

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 CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH RELATING TO THE POLICE & FIREFIGHTERS’ RETIREMENT SYSTEM BY AMENDING SECTION 34.050, “CONDITIONS OF ELIGIBILITY,” TO CORRECT LANGUAGE REGARDING PURCHASE OF PRIOR CONTINUOUS SERVICE; BY AMENDING SECTION 34.0571, “INTERNAL REVENUE CODE COMPLIANCE,” TO ACHIEVE COMPLIANCE WITH IRS REQUIREMENTS AND THE SECURE 2.0 ACT; BY AMENDING SECTION 34.059, “ACCRUED BENEFITS,” TO PROVIDE ADDITIONAL LANGUAGE TO CLARIFY REQUIREMENTS FOR VESTING OF ACCRUED BENEFITS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Setting Every Community Up for Retirement Enhancement (“SECURE”) 2.0 Act, signed into law on December 29, 2022, as part of the Consolidated Appropriations Act, 2023, amended the definition of “Required Beginning Date” under Section 401(a)(9) of the Internal Revenue Code; and

WHEREAS, amendment to the City Ordinance pertaining to the Retirement System is necessary to comply with the requirements of the SECURE Act; and

WHEREAS, the Board of Trustees wishes to correct an overlooked reference to the vesting time for accrued benefits for Firefighters; and

WHEREAS, the Board of Trustees wishes to clarify the language for prior service purchase; and

WHEREAS, the Board of Trustees of the Retirement System have requested and approved such an amendment as being in the best interests of the members and beneficiaries as well as improving the administration of the plan; and

WHEREAS, City Commission has received and reviewed an actuarial impact statement from the Retirement System'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. That Section 34.050, "Conditions of Eligibility," of Chapter 34, "City Policy," of the Pompano Beach Code of Ordinances, is hereby amended to read as follows:

§ 34.050 CONDITIONS OF ELIGIBILITY.

(A) Police officers and dispatchers and firefighters who are members of the city's employee's pension plan at the time of adoption of this retirement system shall be eligible to become members of this system. Any other police officer, dispatcher, or firefighter shall be eligible to become a member if at least 18 years of age provided the following standards are met.

(1) The employee satisfactorily completes all required medical examinations for an employee of his classification.

(2) The employee meets all requirements of the Civil Service Board of the city except the probationary period.

(B) (1) Each employee who is eligible to become a member of this system in accordance with the eligibility provisions above shall, if required by state law, be required to become a member as a condition of continued employment by the city as an employee. Reentry into the system after discontinuance of prior participation shall be permitted on a uniform, nondiscriminatory basis and upon

compliance with the provisions of subsection (A)(1) and subsection (A)(2) above. However, any person who was previously a member of the system and who is rehired as a classified employee on or after January 1, 1977, shall be eligible for reentry into the system, notwithstanding the age limitation of subsection (A) above; further provided, however, no credit shall be given for any period of time during the interruption of service. Credit for prior service shall be granted only upon repayment in full of all monies previously refunded to the member, together with such interest at the rate or rates assumed for actuarial purposes as shall be certified by the actuary to be due. If repayment in full is not made as aforesaid, any monies paid pursuant to this section shall be refunded plus interest at the rate set forth in § 34.061(D) and there shall be no further opportunity to obtain credit for prior service.

(2) Effective October 1, 2022, any city employee employed in a full-time position on or after October 1, 2022 who becomes a member of the Police and Firefighters Retirement System in accordance with § 34.050(B) may purchase credit for prior continuous service for all or any portion of their employment with the city as a firefighter. The election to purchase prior service must be made on a form to be supplied by the Board within 90 days of the effective date of this section. Employees may purchase such credit for continuous service by paying the full actuarial cost thereof, plus interest, as determined by the plan actuary. The purchase amount may be paid through a cash payment or a direct trustee-to-trustee transfer or rollover from an eligible plan. In addition, the employee may utilize up to 1,000 hours of accrued vacation and/or sick leave toward the purchase of prior continuous service. An employee who elects to purchase prior continuous service will have four years from ~~the effective date of this section~~ their employment reinstatement date to complete the purchase. Only that time purchased by the earlier date that the employee terminates service or retires will be counted toward the vesting or benefit accrual. If repayment in full is not made as aforesaid, any monies paid pursuant to this section shall be refunded, plus interest at the rate set forth in § 34.061(D), and there shall be no further opportunity to obtain credit for prior service.

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SECTION 2. That Section 34.0571, “Internal Revenue Code Compliance,” of Chapter 34, “City Policy,” of the Pompano Beach Code of Ordinances, is hereby amended to read as follows:

§ 34.0571 INTERNAL REVENUE CODE COMPLIANCE.

...

(B) Required beginning date. Notwithstanding any other provision of the Plan, payment of a participant’s retirement benefits under the Plan shall commence not later than the participant’s ***REQUIRED BEGINNING DATE***, which effective January 1, 2023, is defined as the later of (1) and (2) below:

(1) ~~With regard respect to distributions required to be made to a~~ participant who ~~reaches~~ reached age 70 ½ ~~before~~ prior to January 1, 2020: April 1 of the calendar year that next follows the calendar year in which the participant ~~attains~~ attained ~~or will attain~~ the age of 70 ½ years; or

with respect to a participant who attained age 70 ½ on or after January 1, 2020, and age 72 prior to January 1, 2023, April 1 of the calendar year that next follows the calendar year in which the participant retires, whichever is later attained the age of 72 years; or

with respect to a participant who attains age 72 on or after January 1, 2023, in accordance with the SECURE 2.0 Act and any technical corrections thereto; or

(2) ~~With regard to distributions required to be made on or after January 1, 2020 to a participant who reaches the age of 70 ½ on or after said date:~~ April 1 of the calendar year that next follows the calendar year in which the participant ~~attains or will attain the age of 72 years, or April 1 of the calendar year that next follows the calendar year in which the participant retires; whichever is later.~~

(C) Required minimum distributions.

(1) Required beginning date. The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date as defined in subsection (B) of this section.

(2) Death of participant before distributions begin.

(a) If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

1. If the participant's surviving spouse is the participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70 ½ his or her required beginning date, if later.

...

SECTION 3. That Section 34.059, "Accrued Benefits," of Chapter 34, "City Policy," of the Pompano Beach Code of Ordinances, is hereby amended to read as follows:

§ 34.059 ACCRUED BENEFITS.

(A) If a member terminates his employment with the Police, or Fire Departments, either voluntarily or by lawful discharge, and is not eligible for any other benefits under this system, he shall be entitled to the following.

(1) With less than ten years of continuous service as a police officer or seven years of continuous service as a firefighter: refund of member contributions plus 3% interest.

(2) With ten or more years of continuous service as a police officer or seven years of continuous service as a firefighter: the pension benefit accrued to his date of termination, payable commencing at his or her otherwise normal retirement date or payable in accordance with § 34.056, provided he or she does not elect to withdraw his or her member contributions, or refund of member contributions plus 3% interest.

(B) Any member of this system who, for whatever reason, has his or her employment with the city as a police officer, police dispatcher, or firefighter terminated, but who remains or was previously employed by the city in some other capacity so that his or her total continuous period of employment with the city is ten years or more for police officers or seven years or more for firefighters, shall have all benefits accrued under this system preserved, provided he or she does not elect to withdraw his or her member contributions. The accrued benefits shall be paid at his or her otherwise normal retirement date in accordance with the provisions of this system or in accordance with § 34.056.

(C) For purposes of determining normal retirement age under this accrued benefits provision, continuous service shall include all employment with the city as well as the period of time subsequent to termination as a member of this system; however, benefits shall not be payable under this system during any period of continued employment by the city.

(D) Any amounts attributable to city contributions which are forfeited by reason of nonvested terminations of employment shall remain in the fund and shall serve only to reduce current and future required contributions to the system.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any provisions or applications of

this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 6. This Ordinance shall become effective upon passage; however, the provisions of this Ordinance that are specified to take effect as of a date certain shall take effect as of the date specified herein.

PASSED FIRST READING this _____ day of _____, 2023.

PASSED SECOND READING this _____ day of _____, 2023.

REX HARDIN, MAYOR

ATTEST:

KERVIN ALFRED, CITY CLERK

:jrm
9/12/23
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