

ORDINANCE NO. 24-22

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING CHAPTER 33 "POLICE AND FIRE-RESCUE DEPARTMENTS", TO IMPLEMENT PROVISIONS OF THE 2021-2024 COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY AND PALM BEACH COUNTY POLICE BEVOLENT ASSOCIATION; AMENDING THE POLICE OFFICERS' RETIREMENT SYSTEM BY AMENDING SECTION 33.62, "BENEFIT AMOUNTS AND ELIGIBILITY"; AMENDING SECTION 33.64, "CONTRIBUTIONS"; AMENDING SECTION 33.685, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Delray Beach recently negotiated collective bargaining agreements with the Palm Beach County Police Benevolent Association ("PBA") for the Police Officers and Sergeants bargaining unit and the Lieutenants bargaining unit, for the period October 1, 2021 through September 30, 2024; and

WHEREAS, the collective bargaining agreements contain certain modifications to the City of Delray Beach Police Officers' Retirement System; and

WHEREAS, to implement the modifications to the Police Officers' Retirement System, it is necessary to adopt an ordinance amending the City's Code of Ordinances.

IT IS HEREBY ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That Section 33.62 of the City Code of Ordinances is hereby amended to read as follows:

Sec. 33.62. - BENEFIT AMOUNTS AND ELIGIBILITY.

(A) *Normal Retirement Date.* This term shall have the following meanings:

- (1) For employees who are eligible to become members of the system as of its effective date, the normal retirement date shall be the date of their fifty-second (52nd) birthday, regardless of the number of years of continuous service.
- (2) For employees who are members of the system and terminate employment prior to October 1, 1989, the normal retirement date shall be the first day of the month coincidental with or subsequent to their fifty-second (52nd) birthday and the completion of twenty (20) years of continuous service.

- (3) For employees who are members of the system and elect to retire or terminate employment on or subsequent to October 1, 1989, the normal retirement date shall be the first day of the month coincident with or subsequent to completion of twenty (20) years of continuous service.
- (4) For employees who are members of the system and retire or terminate employment on or after December 31, 1999, the normal retirement date shall also be the first day of the month coincident with or subsequent to age fifty-five (55) and the completion of ten (10) years of continuous service.
- (5) For members hired after July 7, 2015, the normal retirement date shall be the first day of the month coincident with or subsequent to age fifty-five (55) and the completion of ten (10) years of continuous service, or completion of twenty-five (25) years of continuous service, regardless of age.

(B) *Normal Retirement Benefit.*

- (1) *Duration, Survivor Benefits.* A member retiring on his normal retirement date shall receive a monthly benefit which shall commence on his normal retirement date and be continued thereafter during his lifetime. Upon his death the full retirement benefit shall be continued to his spouse for one year and sixty (60) percent of that amount continued thereafter until the earlier of death or remarriage.
- (2) *Amount.* Normal retirement benefits shall be in the amount of two and one-half (2½) percent of average monthly earnings for each year of continuous service for employees with more than ten (10) but less than twenty (20) years of continuous service. Normal retirement benefits shall be in the amount of three (3) percent of average monthly earnings for each year of continuous service if a member has attained twenty (20) or more years of continuous service, subject to a maximum of seventy-five (75) percent of average monthly earnings. Provided, however, that in no event shall a member's total benefit be less than two (2) percent of average monthly earnings for each year of continuous service.
- (3) *Optional Enhanced Multiplier.*
 - (a) Notwithstanding any provision of subsection (B)(2) to the contrary, a member who is actively employed by the City on March 15, 2004, but who is not participating in the deferred retirement option plan (DROP), may elect a normal retirement benefit in the amount of three and one-half (3.5) percent of average monthly earnings for each year of continuous service if the member attains twenty (20) or more years of continuous service, subject to a maximum of eighty-seven and one-half (87.5) percent of average monthly earnings. Members electing this enhanced multiplier shall thereafter contribute three (3) percent of earnings to the Trust Fund in addition to the member contribution specified in Section 33.64(A), until July 7, 2015; and shall receive the enhanced multiplier for all

periods of continuous service before that date. An election under this subparagraph must be on or before April 15, 2004.

- (b) Notwithstanding any provision of subsection (B)(2) to the contrary, a member who is actively employed by the City on March 15, 2004, but does not elect the enhanced multiplier in accordance with subparagraph (a), above, and who is not participating in the deferred retirement option plan (DROP), may thereafter elect a normal retirement benefit in the amount of three and one-half (3.5) percent of average monthly earnings for all future continuous service after making such election if the member attains twenty (20) or more years of continuous service, subject to a maximum of eighty-seven and one-half (87.5) percent of average monthly earnings. Members electing this enhanced multiplier shall thereafter contribute three (3) percent of earnings to the Trust Fund in addition to the member contribution specified in Section 33.64(A), until July 7, 2015. Such member may also elect to purchase the enhanced multiplier for some or all periods of continuous service prior to the date of the election, by paying the full actuarial cost of the enhanced multiplier, plus the full cost of any actuarial or other professional services required.
- (c) Notwithstanding any provision of subsection (B)(2) to the contrary, a member who is hired after March 15, 2004 and before April 9, 2013, and who is not participating in the deferred retirement option plan (DROP) may elect a normal retirement benefit in the amount of three and one-half (3.5) percent of average monthly earnings for future continuous service after making such election if the member attains twenty (20) or more years of continuous service, subject to a maximum of eighty-seven and one-half (87.5) percent of average monthly earnings. Members electing this enhanced multiplier shall thereafter contribute three (3) percent of earnings to the Trust Fund in addition to the member contribution specified in Section 33.64(A), through July 7, 2015. Such member may also elect to purchase the enhanced multiplier for some or all periods of continuous service prior to the date of the election, by paying the full actuarial cost of the enhanced multiplier, plus the full cost of any actuarial or other professional services required. Members hired on or after April 9, 2013 shall not be eligible for the optional enhanced multiplier.
- (d) If an eligible member elects the enhanced multiplier and attains more than ten (10) but less than twenty (20) years of continuous service, the member's benefit shall be determined in accordance with subsection (B)(2), and the member shall receive a refund of all additional contributions and amounts paid for the enhanced multiplier, without interest. In no event shall a member's total benefit be less than two (2) percent of average monthly earnings for each year of continuous service.

- (4) Normal Retirement Benefit Effective July 7, 2015.
- (a) Notwithstanding any other provision of this Section 33.62, the normal retirement benefit for members employed on July 7, 2015, and members hired after July 7, 2015 shall be determined in accordance with this paragraph (4).
 - (b) The normal retirement benefit for members with twenty (20) or more years of continuous service on July 7, 2015 shall be determined in accordance with paragraphs (2) and (3) above.
 - (c) The normal retirement benefit for members who are employed and have less than twenty (20) years of continuous service on July 7, 2015 shall be determined in accordance with paragraphs (2) and (3) above for continuous service through July 7, 2015, and three (3) percent of average monthly earnings for continuous service after July 7, 2015, subject to a maximum annual starting benefit of one hundred eight thousand dollars (\$108,000.00); provided, in no event shall a member's total benefit be less than two (2) percent of average monthly earnings for each year of continuous service.
 - (d) The normal retirement benefit for members hired after July 7, 2015 shall be two and three-fourths (2.75) percent of average monthly earnings for each year of continuous service before October 25, 2022 and three (3) percent of average monthly earnings for each year of continuous service on and after October 25, 2022 subject to a maximum annual starting benefit of one hundred eight thousand dollars (\$108,000.00) and further subject to a maximum benefit of ~~sixty-eight and three-fourths (68.75)~~ seventy-five (75) percent of average monthly earnings; provided, in no event shall a member's total benefit be less than two (2) percent of average monthly earnings for each year of continuous service.
 - (e) The normal retirement benefit for members hired on or after October 25, 2022 shall be three (3) percent of average monthly earnings for each year of continuous service, subject to a maximum annual starting benefit of one hundred eight thousand dollars (\$108,000.00) and further subject to a maximum benefit of seventy-five (75) percent of average monthly earnings; provided, in no event shall a member's total benefit be less than two (2) percent of average monthly earnings for each year of continuous service.
- (5) Upon becoming eligible for normal retirement, a member shall be one hundred (100) percent vested in his accrued benefit.

(C) – (K) (These subsections shall remain in full force and effect as adopted).

Section 2. That Section 33.64 of the City Code of Ordinances is hereby amended to read as follows:

Sec. 33.64. CONTRIBUTIONS.

(A) *Member Contributions.*

(1) Members shall make regular contributions to the Trust Fund at a rate equal to nine (9) percent of their respective annual earnings. Notwithstanding the preceding sentence, effective October 25, 2022, members hired after July 7, 2015 shall make regular contributions to the Trust Fund at a rate equal to ten (10) percent of their respective annual earnings. Eligible employees, as a condition of membership, shall agree in writing upon becoming a member to make the contribution specified herein. These contributions shall be deducted from the earnings before the same are paid, until the member has earned the maximum normal retirement benefit payable under the System.

(2) The City shall pick up the member contribution required by subsection (A)(1), above. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The City shall pick up the member contributions from funds established and available in the salaries account, which funds would have otherwise been designated as member contributions and paid to the pension fund. Member contributions picked up by the City pursuant to this subdivision shall be treated for purposes of making a refund of member contributions, and for all other purposes of this and other laws, in the same manner and to the same extent as member contributions made prior to the effective date of this subdivision. The intent of this subdivision is to comply with Section 414(h)(2) of 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.

(B) *State Contributions.* Any moneys received or receivable by reason of laws of the State, for the express purpose of funding and paying for retirement benefits for Police Officers of the City shall be deposited in the Trust Fund comprising part of this system. By mutual agreement of the City and police officers' union, all annual premium tax moneys received pursuant to F.S. ch. 185, up to the amount received during the 2013 calendar year six hundred six thousand five hundred ninety-five dollars (\$606,595.00) shall be used to offset the cost of current benefits by reducing the City's annual required contribution to the system. The City and police officers' union have further mutually agreed that all accumulated excess premium tax monies held in reserve on September 8, 2016, and any annual premium tax money in excess of \$606,595.00 will be used to pay down the unfunded liability attributable to police officers.

(C) – (F) (These subsections shall remain in full force and effect as adopted).

Section 3. That Section 33.685 of the City Code of Ordinances is hereby amended to read as follows:

Sec. 33.685. DEFERRED RETIREMENT OPTION PLAN.

(A) ~~Effective January 1, 1994, any~~ Any employee with at least twenty (20) but not more than thirty (30) years of continuous service as a member of the system who has reached the normal retirement date may elect to participate in the Deferred Retirement Option Plan in accordance with this Section. Employees hired after July 7, 2015 shall remain eligible for the Deferred Retirement Option Plan under the same terms as applicable to other employees.

(B) – (K) (These subsections shall remain in full force and effect as adopted).

Section 4. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.


Section 5. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 6. Specific authority is hereby given to codify this Ordinance.

Section 7. This Ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the 15th day of October, 2022.

ATTEST:


Katerri Johnson, City Clerk


Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:


Lynn Gehl, City Attorney

First Reading 7/19/2022

Second Reading 10/25/2022