

ORDINANCE NO. 2024 - \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING PART 1, SUBPART B, ARTICLE IX, RELATED SPECIAL ACTS, OF THE MIAMI BEACH CITY CODE ENTITLED "PENSION SYSTEM FOR DISABILITY AND RETIREMENT OF MEMBERS OF POLICE AND FIRE DEPARTMENTS," BY AMENDING SECTION 62, "DEFINITIONS," RELATING TO ACTUARIAL ASSUMPTION RATES; AMENDING SECTION 66, "SERVICE AND DISABILITY BENEFITS GENERALLY;" RELATED TO IMPLEMENTING THE CONCLUSIVE FIREFIGHTER CANCER PRESUMPTION ESTABLISHED BY SECTION 112.1816, FLA. STATUTES; AMENDING SECTION 84, "DISTRIBUTION LIMITATION," PROVIDING FOR INCLUSION OF THE FEDERAL SECURE ACT 2.0 PROVISIONS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

**WHEREAS**, on March 16, 2023, the Fire and Police Pension Board voted to change the plan's definition of actuarial equivalence by adopting the recommended long-term interest rate; and

**WHEREAS**, on March 15, 2023, the Fire and Police Pension Board of Trustees received a letter from the Florida Division of Retirement requiring a modified ordinance to include the conclusive firefighter cancer presumption established by Section 112.1816, Florida Statutes; and

**WHEREAS**, on December 29, 2022, President Biden signed into law the Consolidated Appropriations Act of 2023, which contains tax-related retirement legislation, commonly known as the SECURE 2.0 Act of 2022. This Act further increased the required minimum distribution age to 73.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:**

**SECTION 1.**

That Article IX, Related Special Acts of the Miami Beach City Code, is amended to read:

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

\* \* \*

**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;
- (c) 7.50% effective for plan years beginning on or after October 1, 2020;
- (d) 7.20% effective for plan years beginning on or after October 1, 2023.

\* \* \*

**Sec. 66. – Service and disability benefits generally.**

\* \* \*

(j) Nonrebuttable conclusive cancer presumption: The provisions of Section 112.1816, Fla. Statutes, are hereby codified within the Plan and are intended to be incorporated by reference. The Board of Trustees shall adopt uniform administrative rules for the conduct of disability hearings relating to this presumption and for the determination of any disqualifying events as reflected in the statute.

\* \* \*

**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 73 70 and ½ on or after January 1, 2020 2023, provided the member had not attained age 72 by December 31, 2022, 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 73 70½, or the calendar year in which the member retires; The Plan will make all future required minimum distributions in compliance with the prevailing age restrictions and additional parameters set out in the Internal Revenue Code as amended from time to time;
  - (2) ~~For members who attain age 70 and ½ 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:~~

(2) 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

(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 73 ~~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. The Plan will make all future required minimum distributions in compliance with the prevailing age restrictions and additional parameters set out in the Internal Revenue Code as amended from time to time.

(4) Qualification of system. It is intended that the system will constitute a qualified public pension plan under the applicable provisions of the code for a qualified plan under code section 401(a) and a governmental plan under code section 414(d), as now in effect or hereafter amended. Any modification or amendment of the system may be made retroactively, if necessary or appropriate, to qualify or maintain the system as a plan meeting the requirements of the applicable provisions of the code as now in effect or hereafter amended, or any other applicable provisions of the U.S. Federal Tax Laws, as now in effect or hereafter amended or adopted, and the regulations issued thereunder. In recognition of the changing requirements of system qualification, the Board shall adopt an administrative policy setting forth the required provisions for tax qualification. Such a policy shall be amended by the Board as required to maintain continuing compliance with the Internal Revenue Code and that policy and any amendments shall have the force of law as if adopted by the City Commission.

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

**SECTION 3. CODIFICATION.**

It is the intention of the City Commission, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, as amended; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 4. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Steven Meiner, Mayor

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

Underline denotes additions  
~~Strike through~~ denotes deletions

(Sponsored by Mayor Steven Meiner)

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

3/28/24  
\_\_\_\_\_  
Date