civil Service Act, and the Personnel Rules of the City.
 - (v) *Retired or Separated Participant* shall mean any Participant who has separated from service as a Firefighter and has an Account Balance with the Fund.
 - (w) *Service* shall mean all time served as a Firefighter of the City for which regular compensation is made by the City, and all time during which a Participant is absent on military Leave. It shall include all Leaves with pay, but shall not include Leaves during which no regular compensation is paid by the City.
 - (x) *State* shall mean the state of Florida.
 - (y) *USERRA* means Uniformed Services Employment and Reemployment Rights Act (P.L. 103-353).
 - (z) *Valuation Date* shall mean June 30 of each year and each other date(s) as the Board may deem necessary.

(Laws of Fla., 1949, ch. 26024, § 2; Ord. No. 2015-3945, § 2, 6-10-15; Ord. No. 2018-4193, § 2, 5-16-18)

Sec. 38. Creation of fund; origin of moneys.

There is hereby created in the City of Miami Beach, Florida, a special fund to be known as the Miami Beach Firefighters' Relief and Pension Fund, into which shall be paid all moneys previously received by the City of Miami Beach under the provisions of Chapter 19112, Acts of Florida, 1939, and Ordinance Number 558 of the City of Miami Beach, which moneys are now held in trust under Pension Ordinance Number 498 of the City of Miami Beach, and all moneys which subsequently inure to the City of Miami Beach under the provisions of Chapter 19112, Acts of Florida, 1939. Immediately upon taking office, the Board shall request, and the Board of Trustees of the Miami Beach Employees Retirement System shall make payment to the Miami Beach Firefighters' Relief and Pension Fund of the accumulated moneys referred to above and held in trust under Ordinance Number 498.

No part of the corpus or income of the Fund shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and other persons entitled to benefits under the Fund and paying the expenses of the Fund not paid directly by any other party. No person shall have any interest in, or right to, any part of the earnings of the assets of the Fund, or any right in, or to, any part of the assets held under the Fund, except as and to the extent expressly provided in this ordinance.

There will be no reversion of the assets of the Fund or City or State contributions, except as permitted by Internal Revenue Service Revenue Ruling 91-4.

(Laws of Fla., 1949, ch. 26024, § 3; Ord. No. 2015-3945, § 3, 6-10-15)

Sec. 39. Board of trustees creation; composition; terms of office; officers; proceedings; compensation.

There is hereby created a board of trustees of the Miami Beach Firefighters Relief and Pension Fund, which Board shall consist of the fire chief, the director of human resources, the assistant City manager or other responsible officer or employee of the City appointed by him, and two employees of the fire division to be elected from among the Participants of the Fund by such Participants. The fire chief, director of human resources and the assistant City manager shall serve so long as they continue to hold their respective offices, and upon replacement their successors shall succeed to their positions as trustees. The first election of trustees from among the

Participants shall be for one office as trustee for a one-year term, and one office as trustee for a two-year term; thereafter elections shall be for overlapping terms of two-years. The Board shall annually elect from its membership a chairman and secretary who shall keep complete minutes of all proceedings of the Board, and all actions of the Board shall be by majority vote, a quorum being present. Trustees shall receive no compensation as such.

(Laws of Fla., 1949, ch. 26024, § 4; election of 11-2-71; Ord. No. 2015-3945, § 4, 6-10-15)

Sec. 40. Board of trustees - power and authority.

The Board shall have power and authority as follows:

- (a) To have exclusive charge of the investment of any assets in the Fund not needed for the Fund's current obligations, and to invest and reinvest such assets in accordance with the written investment policy adopted by the Board pursuant to paragraph (b) below. Board members must discharge their duties with respect to the Fund solely in the interest of the Participants and beneficiaries for the exclusive purpose of: (i) providing benefits to Participants and their beneficiaries; and (ii) defraying reasonable expenses of administering the Fund; with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly not prudent to do so. Within the limitations of the foregoing standards and investment policy, the Board is authorized to acquire and retain in the Fund every kind of investment specifically including, but not limited to, stocks, bonds, securities, debentures, real estate, mutual funds, trusts and other obligations which persons of prudence, discretion and intelligence acquire or retain for their own account. The intent of this paragraph is to remove any and all investment restrictions which are otherwise imposed by Ch. 175, Florida Statutes, and which may be removed.
- (b) To adopt and periodically update a written investment policy in accordance with Section 112.661, Florida Statutes, as such statute may be amended in the future.
- (c) To approve loans and claims, and to authorize payments from the Fund by warrants signed by the chairman and secretary of the Board.
- (d) To interpret the provisions of this Act where the meaning is not clear or ambiguity exists; and to promulgate necessary rules respecting the operation of the Fund, not in conflict with the wording or clear intent of this Act.
- (e) To authorize expenditures in connection with preliminary research and technical services, accounting, auditing and general administration of the Fund.
- (f) To do such other things as may be necessary to implement and provide for the proper functioning of the Fund.

(Laws of Fla., 1949, ch. 26024, § 5; election of 5-24-66; election of 11-2-71; election of 11-4-03; Ord. No. 2015-3945, § 5, 6-10-15)

Sec. 41. Reserved.

Editor's note(s)—Sec. 6 of Ord. No. 2015-3945, adopted June 10, 2015, repealed § 41, which pertained to the custodian of fund; vouchers; and derived from the Laws of Fla., 1949, ch. 26024.

Sec. 42. Individual Accounts of Firefighters.

Individual Accounts shall be established for every (a) Firefighter of Regular Status at the effective date of this Act, (b) Firefighter who has been retired under any City pension plan since the adoption of Chapter 19112, Acts of Florida, 1939, or (c) Firefighter who attains Regular Status subsequent to the adoption of this Act. To each Account there shall be credited, as of the date of each payment to the Fund by the State, an amount of such payment which bears the same ratio thereto that the years of Service of each Participant bears to the years of Service of all Participants. After adjustments by the proration of the costs of previous court action, and preliminary expense, this method of crediting Accounts of individuals Participants shall be applied to the present accumulated moneys as of the date of each payment thereof; and to all subsequent payments to the Fund by the State after proper provisions have been made for the payment of administrative expenses for the ensuing year. There shall be an annual determination of interest earned by the investments of the Fund, and such interest earnings shall be prorated to each of the Accounts of the Participants in the same proportion as the invested funds of the Account of each Participant bears to the total funds invested on behalf of the Fund. As of each Valuation Date there shall be allocated and credited to the Accounts of Participants who are Firefighters of Regular Status as of such date, their share of nonvested forfeitures of terminated Participants arising during the prior twelve months, to be made in the same proportion as is the case above with regard to payments by the State.

The Board shall value the Fund's assets as of each Valuation Date and shall allocate to the Account of each Participant his or her share of the increase or decrease in the fair market value of the Fund's assets.

Except as set forth in this Section 42 and Section 43(d), no further credits shall be made to a Participant's Account after he or she shall have retired under any other pension plan of the City or after he or she shall have separated from service with the City or otherwise ceased to be a Participant in the Fund. However, until completely distributed to him, a Participant's Account shall continue to be invested as part of the Fund and shall continue to share in the investment gains and losses of the Fund in accordance with this Section 42. A Participant shall continue to receive allocations of contributions and forfeitures after he ceases to be on Regular Status if such contributions and forfeitures are attributable to a period when he was on Regular Status. Each Participant shall remain a Participant in the Fund until his or her Account has been fully distributed.

Notwithstanding any provision of this Act to the contrary, the maximum amount allocated to the Participant's Account for any calendar year under this Act shall not exceed the limitations set forth in Section 415 of the Code, as applicable, and any regulations issued thereunder. For purposes of Section 415 of the Code, the Limitation Year shall be the same as the Fund Year and, effective for Limitation Years beginning on or after July 1, 2007. Compensation shall have the same meaning as provided in Treasury Regulations section 1.415-(c)-2, including that, effective for plan years beginning on or after July 1, 2001. Compensation shall include amounts which would have been included in a Participant's gross income but for an election under Section 132(f)(4) of the Code.

(Laws of Fla., 1949, ch. 26024, § 7; Laws of Fla., 1953, ch. 29286, § 1; election of 5-24-66; election of 11-2-82; Ord. No. 2015-3945, § 7, 6-10-15; Ord. No. 2018-4193, § 7, 5-16-18)

Sec. 43. Rights and benefits generally of Participants.

The Fund shall provide benefits to Participants therein as follows:

- (a) The Board may approve loans to a Participant not to exceed the lesser of (i) his or her total vested Account Balance or (ii) five hundred dollars. Loans shall be made available to all such Participants on a reasonably equivalent basis and no loan shall be made available under this Fund unless it satisfies all of the requirements of Section 72(p) the Code for treatment as a tax-free loan. Reasonable periods of time shall be allowed for the repayment of such loans; provided that all loans must be repaid within 5 years unless such loan is used to acquire a principal residence of the Participant in which case a 10-year

repayment schedule is allowed. Interest shall be charged with respect to the loan amount at the rate of six percent per annum on the unpaid balance. Such loans shall be made contingent upon the right of the Board to effect repayment by withholding subsequent credits, or by deducting from existing credits the amount of any loan which is in default in its repayment; and the Board may refuse to make subsequent loans to Participants who so default.

- (b) If a Participant shall separate from service with the fire division of the City for any reason whatsoever prior to Normal Retirement Age, except as provided in (c) and (d) below, he shall be entitled to a distribution from the Fund equal to his vested Account Balance at that time.
- (c) If a Participant shall die while on Active Duty, he shall be 100% vested in his entire Account Balance and his Designated Beneficiary shall be paid the entire amount of his Account Balance. If no Beneficiary is designated by the Participant, the Account Balance shall be paid to the Participant's estate.
- (d) If a Participant, who has been, or who shall hereafter be "retired from service" or disability under any other pension plan of the City he shall be 100% vested in his entire Account and he shall be paid the entire amount of his Account Balance, and he shall further be entitled to receive a pro-rata share of the payment to the Fund by the State next following the date of such retirement, such sum to be the amount as provided for in Section 42 of this Act and the Participant shall be entitled to receive such amount at the time of the payment to the Fund by the State.
- (e) In the event of the termination of the Fund, all Participants shall be 100% vested in their entire Account Balances as of such termination date.
- (f) If permitted by the Board, a Participant who is an Eligible Retired Public Safety Officer and is receiving benefits under the Fund may elect to have Qualified Health Insurance Premium Distributions made in accordance with this Section 43(f). Qualified Health Insurance Premium Distributions may be excluded from the gross income of the Eligible Retired Public Safety Officer under Section 402(l) of the Code, subject to the annual dollar limitation therein.
- (g) Settlement as provided in subsection (b), (c), and (d) of this Section 43 shall be full acquittal of all claims of a Participant against the Fund, and he shall thereupon cease to be a Participant in the Fund.
- (h) Each Participant shall be fully (100%) vested in the entire amount in his Account as it exists on June 30, 1983. Any subsequent increases in Participant's Account, whether from allocation of premium tax refunds, investment earnings, or any other source, shall be vested in accordance with the following schedule:

Years of Service	Vested Percent
Less than 10	None
10 or over	100

Any nonvested amounts which are not distributable under (b), (c), or (d) above shall be forfeited by the Participant and reallocated to remaining Participants as provided in Section 42 of this Act.

- (i) A Participant shall receive his benefit in a single cash lump sum.
- (j) Notwithstanding anything herein to the contrary, a Participant's benefits under the Fund shall commence no later than April 1 of the calendar year following the later of (i) the calendar year in which he or she attains age 70½; or (ii) the calendar year in which he or she retires. All distributions shall conform to the regulations issued under Section 401(a)(9) of the Code, including the incidental death benefit provisions of Section 401(a)(9)(G) of the Code. Further, such regulations shall override any provision that is inconsistent with Section 401(a)(9) of the Code. Notwithstanding any provision of this Act to the contrary, a form of retirement income payable from this Fund, shall satisfy the following conditions:

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- (i) If the retirement income is payable before the Participant's death:
 - (A) It shall either be distributed or commence to the Participant not later than April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70½, or the calendar year in which the Participant retires;
 - (B) The distribution shall commence no later than the calendar year defined above; and (x) shall be paid over the life of the Participant or over the lifetimes of the Participant and his or her spouse, issue or dependent, or (y) shall be paid over the period extending not beyond the life expectancy of the Participant and spouse, issue or dependent.

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

- (ii) If the Participant's death occurs before the distribution of his interest in the Fund has commenced, Participant's entire interest in the Fund shall be distributed within five years of Participant's death, unless it is to be distributed in accordance with the following rules:
 - (A) The Participant's remaining interest in the Fund 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 year of the Participant's death unless the Participant's spouse, is the sole designated beneficiary, in which case the distribution need not begin before the date on which the Participant would have attained age 70½ and if the Participant's spouse dies before the distribution to the spouse begins, this section shall be applied as if the spouse were the Participant.
- (k) Direct rollovers:
 - (i) Notwithstanding any provision of this Fund to the contrary that would otherwise limit a Distributee's election under this paragraph, a Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly by the Fund to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover. If a non-spouse Beneficiary receives a distribution from the Fund, the distribution is not eligible for a "60-day" (non-direct) rollover.
 - (ii) With respect to distributions after December 31, 2006, a non-spouse beneficiary who is a Designated Beneficiary may, by a Direct Rollover, roll over all or any portion of his or her distribution to an individual retirement account the non-spouse beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an Eligible Rollover Distribution. Although such non-spouse beneficiary may roll over such distribution, any distribution made prior to January 1, 2010, is not subject to the direct rollover requirements of Code Section 401(a)(31) (including Code Section 401(a)(31)(B), the notice requirements of Code Section 402(f) or the mandatory withholding requirements of Code Section 3405(c)). If a non-spouse beneficiary receives a distribution from the Fund, the distribution is not eligible for a "60-day" rollover. A non-spouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury Regulations and other Revenue Service guidance. If the Participant dies before his or her Required Beginning Date and the non-spouse beneficiary rolls over to an individual retirement account the maximum amount eligible for rollover, the non-

spouse beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treasury Regulation Section 1.401(a)(9)-3. A-4(c), in determining the required minimum distributions from the individual retirement account that receives the non-spouse beneficiary's distribution.

- (iii) If the Participant's named beneficiary is a trust, the Fund may make a Direct Rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a Designated Beneficiary.
- (iv) With respect to distributions made after December 31, 2007, a Distributee may elect to roll over via Direct Rollover an Eligible Rollover Distribution to a Roth individual retirement account described in Code Section 408A(b).
- (l) Upon the death of a Retired or Separated Participant, such Participant's surviving spouse shall have all the distribution options that were available to the Retired or Separated Participant pursuant to this Section 43.
- (m) Notwithstanding any provision of this Act to the contrary:
 - (i) Effective for plan years beginning after December 12, 1994, contributions, benefits and service credit with respect to Qualified Military Service will be provided in accordance with Code Section 414(u);
 - (ii) In the case of a death occurring on or after January 1, 2007, if a Participant dies while performing Qualified Military Service, the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of Qualified Military Service) provided under the Fund as if the Participant had resumed and then terminated employment on account of death;
 - (iii) For benefit accrual purposes, the Fund will treat an Participant who dies or becomes Disabled on or after January 1, 2007, while performing Qualified Military Service as if the Participant had resumed employment in accordance with his reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and separated from service on the actual date of such death or disability;
 - (iv) For years beginning after December 31, 2008: (1) An individual receiving a differential wage payment, as defined by Code Section 3401(h)(2), is treated as an Participant of the employer making the payment; (2) the differential wage payment is treated as compensation; and (3) the Fund is not treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment; and
 - (v) Effective as of January 1, 2009, for purposes of being eligible to receive a distribution under the Fund, an individual will be treated as having been terminated from employment during any period the individual is performing service in the uniformed services described in Code Section 3401(h)(2)(A).
- (n) Each Participant, beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his Account under the Fund, shall file with the Board the information that it shall require to establish his rights and benefits under the Fund.

(Laws of Fla., 1949, ch. 26024, § 8; Laws of Fla., 1953, ch. 29288, § 2; election 11-2-82; Ord. No. 2015-3945, § 8, 6-10-15; Ord. No. 2018-4193, § 8, 5-16-18)

Sec. 44. Rights and benefits not subject to encumbrance.

The rights and benefits provided for herein shall not be subject to attachment, garnishment, execution or any other legal process.

(Laws of Fla., 1949, ch. 26024, § 9; election of 11-2-82; Ord. No. 2015-3945, § 9, 6-10-15)

Sec. 45. Responsibility of City.

The City of Miami Beach shall have no responsibility for the operation of the Fund except those specified herein, and shall bear no expense in connection therewith.

(Laws of Fla., 1949, ch. 26024, § 10; Ord. No. 2015-3945, § 10, 6-10-15)

Sec. 46. Duties of City attorney.

The City attorney shall advise the Board in all matters pertaining to their duties in the administration of the Fund, whenever requested; and shall represent and defend the Board in all suits and actions at law, or in equity, that may be brought against it; and shall bring all suits and actions in its behalf that may be determined upon by the Board. Anything herein to the contrary notwithstanding, the Board may elect to employ independent legal counsel as it deems necessary.

(Laws of Fla., 1949, ch. 26024, § 11; Ord. No. 2015-3945, § 11, 6-10-15)

Sec. 47. Separability; amendment.

If any provision of this Act is for any reason held unconstitutional, inoperative or void, such holding shall not affect the remaining provisions set forth herein.

As described in Section 36, the provisions of this ordinance and the Fund are intended to meet the requirements of a qualified plan under Section 401(a) of the Code and to be tax-exempt under Section 501(a) of the Code. Should any changes be required to comply or to continue to comply with the provisions of Sections 401(a) and 501(a) of the Code, the Board and the City shall take all appropriate steps to make any such required changes to the Fund.

(Laws of Fla., 1949, ch. 26024, § 12; Ord. No. 2015-3945, § 12, 6-10-15)

Sec. 48. Repeal of conflicting laws.

All City laws, acts and ordinances, or parts of City laws, acts or ordinances, in conflict with the provisions of this Act shall be, and the same hereby are, repealed.

(Laws of Fla., 1949, ch. 26024, § 13; Ord. No. 2015-3945, § 13, 6-10-15)

ARTICLE VIII. POLICE OFFICERS' RELIEF AND PENSION FUND¹²

Sec. 49. Purpose of act; supplementary to other acts.

The purpose of this Act is to implement the provisions of Chapter 28230, Laws of Florida, Acts of 1953, and to provide means whereby Police Officers of the City of Miami Beach, Florida, may receive benefits from the Funds provided for that purpose by Chapter 28230, Laws of Florida, Acts of 1953. This Act shall be deemed to supplement any other pension plan of the City of Miami Beach insofar as benefits to Police Officers are concerned, and nothing herein shall be construed to in any way affect the operating of or benefits of any other pension plan of the City of Miami Beach, Florida. Sections 1, 1B, 5, 6, 7, 9, 10, 24, 29 and 30 of Chapter 28230, Laws of Florida, Acts of 1953 shall continue to apply to the City of Miami Beach except as otherwise specifically provided for in this Act.

(Laws of Fla., 1955, ch. 30985, § 1; Ord. No. 2018-4199, § 1, 6-6-18)

Sec. 50. Definitions.

The following words and phrases shall, for the purposes of this Act, have the meanings hereafter respectively ascribed to them. Other words and phrases shall have meanings as commonly understood with respect to the context; the singular shall include the plural, and the masculine the feminine:

- (a) *Account* shall mean the individual account credited on behalf of each Participant with contributions pursuant to this Act, eligible forfeiture contributions and earnings on such contributions.
- (b) *Account Balance* shall mean the value of a Participant's Account as of the last Valuation Date.
- (c) *Active Duty* shall mean actual service as a Police Officer with regular civil service status in the police department of the City of Miami Beach, or absent from duty on an approved leave of absence, all as of the time under consideration.
- (d) *Board* shall mean the Board of Trustees of the Miami Beach Police Officers' Relief and Pension Fund as provided for herein.
- (e) *City* shall mean the City of Miami Beach, Florida.
- (f) *Code* shall mean the Internal Revenue Code of 1986, as amended from time to time.
- (g) *Designated Beneficiary* shall mean any person, persons or entity designated by a Participant to receive any benefits payable under the Fund in the event of the Participant's death under Code Section 401(a)(9) and Treasury Regulation Section 1.401(a)(9)-4. If no Designated Beneficiary has been so designated by a Participant prior to the Participant's death, or if no person, persons or entity so designated survives the Participant, the Participant's surviving spouse, if any, shall be deemed to be the Designated Beneficiary; otherwise the Designated Beneficiary shall be the Participant's estate.
- (h) *Direct Rollover* shall mean a payment by the Fund directly to the Eligible Retirement Plan specified by the Distributee.

¹²Editor's note(s)—Several of the provisions in this article have been changed by collective bargaining agreements, and the City of Miami Beach pension department should be contacted for the most recent provisions.

State law reference(s)—Police officers' retirement trust funds, F.S. ch. 185.

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- (i) *Distributee* shall mean a Police Officer or former Police Officer. In addition, the Police Officer's or former Police Officer's surviving spouse or former spouse who has an interest in the Police Officer's benefits under the Fund pursuant to a domestic relations order honored by the State or the City (if any) are Distributees with regard to such interest.
 - (j) *Eligible Retired Public Safety Officer* shall mean a Participant who has retired from the police division of the City (i) by reason of disability or (ii) on or after his Normal Retirement Age and who is also a "public safety officer" as defined in Section 402(l)(4)(C) of the Code and any applicable guidance thereunder.
 - (k) *Eligible Retirement Plan* shall mean any of the following types of plans that accept the Distributee's Eligible Rollover Distribution: (i) a qualified plan described in Section 401(a) of the Code; (ii) an annuity plan described in Section 403(a) of the Code; and (iii) an individual retirement account or individual retirement annuity described in Section 408(a) or 408(b) of the Code, respectively. Additionally, effective January 1, 2002, an Eligible Retirement Plan shall also mean (i) an annuity contract described in Section 403(b) of the Code or and (ii) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Fund.
 - (l) *Eligible Rollover Distribution* shall mean any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's Designated Beneficiary, or for a specified period of ten years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and (iii) after-tax amounts unless such amount is transferred to an individual retirement account or individual retirement annuity described in Section 408(a) or 408(b) of the Code, respectively, or transferred to a defined contribution plan qualified under Section 401(a) of the Code that agrees to separately account for such amount.
 - (m) *Fund* shall mean the Miami Beach Police Officers' Relief and Pension Fund, as provided herein.
 - (n) *Fund Year* shall mean the calendar year.
 - (o) *Normal Retirement Age* shall mean "normal retirement age" as such term is used in the City Pension Fund for Firefighters and Police Officers in the City of Miami Beach.
 - (p) *Participant* shall mean any Police Officer who is eligible to have moneys credited to his Account and to receive benefits therefrom under the Fund and this Act, and any person who was a Police Officer on July 31, 1953, and has separated from the police department.
 - (q) *Police Officers* shall mean the police chief and any person who has attained regular civil service status in the police department under the official classification of positions in the classified service of the City and who, in the judgment of the Board of trustees, performs duties in such department as a peace officer.
 - (r) *Qualified Health Insurance Premiums* shall mean premiums for coverage for the Eligible Retired Public Safety Officer (and his or her spouse and dependents, if applicable) under accident and health insurance (including an accident or health plan within the meaning of Section 105(e) of the Code) or a qualified long-term care insurance contract as defined in Section 7702B(b) of the Code.
 - (s) *Qualified Health Insurance Premium Distribution* shall mean an amount deducted from an Eligible Retired Public Safety Officer's benefit payment under the Fund and paid directly to the insurer providing coverage for which Qualified Health Insurance Premiums are paid. Such amount may not exceed the amount of the Qualified Health Insurance Premiums.

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- (t) *Retired or Separated Participant* shall mean any Participant who has separated from service as a Police Officer and has an Account Balance with the Fund.
 - (u) *Service* shall mean all years and fractions thereof served as a Police Officer of the City for which compensation is paid by the City, including probationary time, provisional time when it has been followed by probationary time, all time during which a Police Officer is absent on military leave of absence and all leaves of absence during which compensation is paid by the City; but shall not include leaves of absence during which no compensation is made by the City.
 - (v) *State* shall mean the state of Florida.
 - (w) *Valuation Date* shall mean February 28 of each year and each other date(s) as the Board may deem necessary.

(Laws of Fla., 1955, ch. 30985, § 2; Ord. No. 2018-4199, § 3, 6-6-18)

Sec. 51. Creation of Fund; origin of moneys.

There is hereby created in the City a special Fund to be known as the Miami Beach Police Officers' Relief and Pension Fund into which shall be paid all moneys previously received by the City under the provisions of Chapter 28230, Laws of Florida, Acts of 1953, and all moneys subsequently received by the City under the provisions of Chapter 28230, Laws of Florida, Acts of 1953. Immediately upon the Board taking office the City shall make payment to the Fund of the moneys previously received under Chapter 28230, Laws of Florida, Acts of 1953.

No part of the corpus or income of the Fund shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and other persons entitled to benefits under the Fund and paying the expenses of the Fund not paid directly by any other party. No person shall have any interest in, or right to, any part of the earnings of the assets of the Fund, or any right in, or to, any part of the assets held under the Fund, except as and to the extent expressly provided in this ordinance.

There will be no reversion of the assets of the Fund or City or State contributions, except as permitted under Section 401(a) of the Code and the regulations and rulings issued by the Internal Revenue Service relating to Section 401(a), including Revenue Ruling 91-4.

(Laws of Fla., 1955, ch. 30985, § 3; Ord. No. 2018-4199, § 3, 6-6-18)

Sec. 52. Board of trustees—Creation; composition; terms of office; officers; proceedings; compensation.

There is hereby created a Board of the Fund, which Board shall consist of five (5) trustees, all of whom shall be Participants. The trustees shall be elected by the Participants and shall serve for a period of four (4) years; provided, however, that immediately upon this Act becoming a law there shall be an election and the trustees so elected shall hold office until the last day of February, 1956. Commencing in 1956, elections of trustees shall be held in January of the even-numbered years and trustees elected in such elections shall commence service as trustees on February 1st following such election. Election of trustees shall be by plurality. The Board shall annually elect from its membership a chairman and a secretary who shall keep complete minutes of all proceedings of the Board and all actions of the Board shall be by majority vote, a quorum being present. In the absence of the chairman, the secretary shall act as chairman. The trustees shall receive no compensation as such.

(Laws of Fla., 1955, ch. 30985, § 4; Ord. No. 2018-4199, § 4, 6-6-18)

Sec. 53. Board of trustees—Power and authority.

The Board shall have power and authority as follows:

- (a) To have exclusive charge of the investment of any assets in the Fund not needed for the Fund's current obligations, and to invest and reinvest such assets in accordance with the written investment policy adopted by the Board pursuant to paragraph (b) below. Board members must discharge their duties with respect to the Fund solely in the interest of the Participants and beneficiaries for the exclusive purpose of: (i) providing benefits to Participants and their beneficiaries; and (ii) defraying reasonable expenses of administering the Fund; with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly not prudent to do so. Within the limitations of the foregoing standards and investment policy, the Board is authorized to acquire and retain in the Fund every kind of investment specifically including, but not limited to stocks, bonds, securities, debentures, real estate, mutual funds, trusts and other obligations which persons of prudence, discretion and intelligence acquire or retain for their own account. The intent of this paragraph is to remove any and all investment restrictions which are otherwise imposed by Ch. 175, Florida Statutes, and which may be removed.
- (b) To adopt and periodically update a written investment policy in accordance with Section 112.661, Florida Statutes, as such statute may be amended in the future.
- (c) To convert into cash such securities or savings accounts as may be required for the payment of claims against the Fund or for necessary operating expenses.
- (d) To authorize expenditures in connection with preliminary research and technical services, accounting, auditing, legal services and general administration of the Fund.
- (e) To do such other things as may be necessary to implement and provide for the proper functioning of the Fund.
- (f) To interpret the provisions of this Act where the meaning is not clear or ambiguity exists; and to promulgate necessary rules respecting the operation of the Fund, not in conflict with the wording or clear intent of this Act.

(Laws of Fla., 1955, ch. 30985, § 5; election of 11-4-03; Ord. No. 2018-4199, § 5, 6-6-18)

Sec. 54. Board of trustees—Custody of Fund.

The custody of all securities, savings accounts and moneys of the Fund shall be with the Board, which shall make provision for the protection and safekeeping of such securities in a safety deposit box in such depository as may be designated by the Board.

(Laws of Fla., 1955, ch. 30985, § 6; Ord. No. 2018-4199, § 6, 6-6-18)

Sec. 55. Individual Accounts of Police Officers.

Individual Accounts shall be established for each person who was a Participant on July 31, 1953, the effective date of Chapter 28230, Laws of Florida, Acts of 1953, and for all persons who became or become Participants thereafter. To these Accounts there shall be credited from each payment to the Fund by the City an amount which shall be determined in the manner set forth in section 57 of this Act. Such amount shall be credited at the time each payment to the Fund by the City is received by the Fund; provided that the amount to be credited shall be

computed as though said amount had been received on March 10th as provided in Chapter 28230, Laws of Florida, Acts of 1953; and further provided that a person who ceases to be a Participant shall also receive a credit on account of the next payment paid to the Fund by the City after his separation from Service. From all other income received by the Fund there shall be credited to each Participant an amount which shall be computed as of the date such payment is actually received by the Fund, and which shall be computed in the manner set forth in section 57 of this Act. As of each Valuation Date there shall be allocated and credited to the Accounts of Participants who are Police Officers on Active Duty as of such date, their share of nonvested forfeitures of terminated Participants arising during the prior twelve months, to be made in the same proportion as is the case above with regard to payments by the City.

The Board shall value the Fund's assets as of each Valuation Date and shall allocate to the Account of each Participant his share of the increase or decrease in the fair market value of the Fund's assets.

Except as set forth in this Section 55, no further credits shall be made to a Participant's Account after the Participant shall have retired under any other pension plan of the City, or after the Participant shall have separated from Service with the City or otherwise ceased to be a Participant in the Fund. However, until completely distributed to the Participant, a Participant's Account shall continue to be invested as part of the Fund and shall continue to share in the investment gains and losses of the Fund in accordance with this Section 55. A Participant shall continue to receive allocations of contributions and forfeitures after the Participant ceases to be an actively employed Police Officer if such contributions and forfeitures are attributable to a period when the Participant was an actively employed Police Officer. Each Participant shall remain a Participant in the Fund until the Participant's Account has been fully distributed.

Notwithstanding any provision of this Act to the contrary, effective January 1, 2002, the maximum amount allocated to the Participant's Account for any calendar year under this Act shall not exceed the lesser of \$40,000 or 100% of Compensation, as set forth in Section 415(c) of the Code, as applicable, and any regulations issued thereunder, and shall be further adjusted for changes in the cost of living in the manner provided by Code Section 415(d).

For purposes of applying Section 415 of the Code under this Fund, "Compensation" means the remuneration paid a Police Officer for services rendered to the City, as determined in accordance with Treasury Regulation Section 1.415(c)-2 and consistent with the following provisions.

- (I) Effective for Fund Years beginning on or after January 1, 1998, the Participant's Compensation contributed as employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the Internal Revenue Code shall be deemed to be the Compensation the member would receive if he or she were not participating in such program and shall be treated as Compensation for retirement purposes under this Article.
- (II) Effective for Fund Years beginning on or after January 1, 1998, the Participant's Compensation does not include:
 - (1) Any contributions (other than elective contributions described in Internal Revenue Code Sections 402(e)(3), 408(k)(6), 408(p)(2)(A)(i) or 457(b)) made by the Employer to a plan of deferred compensation (including a simplified employee pension described in Code Section 408(k) or a simple retirement account described in Code Section 408(p), and whether or not qualified) to the extent that the contributions are not includible in the gross income of the Participant for the taxable year in which contributed. In addition, any distributions from a plan of deferred compensation (whether or not qualified) are not considered Compensation, regardless of whether such amounts are includible in the gross income of the Participant when distributed.
 - (2) Any amounts that receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant and are not salary reduction amounts that are described in Code Section 125).

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- (III) For any person who first becomes a Participant in any Fund Year beginning on or after January 1, 1996, Compensation for any Fund Year shall not include any amounts in excess of the Section 401(a)(17) limitation (as amended by the Omnibus Budget Reconciliation Act of 1993), which limitation of \$150,000 shall be adjusted as required by federal law for qualified government plans and shall be further adjusted for changes in the cost of living in the manner provided by Internal Revenue Code Section 401(a)(17)(B). For any person who first became a member prior to the first Fund Year beginning on or after January 1, 1996, the limitation on Compensation shall be not less than the maximum compensation amount that was allowed to be taken into account under the Fund as in effect on July 1, 1993, which limitation shall be adjusted for changes in the cost of living since 1989 in the manner provided by Internal Revenue Code Section 401(a)(17). Effective for Fund Years beginning on or after January 1, 2002, Compensation for any Fund Year shall not include any amounts in excess of the Section 401(a)(17) limitation, which limitation of \$200,000 shall be adjusted as required by federal law for qualified government plans and shall be further adjusted for changes in the cost of living in the manner provided by Internal Revenue Code Section 401(a)(17)(B).
- (IV) Annual Compensation means Compensation paid during the Fund Year or such other consecutive 12-month period over which Compensation is otherwise determined under the Fund ("determination period"). The cost-of-living adjustment in effect for the calendar year applies to annual Compensation for the determination period that begins with or within such calendar year. Amounts under Code Section 125 exclude any amounts not available to a Participant in lieu of group health coverage (deemed Code Section 125 compensation). An amount will be treated as an amount under Code Section 125 only if the Employer does not request or collect information regarding the Participants' other health coverage as part of the enrollment process for the health plan.

(Laws of Fla., 1955, ch. 30985, § 7; election of 11-2-82; Ord. No. 2018-4199, § 7, 6-6-18)

Sec. 56. Disposition of City's payment to Fund.

The payment to the Fund by the City shall be applied by the Board in the following manner and order of priority:

- (a) Pay all costs and expenses of management and operation of the Fund.
- (b) Set aside such amount as the Board in its discretion estimates will be required for costs and expenses of management and operation of the Fund during the year following the date of said payment.
- (c) Credit to the accounts of Participants the amounts determined in the manner provided under Section 57 of this Article, together with the investment income determined under Section 55 of this Article.

(Laws of Fla., 1955, ch. 30985, § 8; Ord. No. 2018-4199, § 8, 6-6-18)

Sec. 57. Ratio of amounts credited to Participant's Account.

The amounts to be credited to a Participant's Account as provided in this Act shall be in the same ratio to the total amount to be credited to all Participants as such Participant's Service is to the Service of all Participants.

(Laws of Fla., 1955, ch. 30985, § 9; Ord. No. 2018-4199, § 9, 6-6-18)

Sec. 58. Rights and benefits of Participants—Generally.

The Fund shall provide benefits to Participants as follows:

- (a) If a Participant shall die while on Active Duty as a Police Officer, the Participant shall be 100% vested in his or her entire Account Balance and his Designated Beneficiary shall be paid the entire amount of his Account Balance. If no Beneficiary is designated by the Participant, or the Beneficiary predeceases the Participant, the entire Account Balance shall be paid to his or her Surviving Spouse. If there is no Surviving Spouse, the entire Account Balance shall be paid to the estate of the deceased Participant.
- (b) If a Participant shall have retired for service or becomes disabled under any other pension plan of the City, he or she shall be 100% vested in his or her entire Account and he or she shall be paid the entire amount of his or her Account Balance.
- (c) If a Participant shall separate from Active Duty for any reason whatsoever prior to Normal Retirement Age, except as provided in (a) and (b) above, he or she shall be entitled to distribution from the Fund equal to his or her vested Account Balance at that time.
- (d) Payment to a Participant as provided in this Section 58 shall be full acquittal of all claims of a Participant against the Fund and he or she shall thereupon cease to be a Participant in the Fund.
- (e) Each Participant shall be fully (one hundred percent) vested in the entire amount in his or her Account as it exists on February 28, 1983. Any subsequent increases in a Participant's Account, whether from allocation of City payment of premium tax refunds, investment earnings, or any other source, shall be vested in accordance with the following schedule:

Years of Service	Vested Percent
Less than 10	None
10 or over	100

Any nonvested amounts which are not distributable under (a), (b) or (c) above shall be forfeited by the Participant and reallocated to remaining Participants as provided herein.

- (f) It is the intent of the City to continue the Fund indefinitely. However, in the event of the termination of the Fund, all Participants shall be 100% vested in their entire Account Balances as of such termination date.
- (g) If permitted by the Board, a Participant who is an Eligible Retired Public Safety Officer and is receiving benefits under the Fund may elect to have Qualified Health Insurance Premium Distributions made in accordance with this Section 58(g). Qualified Health Insurance Premium Distributions may be excluded from the gross income of the Eligible Retired Public Safety Officer under Section 402(l) of the Code, subject to the annual dollar limitation therein.
- (h) Once a Participant has separated from Active Duty, the Participant may elect to receive his or her vested benefit as a single cash lump sum or may elect to make withdrawals in his discretion (subject to the required minimum distribution requirements described in Section 58(i) below), from time to time.
- (i) Notwithstanding anything herein to the contrary, effective for Fund Years beginning on or after January 1, 1997, a Participant's benefits under the Fund shall commence no later than April 1 of the calendar year following the later of (i) the calendar year in which he or she attains age 70½; or (ii) the calendar year in which he retires. All distributions shall conform to the regulations issued under Section 401(a)(9) of the Code, including the incidental death benefit provisions of Section 401(a)(9)(G) of the Code. Further, such regulations shall override any provision that is inconsistent with Section 401(a)(9) of the Code. Notwithstanding any provision of this Act to the contrary, a form of retirement income payable from this Fund, shall satisfy the following conditions:
 - (i) If the retirement income is payable before the Participant's death:

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- (A) It shall either be distributed or the distribution commenced to the Participant not later than April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70½, or the calendar year in which the Participant retires; or
 - (B) The distribution shall commence no later than the calendar year defined above; and (x) shall be paid over the life of the Participant or over the lifetimes of the Participant and his or her spouse, issue or dependent, or (y) shall be paid over the period extending not beyond the life expectancy of the Participant and spouse, issue or dependent.

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

- (ii) If the Participant's death occurs before the distribution of his interest in the Fund has commenced, Participant's entire interest in the Fund shall be distributed within five years of Participant's death, unless his or her interest is distributed in accordance with the following rules:
 - (A) The Participant's remaining interest in the Fund is payable to his or her spouse, issue or dependent; and
 - (B) The remaining interest 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 year of the Participant's death unless the Participant's spouse is the sole designated beneficiary, in which case the distribution need not begin before the date on which the Participant would have attained age 70½ and if the Participant's spouse dies before the distribution to the spouse begins, this section shall be applied as if the spouse were the Participant.
- (k) Direct rollovers:
 - (i) Notwithstanding any provision of this Fund to the contrary that would otherwise limit a Distributee's election under this paragraph, effective January 1, 2002, a Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly by the Fund to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.
 - (ii) With respect to distributions after December 31, 2009, a non-spouse beneficiary who is a Designated Beneficiary may, by a Direct Rollover, roll over all or any portion of his or her distribution to an individual retirement account the non-spouse beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an Eligible Rollover Distribution. Although such non-spouse beneficiary may roll over such distribution, any distribution made prior to January 1, 2010, is not subject to the direct rollover requirements of Code Section 401(a)(31) (including Code Section 401(a)(31)(B), the notice requirements of Code Section 402(f) or the mandatory withholding requirements of Code Section 3405(c)). If a non-spouse beneficiary receives a distribution from the Fund, the distribution is not eligible for a "60-day" rollover. A non-spouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury Regulations and other Internal Revenue Service guidance. If the Participant dies before his or her Required Beginning Date (as defined below) and the non-spouse beneficiary rolls over to an individual retirement account the maximum amount eligible for rollover, the non-spouse beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treasury Regulation Section 1.401(a)(9)-3, A-4(c), in determining the

required minimum distributions from the individual retirement account that receives the non-spouse beneficiary's distribution. The term "Required Beginning Date" means the later of the April 1 following (i) the calendar year in which the Participant attains age 70½ or (ii) the calendar year in which the Participant terminates his employment.

- (iii) If the Participant's named beneficiary is a trust, the Fund may make a Direct Rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a Designated Beneficiary.
- (iv) With respect to distributions made after December 31, 2007, a Distributee may elect to roll over via Direct Rollover an Eligible Rollover Distribution to a Roth individual retirement account described in Code Section 408A(b).
- (l) Upon the death of a Retired or Separated Participant, such Participant's surviving spouse shall have all the distribution options that were available to the Retired or Separated Participant pursuant to this Section 58.
- (m) Notwithstanding any provision of this Act to the contrary:
 - (i) Effective for Fund Years beginning on or after January 1, 1995, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u);
 - (ii) Effective for deaths occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code Section 414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Fund as if the Participant had resumed and then terminated employment on account of death;
 - (iii) For benefit accrual purposes, the Fund will treat a Participant who dies or becomes Disabled on or after January 1, 2007, while performing qualified military service (as defined in Code Section 414(u)) as if the Participant had resumed employment in accordance with his reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and separated from service on the actual date of such death or disability;
 - (iv) For years beginning after December 31, 2008, (1) an individual receiving a differential wage payment, as defined by Code Section 3401(h)(2), is treated as a Participant of the employer making the payment, (2) the differential wage payment is treated as compensation, and (3) the Fund is not treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment; and
 - (v) Effective as of January 1, 2009, for purposes of being eligible to receive a distribution under the Fund, an individual will be treated as having been terminated from employment during any period the individual is performing service in the uniformed services described in Code Section 3401(h)(2)(A).
- (n) Each Participant, beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or her or on his or her Account under the Fund, shall file with the Board the information that it shall require to establish his or her rights and benefits under the Fund.

(Laws of Fla., 1955, ch. 30985, § 10; eleciton of 11-2-82; Ord. No. 2018-4199, § 10, 6-6-18)

Sec. 59. Rights and benefits of Participants—Not subject to encumbrance.

The rights and benefits provided for herein shall not be subject to attachment, garnishment, execution or any other legal process.

(Laws of Fla., 1955, ch. 30985, § 11; election of 11-2-82; Ord. No. 2018-4199, § 11, 6-6-18)

Sec. 60. Responsibility of City.

The City of Miami Beach shall have no responsibility for the operation of the Fund and shall bear no expense in connection therewith.

(Laws of Fla., 1955, ch. 30985, § 12; Ord. No. 2018-4199, § 12, 6-6-18)

Sec. 60.1. Tax Qualified Plan.

The provisions of this Act and the Fund are intended to meet the requirements of a qualified plan under Section 401(a) of the Code and to be tax-exempt under Section 501(a) of the Code. Should any changes be required to comply or to continue to comply with the provisions of Sections 401(a) and 501(a) of the Code, the Board and the City shall take all appropriate steps to make any such required changes to the Fund.

(Ord. No. 2018-4199, § 13(60), 6-6-18)

Editor's note(s)—Sec. 13 of Ord. No. 2018-4199, adopted June 6, 2018, enacted new provisions to be designated as § 60. Inasmuch as there already exists a § 60, said new provisions have been redesignated as § 60.1.

**ARTICLE IX. PENSION SYSTEM FOR DISABILITY AND RETIREMENT OF MEMBERS
OF POLICE AND FIRE DEPARTMENTS¹³**

Sec. 61. Creation of fund; merger of base and supplemental plans.

- (a) There is created a special fund to be known as the City Pension Fund for Firefighters and Police Officers in the City of Miami Beach. The Fund shall be used exclusively for the purpose provided for in this article, and shall be collected, administered and disbursed according to the provisions of this article.
- (b) Effective as of October 1, 1999, the Police Officers' and Fire Fighters' Supplemental Pension (the "Supplemental Plan") shall be merged into and become a part of this System. In connection with the merger, all assets of the fund created and maintained in connection with the Supplemental Plan shall be transferred to the Fund.

¹³Editor's note(s)—On and after September 20, 2000, all May 1993 Members shall be treated as if they were employed by the City prior to May 19, 1993, for purposes of determining their benefits under the System.¹⁴ All references to "May 1993 Member" are obsolete after September 30, 2000.

¹⁴Sec. 86(b) Special rules for members employed by the City on or after May 19, 1993.

Editor's note(s)—Question G of a special election held Nov. 2, 1999, and approved by voters of Miami Beach, amended art. IX in its entirety to read as herein set out. See the Related Special Acts Comparative Table.

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- (c) Except as otherwise expressly provided in this article, the rights and benefits of any member who retires or whose employment is terminated on or after October 1, 1999, shall be determined solely in accordance with the provisions of this System as in effect and operative at the time of such retirement or termination. However, his benefit and Creditable Service under this System as of October 1, 1999, shall not be less than his benefit and Creditable Service under the System as in effect on September 30, 1999, if he was only a member in the System as of such date, under the Supplemental Plan as in effect on September 30, 1999, if he was only a member in that plan and not a member in the System as of such date or under both the System and the Supplemental Plan as in effect on September 30, 1999, if he was a member in both the System and the Supplemental Plan as of such date.
- (d) Except as otherwise expressly provided in this article, the rights and benefits of any member of the System or the Supplemental Plan who retired or whose employment terminated prior to October 1, 1999, and who is not reemployed by the City after that date in a position that would entitle him to be a member in the System, shall be determined solely in accordance with the provisions of the System as in effect on the date of his retirement or termination if he was only a member of the System as of that date, solely in accordance with the provisions of the Supplemental Plan as in effect on the date of his retirement or termination if he was only a member of the Supplemental Plan as of that date or in accordance with the terms of the System and the Supplemental Plan as in effect on the date of his retirement or termination if he was a member of both the System and the Supplemental Plan as of that date.

(Laws of Fla., 1945, ch. 23414, § 1; election of 11-2-99)

Sec. 62. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Actuarial Assumptions (for the calculation of optional forms of benefits) means the following interest rates compounded annually:

- (a) 8.5% for plan years prior to October 1, 2009; 8.4% effective for the plan year beginning October 1, 2009; 8.3% effective for the plan year beginning October 1, 2010; 8.2% effective for the plan year beginning October 1, 2011; 8.1% effective for the plan year beginning October 1, 2012; and 8.0% effective for the plan years beginning October 1, 2013 and October 1, 2014;
- (b) 7.75% effective for plan years beginning on and after October 1, 2015.

Actuarial Assumptions (for the calculation of optional forms of benefits) also means the following mortality tables:

- (a) For plan years beginning prior to October 1, 2010, the 1983 Group Annuity Mortality Table; for plan years beginning on October 1, 2010 and October 1, 2011: for Pre-Retirement Mortality the RP-2000 Combined Mortality Table with a blue collar adjustment, for Post-Retirement Healthy Mortality the RP-2000 Combined Mortality Table with a blue collar adjustment, and for Post-Retirement Disabled Mortality the RP-2000 Combined Mortality Table;
- (b) For plan years beginning on and after October 1, 2012: for Pre-Retirement Mortality the RP-2000 Combined Mortality Table with a blue-collar adjustment projected 15 years from valuation date, for Post-Retirement Healthy Mortality the RP-2000 Combined Mortality Table with a blue-collar adjustment projected 7 years from valuation date, and for Post-Retirement Disabled Mortality the RP-2000 Combined Mortality Table. For purposes of determining the period that benefits are paid to a widow or widower who was married to a deceased member for less than ten years, the 1994 Life Expectancy Table shall be used.

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- (c) For plan years beginning on and after October 1, 2015: for Pre-Retirement and Post-Retirement Mortality, the RP-2000 Combined Healthy Participant Mortality Tables with a fixed blend of 90% male mortality rates - 10% female mortality rates, with full generational mortality improvements projected to the year of commencement with Scale BB for healthy participants; and for disabled participants, the RP-2000 Disabled Mortality Table with a fixed blend of 90% male mortality rates - 10% female mortality rates, with no projection for disabled participants. For purposes of determining the period that benefits are paid to a widow or widower who was married to a deceased member for less than ten years, the following mortality tables shall be used: RP-2000 Combined Healthy Participant Mortality Tables with a fixed blend of 90% male mortality rates - 10% female mortality rates, with full generational mortality improvements projected to the year of commencement with Scale BB for healthy participants; and RP-2000 Disabled Mortality Tables with a fixed blend of 90% male mortality rates - 10% female mortality rates, with no projection for disabled participants.

Board means the Board of Trustees appointed and elected to administer and supervise the System as provided in section 76.

City means the City of Miami Beach, Florida.

Creditable Service means the Employee's service determined as provided in section 65 used to determine his eligibility for certain benefits under the System and the amount of his benefit under this System.

Dependent Parent means a parent of a member for whom a member is entitled, or would have been entitled, to claim a dependency exemption for federal income tax reporting purposes.

Domestic Partner means a person with whom a member has entered into a Domestic Partnership as defined in sec. 62-126, and registered and documented according to the requirements of sec. 62-127.

Effective Date means September 20, 1945.

Employee means any full time employee who is certified as a firefighter as a condition of employment in accordance with section 633.35, Florida Statutes, and whose duty it is to extinguish fires, to protect life or to protect property, and any full time employee who is certified or required to be certified as a law enforcement officer in compliance with section 943.1395, Florida Statutes, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The foregoing definition applies to employees hired on or after September 30, 2013. Notwithstanding the foregoing definition, any employee hired before September 30, 2013, whose initial employment with the City was in the unclassified service and who continuously remained a member of the unclassified service after that date shall remain a member of the Miami Beach Employees Retirement Plan for as long as employed as an unclassified employee, and shall not be eligible to participate in this System.

Fund means the City Pension Fund for Firefighters and Police Officers in the City of Miami Beach created by section 61.

Handicapped Child means a child of a member who has reached the age of 18 and who is primarily dependent upon the member for the child's livelihood or support due to a mental or physical condition or handicap of the child which requires, or otherwise would have required, the member to provide primary support for the child.

May 1993 Member means a member first employed by the City on or after May 19, 1993.

Editor's note(s)—See § 86(b) herein.

Salary, for the purpose of determining member contributions under this System, means the member's base pay, longevity pay, overtime, shift differential and extra compensation allowance such as uniform allowance, before reduction for the picked-up member contributions and before reduction for any amounts contributed in accordance with sections 125 or 457 of the Internal Revenue Code. Notwithstanding the preceding sentence,

effective September 30, 2013, Salary shall exclude overtime pay in excess of 300 hours per calendar year, payments for unused sick and vacation leave, hazardous duty pay (when paid), payments relating to the domestic partner tax credit reimbursement, and payments to police officer members for voluntarily participating in a physical fitness assessment program offered by the City. However, for periods prior to October 1, 2000, and solely with respect to May 1993 Members, the term "Salary" shall refer only to base pay and longevity pay, excluding any payment of overtime, shift differential or extra compensation allowance such as uniform allowance, but determined before reduction for the picked-up member contributions and before reduction for any amounts contributed in accordance with sections 125 or 457 of the Internal Revenue Code. For purposes of determining the amount of a member's benefit under the System, Salary shall mean the amount determined under this section as modified by the provisions of section 66 under which the benefit is being provided. Notwithstanding anything herein to the contrary, a member's Salary taken into account for any purpose under this System, including for purposes of determining the amount of a member's benefit and his contribution to this System, shall not exceed the limitation set forth in section 401(a)(17) of the Internal Revenue Code as adjusted for changes in the cost of living by the Secretary of the Treasury of the United States. However, for employees who were members before the first plan year beginning after December 31, 1995, the limitation on Salary shall not be less than the amount which was allowed to be taken into account under this article as in effect on July 1, 1993.

Surviving Spouse shall mean the lawfully wedded spouse of a member of the System living with the member at the time of the member's death.

System means this Pension System for Disability and Retirement of Members of Police and Fire Departments, as from time to time amended.

(Laws of Fla., 1945, ch. 23414, § 3; Laws of Fla., 1953, ch. 29286, § 2; election of 11-7-89; election of 11-2-99; election of 11-6-01; Ord. No. 2013-3817, § 1, 9-30-13; Ord. No. 2014-3848, § 1, 3-5-14; Ord. No. 2015-3970, § 1, 10-14-15; Ord. No. 2016-4035, § 1, 9-27-16)

Sec. 63. Source of moneys for fund; computation of liability; use and investment of fund.

- (a) At the end of each fiscal year of the City, the City shall pay into the Fund the amount the Board determines is required under this System, in addition to the personal contributions of members.
- (b) Each member of this System hired before September 30, 2013 shall contribute 10% of his Salary to the Fund. Each member of this System hired on or after September 30, 2013 shall contribute 10.5% of his Salary to the Fund. The City shall, solely for purposes of complying with section 414(h) of the Internal Revenue Code, pick up contributions required to be made by the members under this System. The contributions so picked up shall be treated as employer contributions for purposes of determining their tax treatment under the Internal Revenue Code. No employee shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the city to the System.
- (c) All computations of liability in connection with the System shall be based on tables and rates approved by the Board. The Board shall designate an actuary for the System who shall recommend such tables and rates for adoption by the Board. The actuary designated by the Board, on the basis of such tables and rates, shall recommend to the Board the amounts required to be paid into the System by the City under subsection (a) of this section. During the three-year period beginning October 1, 2013, and at least once every three years thereafter, there shall be an experience study of the System's actuarial assumptions performed by an actuary selected by the City. The actuary selected by the City shall make recommendations for any changes in assumptions based on the results of the experience study. In the event the Board of Trustees or plan actuary disagrees with the recommended assumption changes, the Board or plan actuary shall present the basis of their disagreement and justify any deviation from the recommended assumptions to the City Commission. Effective September 30, 2013, the City shall require 5-, 10- and 20-year projections of required pension contributions as part of the annual actuarial valuations for each of the City's pension plans. These projections

shall be based on the current actuarial assumptions for each plan. The projections shall be updated to reflect the cost of any proposed benefit enhancement before the City Commission agrees to the enhancement. The cost of these studies shall be funded separately from the annual contribution to the pension plan.

- (d) There shall be a complete actuarial evaluation prepared by the actuary at least every three years, and the City shall make such adjustments in its contributions as shall be shown to be required by such actuarial evaluation. The money required to meet all the obligations of this System over and above the personal contributions from members, is a liability and obligation of the City. The expenses of the System shall not be separately budgeted so long as the method is permitted by law. The City commission shall levy annually, in the manner provided by law, upon all taxable property within the City, such millage on the assessed valuation thereof as is necessary to produce the amounts required to be contributed by the City to this System. Effective September 30, 2013, the City shall fund at least the normal cost of the System, net of member contributions and state premium tax revenues. If the net City normal cost for any Plan year exceeds the City's annual required contribution as determined in accordance with Part VII, Chapter 112, Florida Statutes, the excess shall be held in reserve as part of the Fund assets, designated as the pension stabilization fund, and shall be used to offset the City's annual required contribution in any Plan year as determined by the City. The pension stabilization fund shall be accounted for separately and not included as assets of the Fund for plan valuation purposes, and shall be annually credited or debited with gains and losses at the same rate of return as the overall net market rate of return on Fund investments.
- (e) Nothing in this System shall be construed to prevent the City administration from appropriating moneys from the general fund or from any special funds of the City for the purpose of creating or adding to the Fund, and the City shall have the right to appropriate moneys from the general fund or any special fund of the City in addition to a millage. Furthermore, the City shall have the right and power to designate other sources of revenue for the Fund, including the designating of certain fines and forfeitures for violation of the City ordinances to be paid to the Fund instead of the general revenue of the City.
- (f) No moneys raised by taxation or otherwise provided for in the Fund shall be used other than for the purpose of this System.
- (g) Money shall be withdrawn from the Fund only upon warrants executed by at least five members of the Board. The Board shall have exclusive charge of the investment of any surplus in the Fund not needed for the Fund's current obligations. The Board shall, in acquiring, investing, reinvesting, exchanging, retaining, selling and managing property for the benefit of the Fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, the Board is authorized to acquire and retain every kind of property, real, personal or mixed, and every kind of investment specifically including, but not by way of limitation, bonds, debentures and other corporate obligations, and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account and, within the limitations of the foregoing standard, the Board may retain property acquired, without limitation as to time and without regard to its suitability for original purchase. The intent of this provision is to remove any and all restrictions which are otherwise imposed by F.S. chs. 175 or 185 and which may be removed.
- (h) Moneys needed for meeting the System's current obligations may be deposited in a depository recognized by law for the deposit of funds of the State of Florida and upon posting of similar security to that required for public deposits. The City shall have the custody of and responsibility for any funds, stocks, bonds, notes or other evidences of indebtedness and such custody shall be for the purpose of safekeeping only, without any discretion in the City regarding the propriety of any withdrawal or transfer of any such funds, stocks, notes, or other evidences of indebtedness or funds.

(Election of 11-2-99; Ord. No. 2013-3817, § 2, 9-30-13; Ord. No. 2014-3848, § 2, 3-5-14; Ord. No. 2015-3970, § 2, 10-14-15)

Sec. 64. Membership; transfer of accumulated total credit; severance of employment and reemployment.

- (a) Any individual who is an Employee on October 1, 1999, who was a member of the System on that date shall remain a member of this System. All individuals who become Employees on or after October 1, 1999, shall automatically be members of this System and shall submit to a physical examination as prescribed by the Board; however, the result of such examination shall not affect eligibility for membership in this System, but shall be used for the proper administration of the System by the Board.
- (b) Whenever any member of this System voluntarily severs his employment with the City prior to becoming eligible for a pension, but retains civil service rights with the City, and does not have returned to him the monies provided for in section 70, he shall again become a member upon resuming his employment as an Employee. However, he shall be entitled to no benefits under this System between the date of such severance and the date of such reemployment, except those which may have accrued to him prior to such severance, and further provided upon such reemployment he shall submit to the medical examination required by this section.

(Laws of Fla., 1945, ch. 23414, § 4; election of 6-2-59; election of 11-2-99)

Sec. 65. Computation of creditable service; service record.

- (a) A member's Creditable Service shall include all periods of employment as an Employee for which contributions have been made to this System in accordance with subsections (b), (c) (d) and (e) below and section 63(b), together with all service in the uniformed services of the United States required to be included under section 82; provided, however, that only periods of service in the uniformed services of the United States for which the member makes the member contributions as provided for in section 82 shall be Creditable Service for purposes of computing the amount of the member's benefit from the System. Notwithstanding any provision to the contrary, in no event shall the same period of service be counted more than once as Creditable Service under this System, and in no event shall a member receive Creditable Service under this System for any period of service for which credit has been received under any other defined benefit retirement plan established by the City. Notwithstanding any other provision of this section or section 82, the total aggregate amount of Creditable Service that may be purchased pursuant to this section and section 82 shall not exceed a combined total of two (2) years or 6% additional multiplier.
- (b) Employees who become members of this System in order to receive credit for service rendered prior to their becoming a member shall make contributions to the Fund in the amount such member would have contributed had he been a member during the period of service for which credit is being purchased. In order to receive such credit, employees shall make payment within six months after becoming a member or within such other period as may be provided in a bargaining agreement covering the member. Notwithstanding the foregoing, any firefighter member hired before May 8, 2019 and any police officer member hired before July 31, 2019 who transfers to this System whereby the accumulated total credit in any other pension system of the City is transferred to this System, then and in that event, all of the creditable service time in such other system shall be considered Creditable Service time under this System, and such employee need make no additional contribution for time credited. Firefighter members hired on or after May 8, 2019 and police officer members hired on or after July 31, 2019 shall not be credited with any service under this System for service as a member of the Miami Beach Employees' Retirement Plan.
- (c) Police officer members who are employed and not participating in the DROP on July 1, 2021, may contribute an additional amount to the System in order to receive service credit for up to two (2) years of law enforcement service occurring prior to their date of employment with the City, as provided in this subsection (c). Creditable Service purchased pursuant to this subsection (c) must be purchased between July 1, 2021 and

September 30, 2021, and may be purchased in increments of up to three percent (3%) per year of service for a maximum additional multiplier of six percent (6%). For purposes of this prior service purchase, service as a police officer in this state as well as federal, other state, or county service shall be credited as long as such service is recognized by the Criminal Justice Standards and Training Commission within the Department of Law Enforcement as provided in chapter 943, Florida Statutes, or the police officer member provides proof to the board of trustees that such service is equivalent to the service required to meet the definition of a law enforcement officer in section 943.10, Florida Statutes. The price for each year purchased shall be 10% (10.5% for members hired on or after September 30, 2013) of the member's Salary during the 12 calendar months immediately preceding the date of such purchase. For purposes of this purchase, a member may use the value of accrued sick and/or annual leave valued at the employee hourly rate at the time of purchase, with the cost prorated for fractional years of service. Upon completion of ten (10) years of Creditable Service under the System based solely on City employment, Creditable Service purchased under this subsection (c) may be used for purposes of benefit calculation and eligibility for normal retirement. However, in no event may such purchased service be used for purposes of vesting. In the event a member separates from employment purchase of such Creditable Service but prior to attaining ten (10) years of Creditable Service based solely on City employment; the employee shall be reimbursed amounts contributed pursuant to this subsection (c).

- (d) Firefighter members who are employed and not participating in the DROP on July 1, 2021, may contribute an additional amount to the System in order to receive service credit for upto two (2) years of firefighter service for a county or municipal fire department, service as a federal firefighter, state fire agency or tribal fire department, occurring prior to their date of employment with the City, as provided in this subsection (d). Creditable Service purchased pursuant to this subsection (d) must be purchased between July 1, 2021 and September 30, 2021 and may be purchased in increments of up to three percent (3%) per year of service for a maximum additional multiplier of six percent (6%). The price for each year purchased shall be 10% (10.5% for members hired on or after September 30, 2013) of the member's Salary during the 12 calendar months immediately preceding the date of such purchase. For purposes of this purchase, a member may use the value of accrued sick and/or annual leave valued at the employee's hourly rate at the time of purchase, with the cost prorated for fractional years of service. Upon completion of ten (10) years of Creditable Service under the System based solely on City employment. Creditable Service purchased under this subsection (d) may be used for purposes of benefit calculation and eligibility for normal retirement. However, in no event may such purchased service be used for purposes of vesting. In the event a member separates from employment after purchase of such Creditable Service but prior to attaining ten (10) years of Creditable Service based solely on City employment, the employee shall be reimbursed amounts contributed pursuant to this subsection(d)
- (e) Members who are employed and not participating in the DROP on July 1, 2021 may contribute an additional amount to the System in order to receive up to two (2) years of Creditable Service as provided in this subsection (e). Such Creditable Service must be purchased between July 1, 2021 and September 30, 2021. and may be purchased in increments of up to three percent (3%) for each year of Creditable Service purchased up to a maximum additional multiplier of six percent (6%). The cost of such service shall be 10% (10.5% for members hired on or after September 30, 2013) of the member's Salary during the 12 calendar months immediately preceding the date of such purchase for each year purchased. For purposes of this purchase, a member may use the value of accrued sick and/or annual leave valued at the employee's hourly rate at the time of purchase, with the cost prorated for fractional years of service. Upon completion of ten (10) years of Creditable Service under the System based solely on City employment. Creditable Service purchased under this subsection (e) may be used for purposes of benefit calculation. However, in no event may such purchased service be used for purposes of eligibility for normal retirement or vesting. In the event the member separates from employment after purchase of such Creditable Service but prior to attaining ten (10) years of Creditable Service based solely on City employment, the member shall be reimbursed amounts contributed pursuant to this subsection (e).

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- (f) The Board shall establish the service record of all employees who may be entitled to participate in the benefits of this System and shall keep a record thereof.

(Election of 11-2-99; election of 11-6-01; Ord. No. 2010-3705, § 1, 11-17-10; Ord. No. 2013-3817, § 3, 9-30-13; Ord. No. 2014-3848, § 3, 3-5-14; Ord. No. 2016-4035, § 2, 9-27-16; Ord. No. 2020-4362, § 1, 10-14-20)

Sec. 66. Service and disability benefits generally.

- (a) The Board shall, upon application retire members meeting any one of the following requirements:
- (1) The attainment of age 50.
 - (2) Permanent and total disability incurred in line of duty in the police or fire department, or in the unclassified service as provided in section 70, irrespective of the number of years of Creditable Service;
 - (3) Permanent and total disability incurred other than in the line of duty, after five years of Creditable Service.
 - (4) The sum of the member's age and Creditable Service equals at least 70 and the member retires on or after October 1, 1998; provided, effective September 30, 2013, a member hired before July 14, 2010 must attain age 47 to be eligible for retirement under this paragraph (4) or reach the 85% maximum pension benefit regardless of age; and a member hired on or after July 14, 2010 must attain age 48 to be eligible for retirement under this paragraph (4) or reach the 85% maximum pension benefit regardless of age; and provided further, any member hired prior to July 14, 2010 who completes a buyback of prior Creditable Service prior to September 30, 2013 and reaches the maximum pension benefit of 85% of average monthly Salary prior to attaining age 47, the employee contribution shall cease on the date such employee reaches the 85% maximum pension benefit, and his/her final average monthly Salary will be frozen on the same date. Notwithstanding the preceding sentence, any police officer member; and effective January 16, 2014, any firefighter member hired pursuant to a consent decree may retire when the sum of the member's age and Creditable Service equals at least 70.
 - (5) Only for periods prior to October 1, 2000, and only in the case of a May 1993 Member, the attainment of age 55 with at least 10 years of Creditable Service.
- (b) A member who attains eligibility for retirement under subsection (a) above on or before September 30, 2013, shall be entitled to receive upon retirement under subsection (a), a monthly pension payable for life equal to:
- (1) Three percent of the member's average monthly Salary for each year of the member's first 15 years of Creditable Service, being computed as to a part of a year on a pro rata basis to the nearest month; plus
 - (2) Four percent of the member's average monthly Salary for each year of the member's Creditable Service in excess of 15 years, being computed as to a part of a year on a pro rata basis to the nearest month.
- (c) A member who does not attain eligibility for retirement under subsection (a) above on or before September 30, 2013, shall be entitled to receive upon retirement under subsection (a), a monthly pension payable for life equal to:
- (1) Three percent of the member's average monthly Salary for each year of the member's first 20 years of Creditable Service, being computed as to a part of a year on a pro rata basis to the nearest month; provided in no event shall a member's benefit multiplier for Creditable Service earned before October 1, 2013, be reduced; plus
 - (2) Four percent of the member's average monthly Salary for each year of the member's Creditable Service in excess of 20 years, being computed as to a part of a year on a pro rata basis to the nearest month.

(d) For purposes of determining a member's benefit, the average monthly Salary of members who attains eligibility for retirement under subsection (a) above on or before September 30, 2015, shall be based on the average of the two highest-paid years of the member prior to the date of retirement or termination, or the average of the last two paid years of the member prior to the date of retirement or termination, whichever produces the greater benefit for members employed by the City before May 19, 1993, and shall be based on the average of the three highest paid years of the member prior to the date of retirement or termination for May 1993 Members. Effective September 30, 2015, the average monthly salary for members hired before July 14, 2010, who do not attain eligibility for retirement under subsection (a) above on or before September 30, 2015, shall be based on the average of the three highest paid years or the average of the last three (3) years of the member prior to the date of retirement or termination, whichever produces the greater benefit. The average monthly salary for Members hired on or after July 14, 2010, but prior to September 30, 2013, shall be based on the average of the three highest paid years or the average of the last three (3) years of the member prior to the date of retirement or termination, whichever produces the greater benefit. The average monthly salary for Members hired on or after September 30, 2013, shall be based on the average of the five (5) highest paid years or the average of the last five (5) years of the member prior to the date of retirement or termination, whichever produces the greater benefit. For purposes of such calculation, Salary shall be the Salary upon which the member's contribution to the System was computed, as provided in paragraphs (1) and (2) below:

- (1) With respect to a firefighter member employed before May 19, 1993, and retiring on or after October 1, 1994, the inclusion of overtime in the member's Salary for the applicable average monthly salary period, shall be limited in each year to an amount which, when combined with compensation for off-duty services and the value of any accrued sick and/or vacation leave that is included in a member's Salary for pension contribution and benefit purposes, is equal to 11% of the highest annualized pay rate for the same salary rank that the member is in at time of retirement. Effective July 14, 2010, all compensation received by a firefighter member who is eligible for overtime pay and who receives pay for off-duty services performed after that date for which compensation is received through the City shall be included in such member's Salary for pension contribution and benefit purposes; provided, in no event shall such compensation for off-duty services, in combination with any overtime pay and the value of any accrued sick and/or vacation leave included in a member's Salary for pension contribution and benefit purposes, exceed 11% of the highest annualized pay rate for the same salary rank that the member is in at time of retirement. For firefighter members who are eligible for overtime pay and who retire on or after September 30, 2010, upon reaching eligibility for retirement, a member may elect to apply unused sick and/or vacation leave for inclusion in the member's Salary for pension contribution and benefit purposes, at a cost of 10% of the value of the unused sick and/or vacation leave (at the member's current hourly rate). Provided, in no event shall the value of such unused sick and/or vacation time, when combined with any overtime pay and compensation for off-duty services included in a member's Salary for pension contribution and benefit purposes, exceed 11% of the highest annualized pay rate for the same salary rank that the member is in at time of retirement. Notwithstanding the foregoing, effective September 30, 2013, overtime pay in excess of 300 hours per calendar year, payments for unused sick and vacation leave, hazardous duty pay (when paid), and payments relating to the domestic partner tax credit reimbursement, shall be excluded from a firefighter member's Salary for pension contribution and benefit purposes.
- (2) With respect to a police officer member employed before May 19, 1993, and retiring on or after October 1, 1994, the inclusion of overtime in the member's Salary for the applicable average monthly salary period, shall be limited in each year to an amount which, when combined with compensation for off-duty services and the value of any accrued sick and/or vacation leave that is included in a member's Salary for pension contribution and benefit purposes, is equal to 70% of the difference between the member's annualized pay rate at retirement and the highest annualized pay rate for the next higher salary rank; but in no event shall such member's accrued benefit on his date of retirement be less than the benefit he had accrued as of September 30, 1994, determined under the terms of the System in

effect on that date. Effective July 14, 2010, all compensation received by a police officer member who is eligible for overtime pay and who receives pay for off-duty services performed after that date for which compensation is received through the City, shall be included in such member's Salary for pension contribution and benefit purposes; provided, in no event shall such compensation for off-duty services, in combination with any overtime pay and the value of any accrued sick and/or vacation leave included in a member's Salary for pension contribution and benefit purposes, exceed 70% of the difference between the member's annualized pay rate at retirement and the highest annualized pay rate for the next higher salary rank; but in no event shall such member's accrued benefit on his date of retirement be less than the benefit he had accrued as of September 30, 1994, determined under the terms of the System in effect on that date. For police officer members who are eligible for overtime pay and who retire on or after September 30, 2010 and before September 30, 2013, upon reaching eligibility for retirement, a member may elect to apply unused sick and/or vacation leave for inclusion in the member's Salary for pension contribution purposes, at a cost of 10% of the value of the unused sick and/or vacation leave (at the member's current hourly rate). Provided, in no event shall the value of such unused sick and/or vacation time, when combined with any overtime pay and compensation for off-duty services included in a member's Salary for pension contribution and benefit purposes, exceed 70% of the difference between the member's annualized pay rate at retirement and the highest annualized pay rate for the next higher salary rank; but in no event shall such member's accrued benefit on his date of retirement be less than the benefit he had accrued as of September 30, 1994, determined under the terms of the System in effect on that date. Notwithstanding the foregoing, effective September 30, 2013, overtime pay in excess of 300 hours per calendar year, payments for unused sick and vacation leave, hazardous duty pay (when paid), payments relating to the domestic partner tax credit reimbursement, and payments for voluntarily participating in a physical fitness assessment program offered by the City shall be excluded from a police officer member's Salary for pension contribution and benefit purposes; and in no event shall compensation for off-duty services, in combination with overtime pay not exceeding 300 hours per calendar year, exceed 11% of the highest annualized pay rate for the same salary rank that the member is in at time of retirement. Provided, the 11% limitation in the preceding sentence shall not apply to any member who holds the rank of sergeant or lieutenant on September 30, 2013, or any police officer who is promoted into the position of police sergeant prior to the date the 2013 Certified Police Sergeant Promotional Register expires in 2015. Notwithstanding any other provision of this paragraph (2), effective June 8, 2016 for International Association of Firefighters, Local 1510 (IAFF) and July 20, 2016 Fraternal Order of Police, William Nichols Lodge No. 8 (FOP), with respect to any member excluded from the eleven percent (11%) limitation by operation of the preceding sentence, if such member self-demotes the amount of compensation for off-duty services, in combination with overtime pay not exceeding 300 hours per calendar year, included in such member's Salary shall not exceed 11% of the highest annualized pay rate for the same salary rank that the member is in at time of retirement; and overtime, off-duty or any other compensation shall not be applied to produce a benefit that exceeds the eleven percent (11%) limitation.

- (e) Notwithstanding anything in this section to the contrary, the benefits provided in this section shall not exceed 90% of the member's average monthly Salary as defined in subsection (d) of this section; provided, however, that the benefits for May 1993 Members shall not exceed 80% of such Salary. Notwithstanding the foregoing, effective September 30, 2013, the benefits provided in this section shall not exceed 85% of the member's average monthly Salary as defined in subsection (d) of this section; provided, however, that the benefits for May 1993 Members shall not exceed 80% of such Salary; and provided further, the benefit of any member who has an accrued benefit in excess of 85% of average monthly Salary as defined in subsection (d) of this section on September 30, 2013 shall not exceed 90% of such Salary.
- (f) The minimum pension for a member retiring for permanent and total disability under subsection (a)(2) of this section shall be 85% of the member's Salary at the time of disability retirement; provided, however, that the minimum pension for a May 1993 Member shall be 75% of such Salary. The minimum pension for a May

1993 Member retiring for permanent and total disability under subsection (a)(3) of this section shall be 50% of the member's Salary at the time of the disability retirement.

- (g) (1) If any member eligible for benefits under this article shall terminate his employment before September 30, 2013, after having completed at least 10 years of Creditable Service but prior to attaining age 50 years (or after having completed one year of Creditable Service but before attaining age 55 and completing 10 years of Creditable Service for a May 1993 Member), and does not withdraw his accumulated contributions in the System, such member shall be entitled to receive upon attaining age 50 (age 55 or his termination of employment, if later, for a May 1993 Member) a monthly pension payable for life in accordance with the provisions of subsection (b) (or subsection (c) for a May 1993 Member) of this section; provided, however, the benefit so determined shall be reduced for a May 1993 Member by 10% multiplied by the difference between the member's years of Creditable Service at his date of termination and 10. If the member dies prior to attaining age 50 (age 55 or his termination of employment, if later, for a May 1993 Member), no benefit shall be payable under subsection (b) (or subsection (c) for a May 1993 Member); instead, the member's estate shall be entitled to all moneys contributed by the member to this System together with accumulated interest on that sum at the rate of three percent per annum computed until the date of payment to the member's estate.
- (2) If any member eligible for benefits under this article shall terminate his employment on or after September 30, 2013 after having completed at least 5 years of Creditable Service, but prior to attaining age 50 years (or after having completed one year of Creditable Service but before attaining age 55 and completing 10 years of Creditable Service for a May 1993 Member), and does not withdraw his accumulated contributions in the System, such member shall be entitled to receive upon attaining age 50 (age 55 or his termination of employment, if later, for a May 1993 Member) a monthly pension payable for life in accordance with the provisions of subsection (b) (or subsection (c) for a May 1993 Member) of this section; provided, however, the benefit so determined shall be reduced for a May 1993 Member by 10% multiplied by the difference between the member's years of Creditable Service at his date of termination and 10. If the member dies prior to attaining age 50 (age 55 or his termination of employment, if later, for a May 1993 Member), no benefit shall be payable under subsection (b) (or subsection (c) for a May 1993 Member); instead, the member's estate shall be entitled to all moneys contributed by the member to this System together with accumulated interest on that sum at the rate of three percent per annum computed until the date of payment to the member's estate.
- (h) (1) Notwithstanding anything in this section to the contrary, the minimum monthly pension payable for the life of any member who was employed prior to July 1, 1976 and who retires after attaining age 50 and completing at least 15 years of Creditable Service or after meeting the requirements of subsection (a)(3) or (a)(4) of this section 66 shall be equal to:
- (A) Three percent of the member's average monthly Salary for each of the first 20 years of his Creditable Service, being computed as to a part of a year on a pro rata basis to the nearest month; plus
 - (B) Two and three-quarters percent of the member's average monthly Salary for each of his years of Creditable Service in excess of 20, being computed as to a part of a year on a pro rata basis to the nearest month.
- (2) For purposes of this subsection (h) the member's average monthly Salary shall be the Salary upon which the member's contribution to the System was computed for the two highest paid years of the member prior to his date of retirement.
- (3) Notwithstanding anything to the contrary, benefits provided under this subsection (h) shall not be more than 85% of the average monthly Salary used to compute the benefit under this subsection.

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- (4) The minimum pension for a member retiring under this subsection (h) for permanent and total disability shall be 75% of the member's Salary at the time of his disability retirement.
- (i) Nothing in this section shall be construed to prevent the City manager or the Board from initiating action for the compulsory retirement of a member eligible for retirement, prior to such age, where such member is considered to be unfit for the proper performance of his duties because of physical or mental incapacity. Upon certification by the medical board designated by the Board pursuant to section 76(j) that such member is mentally or physically incapable of proper performance of duties, the member shall be automatically retired. Any member who is compulsorily retired by an act of the Board shall have the right to appeal such retirement to a court of proper jurisdiction. The member shall defray his own expense in his appeal of such compulsory retirement.

(Laws of Fla., 1945, ch. 23414, § 7; Laws of Fla., 1949, ch. 26034, § 2; election of 5-24-66; election of 11-2-99; election of 11-6-01; Ord. No. 2012-3705, § 2, 11-17-10; Ord. No. 2013-3817, § 4, 9-30-13; Ord. No. 2014-3848, § 4, 3-5-14; Ord. No. 2016-4035, § 3, 9-27-16; Ord. No. 2020-4362, § 2, 10-14-20)

Sec. 66.1. Normal form of benefit; benefit options.

- (a) The normal form of benefit payable to a member who retires, enters the deferred retirement option plan, or separates from City employment on or after the effective date of this ordinance, or to such member's surviving spouse or domestic partner, shall be the applicable benefit as specified in section 66, 68 or 69. In the alternative and in lieu of such benefit, the member may, at any time prior to retirement, elect to receive a lifetime retirement benefit with 120 monthly payments guaranteed. If the member should die before 120 monthly payments are made, benefits will continue to be paid to the member's designated beneficiary for the balance of the 120-month period. If the retired member is living after 120 monthly payments are made, the payments shall be continued for the member's remaining lifetime.
- (b) A member who retires, enters the deferred retirement option plan, or separates from City employment on or after the effective date of this ordinance, and who is entitled to service or disability benefits under section 66 may elect, in lieu of such benefit, a joint and contingent survivor option, at any time prior to retirement. Under the joint and contingent survivor option, the member shall receive an actuarially adjusted retirement benefit during the member's lifetime, and have same monthly benefit (or a designated percentage of 25%, 50%, 66⅔% or 75% thereof) continued after the member's death to and for the lifetime of the member's designated joint pensioner. The election of the joint and contingent survivor option shall be null and void if the designated joint pensioner dies before the member's retirement. The value of the joint and contingent survivor option shall be actuarially equivalent to the value of the benefit otherwise payable.
- (c) A member may revoke an election made under subsection (a) or (b), above, at any time prior to retirement. The election of an alternate normal form of benefit or joint and contingent survivor option, and the revocation of such election, must be made in writing on a form provided by the Board, and submitted to the Board. The member shall not be entitled to change an election made under subsection (a) or (b), above, after the date of cashing or depositing the first retirement benefit check.
- (d) A member who elects an alternate normal form of benefit or joint and contingent survivor option under subsection (a) or (b), above, shall designate a beneficiary or joint pensioner in writing on a form provided by the Board, and submitted to the Board at the time of the election. The member may revoke or change the designation of a beneficiary or joint pensioner at any time prior to the date of cashing or depositing the first retirement benefit check, by submitting such change in writing on a form provided by the Board.
- (e) Upon attainment of normal retirement age, as described herein, the member shall be fully vested in the benefits under the System.

(Election of 11-4-03; Ord. No. 2015-3970, § 3, 10-14-15)

Sec. 67. Cost-of-living adjustment.

- (a) In the case of a pensioner who was employed by the City prior to May 19, 1993, or a beneficiary of such a member who has been receiving a pension for at least one year under the System as of October 1, 1989, or any subsequent October 1, the amount of pension payable to him under the System as of such October 1, other than a pension payable under subsection 66(h) of the System, shall be increased by 2½% of the amount payable to him under the System.
- (b) In the case of a pensioner who was a May 1993 Member, or a beneficiary of such a member, who has been receiving a pension for at least one year under the System as of October 1, 1994, or any subsequent October 1, the amount of pension payable to him under the System as of such October 1, determined without regard to any cost of living increase previously granted under this section, shall be increased by 1½%.
- (c) In the case of a pensioner who has been receiving a benefit under subsection 66(h) of the System for at least three years as of July 1, 1982, or any subsequent July 1, the amount payable to him under the System as of such July 1 shall be increased as of the next following October 1 by 2%.
- (d) In the case of a pensioner or beneficiary who retires after October 1, 1988, under the System or after October 1 of any subsequent year and who therefore must wait more than 12 months for his first increase, the amount of pension payable to him as of the October 1 next following the first anniversary of the commencement of his pension shall be increased by a specified percentage, as defined in this subsection, of the amount payable to him under the System multiplied by a fraction, the numerator of which is the number of months for which his pension under the System has been paid and the denominator of which is 12. The specified percentage shall be 2½% for members and their beneficiaries and 1½% for May 1993 Members and their beneficiaries.
- (e) For purposes of determining the one-year requirement of subsections (a) and (b) of this section and the three-year requirement of subsection (c) of this section, the pension commencement date for a beneficiary receiving a pension as the result of the death of a retired member who was receiving a pension at the time of his death shall be the date on which the retired member began to receive his pension.
- (f) The provisions of this section shall not apply in the case of a member of the System who elected in writing prior to the earlier of his date of retirement or January 1, 1990, to waive his membership in the Police Officers' and Fire Fighters' Supplemental Pension in accordance with the provisions of section 78-246 or 78-247 of Chapter 78 of Part II of the Miami Beach City Code as in effect at such date.
- (g) Effective September 30, 2010, for members who retire on or after that date, the cost of living adjustment provided in this Section 67 shall be applied annually on the anniversary date of the member's retirement.
- (h) Notwithstanding the provisions of subsections (a) through (g) above, effective September 30, 2013 the benefit of members hired before July 14, 2010, and the beneficiaries of such members, shall be increased by 2.5% annually, commencing on the anniversary date of the member's retirement, except that members who enter the DROP on or after September 1, 2012 and before September 30, 2013, and participate in the DROP for six months or longer shall receive a zero percent (0%) cost of living adjustment for the third (3rd) and fourth (4th) annual adjustment dates.
- (i) Notwithstanding the provisions of subsections (a) through (g) above, effective September 30, 2013, the benefit of members hired on or after July 14, 2010, and the beneficiaries of such members, shall be increased by 1.5% annually, commencing on the anniversary date of the member's retirement.

(Election of 11-2-99; Ord. No. 2010-3705, § 2, 11-17-10; Ord. No. 2013-3817, § 5, 9-30-13)

Sec. 68. Service-connected death benefits.

If any member shall lose his life while in the discharge of his duties, or shall die within five years from injuries received while in the discharge of his duties, and shall leave a Surviving Spouse or Domestic Partner or a child or children or one or more Dependent Parent(s), the Board shall authorize and direct payment of a pension to the member's Surviving Spouse or Domestic Partner or child or children or Dependent Parent(s) as follows:

- (a) To the Surviving Spouse or Domestic Partner, the greater of:
 - (1) The pension to which the deceased member would have been entitled under section 66; and
 - (2) Eighty-five percent of the member's Salary at the date of his death.
- (b) If there is no Surviving Spouse or Domestic Partner, or if the Surviving Spouse remarries or dies, or the Domestic Partner marries, enters into another Domestic Partnership, or dies, the benefit set forth in subsection (a) of this section shall be paid in equal portions to each child of the deceased member. However, benefits shall continue to be paid to the member's Surviving Spouse on the Surviving Spouse's remarriage, instead of to the member's children, if the member is killed in the line of duty. Payments under this subsection to any child shall cease when:
 - (1) The child attains age 18 (or age 22 in the case of a child who is a full-time student in high school or college, in the case of a Handicapped Child ceases to be a Handicapped Child); or
 - (2) The child marries or dies.

A legally adopted child shall have the same rights as a natural born child but no pension shall be allowed to any stepchild of a deceased member or child of any Domestic Partner.

- (c) If there are no benefits payable to a child or children, the benefit set forth in subsection (a) of this section shall be paid to the Dependent Parent of the deceased member. If both parents are Dependent Parents, such benefit shall be shared equally.
- (d) The trusteeship and disbursement of the pension to any child or Dependent Parent is to be determined by the Board.
- (e) The pension payments to a Surviving Spouse, Domestic Partner, children and Dependent Parents shall not be decreased or reduced due to benefits received by them under any workmen's compensation law.

(Laws of Fla., 1945, ch. 23414, § 8; Laws of Fla., 1953, ch. 29286, § 5; election of 11-2-99; election of 11-6-01)

Sec. 69. Nonservice-connected death benefits.

- (a) If any member, other than a member entitled to a benefit under section 68, shall die after completing five years of Creditable Service or after meeting the requirements for retirement under section 66, whether or not pension payments have commenced, the Board shall authorize and direct payment to the member's Surviving Spouse or Domestic Partner and/or child or children and/or a Dependent Parent in equal monthly installments as follows:
 - (1) To the Surviving Spouse or Domestic Partner, the pension to which the deceased member was entitled or was receiving at the time of death or would have been entitled at the time of death under section 66 of this System, for the first 12 months, and thereafter the greater of:
 - (A) (i) Seventy-five percent of the pension payable under section 66 determined without regard to subsection 66(h), if the member retired on or after October 1, 1988 and is not eligible for a benefit under subsection 66(h) of the System, (ii) 50% of the pension payable under this System if

the member was a May 1993 Member; or (iii) the greater of 50% of the pension payable under subsection 66(h) or 75% of the pension payable under section 66 determined without regard to subsection 66(h) if the member is eligible for a benefit under subsection 66(h) of the System; or

- (B) Twenty-five percent of the member's average monthly Salary for his two highest paid years. The monthly installments shall continue until the Surviving Spouse's remarriage or the Domestic Partner's marriage or entry into another Domestic Partnership. However, if the Surviving Spouse was married to the deceased member less than 10 years, or the Domestic Partnership was registered for less than 10 years, the benefit provided in this subsection shall be payable until remarriage or death, but in no case longer than for the period of the normal life expectancy of the deceased member at the time of his death, determined in accordance with the mortality table adopted by the Board.
- (2) To the child or children or Dependent Parent(s), the provisions of section 68 governing the conditions and restrictions applicable to the administration of pensions for children and Dependent Parents shall apply, as the case may be.
- (b) If any member, other than a member entitled to a benefit under section 68, who retired prior to October 1, 1988 but after completing five years of Creditable Service, shall later die from causes not attributable to his duties, the Board shall authorize and direct payment to his Surviving Spouse or Domestic Partner and/or child or children in equal monthly installments as follows:
 - (1) To a Surviving Spouse or Domestic Partner, the amount of the pension to which the deceased member was entitled or was receiving at the time of death or would have been entitled at the time of death, computed in accordance with the terms of the System as in effect on his retirement, for the first 12 months, and thereafter the greater of:
 - (A) Fifty percent of such pension or
 - (B) Twenty-five percent of the average monthly Salary for the two highest paid years.

The monthly installments shall continue until the Surviving Spouse's remarriage or death, or the Domestic Partner marries, enters into another Domestic Partnership, or dies. However, if the Surviving Spouse was married to the deceased member less than 10 years, or the Domestic Partnership was registered for less than 10 years, the benefit provided in this subsection shall be payable until remarriage or death, but in no case longer than for the period of the normal life expectancy of the deceased member at the time of his death determined in accordance with the mortality table adopted by the Board.

- (2) To the member's children under 18 years of age, \$100.00 per month; provided, however, the benefit shall continue until the child is age 22 if the child is a full-time student in high school or college. The combined maximum benefit payable to the member's children shall be \$200.00 per month and the combined maximum benefit payable to the Surviving Spouse or Domestic Partner and the member's children shall be \$320.00 per month. However, this maximum limitation shall not in any manner limit the Surviving Spouse's or Domestic Partner's benefits provided in subparagraph (1) above. For purposes of this subparagraph, a legally adopted child shall have the same rights as a naturally born child but no pension shall be allowed to any stepchild of a deceased member.

(Laws of Fla., 1945, ch. 23414, § 9¾; election of 6-2-59; election of 5-24-66; election of 11-5-68; election of 11-18-69; election of 11-2-71; election of 9-28-76; election of 11-3-87; election of 11-2-99; election of 11-6-01)

Sec. 70. Return of contribution.

- (a) Except as provided in subsections (b) and (c) of this section, whenever any member in the service of either the fire or police department shall sever his connection with such department either voluntarily or by lawful

discharge, or by death not attributed to his active duties prior to the completion of five years of membership in the department, or by death in active service after the completion of five years of membership in the department leaving no Surviving Spouse, Domestic Partner, children or Dependent Parents entitled to pension benefits under this System, such member or his estate shall be entitled to the return of all the moneys he has contributed into this System, together with accumulated interest on the sum, at the rate of three percent per annum, computed until date of payment to the member or his estate, unless in the event of discharge or voluntary severance such member has at that time qualified under the terms of this System for a pension from the System. No payment shall be made under this paragraph to a member unless the member has made a written request for the payment in the form and manner determined by the Board.

- (b) Any member of this System who separates from active service with the fire or police departments to accept an appointment to any office in the unclassified service of the City shall continue to have all the rights, privileges and responsibilities of this System.
- (c) Any member of this System who separates from active service with the fire or police departments to accept an appointment to any office in the classified service of the City shall immediately become a member of the City of Miami Beach Employees Retirement System and shall receive creditable service under that system for service which is Creditable Service under this System. Upon a member of this System becoming a member of the City of Miami Beach Employees Retirement System, the Board shall transfer from the funds of this System to the City of Miami Beach Employees Retirement System an amount equal to three times the accumulated amount of the member's contributions under this System that were paid by the member to this System, together with interest thereon to the date of transfer. For purposes of this section, moneys a member has contributed shall include picked-up member contributions together with interest thereon.

(Election of 11-2-99; election of 11-6-01; Ord. No. 2015-3970, § 4, 10-14-15)

Sec. 71. Cancellation of participation in other systems.

Membership in this System shall automatically cancel the membership and participation of any Employee in any other pension, annuity or retirement system for employees of the City to which the City contributes.

(Laws of Fla., 1945, ch. 23414, § 10; Laws of Fla., 1947, ch. 24709, § 5; Laws of Fla., 1953, ch. 29286, § 7; election of 11-2-99)

Sec. 72. Contract between member and City.

- (a) Within 30 days after an Employee becomes a member of this System, or October 1, 2000, for a May 1993 Member, the City shall prepare a contract for execution between the City and the Employee. The contract shall be in the following form:

"This agreement, made and entered into this _____ day of _____, 20____, between the City of Miami Beach, a municipal corporation under the laws of the State of Florida, hereinafter referred to as City, and (individual employee), hereinafter referred to as Employee.

"WITNESSETH: THAT WHEREAS, the City established the Pension System for Disability and Retirement of Members of Police and Fire Departments, hereinafter referred to as the System, and

"WHEREAS, it is beneficial to the City to have the Employee protected by the terms of the System and benefits and the Employee is desirous of participating in the System, it is thereupon

"UNDERSTOOD AND AGREED by and between the parties that the Employee does hereby allot, out of his salary or wages, paid to him by the City, determined before reduction for picked-up contributions in accordance with section 63(b) of the System or any amounts contributed on a pretax basis in accordance

with sections 125 and 457 of the Internal Revenue Code, an amount equal to the percentage of said salary or wages specified in section 63(b) of the System from his date of membership, and does hereby authorize and direct the disbursing officers or officer of said City to retain out of said wages or salary said amount, in compliance with the terms of the System, and to continue to make said allotment and authorize said deduction throughout the entire time of his employment or reemployment or until such time as he shall be entitled to receive the pension allowance or benefit provided by the Fund. For the purpose of determining the Employee's contributions under the System, salary or wages shall be computed in accordance with the definition of "Salary" in section 62 of the System.

"IT IS FURTHER UNDERSTOOD AND AGREED by and between the parties that the City will accept said allotment or deduction from the salary or wages of the Employee and when, under the terms of the System, the Employee or the Employee's beneficiary shall be entitled to receive the benefits from the Fund herein created, will pay said sum or sums from said Fund and all other benefits so authorized to the Employee or his beneficiaries, in accordance with the terms of the System, without diminution or deduction.

"IT IS FURTHER UNDERSTOOD AND AGREED that this contract shall remain in force without change, modification or amendment, until all the purposes now intended to be fulfilled shall have been fully performed, except that payment or other benefits to the Employee or his beneficiaries may be increased but not diminished.

"IT IS FURTHER UNDERSTOOD AND AGREED that the percentage of the allotment of, or deduction from, the salary or wages of the Employee shall not be increased during the term of this contract but may only be decreased or diminished by the City, nor shall the Employee lose any rights under the terms of this contract by reason of the refusal of the City at any time during the term hereof to make allotment or deduction from said wages or salary.

"IT IS FURTHER UNDERSTOOD AND AGREED that it is the intention of the parties hereto to create vested rights in the respective parties not to be hereinafter impaired for any cause whatsoever.

"IT IS FURTHER UNDERSTOOD AND AGREED that the terms of the System are declared to be a part of this contract and this contract is to be construed with reference thereto.

"IN WITNESS WHEREOF, the City has caused these presents to be executed, signed and sealed, with the seal of the City, by its duly authorized officers, and the Employee has hereunto set his hand and seal the day and year first above written. (Here follow signatures and seals.)

The contract shall be executed in duplicate, one copy to be retained by the City, the other copy to be delivered to the employee joining in the contract. The contract shall thereafter be and remain a contract binding upon the City and the employee, and shall be enforceable in any court in the State of Florida having jurisdiction of actions upon contracts in like amount, and by such relief, ordinary or extraordinary, at law, or in equity as may be suitable or appropriate in similar causes.

(b) Nothing in this section shall abridge or enlarge the rights of members acquired under contracts executed pursuant to this section.

(Laws of Fla., 1945, ch. 23414, § 12; Laws of Fla., 1947, ch. 24709, § 6; Laws of Fla., 1953, ch. 29286, § 9; election of 11-2-71; election of 9-28-76; election of 11-3-87; election of 11-2-99)

Sec. 73. Restoration of health of participant retired for permanent incapacity.

If a member who has been retired on a pension on account of permanent and total disability regains his health and is found by the Board to be in such physical and mental condition as to meet the requirements of the City's human resources department for service acceptable to the City, the Board shall order his pension discontinued, and he shall be ordered to resume active service in the department from which he was retired at the

same or similar work as that at which he was employed prior to his disability retirement, or at other work within the limits of his physical or mental capabilities at a rate of compensation not less than 70% of the pay at the time of his return to active service for the classification occupied by him prior to his disability retirement. Upon request of the City manager, the Board shall review the condition of any member receiving a pension for disability and shall submit to the City manager a report thereon, and if there shall be substantial evidence that the retired member is capable of performing service acceptable to the City in the department from which such member was retired, he shall be ordered to resume active duties and his pension shall be discontinued.

(Election of 11-2-99)

Sec. 74. Disposition of pension where pensioner convicted of felony.

Upon a member's conviction of a felony and actual incarceration in a penitentiary, any pension being paid to the member under this System shall be paid to his wife or children as herein prescribed for a deceased member under this article, until his official release from incarceration, then the pension will be paid to the pensioned member again.

(Laws of Fla., 1945, ch. 23414, § 15; election of 11-2-99)

Sec. 75. Dismissal from service.

Members entitled to a pension shall not forfeit the pension upon dismissal from the department, but shall be retired as prescribed in this article.

(Laws of Fla., 1945, ch. 23414, § 16; election of 11-2-99)

Sec. 76. Board of trustees.

- (a) The general administration and responsibility for the proper operation of the System is vested in a board consisting of three members of the City administration other than police officers, firefighters or the City manager, to be appointed by the mayor of the City, and three Employees of the fire department and three Employees of the police department, who shall be elected in accordance with subsection (b) of this section.
- (b) The election of the trustees from the Employees of the fire department and the police department shall be held by per capita vote of all active and retired Employees of each of the respective departments who come within the purview of this article. An election to elect the members of the fire department and police department to serve as trustees shall be held every two years.
- (c) If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.
- (d) The trustees shall serve without compensation, but they may be reimbursed from the expense fund for all necessary expenses which they may actually expend through services on the Board.
- (e) Each trustee shall after his appointment or election take an oath of office before the City clerk, that so far as it devolves upon him he will diligently and honestly administer the affairs of the Board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the System. Such oath shall be subscribed to by the member making it and certified by the City clerk and filed in his office.
- (f) Each trustee shall be entitled to only one vote on the Board. Five votes shall be necessary for a decision by the trustees at any meeting of the Board.

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- (g) Any trustee who neglects the duties of his office shall be removed by the Board.
 - (h) Subject to the limitations of this article, the Board may from time to time establish rules and regulations for the administration of the Fund and for transaction of its business, including provisions for compulsory attendance of its members, which shall have the force of law.
 - (i) The Board shall elect from its number a chairman and a secretary. It shall engage such actuarial and other services as shall be required to transact the business of the System. The compensation of all persons engaged by the Board and all expenses of the Board necessary for the operation of the System shall be paid at such rates and in such amounts as the Board shall agree, but in no case shall the expenditures for such services or operations exceed three percent of the maximum of the Fund for each fiscal year. All funds shall be disbursed by the Board.
 - (j) The Board shall designate a medical board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of this article. The medical board shall investigate all essential statements or certificates made by or on behalf of a member in connection with an application for disability or retirement and shall report its conclusions and recommendations in writing to the Board upon all matters referred to it. The payment for such services shall be determined by the Board.

(Election of 11-2-99)

Sec. 77. Duration of retirement pension; contributions upon retirement.

Pensions granted to retired members shall be paid to them for life and shall not be revoked nor in any way diminished except as provided in this System. A member's payments to this fund shall cease upon the earlier of his retirement and acceptance of a pension or his election to participate in the DROP adopted in accordance with section 79.

(Laws of Fla., 1945, ch. 23414, § 20; election of 11-2-99)

Sec. 78. Nonassignability of pension.

No benefits provided by the System shall be assignable or subject to garnishment for debt or to other legal process, and no pension provided by this System shall be subject to any deductions or assessments by the City. No benefits provided by the system shall be altered or modified in any respect due to the fact that any member may be the recipient of any benefits from any other pension or pension plan; provided, however, workers' compensation benefits paid by the City to a retired member shall be credited against any pension payments payable on account of permanent and total disability incurred in the line of duty in the police or fire department, or in the unclassified service as provided in section 66(a)(2).

(Election of 11-2-99)

Sec. 79. Deferred Retirement Option Plan (DROP).

- (a) *Eligibility.* Any active member of the System may enter into the DROP on the first day of any month following the date upon which the member first becomes eligible for a normal service retirement, subject to the provisions of this section 79.
- (b) *Conditions of eligibility.* Upon becoming eligible to participate in the DROP, a member who enters the DROP before September 1, 2012, may elect to enter that program for a period not to exceed 36 months. Notwithstanding, DROP participation for members who enter the DROP before September 1, 2012, may not continue beyond the date when the member's combined years of creditable service and time in the DROP

equals 352 months (387 months for members who were members prior to July 1, 1976). Members who enter the DROP on or after September 1, 2012, shall be eligible to participate for a period not to exceed sixty (60) months. Notwithstanding, for those members who enter the DROP on or after September 1, 2012, participation may not continue beyond the date when the member's combined years of creditable service and time in the DROP equals 456 months. Provided, members who enter the DROP on or before September 30, 2015, may extend their DROP participation period by 12 months, for a total maximum DROP participation period not to exceed seventy-two (72) months; provided further, members who enter the DROP on or after October 1, 2015, but prior to June 8, 2016 for International Association of Firefighters, Local 1510 (IAFF) and July 20, 2016 Fraternal Order of Police, William Nichols Lodge No. 8 (FOP), may extend their DROP participation period by up to 36 months, for a total maximum DROP participation period not to exceed ninety-six (96) months; and provided further, members who enter the DROP on or after June 8, 2016 for International Association of Firefighters, Local 1510 (IAFF) and July 20, 2016 Fraternal Order of Police, William Nichols Lodge No. 8 (FOP) may participate in the DROP for a period not to exceed ninety-six (96) months. Provided also that participation in DROP shall require the member to complete and submit the following prior to start of DROP payments:

1. Such forms as may be required by the Board or Plan Administrator. Election of the DROP is irrevocable once DROP payments begin. Members who are participating in the DROP on June 8, 2016 for International Association of Firefighters, Local 1510 (IAFF) and July 20, 2016 Fraternal Order of Police, William Nichols Lodge No. 8 (FOP) and elect to extend their DROP participation period must complete such forms as are required by the Board no later than September 1, 2019.
 2. A waiver and an irrevocable resignation from employment with the actual date of termination being the date designated by the member as the end of his/her DROP participation. The administration and timing of execution and delivery of the waiver and resignation forms shall meet the requirements of the Age Discrimination in Employment Act and the Older Worker's Benefits Protection Act, as same may be amended from time to time.
- (c) *Conditions of employment for DROP participants.* Members shall be subject to termination of employment while in DROP to the same extent as they were in their pre-DROP status. A member who has elected the DROP remains an employee during the DROP period and receives all the benefits of being an employee during the DROP period, except any form of pension contribution.
- (d) *Effect of DROP participation.*
1. A member's creditable service and his/her accrued benefit under the System shall be determined on the date of his/her election to participate in the DROP first becomes effective.
 2. The member shall not accrue any additional creditable service while he/she is a participant in the DROP, or after termination of participation in the DROP.
 3. A DROP participant is not eligible for disability benefits from the Plan.
 4. A member may participate in the DROP only once.
 5. Effective with the start date of a member's DROP participation, contributions to the Pension Plan by the member and the normal cost contribution to the Pension Plan by the City, on behalf of the member, shall cease.
- (e) *Payments to DROP account.* A DROP account shall be created for each member who elects to participate in the DROP. A DROP account shall consist of amounts transferred to the DROP from the Plan, which include the monthly retirement benefits, including any future cost of living increases, that would have been payable had the member elected to cease employment and receive a normal retirement benefit upon commencing participation in the DROP, and earnings on those amounts. Provided, members who enter the DROP on or after September 1, 2012, and before September 30, 2013, shall receive a zero percent (0%) cost of living adjustment for the third (3rd) and fourth (4th) annual adjustment dates, regardless of whether the member

remains in the DROP for the maximum DROP participation period. Provided further, and notwithstanding any other provision of the System, any member who enters the DROP on or before September 30, 2015, and elects to extend their DROP participation period by up to 12 months shall receive a zero percent (0%) cost of living adjustment for the sixth (6th) annual adjustment date; and if such member thereafter separates from city employment at any time during the sixth year of DROP participation, he/she shall not receive a cost of living adjustment on the sixth annual adjustment date, but shall receive a cost of living adjustment on the seventh annual adjustment date and each annual adjustment date thereafter. Provided further, and notwithstanding any other provision of the System, a member who enters the DROP on or after October 1, 2015, but prior to June 8, 2016 for International Association of Firefighters, Local 1510 (IAFF) and July 20, 2016 Fraternal Order of Police, William Nichols Lodge No. 8 (FOP), and elects to extend their DROP participation period by up to 36 months, shall receive a zero percent (0%) cost of living adjustment for the sixth (6th), seventh (7th) and eighth (8th) annual adjustment dates; and if such member separates from city employment at any time within the sixth, seventh or eighth year of DROP participation, he/she shall not receive a cost of living adjustment on the annual adjustment date next following separation of employment, but shall receive a cost of living adjustment on each annual adjustment date thereafter. Provided further, and notwithstanding any other provision of the System, a member hired before June 8, 2016 for International Association of Firefighters, Local 1510 (IAFF) and July 20, 2016 Fraternal Order of Police, William Nichols Lodge No. 8 (FOP) who enters the DROP on or after June 8, 2016 for International Association of Firefighters, Local 1510 (IAFF) and July 20, 2016 Fraternal Order of Police, William Nichols Lodge No. 8 (FOP) shall receive a zero percent (0%) cost of living adjustment for the sixth (6th), seventh (7th) and eighth (8th) annual adjustment dates; and if such member separates from city employment at any time within the sixth (6th), seventh (7th) or eighth (8th) year of DROP participation, he/she shall not receive a cost of living adjustment on the annual adjustment date next following separation of employment, but shall receive a cost of living adjustment on each annual adjustment date thereafter. Provided further, and notwithstanding any other provision of the System, members hired on or after June 8, 2016 for International Association of Firefighters, Local 1510 (IAFF) and July 20, 2016 Fraternal Order of Police, William Nichols Lodge No. 8 (FOP) who enter the DROP shall receive a zero percent (0%) cost of living adjustment for the first (1st), second (2nd), third (3rd) and fourth (4th) annual adjustment dates; and if such a member separates from city employment at any time within the first (1st), second (2nd), third (3rd) or fourth (4th) year of DROP participation, he/she shall not receive a cost of living adjustment on the annual adjustment date next following separation of employment, but shall receive a cost of living adjustment on each annual adjustment date thereafter.

(f) *DROP account earnings.*

1. Members may direct their DROP account balance to any of the investment options offered and approved by the Board. Any losses incurred by the participant shall not be made up by the City or the Pension Plan. The selection of these programs shall be made by the participant on forms provided by the Board. Any and all interest and/or earnings shall be credited to the participant's DROP account.
2. A member's DROP account shall only be credited or debited with earnings while the member is a participant in the DROP and, depending on the DROP Account Payment Options selected, after the member dies, retires, or terminates employment with the City of Miami Beach.

(g) *Payment of DROP account funds.* Upon termination of a member's employment (for any reason, whether by retirement, resignation, discharge, disability, or death), the retirement benefits payable to the member or to the member's beneficiary shall be paid to the member or beneficiary and shall no longer be paid to the member's DROP account. No payments will be made from the DROP account until the member terminates employment. In the event of the member's death, payment shall be made directly to the member's beneficiary.

(h) *DROP account payment options.* Following the termination of a member's employment, the member shall select one of the following options to begin to receive payment from his/her DROP account. Said selection

shall occur no later than 30 days prior to the end of the DROP participation period or within 30 days following the termination of a member's employment if said termination of employment occurs prior to the end of the DROP participation period:

1. Lump sum: All accrued DROP benefits, plus interest, shall be paid from the DROP in a single lump sum payment.
 2. Partial lump sum: A member designated portion of accrued DROP benefits, plus interest, shall be paid from the DROP in a partial lump sum payment with the remainder being directly rolled over into an eligible retirement plan.
 3. Direct rollover: All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement.
 4. Other method(s) of payment that are in compliance with the Internal Revenue Code and adopted by the Board.
- (i) *Death of DROP participant.* If a DROP participant dies before his/her account balances are paid out in full, the participant member's designated beneficiary shall have the same rights as the member to elect and receive the pay-out options set forth in Paragraph (h), above. DROP payments to a beneficiary shall be in addition to any other retirement benefits payable to the beneficiary.
- (j) *Administration of DROP accounts.*
1. The Board shall make such administrative rules as are necessary for the efficient operation of DROP, but shall neither create any rule that is inconsistent with this section 79, nor any rule that would be a mandatory subject of collective bargaining.
 2. At all times, the DROP will be administered so that the System remains qualified under the Internal Revenue Code and is in compliance with the Internal Revenue Code and applicable laws and regulations.
- (k) *[Retaining of earned balance of accrued leave.]* A member who enters the DROP on or after September 30, 2013, shall retain the earned balance of accrued sick and vacation leave as of date of entry into the DROP, and shall continue to earn sick and vacation leave during the DROP period, in accordance with the collective bargaining agreement between the City and IAFF, and between the City and FOP, as applicable. While in the DROP, the member shall have the one-time option of receiving payment for accrued sick and/or vacation leave, up to the maximum payout upon separation of employment allowed by the applicable collective bargaining agreement; provided, the member shall retain at least one hundred twenty (120) hours of accrued sick leave after such payment. The one-time election to receive payment of leave balances shall be made in any one year of the DROP, by notifying the City no later than August 31 of that year (unless an alternate date as determined by the City and the president of the respective bargaining unit). Employees may request such payment prior to entry into the DROP, but must be in the DROP at the time of payout. Payment will be made on the second pay period of February of the following year. Upon final separation from employment with the City, a member who has participated in the DROP shall be eligible to receive payment for the balance of all accrued sick and vacation leave as of the date of final separation, up to the maximum provided in the collective bargaining agreement, as reduced by the prior payout, if any. In no event shall payments for accrued sick or vacation leave be included in such member's Salary for the purposes of contributions and benefits under the System.
- (l) Compliance with Internal Revenue Code Section 414(k) and 414(i). To the extent required under the Internal Revenue Code, the DROP shall be treated as a defined contribution plan to the extent that the member's benefits under the System are based on the member's DROP account. The amount of "annual additions" (as such term is defined in Section 415(c)(2) of the Internal Revenue Code and Treasury Regulations § 1.415(c)-1(b)) which may be allocated under the DROP to a member's DROP account for a "limitation year" may not exceed the maximum permissible amount under Section 415(c)(l) of the Internal Revenue Code and Treasury

Regulations § 1.415(c)-1(a)(I) (the "Annual Maximum Amount"). In addition, for purposes of determining a member's Annual Maximum Amount, the member's compensation shall be determined in compliance with Treasury Regulations § 1.415(c)-2.

(Election of 11-2-99; Ord. No. 2010-3705, § 4, 11-17-10; Ord. No. 2013-3817, § 6, 9-30-13; Ord. No. 2015-3970, § 5, 10-14-15; Ord. No. 2016-4035, § 4, 9-27-16; Ord. No. 2020-4362, § 3, 10-14-20)

Sec. 80. Assets to be held in trust; rights of members on termination of System.

All assets of the Fund shall be held by the Board in trust for use in providing the benefits of the System and paying its expenses not paid directly by the City; provided that no part of the corpus or income of the Fund shall be used for, or diverted to, purposes other than for the exclusive benefit of members or their beneficiaries under the System, prior to the satisfaction of all liabilities for benefits with respect to them or for the administrative expenses of the System. No person shall have any interest in or right to any part of the earnings of the Fund, or any rights in, or to, any part of the assets thereof, except as and to the extent expressly provided by the System. In case of termination of the System, or in the event of the discontinuance of contributions thereunder having the effect of such termination, the rights of all members of the System to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be nonforfeitable.

(Election of 9-28-76; election of 11-2-99)

Sec. 81. Examination into facts upon which any pension has been granted.

The Board shall have the power to examine into the facts upon which any pensions are granted under this System, and to ascertain if any pension has been granted or obtained erroneously, fraudulently or illegally for any reason. The Board shall also be empowered to purge the pension rolls of any pensions granted under this System, if the same are found to be erroneous, fraudulent or illegal for any reason; and to reclassify any pensioner who, under this System, is erroneously, improperly or illegally classified.

(Laws of Fla., 1945, ch. 23414, § 22; Laws of Fla., 1947, ch. 24714, § 3; election of 11-2-99)

Sec. 82. Military service.

- (a) Any member of the System or any probationary employee in the fire or police department who is absent from the service of the City because of service in the uniformed services of the United States (as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994) who returns to the service of the City having applied to return while his reemployment rights were protected by law, shall be entitled to all retirement rights and privileges under this system if such member, or such probationary employee after he becomes a member, contributes the amount such member or probationary employee would have contributed had he been a member during the period of service in the uniformed services for which credit is being purchased, and creditable toward service retirement as provided in this section. The amount of any such contributions shall be determined based on the member's Salary in effect immediately prior to such period of absence and the terms of the System in effect at that time. The member shall make any such payments to the System during a repayment period equal to the lesser of (i) three times the member's period of absence for service in the uniformed services or (ii) five years. The repayment period shall begin on the later of (i) the date the member is reemployed by the City and (ii) the date the City notifies the member of his rights under this section.
- (b) Effective September 30, 2013, members who have at least 5 years but not more than 10 years of Creditable Service under the System on that date, may contribute an additional amount to the System in order to receive service credit for years of active military service in the U.S. Army, Navy, Air Force, Marines or Coast

Guard occurring prior to their date of employment with the City. A member may purchase up to two years of such service. The price for each such year shall be 10% (10.5% for members hired on or after September 30, 2013) of the aggregate of the member's Salary during the 12 calendar months immediately preceding the date of such purchase; and such price shall be prorated accordingly if a member's election includes a fractional year of service. Any additional benefits attributable to service purchased under this subsection (b) shall be at the benefit multiplier rate of 3% per year of Creditable Service, with a total maximum additional benefit of 6% based on two years of Creditable Service purchased. The purchase of Creditable Service under this subsection (b) for police officer members with 5 or more years of credited service on September 30, 2013 must be completed within 36 months September 30, 2013. The purchase of Creditable Service under this subsection (b) for police officer members with less than 5 years of credited service on September 30, 2013 must be completed within 36 months following the date the member completes 5 years of Creditable Service. The purchase of Creditable Service under this subsection (b) for firefighter members with 5 or more years of credited service on September 30, 2013 must be completed within 24 months following September 30, 2013. The purchase of Creditable Service under this subsection (b) for firefighter members with less than 5 years of credited service on September 30, 2013 must be completed within 24 months following the date the member completes 5 years of Creditable Service. A member who does not complete and fully pay for the purchase of Creditable Service under this subsection (b) within the applicable time period specified herein shall not receive Creditable Service for more than the amount for which payment has been made, and shall not be eligible to purchase Creditable Service for prior military service in the future.

- (c) Effective [effective date of ordinance], members who have at least five (5) years Creditable Service under the System (ten years of Creditable Service for firefighter members hired after May 8, 2019 and police officer members hired after July 31, 2019) may contribute an additional amount to the System in order to receive service credit for up to two years of active military service in the U.S. Army, Navy, Air Force, Marines or Coast Guard occurring prior to their date of employment with the City, at the benefit multiplier rate of 3% per year of Creditable Service: provided in no event shall the total aggregate amount of Creditable Service purchased pursuant to this section 82 and section 65 exceed a combined total of two (2) years or 6% additional multiplier. The price for each year of prior military service purchased shall be 10% (10.5% for members hired on or after September 30, 2013) of the member's pensionable salary during the twelve (12) calendar months immediately preceding the date of such purchase: and such price shall be prorated accordingly if a member's purchase includes a fractional year of service. For the purpose of purchases of Creditable Service under this subsection (c), a member may use the value of accrued sick and/or annual leave valued at the member's hourly rate at the time of purchase, with the cost prorated for fractional years of service. The purchase of Creditable Service under this subsection (c) must be completed within twenty-four (24) months following a member's completion of five years of Creditable Service under the System (ten years of Creditable Service for firefighter members hired after May 8, 2019 and police officer members hired after July 31, 2019). A member who does not complete and fully pay for the purchase of Creditable Service under this subsection (c) within the twenty-four (24) month period shall not receive Creditable Service for more than the amount for which payment has been made, and shall not be eligible to purchase Creditable Service for prior military service in the future. Service credit purchased pursuant to this subsection (c) may be used for purposes of benefit calculation and eligibility for normal retirement: however, in no event may such purchased service credit be used for purposes of vesting.
- (d) Notwithstanding any provision of this plan to the contrary, effective as of December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, as amended, and USERRA, as applicable.

(Laws of Fla., 1945, ch. 23414, § 24; Laws of Fla., 1947, ch. 24709, § 9; Laws of Fla., 1951, ch. 27734, § 4; Laws of Fla., 1953, ch. 29286, § 13; election of 11-2-99; Ord. No. 2013-3817, § 7, 9-30-13; Ord. No. 2015-3970, § 6, 10-14-15; Ord. No. 2016-4035, § 5, 9-27-16; Ord. No. 2020-4362, § 4, 10-14-20)

Sec. 83. Limitations on benefits.

- (a) In addition to the other limitations set forth in this System and notwithstanding any other provision of the System to the contrary, the maximum annual pension payable under the System shall not increase to an amount in excess of the amount permitted under section 415 of the Internal Revenue Code, with such limitation specifically subject to subsections (F), (G) and (I) of section 415(b)(2) of the Internal Revenue Code and sections 415(b)(11), 415(k)(3) and 415(n) of said Code. The limitation year shall be the 12-month period ending each September 30.
- (b) For purposes of applying the limitations of section 415 of the Internal Revenue Code, the term "compensation" shall be determined by reference to the provisions of subsections (1) and (2) of Title 26 of the Code of Federal Regulations, section 1.415-2(d), as modified by subparagraph (10) of that regulation and by section 1434(a) of the Small Business Job Protection Act of 1996.

(Election of 11-7-89; election of 11-2-99; Ord. No. 2015-3790, § 7, 10-14-15)

Sec. 84. Distribution limitation.

Notwithstanding any other provision of this System, all distributions from this System shall conform to section 401(a)(9) of the Internal Revenue Code in general and to section 401(a)(9)(C) of the Internal Revenue Code in particular. Notwithstanding any other provision of this plan to the contrary, a form of retirement income payable from this plan shall satisfy the following conditions:

- (a) If the retirement income is payable before the member's death:
 - (1) For members who attain age 70 and $\frac{1}{2}$ before January 1, 2020, 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 70 $\frac{1}{2}$, or the calendar year in which the member retires;
 - (2) For members who attain age 70 and $\frac{1}{2}$ on or after January 1, 2020, 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 72, or the calendar year in which the member retires:
 - (3) 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 the member's designated beneficiary or (b) shall be paid over the period extending not beyond the life expectancy of the member and the member's designated beneficiary.

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.

- (b) If the member's death occurs before the distribution of his interest in the plan has commenced, the member's entire interest in the plan shall be distributed within five years of the 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 member's designated beneficiary.
 - (2) The remaining interest is to be distributed over the life of the member's designated beneficiary or over a period not extending beyond the life expectancy of the member's designated beneficiary; and

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- (3) Such distribution begins within one year of the member's death unless the member's Surviving 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 70½ (age 72 for members who attain or would have attained age 70½ on or after January 1, 2020) and if the member's Surviving Spouse dies before the distribution to the Surviving Spouse begins, this section shall be applied as if the Surviving Spouse were the member.

(Election of 11-2-99; Ord. No. 2015-3970, § 8, 10-14-15; Ord. No. 2020-4362, § 5, 10-14-20)

Sec. 85. Distribution to retirement plan.

- (a) *Election by distributee.* This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of this article to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (b) *Definitions.* The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
1. *Direct rollover* means a payment by the System to the eligible retirement plan specified by the distributee. Effective as of January 1, 2008, a non-spouse Beneficiary may make a direct rollover only to an "inherited" individual retirement account as described in Section 408(b) of the Internal Revenue Code.
 2. *Distributee* includes an employee or former employee. In addition, the employee's or former employee's Surviving Spouse or domestic partner is a distributee with regard to the interest of the Surviving Spouse or domestic partner. Effective as of January 1, 2008, an Employee's or former Employee's non-spouse Beneficiary is a distributee with regard to the interest of the Employee or former Employee.
 3. *Eligible retirement plan* means an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, an annuity plan described in section 403(a) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan.
 4. *Eligible rollover distribution* means any distribution of all or any portion of the balance to the credit of the distributee; except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includable in gross income.

(Election of 11-2-99; election of 11-6-01; Ord. No. 2015-3970, § 9, 10-14-15)

Sec. 86. Special rules for members employed by the City on or after May 19, 1993.

- (a) For purposes of determining the provisions of the System which apply to a member who was employed by the City prior to May 19, 1993, and is rehired on or after May 19, 1993, if such a member did not receive a distribution of his accumulated contributions upon his termination of employment, he shall be treated as a member employed by the City prior to May 19, 1993; in all other cases, the member shall be deemed a new employee as of his date of reemployment and the provisions of the plan applicable to new members on and after May 19, 1993, shall govern.
- (b) Notwithstanding anything in this article to the contrary, on and after September 30, 2000, all May 1993 Members shall be treated as if they were employed by the City prior to May 19, 1993, for purposes of determining their benefits under the System. May 1993 Members may purchase creditable service for their probationary period during the period beginning on June 30, 2000, and ending on September 30, 2000, if they are still employed by the City at that time. Any such purchase shall be on such terms and conditions as the Board shall, in its sole discretion, determine.

(Election of 11-2-99)

Sec. 87. Benefits for employees hired on or after July 14, 2010 and prior to September 31, 2013.

The pension benefits for employees hired on or after July 14, 2010 and prior to September 31, 2013, shall be as provided in the sections 61 through 86, except as follows:

- (a) The benefit multiplier shall be three percent (3%) for each year of creditable service for the first 20 years of service, and four percent (4%) for each year of creditable service after 20 years of creditable service.
- (b) The normal retirement date shall be as provided in sec. 66, except that a member must complete at least five years of creditable service, and must attain age 48 to be eligible for "Rule of 70" retirement or reach the 85% maximum pension benefit regardless of age.
- (c) Final average monthly salary shall be based on the three (3) highest paid years or last three (3) years as the case may be, prior to retirement or separation from employment.
- (d) The cost of living adjustment shall be one and one-half percent (1.5%) annually.
- (e) A member shall be vested upon completion of five years of creditable service.
- (f) The maximum pension benefit shall be as provided in section 11-66(e).

(Ord. No. 2010-3705, § 5, 11-17-10; Ord. No. 2016-4035, § 6, 9-27-16; Ord. No. 2020-4362, § 6, 10-14-20)

Sec. 88. Benefits for members hired on or after September 30, 2013 and prior to June 8, 2016 for International Association of Firefighters, Local 1510 (IAFF) and July 20, 2016 for Fraternal Order of Police, William Nichols Lodge No. 8 (FOP).

Notwithstanding any other provision of the System, the pension benefits for members hired on or after September 30, 2013 and prior to June 8, 2016 for International Association of Firefighters, Local 1510 (IAFF) and July 20, 2016 for Fraternal Order of Police, William Nichols Lodge No. 8 (FOP) shall be as provided in the sections 61 through 86, except as follows:

(Supp. No. 86)

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- (a) The benefit multiplier shall be three percent (3%) for each year of creditable service for the first 20 years of service, and four percent (4%) for each year of creditable service after 20 years of creditable service.
 - (b) The normal retirement date shall be as provided in sec. 66, except that a member must complete at least five years of creditable service, and must attain age 48 to be eligible for "Rule of 70" retirement or reach the 85% maximum pension benefit regardless of age.
 - (c) Final average monthly salary shall be based on the five (5) highest paid years or last five (5) years as the case may be, prior to retirement or separation from employment.
 - (d) The cost of living adjustment shall be one and one-half percent (1.5%) annually.
 - (e) A member shall be vested upon completion of five years of creditable service.
 - (f) The maximum pension benefit shall be as provided in section 11-66(e).

(Ord. No. 2013-3817, § 8, 9-30-13; Ord. No. 2016-4035, § 7, 9-27-16; Ord. No. 2020-4362, § 7, 10-14-20)

Sec. 89. Benefits for members hired on or after June 8, 2016 and prior to May 8, 2019 for International Association of Firefighters, Local 1510 (IAFF) and hired on or after July 20, 2016 and prior to July 31, 2019 for Fraternal Order of Police, William Nichols Lodge No. 8 (FOP).

Notwithstanding any other provision of the System, the pension benefits for members hired on or after June 8, 2016 and prior to May 8, 2019 for International Association of Firefighters, Local 1510 (IAFF) and hired on or after July 20, 2016 and prior to July 31, 2019 for Fraternal Order of Police, William Nichols Lodge No. 8 (FOP) shall be as provided in sections 61 through 86, except as follows:

- (a) The benefit multiplier shall be three percent (3%) for each year of creditable service for the first 20 years of service, and four percent (4%) for each year of creditable service after 20 years of creditable service.
- (b) The normal retirement date shall be upon attainment of age 52 with five or more years of creditable service, or when the sum of a member's age plus years of creditable service equal 70 or more, provided the member has attained age 48 or reach the 85% maximum pension benefit regardless of age.
- (c) Final average monthly salary shall be based on the five (5) highest paid years prior to retirement or separation from employment.
- (d) The cost of living adjustment shall be one and one-half percent (1.5%) annually.
- (e) The maximum pension benefit shall be as provided in section 11-66(e).
- (f) A member shall be vested upon completion of five years of creditable service.
- (g) The member contribution shall be ten and one-half percent (10.5%) of Salary.

(Ord. No. 2016-4035, § 8, 9-27-16; Ord. No. 2020-4362, § 8, 10-14-20)

Sec. 90. Benefits for members hired on or after May 8, 2019 for International Association of Firefighters, Local 1510 (IAFF) and on or after July 31, 2019 for Fraternal Order of Police, William Nichols Lodge No. 8 (FOP).

Notwithstanding any other provision of the System, the pension benefits for members hired on or after May 8, 2019 for International Association of Firefighters, Local 1510 (IAFF), and on or after July 31, 2019 for Fraternal Order of Police, William Nichols Lodge No. 8 (FOP), shall be as provided in section 89, except that such members shall be vested upon completion of ten years of creditable service and shall not be credited with any service under this System for service as a member of the Miami Beach Employees' Retirement Plan.

(Ord. No. 2020-4362, § 9, 10-14-20)

**CHARTER COMPARATIVE TABLE
ORDINANCES/RESOLUTIONS/REFERENDUM**

This table shows the location of the sections of the basic Charter and any amendments thereto.

Ordinance/ Resolution Number	Adopted Date	Election Date	Section	Section this Charter
96-22083	7-17-96(Res.)	11- 6-96	8	2.02
97-22413	6- 4-97	6- 3-97	Added	1.03(c)
98-22763	6- 3-98(Res.)			1.03(c)
2001-24539	7-18-01(Res.)	11- 6-01		1.03(c)
2003-25288	7-30-03(Res.)	11- 4-03		Citizen's Bill of Rights § (A)16
2003-25289	7-30-03(Res.)	11- 4-03		2.01
2003-25290	7-30-03(Res.)	11- 4-03		6.03
2003-25291	7-30-03(Res.)	11- 4-03		2.03
2003-25391	7-30-03(Res.)	11- 4-03		Citizen's Bill of Rights, § (A)16
				2.01, 6.03
2003-25441	12-10-03(Res.)	3- 9-04		1.03(c)
2003-25442	12-10-03(Res.)	3- 9-04		5.02
2003-25443	12-10-03(Res.)	3- 9-04		Citizen's Bill of Rights, § (A)15
2003-25444	12-10-03(Res.)	3- 9-04		4.02(i)
2004-25464	1-14-04(Res.)	3- 9-04		1.03(b)
2006-26236	7-12-06(Res.)	11- 7-06		1.03(b)(3)
			Added	1.03(d)
2007-26598	7-11-07(Res.)	11- 6-07	Added	1.05
2007-26696	10-17-07(Res.)	1-29-08	Added	8.09
2009-27134	7-15-09(Res.)	11- 3-09	Added	1.03(e)
2009-27152	7-22-09(Res.)	11- 3-09	Added	Citizen's Bill of Rights, § (A)18
2009-27153	7-22-09(Res.)	11- 3-09		1.03(b)(3)

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CHARTER COMPARATIVE TABLE ORDINANCES/RESOLUTIONS/REFERENDUM

2009-27246	11- 4-09(Res.)			Citizen's Bill of Rights, § (A)18 1.03
2012-27902		8-14-12		5.03
2012-27903		8-14-12		2.04
2012-27962	7-18-12(Res.)	11- 6-12		2.03, 4.02
			Added	4.03, 4.04
2012-27963	7-18-12(Res.)	11- 6-12	Added	1.06
2012-27964	7-18-12(Res.)	11- 6-12		6.03
2013-28287	7-17-13(Res.)	11- 5-13	Added	1.07
2013-28297	7-19-13(Res.)	11- 5-13		1.03(b)2.
			Added	1.03(b)3.
			Rnbd	1.03(b)3., 4.
			as	1.03(b)4., 5.
2013-28299	7-19-13(Res.)	11- 5-13	Added	Citizen's Bill of Rights, § (A)17
2013-28302	7-19-13(Res.)	11- 5-13	Added	Citizen's Bill of Rights, § (A)20
2013-28303	7-19-13(Res.)	11- 5-13	Added	Citizen's Bill of Rights, § (A)19
2014-28603	5-21-14(Res.)	8-26-14		2.02
2014-28604	5-21-14(Res.)	8-26-14		2.04
2014-28605	5-21-14(Res.)	8-26-14		6.04
2014-28685	7-23-14(Res.)	11- 4-14	Added	5.04
2014-28709	7-30-14(Res.)	11- 4-14	3(Exh. A)	1.03(b)1.
			Added	1.03(f)
2015-29197	11- 9-15(Res.)	11- 3-15		1.03(b)(4)
2018-30437	7-25-18(Res.)	11- 6-18		2.03
			Added	9.01
2019-30901	7-17-19(Res.)	11- 5-19		2.07
2022-31266	5- 4-22(Res.)	8-23-22		6.03
2022-31267	5- 4-22(Res.)	8-23-22		1.03(c)

RELATED SPECIAL ACTS COMPARATIVE TABLE ACTS

This table shows the location in Subpart B, Related Laws of the Laws of Florida included as related laws.

Laws of Fla. Year	Chapter	Section	Section this Related Laws
1923	9837	6, 7	1, 2
1937	18691	1	29
		2—6	31—35
	18696	1—18	9—26
1941	21401	1, 2	7, 8

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1943	22399	1	27
		3	28
1945	23414	1—7	61—67
		7½	68
		8	69
		8½	70
		9	72
		9½	73
		9¾	74
		10—20	75—85
		22—24	88—90
		26	92
		28	91
1947	24709	2	66
		4	72
		5	75
		6	77
		8	84
		9	90
	24714	2	82
		3	88
1949	26024	1—13	36—48
	26027	1—4	3—6
	26028	1	18
	26034	1	62
		2, 3	67, 68
		4	70
		5	73
		7	89
		66	83
	26035	1	29
1951	27730	1	27
		3	28
	27732	1	29
	27734	1	62
		2	83
		3, 4	89, 90
	27735	1—8	10—17
1953	29286	1	42 62
		2	63
		4—6	68—70
		7—9	75—77
		10, 11	83, 84
		12, 13	89, 90

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	29288	2	43
1955	30984	1	29
	30985	1—12	49—60
	30987	1	12
	30988	1	33

**RELATED SPECIAL ACTS COMPARATIVE TABLE
ORDINANCES/REFERENDUM**

This table shows the location of the ordinances amending the Related Laws in Subpart B.

Ordinance Number	Adopted Date	Election Date	Section	Section this Related Laws
		6- 2-59		64
				66
				74
				89
		5-29-62		2
		6- 1-65		31
		5-24-66		31
				40
				42
				62
				66—68
				74
		11- 8-66		10
				13
		6- 6-67		29
				31
				62
				66
				68
				70
				73
				89
		11- 5-68		2
				29
				62
				68
				71
				74
				83
		11-18-69		10
				17, 18

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				23
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				66
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		4-23-70		2
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		11- 2-71		39, 40
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		11- 7-72		17
		9-28-76		62
				68
				71
				74
				77
				86
		3- 8-77		2
		11- 1-77		1, 2
		11- 3-81		62
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		11- 2-82		42—44
				55
				58, 59
82-2309			3	27
		11- 1-83		3—6
85-2496			2	27
86-2527			1	30
		11- 3-87		62
				68
				73, 74
				77
		11- 7-89		28—35
				62, 63
				89
				93
		11- 6-90		10
93-2868	9-22-93		1	9—26
97-3086	7- 2-97		4	12
		11- 2-99		art. IX

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2001-3337	12-19-01	11- 6-01	1	62
			2 Added	65(d)
			3 Added	66(j)
			4, 5	68, 69
			6	70(a)
			7	85(b)
2001-24546	7-25-01	11- 6-01		27
2003-25274(Res.)	7-30-03	11- 4-03		40, 53
2003-25315(Res.)	9- 4-03	11- 4-03	Added	66.1
2003-25391(Res.)	7-30-03	11- 4-03		2
2003-25445(Res.)	12-10-03	3- 9-04	Rpld	3—8
2006-26277(Res.)	9- 6-06	11- 7-06		2
2006-26278(Res.)	9- 6-06	11- 7-06		2
2012-3705	11-17-10		1—4	65, 66, 67(g), 79
			5 Added	87
2013-3817	9-30-13		1, 2	62, 63
			3, 4	65, 66
			5	67
			6	69
			7	82
			8 Added	88
2014-3848	3- 5-14		1	62
			2	63
			3	65
			4	66(a)(4), (d)
2014-28606(Res.)	5-21-14	8-26-14		2
2015-3945	6-10-15		1—5	36—40
			6 Rpld	41
			7—12	42—47
2015-3970	10-14-15		1—4	62, 63(b), 66.1(e), 70(a)
			5 Added	79(l)
			6 Added	82(c)
			7	83(a)
			8	84
			9	85(b)
2016-4035	9-27-16		1	62
			2	65
			3	66(d)(1), (2)
			4	79(b), (e), (g), (k)
			5	82(b)
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			8 Added	89
2018-4193	5-16-18		1	36
			2	37(m), (n)

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RELATED SPECIAL ACTS COMPARATIVE TABLE ORDINANCES/REFERENDUM

			Added	37(t)
			Rltd	37(t)–(w)
			as	37(u)–(x)
			Added	37(y)
			Rpld	37(x)
			as	37(z)
			7	42
			8	43(k)(i), (m)(i)–(iii)
2018-4199	6- 6-18		1–12	49–60
			13(60) Added	60.1
2018-30352(Res.)	6- 6-18	8-28-18		2
2020-4362	10-14-20		1	65
			2	65(a)
			3	79(b)(1)
			4	82
			5	84
			6	87(b)
			7	88
			8	89
			9 Added	90
2022-32165(Res.)	5- 4-22	8-23-22		2