

ORDINANCE NO. _____

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA (“VILLAGE”), AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 23 “RETIREMENT,” SECTION 23-31 “DEFINITIONS,” SECTION 23-32 “MEMBERSHIP,” SECTION 23-39 “VESTING” AND SECTION 23-47 “COMMENCEMENT OF BENEFITS” TO ALLOW THE POLICE AND FIRE CHIEFS TO OPT OUT OF THE POLICE AND FIRE PENSION PLAN AND TO PROVIDE FOR IN-SERVICE DISTRIBUTIONS OF BENEFITS TO MANAGERIAL MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the “Village”) has a Police Officers and Firefighters Retirement Plan (the “Retirement Plan”) for sworn law enforcement personnel and firefighters employed in the Village’s Police and Fire Departments; and

WHEREAS, the Village wishes to amend the Retirement Plan to allow the police chief and fire chief to opt out of the Retirement Plan, and to authorize the police chief or fire chief, or a former police or fire chief who is employed in a managerial position not covered by the Plan, to receive in-service distributions from the Plan while employed by the Village in a managerial position.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:¹

Section 1. Recitals. The foregoing whereas clauses are true and correct and are incorporated herein by this reference.

¹ Words in ~~strikeout~~ type are deletions from existing text and words in underline type are additions.

Section 2. Village Code Amended. Article II “Police Officers and Firefighters Retirement Plan” of Chapter 23 “Retirement” of the Village of Key Biscayne Code of Ordinances is hereby amended by amending Section 23-31 “Definitions” to read as follows:

Sec. 23-31. - Definitions.

* * *

Managerial position means a job that satisfies the criteria detailed in F.S. § 447.203(4).

* * *

Section 3. Village Code Amended. Article II “Police Officers and Firefighters Retirement Plan” of Chapter 23 “Retirement” of the Village of Key Biscayne Code of Ordinances is hereby amended by amending Section 23-32 “Membership” to read as follows:

Sec. 23-32 – Membership.

* * *

- (2) Each Police Officer and Firefighter hired after October 1, 1997 shall become a Member of this System as a condition of employment on his date of full-time employment. Notwithstanding any provision in this Plan to the contrary, the Village’s police chief and fire chief shall have a one-time, irrevocable option to participate or not participate as a Member of this System, which may be exercised at any time after [the effective date of this ordinance].

* *

Section 3. Village Code Amended. Article II “Police Officers and Firefighters Retirement Plan” of Chapter 23 “Retirement” of the Village of Key Biscayne Code of Ordinances is hereby amended by amending Section 23-39 “Vesting” to read as follows:

Sec. 23-39. - Vesting.

* * *

(3) Any vested Member of the System whose position is terminated, for whatever reason, but who remains employed by the Village in some other capacity, shall have all retirement benefits accrued up to the date of such termination under this System preserved, provided he does not elect to withdraw his Accumulated Contributions from this System. Such accrued retirement benefits shall be payable at his otherwise early (reduced as for early retirement) or normal retirement date hereunder, or later, in accordance with the provisions of this System; provided further, however, that benefits shall not be payable under this System during any period of continued employment by the Village, except as otherwise provided in Section 23-47(c).

* * *

Section 4. Village Code Amended. Article II “Police Officers and Firefighters Retirement Plan” of Chapter 23 “Retirement” of the Village of Key Biscayne Code of Ordinances is hereby amended by amending Section 23-47 “Commencement of benefits” to read as follows:

Sec. 23-47. - Commencement of benefits.

* * *

(c) Notwithstanding any provision in this Plan to the contrary, a police chief or fire chief who is eligible for an unreduced normal retirement benefit, separated from employment and has opted not to participate as a member of this System, or a former police or fire chief who has separated from employment and is employed by the Village in a managerial position not covered by this Plan, may, subject to agreement with the Village, receive an in-service distribution, provided any such distribution complies with the applicable requirements of the Internal Revenue Code, Treasury Regulations and guidance issued by the Internal Revenue Service with respect to in-service distributions. For the purpose of this paragraph, “separated from employment” means separation from Village employment for one day or more.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,

sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Conflicts. All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 7. Inclusion In The Code. It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Key Biscayne, Florida; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 8. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this _____ day of _____, 2018.

PASSED AND ADOPTED on second reading this _____ day of _____, 2018.

MAYOR MAYRA PENA LINDSAY

ATTEST:

JENNIFER MEDINA, CMC
VILLAGE CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

VILLAGE ATTORNEY