

ORDINANCE NO. 26-25

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, TITLE 3, "ADMINISTRATION," CHAPTER 33, "POLICE AND FIRE-RESCUE DEPARTMENTS", TO IMPLEMENT PROVISIONS OF THE 2024-2027 COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY AND THE PALM BEACH COUNTY POLICE BENEVOLENT ASSOCIATION; AMENDING SECTIONS 33.64, "CONTRIBUTIONS" AND 33.685, "DEFERRED RETIREMENT OPTION PLAN" TO EXTEND THE DROP FROM FIVE YEARS TO EIGHT YEARS AND REQUIRE MEMBERS WHO PARTICIPATE IN THE DROP IN EXCESS OF 60 MONTHS TO CONTRIBUTE 3% TO THE PENSION TRUST FUND; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach recently negotiated collective bargaining agreements with the Palm Beach County Police Benevolent Association ("PBA") for the Police Officers and Sergeants bargaining unit and the Lieutenants bargaining unit, for the period October 1, 2024 through September 30, 2027; and

WHEREAS, the collective bargaining agreements contain certain modifications to the City of Delray Beach Police Officers' Retirement System; and

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

IT IS HEREBY ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. Title 3, "Administration" Chapter 33, "Police and Fire-Rescue Departments," Section 33.64, "Contributions," of the Code of Ordinances is hereby amended as follows:

Sec. 33.64. 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. Notwithstanding the preceding sentence, effective October 25, 2022, members hired after July 7, 2015 shall make regular contributions to the Trust Fund at a rate equal to ten (10) percent of their respective annual earnings. 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 earned the maximum normal retirement benefit payable under the System. Employees electing to participate in the Deferred Retirement Option Plan for any period in excess of sixty (60) months shall

contribute to the Trust Fund at a rate equal to three (3) percent of base salary during each month of participation in the Deferred Retirement Option Plan beyond sixty (60) months.

- (2) The City shall pick up the member contribution required by subsection (A)(1), above. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The City shall pick up the member contributions from funds established and available in the salaries account, which funds would have otherwise been designated as member contributions and paid to the pension fund. Member contributions picked up by the City pursuant to this subdivision shall be treated for purposes of making a refund of member contributions, and for all other purposes of this and other laws, in the same manner and to the same extent as member contributions made prior to the effective date of this subdivision. The intent of this subdivision is to comply with Section 414(h)(2) of the Internal Revenue Code. No employee shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the City to the System.

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

Section 2. That Section 33.685, “Deferred Retirement Option Plan,” of the Code of Ordinances is hereby amended as follows:

Sec. 33.685. – DEFERRED RETIREMENT OPTION PLAN.

- (A) Any employee with at least twenty (20) but not more than thirty (30) years of continuous service as a member of the system who has reached the normal retirement date may elect to participate in the Deferred Retirement Option Plan in accordance with this Section. Employees hired after July 7, 2015 shall remain eligible for the Deferred Retirement Option Plan under the same terms as applicable to other employees.
- (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 prior to January 1, 2026, may participate in such plan for a maximum of sixty (60) continuous months, except as otherwise provided herein. 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 effective on or after January 1, 2026, may participate in such plan for a maximum of ninety-six (96) continuous months. If upon the effective date of the employee's election there are less than ninety-six (96) months before the employee attains thirty-three (33) years of continuous service, the employee may participate in the Deferred Retirement Option Plan only until thirty-three (33) years of service is attained. Employees who are actively participating in in the Deferred Retirement Option Plan on January 1, 2026, who have not yet separated from service, may elect in writing, on forms provided by the Board, to extend participation in the Deferred Retirement Option Plan by up to thirty-six (36) months, from sixty (60) months to a maximum

total DROP participation period of ninety-six (96) months, provided that such extended participation period terminates on or before the date in which the employee attains thirty-three (33) years of continuous service. Employees electing to participate in the Deferred Retirement Option Plan for any period in excess of sixty (60) months shall contribute to the Trust Fund an amount equal to three (3) percent of base salary during each month of participation in the Deferred Retirement Option Plan beyond sixty (60) months.

- (D) An employee's continuous service and accrued benefit under the system shall be determined on the effective date of the employee's election to participate in the Deferred Retirement Option Plan. An employee who elects to participate in the Deferred Retirement Option Plan shall not accrue any additional continuous service or benefits under the system, except for additional benefits provided under the retirement benefit enhancement, if applicable, while participating in the Deferred Retirement Option Plan. No amounts shall be paid to an employee from the system while the employee is a participant in the Deferred Retirement Option Plan. Notwithstanding anything to the contrary, for employees commencing participation in the Deferred Retirement Option Plan on or after January 1, 2026, no monthly benefits paid into an employee's Deferred Retirement Option Plan account shall be increased pursuant to any retirement benefit enhancement or cost-of-living adjustment that would otherwise be applicable to monthly retirement benefits, and any such benefit enhancement or cost-of-living adjustment shall not be applied to an employee's monthly retirement benefit until such employee terminates employment with the City, and the employee has attained the 25th anniversary of employment with the City as a police officer.
- (E) A Deferred Retirement Option Plan account shall be established for each employee who elects to participate in the Deferred Retirement Option Plan in accordance with this Section. During the period of the employee's participation in the Deferred Retirement Option Plan, the employee's normal retirement benefit, calculated in accordance with Subsection 33.62(B) based on average monthly earnings and continuous service as of the effective date of the employee's election to participate in the Deferred Retirement Option Plan, shall be paid into the employee's Deferred Retirement Option Plan account. The employee's Deferred Retirement Option Plan account shall be invested by the Board of Trustees and credited with interest equal to the overall net rate of return on retirement fund assets during the period the employee participates in the Deferred Retirement Option Plan. Effective July 1, 2001, the Board of Trustees, in its sole discretion, may select a third-party administrator and establish a separate plan for DROP accounts to be invested by participating employees in accordance with an agreement between the participating employee and the third-party administrator. Employees who are participating in the DROP as of July 1, 2001, may elect to participate in the self-directed investment program. Employees who elect to participate in the DROP after July 1, 2001, shall be required to participate in the self-directed investment program as a condition of participating in the DROP. The Board of Trustees may adopt any necessary rules to administer the DROP in accordance with applicable provisions of the Internal Revenue Code and regulations adopted thereunder.
- (F) At the conclusion of the employee's participation in the Deferred Retirement Option Plan, and as a condition of participating in such plan, the employee will retire and terminate City employment. The employee will thereafter receive a normal retirement benefit calculated in accordance with Subsection 33.62(B) based on average monthly earnings and continuous service as of the effective date of the employee's election to participate in the Deferred

Retirement Option Plan. The employee's Deferred Retirement Option Plan account will thereafter be distributed to the employee in a cash lump sum, unless the employee elects an alternative distribution as described below:

- (1) Payments in approximately equal monthly, quarterly or annual installments over a period designated by the employee, not to exceed the life expectancy of the employee or the joint life expectancy of the employee and the employee's designated beneficiary. In the event that the employee dies before all installments have been paid, the remaining balance in the employee's Deferred Retirement Option Plan account shall be paid in an immediate cash lump sum to the employee's designated beneficiary.
 - (2) The purchase of a nonforfeitable fixed annuity payable in such form as the employee may elect. Elections under this Subsection (2) shall be in writing and shall be made in such time or manner as the Board of Trustees shall determine. If the annuity form selected is not a qualified joint and fifty (50) percent survivor annuity with the employee's spouse as the beneficiary, the annuity payable to the employee and thereafter to the employee's beneficiary shall be subject to the incidental death benefit rule as described in section 401(a)9g of the Internal Revenue Code and applicable regulations.
- (G) Notwithstanding the provisions of the foregoing paragraph (F), if an employee dies before distribution of the employee's Deferred Retirement Option Plan account commences, the account balance shall be paid to the employee's beneficiary in such optional form as the beneficiary may select.
- (H) Except as otherwise provided in this Section, distribution of an employee's Deferred Retirement Option Plan account shall begin as soon as administratively practicable following the employee's termination of employment. An employee may, in accordance with such procedures as the Board of Trustees may prescribe, elect to defer distribution of the Deferred Retirement Option Plan account until the first day of any month coincident with or following the employee's termination of City employment; provided, however, distribution shall be made before the distribution date elected by the employee to the extent necessary to comply with the internal revenue code and regulations thereunder. Any amounts in an employee's Deferred Retirement Option Plan account shall continue to be invested by the Board of Trustees and shall be credited with the net investment return on the Fund until the balance of the Deferred Retirement Option Plan account is fully distributed to the employee or the employee's beneficiary.
- (I) In no event shall the provisions of this Section operate so as to allow the distribution of an employee's Deferred Retirement Option Plan account to begin later than April 1 following the later of the calendar year in which the employee terminates city employment or attains age seventy-three (73) ~~seventy and one-half (70½)~~.
- (J) Notwithstanding any other provision of this Section, all distributions from employee Deferred Retirement Option Plan accounts shall conform to applicable provisions of the Internal Revenue Code and regulations issued thereunder.
- (K) Notwithstanding any provision of this Section to the contrary, an employee or beneficiary receiving distributions from a Deferred Retirement Option Plan account may elect, at the time and in the manner prescribed by the Board of Trustees, to have any portion of an eligible rollover distribution paid directly from the Deferred Retirement Option Plan account to an eligible

retirement plan specified by the employee/beneficiary in a direct rollover. The following definitions apply to the terms used in this paragraph:

- (1) *Eligible Rollover Distribution.* Any distribution of all or any portion of the balance to the credit of the distributee under the Deferred Retirement Option Plan, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more, any distribution to the extent such distribution is required under Section 401(a)9 of the Internal Revenue Code, and the portion of any distribution that is not includable in gross income.
- (2) *Eligible Retirement Plan.* An individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- (3) *Distributee.* An employee or former employee. In addition the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse.
- (4) *Direct Rollover.* A payment by the Deferred Retirement Option Plan to the eligible retirement plan specified by the distributee. The direct rollover may be accomplished by any reasonable means determined by the Board of Trustees.

Section 3. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 4. 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 5. Specific authority is hereby given to the City Clerk to codify this Ordinance.

Section 6. This Ordinance shall become effective upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the ____day of _____, 2025.

ATTEST:

Alexis Givings, City Clerk

Thomas F. Carney, Jr., Mayor

First Reading _____

Second Reading _____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney