

ORDINANCE NO. O-2002-33

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING THE SUBCHAPTER OF CHAPTER 33 OF THE CODE OF ORDINANCES TITLED "POLICE OFFICER'S RETIREMENT SYSTEM"; REENACTING AMENDMENTS TO SECTION 33.127 AND SECTION 33.128 ORIGINALLY ENACTED BY O-2001-13 TO PROVIDE FOR RETROACTIVE APPLICATION; AMENDING SECTION 33.128 BY MAKING THE NORMAL FORM OF BENEFIT FOR NORMAL RETIREMENT AND FOR DISABILITY RETIREMENT TEN YEARS CERTAIN AND LIFE, BY ENTITLING THE BENEFICIARY OF A POLICE OFFICER WHO DIES PRIOR TO RETIREMENT BUT AFTER TEN OR MORE YEARS OF SERVICE TO THE BENEFITS OTHERWISE PAYABLE TO THE POLICE OFFICER AT NORMAL RETIREMENT AGE, BY ALLOWING A DROP PARTICIPANT TO RECEIVE THE ASSUMED RATE OF RETURN ON HIS OR HER DROP ACCOUNT, AND BY CREATING A "SENIOR BUY OUT" PLAN; PROVIDING FOR GENDER NEUTRALITY; CORRECTING GRAMMATICAL, TYPOGRAPHICAL, AND LIKE ERRORS.

WHEREAS, Chapter 185 of the Florida Statutes requires that, in order for a municipality to participate in the distribution of the premium tax established pursuant to Chapter 185, the municipality must meet the minimum benefits and minimum standards set forth in Chapter 185; and

WHEREAS, the City of Hollywood, Florida participates in the distribution of the tax fund established pursuant to Chapter 185; and

WHEREAS, Chapter 99-1 of the Laws of Florida contains a number of minimum benefit provisions applicable to municipal police officers' retirement trust funds but requires compliance therewith only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance; and

WHEREAS, the Police Officer's Retirement System does not currently comply with certain minimum benefit provisions contained in Chapter 99-1; and

(Coding: Words underscored are additions to existing law; words in ~~struck-through~~ type are deletions.

WHEREAS, additional premium tax revenues are now available to fund the cost of compliance with these minimum benefit provisions; and

WHEREAS, Section 2 of this ordinance complies with these minimum benefit provisions; and

WHEREAS, on April 10, 2002, the Broward County Police Benevolent Association and the City entered into a collective bargaining agreement for the period beginning October 1, 2002 and ending September 30, 2005; and

WHEREAS, Article 39 of the collective bargaining agreement contains several amendments to the Police Officer's Retirement System; and

WHEREAS, Sections 1 and 3 of this ordinance incorporate these amendments into the Code of Ordinances; and

WHEREAS, Section 33.138 of the Code of Ordinances provides that the subchapter establishing and regulating the Police Officer's Retirement System may be amended by a 5/7 vote of the City Commission and 50% plus one of the active members of the Police Officer's Retirement System; and

WHEREAS, this ordinance has been approved by a minimum of 50% plus one of the active members of the Police Officer's Retirement System;

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

Section 1: That certain amendments to Chapter 33 of the Code of Ordinances, originally enacted by Ordinance No. O-2001-13, effective May 2, 2001, are hereby reenacted, effective retroactive to December 1, 2000, as follows:

TITLE III. ADMINISTRATION

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CHAPTER 33: CITY EMPLOYEES

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POLICE OFFICER'S RETIREMENT SYSTEM

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§ 33.127 ELIGIBILITY.

(A) *Conditions of eligibility.*

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(4) A member may elect to purchase credit for the period of attendance at a basic recruit training program approved by the Criminal Justice Standards and Training Commission of the Florida Department of Law Enforcement while employed by the city and for the one year probationary period by contributing 8% 7% of his or her earnings for those periods that year, plus interest as determined by the Board, into the system. A member shall have until the date on which he or she makes application for retirement within which to make this election and to make the necessary contribution.

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§ 33.128 NORMAL RETIREMENT.

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(B) *Normal retirement benefit.*

(1) Amount. The monthly retirement benefit shall be an amount equal to 3% of average monthly earnings times years and completed months of continuous service not exceeding 20 years plus 4% of average monthly earnings times years and completed months of continuous service after 20 years; provided however, that the maximum normal retirement benefit payable in any event shall not exceed 88% 84% of average monthly earnings.

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Section 2: That Chapter 33 of the Code of Ordinances is hereby amended, effective retroactive to October 1, 2001, to read as follows:

TITLE III. ADMINISTRATION

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CHAPTER 33: CITY EMPLOYEES

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POLICE OFFICER'S RETIREMENT SYSTEM

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§ 33.128 NORMAL RETIREMENT

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(B) *Normal retirement benefit.*

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(2) Duration, survivor, benefits. A member retiring hereunder on his or her normal retirement date shall receive a monthly benefit which shall commence with his or her normal retirement date and be continued thereafter during his or her lifetime; upon his or her death after receiving retirement benefits for a period of ten years or more, 50% of the full retirement benefit shall be continued to his or her spouse until the earlier of her or his death or remarriage. No widow(er) of any deceased pensioner shall be eligible for such benefit under the provisions of this section unless she or he shall have been married to such deceased member prior to his or her retirement. In the event a member dies after retirement but before receiving retirement benefits for a period of ten years, the same monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the police officer for the balance of such ten-year period, or, if no beneficiary is designated, to the estate of the police officer.

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(C) *Disability.*

(1) Service-incurred. Any member who receives a medically substantiated service-connected injury, disease or disability, as determined by the medical board, which injury, disease or disability permanently incapacitates him or her, physically or mentally, from his or her regular and continuous duties as a Police Officer, shall receive a monthly benefit equal to the greater of his or her accrued benefit on date of disability, based on the applicable benefit rate set forth in subdivision (B)(1) of § 33.128, or to 50% of his or her earnings in effect on the date of disability. Such benefit shall commence on the 91st day following the date of disability and shall continue until the earlier of death or recovery from disability; provided, however, that upon death prior to recovery of a disabled member, his or her spouse shall receive, until his or her death or remarriage, a monthly benefit equal to 50% of the amount the disabled member was receiving from the fund at the time of his or her death. Upon remarriage or death of the spouse, the benefit shall be paid to the surviving children until the youngest child reaches the age of 18. If the member has designated a beneficiary (or beneficiaries), the beneficiary (or beneficiaries), upon death prior to recovery of the disabled member and prior to the member's having received the benefit for a period of ten years, shall receive, for the balance of such ten-year period, the

same benefit that the member had received. If the member has designated his or her spouse as the beneficiary, upon death prior to recovery of the disabled member and prior to the member's having received the benefit for a period of ten years, the spouse shall select either the above-described benefit for a spouse and surviving children or the above-described benefit for a designated beneficiary. In the event of recovery prior to the otherwise normal retirement date, credit for service during the period of disability shall be granted for purposes of subsequent retirement benefits.

(2) Non-service incurred. Any member with five or more years of continuous service who receives a non-service incurred injury, illness, disease or disability, and which illness, injury, disease or disability permanently incapacitates him or her physically or mentally from his or her regular and continuous duty as a Police Officer, shall receive from the fund in equal monthly installments an amount equal to 2½% of his or her average monthly earnings for each year of continuous service. Until normal retirement date, death or recovery from disability, whichever shall first occur, the amount of such monthly disability benefit shall in no event be less than 25% of the member's earnings in effect on date of disability. Commencing with normal retirement date, the benefit shall be computed as a normal retirement benefit, except that continuous service shall include all years and completed months during the disability period. The benefit shall commence on the 91st day following the date of disability. In the event of death prior to the normal retirement date of a person receiving this benefit, the spouse shall receive the same amount as the disabled person was receiving until the earlier of the spouse's death or remarriage; provided, however, that if the disabled person has designated a beneficiary (or beneficiaries), the disabled person had ten or more years of credited service at the time he or she received the non-service incurred injury, illness, disease or disability, and the disabled person dies prior to recovery and prior to having received this benefit for a period of ten years, the disabled person's designated beneficiary (or beneficiaries) shall receive the same benefit for the balance of such ten-year period. If the disabled person has designated his or her spouse as the beneficiary, the disabled person had ten or more years of credited service at the time he or she received the non-service incurred injury, illness, disease or disability, and the disabled person dies prior to recovery and prior to having received this benefit for a period of ten years, the spouse shall select either the above-described benefit for a spouse or the above-described benefit for a designated beneficiary.

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(D) *Pre-retirement death.*

(1) Death with at least ten years of service. If a member having at least ten years of continuous service dies prior to retirement, his or her beneficiary is entitled to the benefits otherwise payable to the member at early or normal retirement age; provided, however, that the amount of the monthly benefit shall be the greater of the member's accrued benefit at the time of death or the benefit otherwise payable under (D)(2) or (D)(3) below, as applicable.

(2 4) Service incurred death with less than ten years of service. A death benefit shall be payable in behalf of any member having less than ten years of continuous service who is killed or dies within five years as a direct result of an occurrence arising in the performance of service. The benefits shall be payable as follows:

(a) To the widow(er), until the earlier of death or remarriage, a monthly benefit equal to 50% of the member's earnings at the time of death.

(b) If there be no widow(er), the benefit shall be paid to the member's surviving children, until the youngest child reaches the age of 18 years.

(c) Upon remarriage or death of the widow(er) the benefit shall be paid to the member's surviving children until the youngest child reaches the age of 18 years.

(d) The manner of handling and administering the pension to any child or children shall be determined by the Board including the establishment of a trust for the benefit of said child or children. However, funds payable by the Board to any trust shall be for maintenance, health and education of said child or children during the period of existence of any such trust. No survivor pension shall be paid to any stepchild of a deceased member who had not been legally adopted by such member.

(e) For the purpose of benefits under this plan, the date of death of any member shall be established as the end of the calendar month in which such member dies.

(3 2) Non-service incurred death with less than ten years of service. A death benefit shall be payable in behalf of any member having less than ten years of service who is killed or dies within five years from causes not related to performance of duty. The benefits shall be payable as follows:

(a) To the widow(er) until the earlier of death or remarriage, a monthly benefit equal to 25% of the member's earnings at the time of death.

(b) If there be no widow(er) the benefit shall be paid to the member's surviving children, until the youngest child reaches the age of 18 years.

(c) Upon remarriage or death of the widow(er) the benefits shall be paid to the member's surviving children until the youngest child reaches the age of 18 years. For the purpose of benefits under this act, the date of death of any Member shall be established as the end of the calendar month in which such member dies.

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§ 33.136 MISCELLANEOUS PROVISIONS.

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(O) *Use of state funds for individual "share" accounts.* The state funds received by the city pursuant to Florida Statutes Chapter 185 shall be used to fund the cost of the additional benefits consisting of ten years' certain and life as normal form for normal retirement, disability, and death prior to retirement, which benefits are set forth in Sections 33.128(B)(2), 33.128(C)(1) and (2), and 33.128(D) above. The remaining state funds shall be divided equally into individual "share" accounts for active members of the system. The Board of Trustees shall administer this "share" program.

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Section 3: That Section 33.128 of the Code of Ordinances is hereby amended to read as follows:

TITLE III. ADMINISTRATION

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CHAPTER 33: CITY EMPLOYEES

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POLICE OFFICER'S RETIREMENT SYSTEM

* * *

§ 33.128 NORMAL RETIREMENT

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(E) *Deferred retirement option plan ("DROP" plan).* A DROP plan is to be created and administered by the Board of Trustees of the Police Officer's Officers' Retirement System at no cost and with no liability to the city. A member may enter into the DROP on the earlier of the first day of any month following the member's 50th birthday, or on the first day of any month following completion of 25 years of credited service. A member who elects to enter the DROP plan shall have no recourse against the city for any claims with respect to the DROP payments or the DROP plan. A member who elects to enter the DROP plan shall have the option to receive a rate of return on his or her DROP account that is equal to the assumed rate of investment return on fund assets.

(F) "Senior Buy Out" plan. A "Senior Buy Out" plan is hereby created as follows:

(1) Notwithstanding the provisions of (A) above, a member who, as of October 1, 2002, has attained age 41 and has completed 21 or more years of continuous service may buy credited service. The minimum amount that the member may buy is the amount necessary to bring the member's total continuous service to 25 years, and the maximum amount that the member may buy is the lesser of four years and the amount necessary to bring the member's total continuous service to 27 years.

(2) The Chief of Police, in conjunction with the Board of Trustees, as appropriate, shall implement the Senior Buy Out plan. All actions taken by the Chief of Police prior to October 1, 2002, the effective date of this subsection, to implement the plan are hereby ratified. In this regard, the February 18, 2002 deadline for a member to apply to participate is hereby ratified, a member otherwise eligible who failed to meet said deadline shall not be eligible, and the December 31, 2002 deadline for retirement is also hereby ratified.

(3) Notwithstanding anything to the contrary contained in Subsection (E) above, any member who participates in the Senior Buy Out plan shall not be eligible to participate in the DROP plan.

Section 4: That it is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the provisions of this ordinance may be renumbered to accomplish such intention.

Section 5: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 6: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

(ORDINANCE AMENDING POLICE OFFICER'S RETIREMENT SYSTEM)

Section 7: That, except for the retroactive application of Sections 1 and 2 hereof as provided above, this ordinance shall be in full force and effect on October 1, 2002.

ADVERTISED on Sept 6, 2002.

PASSED on first reading this 4 day of Sept, 2002.


PASSED AND ADOPTED on second reading this 18 day of Sept, 2002.


MARA GIULIANTI, MAYOR

ATTEST:


PATRICIA A. CERNY, CMC/AAE
CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida only:


DANIEL L. ABBOTT, CITY ATTORNEY