

SUNRISE, FLORIDA

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CITY OF SUNRISE

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ORDINANCE NO. 124-X-11-A

AN ORDINANCE OF THE CITY OF SUNRISE, FLORIDA, IMPLEMENTING CERTAIN TERMS OF THE 2009-2012 COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY AND THE FRATERNAL ORDER OF POLICE FOR POLICE OFFICERS AND SERGEANTS, AND BETWEEN THE CITY AND BROWARD COUNTY POLICE BENEVOLENT ASSOCIATION FOR POLICE LIEUTENANTS; AMENDING THE CITY OF SUNRISE POLICE OFFICERS' RETIREMENT PLAN; AMENDING SECTION 11-3, DEFINITIONS; AMENDING SECTION 11-33 OF THE CITY CODE, CONCERNING SERVICE INCURRED DISABILITY BENEFITS; AMENDING SECTION 11-52 OF THE CODE, CONCERNING THE SUPPLEMENTAL BENEFIT FOR POLICE OFFICERS, DEFERRED RETIREMENT OPTION PROGRAM; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has entered into collective bargaining agreements with the Fraternal Order of Police (for police officers and sergeants) and the Broward County Police Benevolent Association (for police lieutenants) for the period October 1, 2009 through September 30, 2012; and

WHEREAS, the collective bargaining agreement contains certain changes to the City of Sunrise Police Officers' Retirement Plan; and

WHEREAS, to implement the changes to the Police Officers' Retirement Plan reflected in the collective bargaining agreements, an amendment to Chapter 11 of the City Code is necessary; and

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~~scored through~~ words are deletions
underscored words are additions

WHEREAS, the City has obtained an actuarial impact statement concerning the retirement plan changes in accordance with Article X, Section 14 of the Florida Constitution and Section 112.63, Florida Statutes;

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

Section 1. That section 11-3 of the Code of the City of Sunrise, Florida is hereby amended to read as follows:

Sec. 11-3. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Salary means the total actual fixed cash compensation paid yearly on behalf of the members by the city for services rendered. This includes regular pay, overtime, holiday and other payroll cash incentives and general monthly expense allowances. Lump sum pay outs of accrued benefits upon termination of employment shall not be included in salary. Auto allowances, uniform allowances, mileage and travel reimbursements shall not be included in salary. Income from private details (work assignments paid for by individuals other than the city) shall not be included in "salary" for purposes of this article. Notwithstanding the foregoing definition, effective August 9, 2011, overtime pay for hours earned after August 9, 2011 in excess of 300 hours of overtime per year shall not be included in the "salary" of police officers for purposes of this article.

Section 2. That section 11-33 of the Code of the City of Sunrise, Florida is hereby amended to read as follows:

Sec. 11-33. Service incurred disability benefits.

* * *

(b) *Benefits, offsets and annual adjustments.*

* * *

(3) The monthly service incurred disability retirement benefit of each person who first qualifies for the benefits on or after January 11, 2005 ~~the effective date of the ordinance from which this article is derived~~ shall be adjusted annually as described herein. First, the sum of the following items shall be calculated for the previous calendar year:

a. The service incurred disability retirement benefit paid from the plan;

b. The workers' compensation disability benefits, excluding medical reimbursements, less any cost of living adjustments since the benefit first went into effect, to the extent permitted by law;

c. Any salary received by a member of the firefighters' retirement plan or general employees' retirement plan, or in the case of a member of the police officers' retirement plan employed by the city on or after September 13, 2004 who is determined to be disabled on or after the effective date of this ordinance, any salary received in excess of ten thousand dollars (\$10,000.00), or in the case of a member of the police officers' retirement plan who is determined to be disabled after August 9, 2011, any salary received in excess of fifty thousand dollars (\$50,000.00), as evidenced by federal tax returns and all required attachments and forms from the date of disability shall then be subtracted from this sum appended thereto, which shall be furnished to the city on a yearly basis, excluding any sick and vacation pay received from the city pursuant to the disability, as determined by the board; and

d. Any net earnings from self-employment income received by a member of the firefighters' retirement plan or general employees' retirement plan, or in the case of a member of the police officers' retirement plan employed by the city on or after September 13, 2004 who is determined to be disabled on or after the effective date of this ordinance, any net earnings from self-employment income in excess of ten thousand dollars (\$10,000.00), or in the case of a member of the police officers' retirement plan who is determined to be disabled after August 9, 2011, any salary received in excess of fifty thousand dollars (\$50,000.00).

(4) If there is any excess of the sum of the four (4) items listed above in subsection (b)(3) of this section over the pre-disability salary of the member, then the service incurred disability retirement benefit payable from the plan shall be reduced. The amount of the annual reduction shall be equal to fifty (50) percent of the first ten thousand dollars

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(\$10,000.00) of the excess plus one hundred (100) percent of the excess, if any, which exceeds ten thousand dollars (\$10,000.00). The annual reduction so computed shall then be divided by twelve (12) to make it a monthly reduction. The monthly reduction shall then be subtracted from the monthly service incurred disability retirement benefit which has most recently been paid.

(5) If the sum of the four (4) items listed above in subsection (b)(3) hereof is less than the service incurred disability retirement benefit computed in accordance with subsection (b)(3) above, prior to the offset provided by subsection (b)(2) above, then the service disability retirement benefit payable from the plan shall be increased. The amount of the annual increase shall be equal to the amount of the service incurred disability retirement benefit computed in accordance with subsection (b)(1) above, prior to the offset provided by subsection (b)(2) above, minus the sum of the four (4) items listed above in subsection (b)(3). The annual increase so computed shall then be divided by twelve (12) to make it a monthly increase. The monthly increase shall then be added to the monthly benefit which has most recently been paid. The newly adjusted disability retirement benefit shall be paid for twelve (12) months.

(c) *Terms of payment.* Service incurred disability retirement benefits shall commence on the earlier of:

(1) The first day of the month coincident with or next following the date of disability, established by the board; or

(2) The ninetieth day following the day the member tendered a completed application for disability to this board.

If the member has selected an option allowance, the date for commencement of benefits shall be as provided in section 11-36. The benefits shall continue to be paid on the first day of each subsequent month until the death or recovery of the disabled retiree.

(d) *Disability retiree affidavit.*

(1) *Filing.* No member otherwise eligible to receive service incurred disability benefits shall be paid such benefits unless and until such member files a disability affidavit with the board on a form furnished by the board. By such disability affidavit the prospective retiree shall affirm that he is acquainted and familiar with the terms and conditions of his right to service incurred disability retirement benefits. In particular, he shall acknowledge the authority of the board to require him to undergo periodic future physical examinations in order to determine whether he is still disabled.

(2) *Authority for reexamination.* Each member who first qualifies for or is then receiving benefits on or after the effective date of this ordinance from which this article is derived shall be subject to periodic reexamination by the medical board selected by the board to determine if such disability has ceased to exist. Such reexamination shall not be permitted more often than twice in any calendar year.

(e) *Recovery from service incurred disability.* In the event a member who has been retired on a service incurred disability gains his health and is able to perform the duties he was performing for the city prior to his date of disability, or in the case of a member of the police officers' retirement plan, obtains employment with any employer as a certified police officer or certified firefighter, the board shall:

(1) Discontinue the benefits upon such reemployment, retirement, or death.

(2) ~~The~~ A member reemployed by the city shall be given credit for service during the period of disability for a period not to exceed three hundred fifty (350) weeks for purposes of determining subsequent retirement benefits, provided the employee contribution based on the last full month's salary is made within one (1) year by the member in full for the period of time the member was disabled.

(3) The member shall be recommended for reemployment with the city to the city manager and shall be returned to the member's previous position with the city as soon as there is an opening in the position. The member shall be paid at a rate equal to the same step in the pay scale in effect when the disability occurred.

Section 3. That section 11-52 of the Code of the City of Sunrise, Florida is hereby amended to read as follows:

Sec. 11-52. Supplemental benefit for police officers; deferred retirement option program for police officers.

(b) Deferred retirement option program for police officers (DROP).

(1) A deferred retirement option plan ("DROP") is hereby established for eligible police officers.

(2) Eligibility and participation:

* * *

e. Notwithstanding the provisions of subparagraphs c. and d., effective August 9, 2011, the provisions of this subparagraph e. shall apply in lieu of subparagraphs c. and d. to members of the police officers' retirement plan who enter the DROP on or after that date, and to members who are participating in the DROP on that date and elect to extend their DROP participation period in accordance with this subparagraph e. An eligible member who elects to participate in the DROP within five (5) years following the member's earliest normal retirement date may participate in the DROP for a maximum of eighty-four (84) months from the date of entry into the DROP. An eligible member may elect to participate in the DROP with thirty (30) days advance written notice to the city at any time after reaching the earliest normal retirement date or during the applicable DROP period; however, in no event will the DROP period for a member who elects to participate in the DROP be extended beyond eighty-four (84) months from the date the member enters the DROP or one hundred forty-four (144) months after the member's earliest normal retirement date, whichever occurs first. A member who delays entry into the DROP beyond sixty (60) months after reaching the earliest normal retirement date may elect to enter the DROP, upon thirty (30) days advance written notice to the city, and for every month the member delays entry into the DROP beyond sixty (60) months after reaching the earliest normal retirement date, the maximum DROP period shall be reduced by one (1) month. Example: A member who enters the DROP within sixty (60) months after reaching his/her earliest normal retirement date shall be eligible to participate in the DROP for a maximum of eighty-four (84) months from the date the member enters the DROP. If the same member waits seventy-two (72) months after reaching his/her earliest normal retirement age before entering the DROP, the member will be able to participate in the DROP for a maximum of seventy-two (72) months. A member who elects to participate in the DROP can elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days advance written notice to the city. Notwithstanding any other provision in this subsection (2), any member who was participating in the DROP on August 9, 2011 shall be eligible to extend their DROP participation period and their resignation from City employment by up to twelve (12) months for a maximum of eight-four (84) months, by submitting a signed DROP election extension form provided by the City. The signed DROP election extension form must be received by the City Finance Department within ninety (90) days following August 9, 2011 and prior to the end of the member's original DROP period. Provided however, to be eligible to extend the DROP participation period to eighty-four (84) months, a member must

agree that all DROP account earnings earned from the date of DROP entry to the date the member's election to extend DROP participation takes effect shall be recalculated at an interest rate of 6%, and DROP earnings for the entire period of DROP participation following such election shall be credited at an interest rate of 6%.

(3) DROP plan features:

* * *

e. During a member's participation in the DROP, the member's monthly retirement benefit will be paid into the DROP account. For members who are participating in the DROP on August 9, 2011, the member's DROP account will earn interest at the same rate as the investment earnings assumption for the pension plan (compounded monthly). The investment earnings assumption may be adjusted up or down during a member's participation in the DROP, which will result in a change in the prospective interest rate credit on the member's DROP account. Members who commence participation in the DROP on or after August 9, 2011 shall make a one-time irrevocable election, at the time the member enters the DROP, between the following two (2) options to determine how interest will accrue to the member's DROP account:

A) Option One: the member's DROP account will earn interest at 6% per annum; or

B) Option two: the member's DROP account will be invested as directed by the member among investment options selected by the pension board. The rate of return would be based on the actual rate of return on the investment option selected by the member.

Section 4. Conflict. All ordinances or parts of ordinances, all City Code Sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 5. Severability. Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance

as a whole, nor any part thereof, other than the part declared to be invalid.

Section 6. Inclusion in the City Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Sunrise, Florida.

Section 7. Effective Date. This Ordinance shall be effective immediately upon its passage.

PASSED AND ADOPTED upon this first reading this 12TH DAY OF JULY, 2011.

PASSED AND ADOPTED upon this second reading this 9TH DAY OF AUGUST, 2011.



Mayor Michael J. Ryan

Authentication:

Meryl Girard

~~Felicia M. Bravo~~ MERYL GIRARD
City Clerk

ASSISTANT

FIRST READING

SECOND READING

MOTION: ROSEN
SECOND: SCUOTTO

MOTION: SCUOTTO
SECOND: ALU

ALU: YEA
ROSEN: YEA
SCUOTTO: YEA
SOFIELD: YEA
RYAN: YEA

ALU: YEA
ROSEN: YEA
SCUOTTO: YEA
SOFIELD: YEA
RYAN: YEA

Approved by the City Attorney
As to Form and Legal Sufficiency.

Kimberly A. Kisslan
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