

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING SECTION 33.037 OF THE CODE OF ORDINANCES REGARDING THE BOARD OF TRUSTEES OF THE FIREFIGHTERS PENSION PLAN; ALLOWING THE CHIEF OF THE FIRE DEPARTMENT TO DESIGNATE A FIREFIGHTER TO SERVE IN HIS/HER PLACE AS A MEMBER OF THE BOARD.

WHEREAS, Section 33.037 of the Code of Ordinances establishes the makeup of the Board of Trustees (the "Board") of the Firefighters' Pension System; and

WHEREAS, currently one of the members of the Board is the Fire Chief; and

WHEREAS, while the Fire Chief's membership on the Board does not raise issues regarding prohibited conflicts of interest and voting conflicts of interest, it does create situations in which he or she is uncomfortable voting on matters that will directly affect his/her pension benefits and the pension benefits of the firefighters in the Department of Fire-Rescue and Beach Safety; and

WHEREAS, Florida Statute Section 175.061 prohibits fire pension plans that participate in Chapter 175 funds from reducing the membership percentage of firefighters on the Board of Trustees; and

WHEREAS, it is the opinion of the state agency that regulates Chapter 175 that replacing the Fire Chief with a member who is not a firefighter would violate Section 175.061; and

WHEREAS, City staff recommends the amendment of Section 33.037 to allow the Fire Chief to designate a firefighter to serve in his/her place on the Board; and

WHEREAS, Section 33.075 of the Code of Ordinances requires, as one of the two alternative procedures to amend the firefighters pension plan, the approval of a "majority plus one" vote of the City Commission and 50% plus one of the voting members of the plan; and

(Coding: Words and figures underscored are additions to existing law.)

WHEREAS, prior to the adoption of this ordinance on second reading, 50% plus one of the voting members of the firefighters pension plan approved the amendments contained in this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That Section 33.037 of the Code of Ordinances is hereby amended to read as follows:

TITLE III: ADMINISTRATION

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CHAPTER 33: CITY EMPLOYEES

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FIREFIGHTER'S PENSION AND RETIREMENT

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§ 33.037 BOARD OF TRUSTEES.

(A) The sole and exclusive administration of and responsibility for the proper operation of the system and for making effective the provisions of this subchapter is hereby vested in a Board of Trustees. The Board is hereby designated as the plan administrator. The Board shall consist of five Trustees, one of whom shall be the Chief of the Fire Department or his or her designee, one of whom, unless otherwise prohibited by law, shall be appointed by the Hollywood City Commission, and three of whom shall be regularly employed Firefighters, who shall be elected by a majority of the regularly employed Firefighters. If the Chief of the Fire Department chooses to designate a Board member instead of serving himself or herself, such member shall be a regularly employed Firefighter. The City Commission appointed Trustee shall serve as Trustee for a period of two years, unless he or she sooner vacates the office or is sooner replaced by the Hollywood City Commission at whose pleasure he or she shall serve. The Chief of the Fire Department shall serve as long as he or she shall continue to hold office as Chief and upon a vacancy in the office of Chief, his or her respective successor shall succeed to the position of Trustee. Each member Trustee shall serve as Trustee for a period of three years, unless he or she sooner leaves the employment of the city as a Firefighter or otherwise vacates his or her office as Trustee, whereupon a successor shall be chosen in the same manner as the departing Trustee. Each Trustee may succeed himself in office. The Board shall establish and administer the nominating and election procedures for each election. The Board shall meet at least quarterly each year. The Board shall be a legal

entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

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Section 2: That it is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the provisions of this ordinance may be renumbered to accomplish such intention.

Section 3: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 4: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5: That this ordinance shall be in full force and effect immediately upon its passage and adoption.

ADVERTISED on _____, 2017.

PASSED on first reading this _____ day of _____, 2017.

PASSED AND ADOPTED on second reading this _____ day of _____, 2017.

ATTEST:

JOSH LEVY, MAYOR

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida only:

ALAN FALLIK, ACTING CITY ATTORNEY