

POMPANO BEACH, FLORIDA CODE OF ORDINANCES
POLICE AND FIREFIGHTERS' RETIREMENT SYSTEM

(Amended and Adopted by Ordinance 2023-19 on December 13, 2022)

§ 34.0603 DEFERRED RETIREMENT OPTION PLAN (DROP).

A deferred retirement option plan (DROP) is hereby authorized. The DROP is to be administered by the Board of Trustees. Police officer members may elect to enter the DROP upon reaching normal retirement as set forth and in accordance with the terms and conditions of the DROP document in existence as negotiated in the collective bargaining agreements between the Broward County Police Benevolent Association of Pompano Beach, Florida and the City or Broward County Sheriff's Office. In no event shall the Board administer a plan which results in the disqualification of the system under the Internal Revenue Code.

(A) Eligibility. Any active member of the Pompano Beach Police and Firefighters' Retirement System who is eligible to receive a normal retirement pension, may elect to participate in the DROP. However, said election must be made at or before the employee has attained 25 years of continuous service with the city. Except as provided below, after an employee has exceeded 25 years of continuous service, he or she would no longer be eligible to participate in the DROP. In cases where an employee has reached 25 years of continuous service, but still has not become eligible for normal retirement, that employee will be eligible to elect to participate in the DROP upon (but not after) reaching eligibility for normal retirement. Firefighter members will "retire" for purposes of the pension plan, but may continue their employment with the city for a maximum 96 months from the effective date of the member's DROP election. Notwithstanding the foregoing, firefighter members who reach the normal retirement date on or after October 1, 2022 may elect to enter the DROP upon attaining age 47 with seven years of continuous service, and must elect to enter the DROP no later than the date the member attains 20 years of continuous service. A firefighter member who reaches the normal retirement date on or after October 1, 2022 and does not elect to participate in the DROP before or upon attaining 20 years of continuous service shall not be eligible to participate in the DROP.

(B) Written election. A member electing to participate in the DROP must complete and execute the proper forms supplied by the retirement system administrator in a time and manner determined by the Board of Trustees and shall be effective on the first day of the first calendar month which is at least five business days after it is received by the Board. Election in the DROP is irrevocable once payments to the DROP account begin.

(C) Limitations and disqualifications for other benefits. A member may participate in the DROP only once. After commencement of participation, the member shall not again have the right to be a contributing member of the retirement system. Police officer members shall not be eligible for disability or pre-retirement death benefits as provided for by the retirement system. Firefighter members shall not be eligible for pre-retirement death benefits, but shall be eligible, effective October 1, 2004, for service connected disability retirement, calculated pursuant to § 34.057(A), or non-service connected disability retirement, calculated pursuant to § 34.057(B), when a determination is made by the Pension Board that an existing benefit should be reclassified as a

disability benefit subject to Article 16 of the I.A.F.F. Local 1549 Collective Bargaining Agreement. Effective after October 1, 2004, the reclassified service-incurred disability benefit shall be equal to 75% of the member's monthly rate of pay in effect at the time of entry into the DROP. If the benefit the member accrued prior to DROP entry exceeds the disability benefit, such excess benefit will be treated as a normal retirement benefit.

(D) Cessation of contributions. Upon the effective date of a member's commencement of participation in the DROP, the member's contributions and the city's contributions to the retirement system for the normal cost of the member's service after the effective date will be discontinued.

(E) Benefit calculation.

(1) For all retirement system purposes, the average monthly earnings and continuous service of a member participating in the DROP shall remain as they existed on the effective date of commencement of participation in the DROP. Service, earnings or increases in earnings thereafter shall not be recognized by the retirement system or used for the calculation or determination of any benefits payable by the retirement system.

(2) On the effective date that the member enters the DROP, the city will calculate the member's accrued sick and annual leave payout utilizing existing payout formulas. The city will pay to the firefighter 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 employment with the city before the first five years, the remainder of the member's leave payout shall be paid to the member upon termination.

(3) Any accrued sick leave in excess of the maximum number of hours accruable for payout purposes will be carried over and available for use by the member in accordance with established city policy while participating in the DROP. The member will continue to accrue sick and annual 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.

(F) Payments to DROP account. The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a normal retirement benefit (including a cost-of-living increase if one is later included as part of the DROP Plan) shall be paid into the member's deferred retirement option account.

(G) DROP account earnings.

(1) After each fiscal year quarter, the average daily balance in a member's deferred retirement option account shall be credited or debited at a rate equal to the actual net rate of investment return realized by the retirement system for that quarter. "Net investment return" for the purpose of this paragraph is the total return on the retirement system's assets (except those assets invested pursuant to DROP member direction under subsection (2) below) net of brokerage commissions and transaction costs.

(2) As an alternative, each current member of the DROP and each future member of the DROP may elect not to receive "net investment return" as set forth above. Instead, an electing member may direct the investment of his or her DROP account in designated proportions among

such unitized or mutual funds as may be made available from time to time by the Board of Trustees. The electing member's DROP account shall be credited or debited at a rate equal to the actual net rate of investment return realized by the member's DROP account.

(3) If a member does not terminate employment at the end of participation in the DROP, all investment return credits and debits to the member's DROP account shall cease. Self-directed DROP accounts maintained pursuant to subsection (2) above will be liquidated and the proceeds returned to the retirement system to be held until the member terminates employment. No amounts shall be paid from the retirement system until the member terminates employment with the city.

(4) Members of the DROP who have elected to participate in the DROP loan program, as detailed herein, shall not receive any earnings on outstanding loan balances until such time as a repayment is made. Repayments are qualified as principal and interest with the latter being reflected on member DROP accounts as "earnings."

(H) Expenses. To compensate the system for the expenses of administering, investing and operating the DROP, each member's account shall be charged an annual administrative fee which shall be reviewed and subject to increase or decrease annually. The initial expense charge of three-quarters of one percent of the account balance (0.75%) shall be deducted from the member's account after each fiscal year quarter at the rate of 0.1875% of the account's average balance during that quarter. Effective April 1, 2020, the expense charge of 60 basis points (0.60%) of the account balance shall be deducted from the member's account after each fiscal year quarter at the rate of 0.15% of the account's average balance during that quarter. Provided, however, if a member elects to participate as set forth in subsection (G)(2) above, the member's account may be charged an administrative cost to be determined from time to time by the Board of Trustees.

(I) Payout.

(1) Upon termination of a member's employment (for any reason), the retirement benefits payable to the member or to the member's beneficiary (if provided for), shall be paid to the member or beneficiary and shall no longer be paid to the member's deferred retirement option account. No payments will be made from the DROP account until the member terminates employment.

(2) Within 90 days after the end of any calendar quarter following the termination of a member's employment, the balance in the member's deferred retirement account shall be payable at the member's option:

- (a) In full single lump payment, or
- (b) In annual installments in amounts requested by the member by June 30th of each year, or
- (c) In equal monthly installments requested by the member, which can be changed only once each year by making such request by June 30th of each year, or
- (d) In a single lump sum payment of the balance remaining after payment of any annual or monthly installments, which will be paid within 90 days after receiving a member's request, which request can be made at any time after termination of a member's employment.

Regardless of the selected option by the member, the Board of Trustees has the right to accelerate payments in order to comply with Section 401(a)(9) of the Internal Revenue Code and the right to defer payments to comply with Section 415 of the Internal Revenue Code. The DROP is meant to comply with the provisions of the Internal Revenue Code and the Board of Trustees will take no action which would jeopardize the tax qualification of the retirement system.

(3) Account balances continue to be credited or debited with account earnings or losses and charged with expenses until the entire balance is paid out.

(J) Promotions. Starting with the 72nd month after a member enters the DROP, the member is not eligible to be promoted, to participate in any promotional examination process and/or to be appointed or promoted to any bargaining unit position. Employees who have participated in DROP for less than 72 months shall be eligible to be promoted, to participate in any promotional examination process and/or to be appointed or promoted to any non-bargaining unit position. Employees who have participated in DROP for 72 months or more shall be eligible to be promoted, to participate in any promotional examination process and/or to be appointed or promoted to any non-bargaining unit position with the specific approval of the Fire Chief and City Manager when the Fire Chief and City Manager determine such actions to be in the best interest of the city.

(K) Death. If a DROP member dies before his or her account balance is paid out in full, the participant member's designated beneficiary shall have the same rights as the member to elect and receive the payout options set forth. DROP payments to a beneficiary shall be in addition to any retirement benefits payable to the beneficiary under any optional form of retirement benefits elected by the member.

(L) Benefits not guaranteed. All benefits payable under the DROP shall be paid only from the assets of the DROP and neither the city nor the Board of Trustees shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.

(M) DROP loan program.

(1) Effective June 22, 2010 for police officers and October 1, 2013 for firefighters, DROP participants may apply to the Board of Trustees to borrow from the retirement system up to 50% of the total balance in their respective DROP account, up to a maximum of \$50,000. The Board of Trustees shall approve or deny any such application in accordance with the terms and conditions specified herein. Board of Trustees shall not have the authority to deny member loan applications that satisfy requirements outlined herein. All loans to DROP participants shall be secured by the member's DROP account and no payments from the member's DROP account shall be made to the member, survivor or beneficiary while a loan balance remains outstanding. Should any loan balance remain unpaid after the balance in the member's DROP account has been exhausted, then that balance shall be secured and paid by offsetting such member, survivor or beneficiary's other benefits payable by the retirement system. The loan must be evidenced by the member's promissory note payable to the retirement system and shall have a definite interest rate, repayment schedule, and maturity date. The promissory note shall provide that in the event that the loan is not repaid, at a time when the member is entitled to a distribution, any unpaid balance of the loan, plus interest, shall be retained by the Board of Trustees out of such distribution. The Board of Trustees shall be authorized to take any and all necessary action to reinforce such member's obligations.

(2) In making its determination with respect to eligibility for, terms and conditions of, and interest rates on any loan, the Board of Trustees shall act in a uniform and nondiscriminatory manner. The outstanding principal of any loan to a member shall not exceed 50% of the member's vested amount in the DROP account, provided, that the maximum loan amount not shall exceed \$50,000. The promissory note shall bear interest at the annual interest rate quoted as the "prime rate" in the Wall Street Journal on the day which the member files all necessary forms for his or her DROP loan with the Board of Trustees. The interest rate quoted in the promissory note shall be valid for 60 calendar days from the initial date of the member's application. Upon expiration of

such rate, member shall be required to file a new application with the Board and a new promissory note executed with the then applicable "prime rate," as described herein, prior to any approval by the Board or distribution of funds.

(3) If a member or beneficiary, directly or indirectly, receives any amount as a loan from the retirement system, such amount shall be treated as a taxable distribution from the retirement system to the individual if:

(a) The amount of the loan exceeds the lesser of (i) \$50,000 (reduced to the extent that the member or beneficiary's highest balance for plan loans outstanding during the preceding 12 months exceeds the current balance for plan loans); or (ii) one-half of the member's DROP account (or \$10,000 if greater); and

(b) The loan by its terms is not required to be repaid within five years of the date the funds are actually received by the borrower (i.e. member).

(4) Loan amount and term. The Board of Trustees may loan to a DROP participant member a minimum of \$5,000 and a maximum of \$50,000. The loan shall be repaid by the member over a period of time not to exceed five years, as elected by the member at the time of the loan, with installment payments to be paid on a biweekly or monthly basis, as chosen by the member, with each payment being comprised of principal and interest. Member may elect to have installment payments automatically deducted by the Pompano Beach Credit Union and paid directly to the retirement system. Alternatively, retired members may elect that the loan installment payments be automatically deducted from their monthly pension benefit from the retirement system. DROP firefighter members may elect to have the loan installment payments automatically deducted from their bi-weekly city paycheck.

(a) Suspension of loan repayment; leave for military absence. In accordance with IRC section 414(u)(4), the retirement system shall permit postponement of loan repayments for military service personnel while performing military service. Any such postponement shall not alter the accrual of interest. Any such suspension of loan repayments during a leave of absence for military service will not cause the loan to be deemed a taxable distribution so long as:

1. Loan repayments resume upon the completion of the military service; and
2. The amount remaining due on the loan is repaid in substantially level installments; and
3. The loan is fully repaid by the end of the original term of the loan plus the period of military service.

(5) Loan costs and expenses. The electing member shall pay all costs of the loan, including documentary stamps, intangible taxes, loan-servicing fees, and all other costs associated with loan.

(6) Default. Events of default under the terms of the loan shall include, but are not limited to bankruptcy, insolvency, or failure to make any installment loan payment when due.

(7) Grace period. In the event of a default due to a participating member's failure to make an installment payment when due, then the retirement system, at its sole discretion, may provide written notice to such member of the occurrence of such default, and afford such member a grace period not to exceed ten days from the date upon which the subject payment(s) was due, within which such member may make payment to the retirement system to cure such default.

(8) Attorney's fees and costs. In the event of a default, and should the Board of Trustees determine that it is required to pursue legal relief to enforce a member's loan repayment obligations hereunder, then such member shall be held responsible for any and all attorney's fees and costs incurred by the retirement system to enforce such member's obligations.

(N) 415 limitations. All benefit payments and accruals under the DROP shall be in accordance with Subsection 415(c) of the Internal Revenue Code and all regulations thereunder, which subsections and regulations are incorporated herein by reference.

(Ord. 2010-12, passed 11-24-09; Am. Ord. 2010-34, passed 6-22-10; Am. Ord. 2013-56, passed 5-14-13; Am. Ord. 2015-19, passed 1-13-15; Am. Ord. 2018-23, passed 1-9-18; Am. Ord. 2020-66, passed 9-8-20; Am. Ord. 2023-19, passed 12-13-22)