

ORDINANCE NO. 15-21

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 33 "POLICE AND FIRE-RESCUE DEPARTMENTS", OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING SECTIONS 33.76, "BENEFIT AMOUNTS AND ELIGIBILITY", 33.78 "CONTRIBUTIONS", AND 33.84, "DEFERRED RETIREMENT OPTION PLAN"; TO IMPLEMENT THE PENSION CHANGES CONTAINED IN THE 2020-2023 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY AND THE PROFESSIONAL FIRE FIGHTERS OF DELRAY BEACH LOCAL 1842, IAFF, INC.; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach recently negotiated a collective bargaining agreement with the Professional Fire Fighters of Delray Beach Local 1842, IAFF, Inc. ("Union") for the period October 1, 2020 through September 30, 2023; and

WHEREAS, the collective bargaining agreement provides certain modifications to the City of Delray Beach Firefighters' Retirement System; and

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

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That Chapter 33, "Police and Fire-Rescue Departments", Section 33.76, "Benefit Amounts and Eligibility", of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended to read as follows:

Sec. 33.76. - BENEFIT AMOUNTS AND ELIGIBILITY.

(A) (This subsection shall remain in full force and effect as adopted).

(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 beneficiary for one year and sixty (60) percent of that amount continued thereafter until the earlier of death or remarriage. Notwithstanding the previous sentence, for

members who are not eligible for normal retirement on October 5, 2016 and members hired on or after that date who retire on the normal retirement date, the monthly benefit based on continuous service after October 5, 2016 shall commence on the normal retirement date and continue thereafter during the member's lifetime; and in the event the member dies within ten (10) years following retirement, the monthly benefit shall be paid to member's designated beneficiary for the remainder of the ten-year period.

(2) *Amount.*

- (a) For members hired on or before October 5, 2016, 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 members 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. Notwithstanding the preceding sentence, the seventy-five (75) percent of average monthly earnings maximum benefit shall not apply to the benefit calculation for members who retire or enter the DROP on or after [effective date of ordinance]. 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.
- (b) Notwithstanding any other provision of the system, the normal retirement benefit for members employed on or before October 5, 2016 shall be three (3) percent of average monthly earnings for each year of continuous service earned after that date.
- © Notwithstanding any other provision of the system, the normal retirement benefit for members hired after October 5, 2016 shall be two and three-fourths (2.75) percent of average monthly earnings for each year of continuous service.
- (d) Notwithstanding any other provision of the system, effective October 5, 2016, the maximum annual benefit in the normal benefit form at the time of retirement shall be one hundred thousand dollars (\$100,000.00); 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. This maximum benefit amount shall be increased annually by two (2) percent, effective October 1, 2016 and each October 1 thereafter. The maximum annual benefit provided in this paragraph shall not apply to any member who attained the normal retirement date before October 5, 2016.

(3) *Optional Enhanced Multiplier.*

- (a) Notwithstanding any other provision of the system, 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. Notwithstanding the preceding sentence, the eighty-seven and one-half (87.5) percent of average monthly earnings maximum benefit shall not apply to the benefit calculation for members who retire or enter the DROP on or after [effective date of ordinance]. 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 33.78(A) until October 5, 2016 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 other provision of the system, 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 until October 5, 2016 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. Notwithstanding the preceding sentence, the eighty-seven and one-half (87.5) percent of average monthly earnings maximum benefit shall not apply to the benefit calculation for members who retire or enter the DROP on or after [effective date of ordinance]. 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 33.78(A) until October 5, 2016. 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 other provision of the system, 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 all future continuous service after making such election until October 5, 2016 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. Notwithstanding the preceding sentence, the eighty-seven and one-half (87.5) percent of average monthly earnings maximum benefit shall not apply to the benefit calculation for members who retire or enter the DROP on or after [effective date of ordinance]. 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 33.78(A) until October 5, 2016. 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 provided in this paragraph (c).

- (d) The election to receive the enhanced multiplier under this paragraph must be made in writing on a form provided by the City. Such election shall be irrevocable. If an eligible member does not elect an optional enhanced multiplier under this paragraph, or if an eligible member elects the enhanced multiplier for only a portion of his total continuous service, then the benefit provided in paragraph (2) shall be used to calculate the benefit for all continuous service to which the enhanced multiplier does not apply. 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 paragraph (b), 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) Upon becoming eligible for normal retirement, a member shall be one hundred (100) percent vested in his or her accrued benefit.

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

Section 2. That Chapter 33, "Police and Fire-Rescue Departments", Section 33.78, "Contributions", of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended to read as follows

Sec. 33.78. - 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 while employed as a firefighter prior to DROP entry. Members who elect to participate in or extend their participation in the DROP on or after May 18, 2021 shall make contributions to the Trust Fund at a rate equal to four (4) percent of their respective annual earnings, in accordance with Sections 33.84(C) and (K). 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 completed twenty-five (25) years of continuous service at which time member contributions are no longer required., except as otherwise provided in Sections 33.84(C) and (K).

(B) - (F) (These subsections shall remain in full force and effect as adopted).

Section 3. That Chapter 33, "Police and Fire-Rescue Departments", Section 33.84, "Deferred Retirement Option Plan", of the Code of Ordinances of the City of Delray Beach, Florida, is hereby amended to read as follows

Sec. 33.84. - DEFERRED RETIREMENT OPTION PLAN.

- (A) Effective January 1, 1994, any employee with at least twenty (20) but not more than thirty (30) years of continuous service as a member of the system, may elect to participate in the Deferred Retirement Option Plan (DROP) in accordance with this Section. Effective May 18, 2021, any employee with at least twenty (20) but not more than thirty-eight (38) years of continuous service as a member of the system, may elect to participate in the Deferred Retirement Option Plan in accordance with this Section.
- (B) An employee's election to participate in the Deferred Retirement Option Plan must be made in writing and shall become effective thirty (30) days following the date it is received by the Board of Trustees, or on a later date specified by the employee.
- (C) An employee who elects to participate in the Deferred Retirement Option Plan before May 18, 2021 may participate in such plan for a maximum of sixty (60) continuous months, except as provided in subsection (K) below. If upon the effective date of the employee's election there are less than sixty (60) months before the employee attains thirty (30) years of continuous service, the employee may participate in the Deferred Retirement Option Plan only until thirty (30) years of service is attained. An employee who elects to participate in the Deferred Retirement Option Plan on or after May 18, 2021 may participate in such plan for a maximum of ninety-six (96) continuous months, but only until thirty-eight (38) years of service is attained (including continuous service before entering the DROP and service as a firefighter during DROP participation). Employees who elect to participate in the Deferred Retirement Option Plan on or after May 18, 2021 shall contribute 4% of their earnings to the Retirement System during their participation in the Deferred Retirement Option Plan, which contributions shall be deducted from the employee's earnings and picked up by the City in accordance with section 33.78(A)(2).

(D) - (J) (These subsections shall remain in full force and effect as adopted).

(K) Employees who are participating in the Deferred Retirement Option Plan on May 18, 2021 may elect to extend their maximum DROP participation period from 60 months to 96 months, but only until thirty-eight (38) years of service is attained (including continuous service before entering the DROP and service as a firefighter during DROP participation), subject to the following conditions:

1. The employee shall contribute 4% of their earnings to the Retirement System during their entire period of Deferred Retirement Option Plan participation, as follows:
 - (a) For the period of DROP participation before the date of extension, a lump sum equal to 4% of the employee's total pensionable earnings received during the period of DROP participation before the date of extension shall be deducted from the employee's Deferred Retirement Option Plan account; and

(b) For the period of DROP participation on and after the date of extension, the employee shall contribute 4% of earnings to the Retirement System during the period of DROP participation on and after the date of extension, which contributions shall be deducted from the employee's earnings and picked up by the City in accordance with section 33.78(A)(2).

2. The election to extend DROP participation must be submitted in writing on a form provided by the board of trustees, and such election shall be irrevocable. The election to extend DROP participation must be submitted to the pension office within 90 days following May 18, 2021 or prior to the end of the member's initial 60 month Deferred Retirement Option Plan participation period, whichever is earlier.

3. In the event a member does not timely elect to extend their Deferred Retirement Option Plan participation period or does make the required contributions, the employee's Deferred Retirement Option Plan participation period shall not be extended, and the maximum DROP participation period shall remain 60 months.

Section 3. 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 4. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 5. Specific authority is hereby given to codify this Ordinance.

Section 6. 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 18th day of May, 2021.

ATTEST:

Katerri Johnson
Katerri Johnson, City Clerk

Shelly Petrolia
Shelly Petrolia, Mayor

First Reading 4/20/2021
Second Reading 5/18/2021

Approved as to Legal Form and Sufficiency:

Lynn Gelin
Lynn Gelin, City Attorney