

ORDINANCE NO. _____

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 34, "CITY POLICY," OF THE POMPANO BEACH CODE OF ORDINANCES; BY AMENDING THE GENERAL EMPLOYEES' RETIREMENT SYSTEM TO IMPLEMENT RECENT CHANGES IN THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE FEDERATION OF PUBLIC EMPLOYEES AND THE CITY OF POMPANO BEACH FOR THE PERIOD BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021; AMENDING SECTION 34.010, "DEFINITIONS;" AMENDING SECTION 34.020, "NORMAL RETIREMENT BENEFIT;" AMENDING SECTION 34.025, "CONTRIBUTIONS;" AMENDING SECTION 34.0263, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 34.038, "PENSION ADJUSTMENTS;" PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Pompano Beach has established a retirement plan for its general employees, known as the General Employees' Retirement System and codified in Sections 34.010 through 34.040 of the City Code of Ordinances; and

WHEREAS, the Federation of Public Employees and the City of Pompano Beach, Florida have entered into a Collective Bargaining Agreement for the period of October 1, 2020 to September 30, 2021; and

WHEREAS, the Collective Bargaining Agreement includes changes to provisions of the City of Pompano Beach General Employees' Retirement System; and

WHEREAS, the City Commission wishes to change the terms of the City of Pompano Beach General Employees' Retirement System to implement the changes called for in the Collective Bargaining Agreement; and

WHEREAS, the City Commission has received and reviewed an actuarial impact statement from the Retirement Board's Actuary relating to the amendments set forth herein; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

Section 1. The Code of Ordinances of the City of Pompano Beach is hereby amended at Chapter 34, City Policy; by amending Section § 34.010 “Definitions” to read as follows:

§ 34.010 DEFINITIONS.

* * *

AVERAGE MONTHLY EARNINGS. For members hired before June 8, 2011, one thirty-sixth of the earnings paid for the highest completed 78 bi-weekly pay periods preceding the actual retirement or termination date of a member times 1.0048. Compensation in excess of limitations set forth in Section 401(a)(17) of the Internal Revenue Code (as adjusted for cost-of-living increases under Section 401(a)(17)(B) of the Internal Revenue Code) shall be disregarded. The limitation on compensation for an “eligible employee” shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. “Eligible employee” is an individual who was a member before the first plan year beginning after December 31, 1995. For

members hired on or after June 8, 2011 and before [Effective Date of Ordinance], AVERAGE MONTHLY EARNINGS means the base compensation for one sixtieth of the earnings paid for the highest completed 130 bi-weekly pay periods preceding the actual retirement or termination date of a member times 1.0048 for service before [Effective Date of Ordinance]. Notwithstanding the preceding sentence, for members hired on or after June 8, 2011 and before [Effective Date of Ordinance] who make contributions in accordance with § 34.025(D) and (E), AVERAGE MONTHLY EARNINGS for service before [Effective Date of Ordinance] means one thirty-sixth of the earnings paid for the highest completed 78 bi-weekly pay periods preceding the actual retirement or termination date of a member times 1.0048. Effective [Effective Date of Ordinance] for service on and after that date, AVERAGE MONTHLY EARNINGS means one thirty-sixth of the earnings paid for the highest completed 78 bi-weekly pay periods preceding the actual retirement or termination date of a member times 1.0048. Provided however, if a person is hired on or after June 8, 2011, and retires prior to attaining five years of continuous service, AVERAGE MONTHLY EARNINGS means the base compensation for earnings paid for the completed bi-weekly pay periods of the member, divided by the number of months of continuous service of the member times 1.0048.

* * *

DROP PERIOD. The period of time commencing on the deferred retirement calculation date and ending on the member's DROP termination date, which period may not exceed ~~60 months of elapsed time~~ the maximum DROP period provided in § 34.0263.

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Section 2. The Code of Ordinances of the City of Pompano Beach is hereby amended at Chapter 34, City Policy; by amending Section § 34.020 “Normal Retirement Benefit” to read as follows:

§ 34.020 NORMAL RETIREMENT BENEFIT.

(A) Amount.

(1) The monthly retirement benefit for any member retiring on or after October 1, 2005, shall be an amount equal to 2.75% of average monthly earnings as defined in § 34.010 times all years (and completed months) of continuous service, less the time spent on leave of absence, on voluntary or involuntary service with the armed forces of the United States, in an employment category within the city not covered by this plan or any period of time after December 8, 1972, during which the employee did not receive compensation from the city and contribute to the retirement system.

(2) For members hired on or after June 8, 2011, the monthly retirement benefit shall be an amount equal to 2.0% of average monthly earnings as defined in § 34.010 times all years (and completed months) of continuous service, less the time spent on leave of

absence, on voluntary or involuntary service with the armed forces of the United States, in an employment category within the city not covered by this plan or any period of time during which the employee did not receive compensation from the city and contribute to the retirement system, provided that the member's annual benefit shall not exceed the lesser of \$90,000, starting at age 62 plus cost of living adjustments, or 100% of the member's average base compensation for the five years immediately prior to retirement.

(3) Notwithstanding paragraph (2) above, for members hired on or after June 8, 2011 and before [Effective Date of Ordinance] who make contributions in accordance with § 34.025(D) and (E), the monthly retirement benefit for service before [Effective Date of Ordinance] shall be as provided in Section (A)(1).

(4) Effective [Effective Date of Ordinance] for members hired on or after June 8, 2011 and before [Effective Date of Ordinance], and members hired on or after [Effective Date of Ordinance], the monthly retirement benefit for service on or after [Effective Date of Ordinance] shall be as provided in Section (A)(1).

* * *

Section 3. The Code of Ordinances of the City of Pompano Beach is hereby amended at Chapter 34, City Policy; by amending Section § 34.025 "Contributions" to read as follows:

§ 34.025 CONTRIBUTIONS.

(A) Members of the retirement system hired before June 8, 2011 shall make regular contributions to the trust fund at a rate equal to 7% of the member's earnings earned on or before October 11, 2006; at a rate equal to 8.5% of the member's earnings earned on or after October 12, 2006; and at a rate equal to 10% of the member's earnings earned on or after October 11, 2007.

(B) Members of the retirement system hired on or after June 8, 2011 and before [Effective Date of Ordinance] shall make regular contributions to the trust fund at a rate equal to 7% of the member's earnings for service before [Effective date of Ordinance]-, except as otherwise provided in subsection (D) and (E) below.

(C) Members of the retirement system hired on or after June 8, 2011 and before [Effective Date of Ordinance], and members hired on or after [Effective Date of Ordinance] shall make regular contributions to the trust fund at a rate equal to 10% of the member's earnings for service on and after [Effective date of Ordinance].

(D) Members hired on or after June 8, 2011 and before [Effective Date of Ordinance] who make an additional 3% member contribution for past service retroactive to the date the member became eligible to participate in the pension plan shall be eligible for the same benefits as members hired before June 8, 2011 as provided in §§ 34.010 (definition of "average monthly earnings"), 34.020 (normal retirement benefit) and 34.038 (pension adjustments). Such members may make the additional 3% member contribution for past service in any one or a combination of the following ways:

(1) Cash lump sum payment (single payment).

(2) Periodic cash lump sum payments over a period not exceeding the period between the date the member became eligible to participate in the pension plan and [Effective Date of Ordinance], in accordance with a payment schedule agreed to by the member and pension board. In no event may such periodic payments extend beyond a member's entry into the DROP or separation from city employment, whichever occurs first.

(3) Direct transfer (rollover) from an IRA or another qualified retirement plan.

(4) Payroll deduction from the member's earnings over a period not exceeding the period between the date the member became eligible to participate in the pension plan and [Effective Date of Ordinance]. In no event may such payroll deductions extend beyond a member's entry into the DROP or separation from city employment, whichever occurs first.

(5) For members with more than 160 hours of unused vacation leave or more than 320 hours of unused sick leave on December 31, 2020, a combined total of 100 hours of unused vacation and/or sick leave may be applied toward the additional 3% member contribution for past service under the Retirement Plan. A member must elect to apply unused vacation and/or sick leave pursuant to this paragraph no later than January 31, 2021. Such election shall be irrevocable. The application of unused vacation and/or sick leave pursuant to this paragraph is intended to be pre-tax if possible, but in any event will be subject to IRS requirements.

(E) For members hired on or after June 8, 2011 and before [Effective Date of Ordinance] who make the additional 3% member contribution for past service retroactive to the date the member became eligible to participate in the pension plan, the additional member contribution payment must be paid in full before a member enters the DROP or separates from city employment, whichever occurs first. In the event a member has not paid the additional 3% member contribution, in full, before the member enters the DROP or separates from city employment, whichever occurs first, all additional 3% member contribution payments shall be refunded to the member, without interest, and the portion of the member's retirement benefit based on service before [Effective date of Ordinance] shall be calculated in accordance with the Plan provisions for such members in effect before [Effective Date of Ordinance].

(F) Eligible employees, as a condition of membership, shall agree in writing upon becoming a member to make the contributions specified herein. The contributions shall be deducted from earnings before the earnings are paid.

(G) Effective January 1, 1991, the city shall assume and pay future member contributions in lieu of payroll deductions from member's earnings. No member shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the city directly to the retirement system. All such contributions by the city shall be deemed and considered as a part of each member's accumulated contributions and subject to all provisions of the retirement system pertaining to accumulated contributions of the members. The city pick up of contributions shall be the result of a reduction of each member's base pay corresponding to the contribution amount, and is

intended to comply with Section 414(H)(2) of the Internal Revenue Code. Base pay for purpose of overtime pay, pay supplements, including but not limited to merit pay, longevity pay, cost of living increases, and temporary assignment pay and retirement benefit calculations shall not be reduced.

~~(EH)~~ So long as this system is in effect, the city shall make an annual contribution of the trust fund in an amount equal to the difference each year between the total of aggregate member contributions for the year and the amount necessary for the year to maintain the system on a sound actuarial basis as shown by the most recent actuarial valuation and report for the system. The total cost for any year shall be defined as the total of normal cost plus the additional amount sufficient to amortize the accrued past service liability over the appropriate period as is prescribed by state law.

~~(FI)~~ Unless otherwise specified herein, all retirement, death, and disability benefits payable under this system are in lieu of a refund of member contributions.

(1) In any event however, each member shall be guaranteed the payment of benefits at least equal in total amount to his accumulated contributions plus interest at the rate of 3% per annum, compounded annually. In lieu of any other benefits hereunder, a member shall have the option on termination of employment as an employee of withdrawing all of his accumulated contributions plus interest.

(2) Notwithstanding the provisions of § 34.030 of this code, “pensions not assignable,” a member shall have the right to pledge and assign his or her accumulated contributions plus interest for the purpose and use as collateral in obtaining credit or loans with the Employees Credit Union of the city, only if the pledge or assignment specifies that the member must first exercise his or her option, upon termination of employment with the city, of withdrawing all of his or her accumulated contributions plus interest from the plan, and it is only out of those refunded contributions, and not employee retirement benefits, that the pledge and assignment is to be satisfied.

~~(GJ)~~ All money representing member and city contributions and money from all other sources whatsoever, and held by or in custody of the city or any other entity, including insurance carriers or trustees, for purposes of funding pension benefits for members herein, shall be included in this fund, including any interest gathered by these monies, and shall be transferred into this fund.

~~(HK)~~ No annual benefit provided for in this retirement plan for an individual member who has not previously participated in such plan, before January 1, 1980, shall exceed 100% of the member’s average final compensation.

Section 4. The Code of Ordinances of the City of Pompano Beach is hereby amended at Chapter 34, City Policy; by amending Section § 34.0263 “Deferred Retirement Option Plan (DROP)” to read as follows:

§ 34.0263 DEFERRED RETIREMENT OPTION PLAN (DROP).

(A) Eligibility.

(1) An active member shall be eligible to elect to enter DROP upon or after he or she has reached age 55 and completed 20 or more years of service, or has reached age 62 with three or more years of service.

(2) Prior service purchased pursuant to this chapter shall be included for purposes of determining eligibility for the DROP to the extent provided in § 34.015.

(3) A plan member must be an active employee of the city in order to enter DROP. Members who have left city service and who have elected deferred retirement pursuant to § 34.021(A) will not be eligible to participate in the DROP provisions until and unless they return to city service covered by the General Employees Retirement System after the DROP has been adopted by the city.

(B) Each member, before electing to participate in DROP, shall be given information regarding how benefits under DROP would be calculated and a comparison of the member's anticipated benefits at retirement with and without participation in DROP. All members are advised to seek advice from professional tax and investment advisors before electing to participate in DROP.

(C) DROP election.

(1) Any member who elects to participate in the DROP shall provide the city and the board at least 30 days notice and make the election on a form prescribed and retained by the Board. On that form the member shall do all of the following:

(2) Members of the retirement system who entered the DROP before [Effective Date of Ordinance] and members who enter the DROP on or after [Effective Date of Ordinance] with less than twenty years of service on the date of DROP entry shall designate a DROP period that will not exceed 60 months of elapsed time, irrevocably agree to terminate covered employment under the system no later than the end of that designated period, and acknowledge that participation in the DROP is not a guarantee of continued employment for any period.

(3) Members of the retirement system who enter the DROP on or after [Effective Date of Ordinance] who are age 55 or older with at least 20 years of service shall designate a DROP period that will not to exceed 96 months of elapsed time, irrevocably agree to terminate covered employment under the system no later than the end of that designated period, and acknowledge that participation in the DROP is not a guarantee of continued employment for any period.

(4) Members of the retirement system who are participating in the DROP on [Effective Date of Ordinance] and had completed 20 years of service prior to entering the DROP may extend their DROP period up to a maximum of 96 months from the date of DROP entry. Members who elect to extend their DROP period must submit a completed DROP extension form to the city and pension board by January 31, 2021, agree to terminate city employment no later than the end of the extended DROP period, and acknowledge that participation in the DROP is not a guarantee of continued employment for any period.

(35) Waive any claims with respect to age and other discrimination in employment laws as are required by the employer or the system.

(46) Waive the right to any disability retirement benefits from the system. This waiver shall include, but not be limited to, any rights the member may have under § 34.022.

~~(57)~~ Waive the right to pre-retirement death benefits under § 34.023 if death occurs during the DROP period.

~~(68)~~ Acknowledge that his or her COLA will not begin until one year after DROP participation ends, payable in accordance with § 34.038.

~~(79)~~ Acknowledge that his or her election to participate in the DROP may not later be changed or modified.

~~(810)~~ Make an irrevocable election as to whether the member wishes to select any optional retirement allowance pursuant to § 34.026(A), (B) or (C) and, if so, make such a selection.

~~(911)~~ Designate a person or persons as beneficiaries of the balance in the member's DROP account in the event the member dies during the DROP period. The beneficiary or beneficiaries shall be designated on a form prescribed by the board, signed by the member, and filed with the board.

(D) (1) From and after the deferred retirement calculation date, the member shall cease to accrue retirement service credit under this chapter and shall no longer be required to make member contributions in accordance with § 34.025 and, instead, shall begin to accrue benefits under the DROP pursuant to the terms of this section, which benefits shall be credited to the member's DROP account.

(2) A member's election to participate in the DROP shall be irrevocable.

(3) A member in the DROP shall have all of the rights, privileges, and benefits, and is subject to all terms and conditions of active employment including, but not limited to, seniority, accrual and use of vacation and sick leave, pay increases, and eligibility for other city benefit programs not related to retirement benefits.

(E) DROP account.

(1) A DROP account shall be established as a nominal, bookkeeping account within the system for each member. No system assets shall be separately segregated for any DROP account. A member may not have a claim on any specific assets of the system.

(2) A member's DROP account shall be credited with an amount equal to the retirement benefit (calculated in accordance with § 34.020, including a COLA if one is later included as part of the DROP) the member would have received if the member had retired for service on the deferred retirement calculation date, taking into consideration any optional form of benefit selected under § 34.026.

(3) For members who entered the DROP before [Effective Date of Ordinance], ~~On~~ the effective date that the member enters the DROP, the city will calculate the member's accrued sick and vacation leave payout utilizing existing payout formulas. The city will pay to the member his or her leave payout in five equal payments over the next five years, with each payment being made on the member's DROP participation anniversary date. However, should the member terminate participation in the DROP and terminate employment with the city before the full 60 months, the remainder of the member's leave payout shall be paid to the member upon termination.

(4) For members who enter the DROP on or after [Effective Date of Ordinance], the city will calculate the member's accrued sick and vacation leave payout utilizing existing

payout formulas. The city will divide to the member's leave payout into five equal portions, and those five portions will be paid to the member over the next four years based on the following schedule: the first 2/5ths will be paid on the member's 1st DROP anniversary date and the remaining 3/5ths will be paid in 1/5th increments that will be made on the member's 2nd, 3rd and 4th DROP participation anniversary dates. However, should the member terminate participation in the DROP and terminate city employment before the full 60 months, the remainder of the member's leave payout shall be paid to the member upon termination.

(45) Any accrued sick leave in excess of the maximum number of hours accruable for payout purposes will be carried over into the DROP. The member will continue to accrue sick and vacation leave while participating in the DROP. Leave accrual will be in accordance with the appropriate collective bargaining agreement. However, at the member's conclusion of participating in the DROP, the member will forfeit all unused accumulated sick and annual leave and thus will not be compensated for any portion of said leave.

(56) The participant's DROP account will be credited with interest or lose principle at the same rate as the investment earnings assumption for the pension plan. The investment earnings assumption may be adjusted up or down during an employee's participation in the DROP, which will result in a change in the prospective interest rate credit on the employee's DROP account.

* * *

(N) Legal challenge to DROP.

(1) If for any reason, a court of competent jurisdiction determines that the irrevocable election is not enforceable, and a member chooses to remain in the employment of the city beyond five years, the general employees' retirement benefit will be calculated as if the member had never entered the DROP, and the member will be required to make contributions to the pension fund in an amount sufficient to cover the employee and city contributions that would have been made had the member not elected to participate in the DROP, along with interest, as determined by the Board of Trustees upon the advice of the actuary. The member shall forfeit any and all rights to the funds in his or her DROP account and said funds cannot be used to satisfy the contributions required in this section.

(2) Should any person challenge the validity of the terms of the DROP, including the irrevocability of the election, or otherwise attempt to remain employed beyond the ~~60 months~~ maximum DROP period provided herein, the prevailing party of such litigation shall be entitled to receive from the non-prevailing party all of its reasonable costs including reasonable attorney fees.

(3) In the event a court of competent jurisdiction determines that the irrevocable election of the DROP is not enforceable, the city may, in its sole and exclusive discretion, refuse to allow employees to enter the DROP until such time as the DROP is amended or repealed.

(O) The Board of Trustees shall have the power to make administrative rules as are necessary for the efficient implementation and operation of the DROP and to ensure its continued compliance with the tax qualification requirements of the Internal Revenue Code, and provided such administrative rules are not inconsistent or contradicted by this section.

~~(P) An active member may enter DROP on a retroactive or semi retroactive basis in accordance with the eligibility requirements specified in subsection (Q) below, by following the election requirements in subsection (R) below, and will receive benefits in accordance with subsection (S) below and (K) above.~~

~~(Q) Eligibility.~~

~~—(1) A member currently employed by the city will be eligible to elect to enter DROP on a retroactive or partially retroactive basis if he or she reached age 55 and completed 20 or more years of service, or reached age 62 with three or more years of service on or after October 1, 2003.~~

~~—(2) The election to enter DROP on a retroactive or partially retroactive basis can only be made after the effective date of this section, but no later than 90 days thereafter.~~

~~(R) Retroactive DROP election.~~

~~—(1) Any member who elects to participate in the DROP on a retroactive or partially retroactive basis shall make the election on a form prescribed and retained by the board. In addition to the items required under subsection (C) above, the member shall also include a retroactive deferred retirement calculation date. This date must be a date on or after the member would have met the eligibility requirements of the DROP.~~

~~—(2) From and after the deferred retirement calculation date, the member shall cease to accrue retirement service credit under this chapter and, instead, shall begin to accrue benefits under the DROP pursuant to the terms of this section, which benefits shall be credited to the member's DROP account.~~

~~—(3) From and after the election date, the member shall no longer be required to make member contributions in accordance with § 34.025.~~

~~—(4) A member's election to participate in the DROP on a retroactive or partially retroactive basis shall be irrevocable.~~

~~(S) Pre-DROP contributions. In addition to the amounts credited to the DROP Account under subsection (E) above, the DROP Account for a member who enters DROP on a retroactive or partially retroactive basis shall also include an amount equal to any member contributions made on or after the deferred retirement calculation date in accordance with § 34.025, along with interest on that additional amount at a rate consistent with the interest credited to member contributions under § 34.025.~~

Section 5. The Code of Ordinances of the City of Pompano Beach is hereby amended at Chapter 34, City Policy; by amending Section § 34.038 “Pension Adjustments” to read as follows:

§ 34.038 PENSION ADJUSTMENTS.

(A) Retirees who have been retired from the General Employees Pension Plan for a period of at least one year prior to or on October 1, 2000, shall be granted an increase in pension benefits effective October 1, 2000, and each October 1 thereafter. Annual pension benefits shall be increased by a “fixed” (guaranteed) percentage equal to 2%. In addition to the “fixed” increase, pension benefits shall be increased by a “variable” percentage, in an amount certified by the pension plan actuary as supportable and funded solely by the pension plan assets, but not more than 1%. The “variable” component of the cost-of-living adjustment may be granted only when the plan is sufficiently funded and only if all other provisions of this section are satisfied. The sum of the “fixed” and “variable” portions of the adjustment shall not exceed 3% per year nor be less than 2%.

(B) Retirees who reach the first anniversary of retirement after October 1, 2000 shall be granted an annual increase in pension benefits effective on the first retirement anniversary date, payable on the following October 1, and on each October 1 thereafter, in the percentage amount paid the previous October 1 under subsection (A) above.

(C) (1) Effective June 8, 2011, for members who were hired on or after June 8, 2011 and before [Effective Date of Ordinance], retirees who receive normal retirement benefits shall be granted an increase in pension benefits based on service before [Effective Date of Ordinance], effective on the fifth retirement anniversary date, payable on the following October 1, and each October 1 thereafter, as follows, except as otherwise provided in subsection (D) below:

(a) Eligible retirees under the age of 55 on October 1 of any given year shall not be entitled to any annual pension increase.

(b) Eligible retirees between the ages of 55 and 64 on October 1 of any given year shall be entitled to a 1% increase in pension benefits.

(c) Eligible retirees age 65 and older on October 1 of any given year shall be entitled to a 2% increase in pension benefits.

(2) In addition to the adjustments provided for in subparagraphs (b) and (c) above, pension benefits for eligible retirees shall be increased by a “variable” percentage in an amount certified by the pension plan actuary as supportable and funded solely by the pension plan assets but not more than one percent (1%). The “variable” component of the cost-of-living adjustment may be granted only when the plan is sufficiently funded and only if all other provisions of this section are satisfied. The sum of the pension adjustments provided for in subparagraphs (b) and (c) and the “variable” adjustment in this paragraph shall not exceed 3%.

(D) For members hired on or after June 8, 2011 and before [Effective Date of Ordinance] who make contributions in accordance with § 34.025(D) and (E), retirees shall be granted an annual increase in pension benefits based on service before [Effective date of Ordinance], effective on the first retirement anniversary date, payable on the following October 1, and on each October 1 thereafter, in a fixed percentage equal to 2%. In addition to the “fixed” increase, pension benefits shall be increased by a “variable” percentage, in an amount certified by the pension plan actuary as supportable and funded solely by the pension plan assets, but not more than 1%. The “variable” component of the

cost-of-living adjustment may be granted only when the plan is sufficiently funded and only if all other provisions of this section are satisfied. The sum of the “fixed” and “variable” portions of the adjustment shall not exceed 3% per year nor be less than 2%.

(E) For members hired on or after June 8, 2011 and before [Effective Date of Ordinance], and members hired on or after [Effective Date of Ordinance], retirees shall be granted an annual increase in pension benefits based on service on and after [Effective Date of Ordinance], effective on the first retirement anniversary date, payable on the following October 1, and on each October 1 thereafter, in a fixed percentage equal to 2%. In addition to the “fixed” increase, pension benefits shall be increased by a “variable” percentage, in an amount certified by the pension plan actuary as supportable and funded solely by the pension plan assets, but not more than 1%. The “variable” component of the cost-of-living adjustment may be granted only when the plan is sufficiently funded and only if all other provisions of this section are satisfied. The sum of the “fixed” and “variable” portions of the adjustment shall not exceed 3% per year nor be less than 2%.

(F) In the event the pension plan is not sufficiently funded so as to provide a full 1% “variable” COLA in any year, a retroactive “variable” COLA, retroactive to the first year in which the full 1% “variable” COLA was not paid, shall be provided in subsequent years in which the plan is sufficiently funded, in order to provide an average compounded “variable” COLA of 1% per year, to the extent such amount is certified by the pension fund actuary to be supportable solely by the assets of the plan. The purpose of the retroactive additional COLA is to make retirees whole for any years in which the full 1% “variable” COLA could not be granted because the pension plan was not sufficiently funded.

(G) The annual actuarial valuation shall assume that the fixed 2% annual COLA adjustments provided in subsections (A) and (B) above and the fixed annual COLA adjustments provided in subsection (C)(1)(b) and (c) above will be repeated on an annual basis for future years. The “variable” COLA will not be assumed to be granted every year for future years because it is granted only in those years when the plan is sufficiently funded.

Section 6. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 7. Repeal of Ordinances in Conflict.

All other ordinances of the City of Pompano Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 8. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the City of Pompano Beach.

Section 9. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED FIRST READING this _____ day of _____, 2020.

PASSED SECOND READING this _____ day of _____, 2020.

REX HARDIN, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK