



CITY OF NORTH PORT

ORDINANCE NO. 2016-06

(Police Officers' Pension - Local Option Trust Fund)

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE V, EMPLOYEE BENEFITS, DIVISION 5, POLICE OFFICERS' PENSION, OF THE CODE OF ORDINANCES OF THE CITY OF NORTH PORT; AMENDING SECTION 2-255, DEFINITIONS; AMENDING SECTION 2-256, MEMBERSHIP; AMENDING SECTION 2-258, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 2-260, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 2-262, DISABILITY; AMENDING SECTION 2-264, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 2-269, MAXIMUM PENSION; AMENDING SECTION 2-270, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 2-273, DOMESTIC RELATIONS ORDERS; RETIREE DIRECTED PAYMENTS; EXEMPTION FROM EXECUTION, NON-ASSIGNABILITY; AMENDING SECTION 2-283, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 2-284, PRIOR POLICE SERVICE; AMENDING SECTION 2-286, SUPPLEMENTAL SHARE PLAN RETIREMENT BENEFITS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, THAT:

SECTION 1: Chapter 2, Administration, Article V, Employee Benefits, Division 5, Police Officers' Pension, of the Code of Ordinances of the City of North Port, is hereby amended by amending 2-255, Definitions, to amend the definitions of "Actuarial Equivalent", "Credited Service", and "Spouse", to read as follows:

Actuarial equivalent. A benefit or amount of equal value, based upon the RP 2000 Combined Healthy Unisex Mortality Table, at an interest rate of seven and three-quarters percent per annum. This definition may only be amended by the city pursuant to the recommendation of the board using the assumptions adopted by the board with the advice of the plan's actuary, such that actuarial assumptions are not subject to city discretion.

Credited service. The total number of years and fractional parts of years of service as a police officer with member contributions, when required, omitting intervening years or fractional parts of years when such member was not employed by the city as a police officer. A member may voluntarily leave his or her accumulated contributions in the fund for a period of five years after leaving the employ of the police department pending the possibility of being reemployed as a police officer, without losing credit for the time that he or she was a member of the system. If a vested member leaves the employ of the police department, his or her accumulated contributions will be returned only upon his or her written request. If a member who is not vested is not reemployed as a police officer with the police department within five years, his or her accumulated contributions, if \$1,000.00 or less, shall be returned. If a member who is not vested is not reemployed within five years, his accumulated contributions, if more than \$1,000.00, will be returned only upon the written request of the member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the board. Upon return of a member's accumulated contributions, all of his or her rights and benefits under the system are forfeited and terminated. Upon any reemployment, a police officer shall not receive credit for the years and fractional parts of years of service for which he or she has withdrawn his or her accumulated contributions from the fund, unless the police officer repays into the fund the contributions he or she has withdrawn, with interest, as determined by the board, within 90 days after his or her reemployment.

The years or fractional parts of years that a member performs "qualified military service" consisting of voluntary or involuntary "service in the uniformed services" as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L. 103-353), after separation from employment as a police officer with the city to perform training or service, shall be added to his or her years of credited service for all purposes, including vesting, provided that:

- (1) The member is entitled to reemployment under the provisions of USERRA.
- (2) The member returns to his or her employment as a police officer within one year from the earlier of the date of his or her military discharge or release from active service under honorable conditions, unless otherwise required by USERRA.
- (3) The maximum credit for military service pursuant to this subsection shall be five years.
- (4) This paragraph is intended to satisfy the minimum requirements of USERRA. To the extent that this paragraph does not meet the minimum standards of USERRA, as it may be amended from time to time, the minimum standards shall apply.

In the event a member dies on or after January 1, 2007, while performing USERRA qualified military service, the beneficiaries of the member are entitled to any benefits (other than benefit accruals relating to the period of qualified military service) as if the member had resumed employment and then died while employed.

Beginning January 1, 2009, to the extent required by section 414(u)(12) of the code, an individual receiving differential wage payments (as defined under section 3401(h)(2) of the code) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Leave conversions of unused accrued paid time off shall not be permitted to be applied toward the accrual of credited service either during each plan year of a member's employment with the City or in the plan year in which the member terminates employment.

Spouse. The member's or retiree's spouse under applicable law at the time benefits become payable.

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SECTION 2: Chapter 2, Administration, Article V, Employee Benefits, Division 5, Police Officers' Pension, of the Code of Ordinances of the City of North Port, is hereby amended by amending 2-256, Membership, subsection (a)(1), to read as follows:

- (1) All police officers, as of the effective date, and all future new police officers shall become members of this system as a condition of employment. Notwithstanding the previous sentence, a new employee who is hired as police chief may, upon employment as police chief, notify the board and the city, in writing, of his election to not be a member of the system. In the event of any such election, he shall be barred from future membership in the system. Contributions to the plan shall not be required, and he shall not be eligible for any other benefits from the plan.

SECTION 3: Chapter 2, Administration, Article V, Employee Benefits, Division 5, Police Officers' Pension, of the Code of Ordinances of the City of North Port, is hereby amended by amending 2-258, Finances and Fund Management, subsection (f)(1)(b)[3], to read as follows:

- [3] In addition, the board may, upon recommendation by the board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100, Revenue Ruling 2011-1, IRS Notice 2012-6 and Revenue Ruling 2014-24 or successor rulings or guidance of similar import, and operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under section 401(a) of the code, individual retirement accounts that are exempt under section 408(e) of the code, eligible governmental plans that meet the requirements of section 457(b) of the code, and governmental plans under 401(a)(24) of the code. For this purpose, a trust includes a custodial account or a separate tax favored account maintained by an insurance company that is treated as a trust under section 401(f) or under section 457(g)(3) of the code. While any portions of the assets of the fund are invested in such a group trust, such group trust is itself adopted as a part of the system or plan.
 - i) Any collective or common group trust to which assets of the fund are transferred pursuant to subsection [3] shall be adopted by the board as part of the plan by executing appropriate participation, adoption agreements, and/or trust agreements with the group trust's trustee.
 - ii) The separate account maintained by the group trust for the plan pursuant to subsection [3] shall not be used for, or diverted to, any purpose other than for the exclusive benefit of the members and beneficiaries of the plan.
 - iii) For purposes of valuation, the value of the separate account maintained by the group trust for the plan shall be the fair market value of the portion of the group trust held for the

plan, determined in accordance with generally recognized valuation procedures.

SECTION 4: Chapter 2, Administration, Article V, Employee Benefits, Division 5, Police Officers' Pension, of the Code of Ordinances of the City of North Port, is hereby amended by amending 2-260, Benefit Amounts and Eligibility, subsection (a), Normal Retirement Date, to read as follows:

- (1) *Normal retirement age and date.* For members hired prior to May 27, 2014, a member's normal retirement age is the earlier of the attainment of age 55 and the completion of ten years of credited service or upon the completion of 25 years of credited service, regardless of age. For members hired on or after May 27, 2014, a member's normal retirement age is the first day of the month coincident with or next following the earlier of the attainment age 55 and the completion of ten years of credited service or upon the attainment of age 52 and the completion of 25 years of credited service. Each member shall become one hundred percent (100%) vested in his accrued benefit at normal retirement age. A member's normal retirement date shall be the first day of the month coincident with or next following the date the member retires from the City after attaining normal retirement age.

SECTION 5: Chapter 2, Administration, Article V, Employee Benefits, Division 5, Police Officers' Pension, of the Code of Ordinances of the City of North Port, is hereby amended by amending 2-262, Disability, subsection (a), Disability Benefits In-Line of Duty and subsection (c), Disability Benefits Not-in-Line of Duty, to read as follows:

(a) *Disability benefits in line of duty.* Any member who shall become totally and permanently disabled to the extent that he or she is wholly prevented, by reason of a medically determinable physical or mental impairment, from rendering useful and efficient service as a police officer, which disability was directly caused by the performance of his or her duty as a police officer, shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to two percent of his or her average final compensation multiplied by the total years of credited service, but in any event, the minimum amount paid to the member shall be 60 percent of his or her rate of pay at the time he or she became disabled. Notwithstanding the previous sentence, in the event a member is determined by the board to be disabled in line of duty and the disability resulted from the perpetration of an intentional act of violence directed toward the police officer and the board reasonably believes the perpetrator intended to cause great bodily harm or permanent disfigurement of the police officer, the minimum amount paid to the member shall be 80 percent of the average final compensation of the member. Terminated vested persons are not eligible for disability benefits. Notwithstanding the previous sentence, if a member is terminated by the city for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the board otherwise determines that he is totally and permanently disabled as provided for above.

(c) *Disability benefits not-in-line of duty.* Any member with ten years or more of credited service who shall become totally and permanently disabled to the extent that he or she is wholly prevented, by reason of a medically determinable physical or mental impairment, from rendering useful and efficient service as a police officer, which disability is not directly caused by the performance of his or her duties as a police officer shall, upon establishing the same to the satisfaction of the board be entitled to a monthly pension equal to two percent of his or her average final compensation multiplied by the total years of credited service, but in any event, the minimum amount paid to the member shall be 50 percent of his or her rate of pay at the time he or she became disabled. Terminated vested persons are not eligible for disability benefits. Notwithstanding the previous sentence, if a member is terminated by the city for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the board within thirty (30) days

from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the board otherwise determines that he is totally and permanently disabled as provided for above.

SECTION 6: Chapter 2, Administration, Article V, Employee Benefits, Division 5, Police Officers' Pension, of the Code of Ordinances of the City of North Port, is hereby amended by amending 2-264, Optional Forms of Benefits, subsections (a)(4) and (b), to read as follows:

- (4) For members who do not participate in the DROP pursuant to section 2-283, the member may elect a percentage of benefit in a lump sum as follows.
 - a. Ten percent of the total actuarial equivalent value of the benefit paid as a lump-sum with the remaining 90 percent paid under the normal form or as per [subsections] (1), (2) or (3) above.
 - b. Fifteen percent of the total actuarial equivalent value of the benefit paid as a lump-sum with the remaining 85 percent paid under the normal form or as per [subsections] (1), (2) or (3) above.
 - c. Twenty percent of the total actuarial equivalent value of the benefit paid as a lump-sum with the remaining 80 percent paid under the normal form or as per [subsections] (1), (2) or (3) above.
 - d. Twenty-five percent of the total actuarial equivalent value of the benefit paid as a lump sum with the remaining 75 percent paid under the normal form or as [per subsections] (1), (2) or (3) above.

(b) The member, upon electing any option of this section, will designate the joint pensioner (subsection (a)(2) above) or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the system in the event of his or her death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one or more primary beneficiaries where applicable. A member may change his or her beneficiary at any time. If a member has elected an option with a joint pensioner and his or her retirement income benefits have commenced, he or she may thereafter change his or her designated beneficiary at any time, but may only change his or her joint pensioner twice. Subject to the restriction in the previous sentence, a member may substitute a new joint pensioner for a deceased joint pensioner. In the absence of proof of good health of the joint pensioner being replaced, the actuary will assume that the joint pensioner has deceased for purposes of calculating the new payment.

SECTION 7: Chapter 2, Administration, Article V, Employee Benefits, Division 5, Police Officers' Pension, of the Code of Ordinances of the City of North Port, is hereby amended by amending 2-269, Maximum Pension, subsections (f), (h), (l)(2), and by adding subsection (m), to read as follows:

(f) *Less than ten years of participation.* The maximum retirement benefits payable under this section to any member who has completed less than ten years of participation shall be the amount determined under subsection (a) of this section multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is ten. The reduction provided by this subsection cannot reduce the maximum benefit below ten percent of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits paid pursuant to section 2-262, or pre-retirement death benefits paid pursuant to section 2-261.

(h) *\$10,000.00 limit; less than ten years of service.* Notwithstanding anything in this section 2-269, the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this subsection (h) of section 2-269 if the benefits payable, with respect

to such member under this system and under all other qualified defined benefit pension plans to which the city contributes, do not exceed \$10,000.00 for the applicable limitation year ~~and~~ or for any prior limitation year, and the city has not at any time maintained a qualified defined contribution plan in which the member participated; provided, however, that if the member has completed less than ten years of credited service with the city, the limit under this subsection (h) of section 2-269 shall be a reduced limit equal to \$10,000.00 multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten.

(l)(2) No member of the system shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 1223, Title 10, U.S. Code.

(m) *Effect of Direct Rollover on 415(b) Limit.* If the plan accepts a direct rollover of an employee's or former employee's benefit from a defined contribution plan qualified under Code Section 401(a) which is maintained by the employer, any annuity resulting from the rollover amount that is determined using a more favorable actuarial basis than required under Code Section 417(e) shall be included in the annual benefit for purposes of the limit under Code Section 415(b).

SECTION 8: Chapter 2, Administration, Article V, Employee Benefits, Division 5, Police Officers' Pension, of the Code of Ordinances of the City of North Port, is hereby amended by amending 2-270, Minimum Distribution of Benefits, subsection (b)(2), to read as follows:

- (2) *Death of member before distributions begin.* If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed no later than as follows:
- a. If the member's surviving spouse is the member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by a date on or before December 31 of the calendar year in which the member would have attained age 70½, if later, as the surviving spouse elects.
 - b. If the member's surviving spouse is not the member's sole designated beneficiary, then, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.
 - c. If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.
 - d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this subsection (b)(2), other than subsection (b)(2)a., will apply as if the surviving spouse were the member.

For purposes of this subsection (b)(2), distributions are considered to begin on the member's required beginning date or, if subsection (b)(2)d. applies, the date of distributions are required to begin to the surviving spouse under subsection (b)(2)a. If annuity payments irrevocably commence to the member before the member's required beginning date (or to the member's surviving spouse before the date

distributions are required to begin to the surviving spouse under subsection (b)(2)a.) the date distributions are considered to begin is the date distributions actually commence.

SECTION 9: Chapter 2, Administration, Article V, Employee Benefits, Division 5, Police Officers' Pension, of the Code of Ordinances of the City of North Port, is hereby amended by amending 2-273, Domestic Relations Orders; Retiree Directed Payments; Exemption from Execution; Non-Assignability, subsection (b), to read as follows:

(b) *Retiree directed payments.* The board may, upon written request by a retiree or by a dependent when authorized by a retiree or the retiree's beneficiary, authorize the system to withhold from the monthly retirement payment those funds that are necessary to pay for the benefits being received through the City to pay the certified bargaining agent of the City to make payments to insurance companies for insurance premiums if as permitted by F.S. Ch. 185, and to make any payments for child support or alimony.

SECTION 10: Chapter 2, Administration, Article V, Employee Benefits, Division 5, Police Officers' Pension, of the Code of Ordinances of the City of North Port, is hereby amended by amending 2-283, Deferred Retirement Option Plan, to read as follows:

Sec. 2-283. - Deferred retirement option plan.

(a) *Definitions.* As used in this section, the following definitions apply:

DROP. The City of North Port Police Officer's Deferred Retirement Option Plan.

DROP account. The account established for each DROP participant under subsection (c).

"Total return of the assets" -- For purposes of calculating earnings on a member's DROP account pursuant to subsection (c)(2)b.[2], for each fiscal year quarter, the percentage increase (or decrease) in the interest and dividends earned on investments, including realized and unrealized gains (or losses), of the total Plan assets.

(b) *Participation.*

(1) *Eligibility to participate.* In lieu of terminating his or her employment as a police officer, any member who is eligible for normal retirement under the system may elect to defer receipt of such service retirement pension and to participate in the DROP.

(2) *Election to participate.* A member's election to participate in the DROP must be made in writing in a time and manner determined by the board and shall be effective on the first day of the first calendar month which is at least 15 business days after it is received by the board.

(3) *Period of participation.* A member who elects to participate in the DROP under subsection (b)(2) shall participate in the DROP for a period equal to at least 12 but not more than 36 months beginning at the time his or her election to participate in the DROP first becomes effective. An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the city not later than the date provided for in the previous sentence. A member may participate only once.

(4) *Termination of participation.*

- a. A member's participation in the DROP shall cease at the earlier of:
 - [1] The end of his or her period of participation in the DROP as determined under subsection (b)(3); or
 - [2] Termination of his or her employment as a police officer.
- b. Upon the member's termination of participation in the DROP, pursuant to subsection a.[1] above, all amounts provided for in subsection (c)(2), including monthly benefits and investment earnings and losses or interest, shall cease to be transferred from the system to his or her DROP account. Any amounts remaining in his or her DROP account shall be paid to him or her in accordance with the provisions of subsection (d) when he or she terminates his or her employment as a police officer.
- c. A member who terminates his or her participation in the DROP under this subsection (b)(4) shall not be permitted to again become a participant in the DROP.

(5) *Effect of DROP participation on the system.*

- a. A member's credited service and his or her accrued benefit under the system shall be determined on the date his or her election to participate in the DROP first becomes effective. For purposes of determining the accrued benefit, the member's salary for the purposes of calculating his average final compensation shall include an amount equal to any lump-sum payments which would have been paid to the member and included as salary as defined herein had the member retired under normal retirement and not elected DROP participation. Member contributions attributable to any lump sums used in the benefit calculation and not actually received by the member shall be deducted from the first payments to the member's DROP account. The member shall not accrue any additional credited service or any additional benefits under the system (except for any supplemental benefit payable to DROP participants or any additional benefits provided under any cost-of-living adjustment for retirees in the system) while he or she is a participant in the DROP. After a member commences participation, he or she shall not be permitted to again contribute to the system nor shall he or she be eligible for disability or preretirement death benefits, except as provided for in section 2-285, Reemployment after retirement.
- b. No amounts shall be paid to a member from the system while the member is a participant in the DROP. Unless otherwise specified in the system, if a member's participation in the DROP is terminated other than by terminating his or her employment as a police officer, no amounts shall be paid to him or her from the system until he or she terminates his or her employment as a police officer. Unless otherwise specified in the system, amounts transferred from the system to the member's DROP account shall be paid directly to the member only on the termination of his or her employment as a police officer.

(c) *Funding.*

(1) *Establishment of DROP account.* A DROP account shall be established for each member participating in the DROP. A member's DROP account shall consist of amounts transferred to the DROP under subsection (c)(2), and earnings or losses or interest on those amounts.

(2) *Transfers from retirement system.*

a. As of the first day of each month of a member's period of participation in the DROP, the monthly retirement benefit he or she would have received under the system had he or she terminated his or her employment as a police officer and elected to receive monthly benefit payments thereunder shall be transferred to his or her DROP account, except as otherwise provided in subsection (b)(4)b. A member's period of participation in the DROP shall be determined in accordance with the provisions of subsections (b)(3) and (4), but in no event shall it continue past the date he or she terminates his or her employment as a police officer.

b. Except as otherwise provided in subsection (b)(4)b., a member's DROP account under this subsection (c)(2) shall be debited or credited with either:

[1] Interest at an effective rate of six and one-half (6.5) percent per annum compounded monthly determined on the last business day of the prior month's ending balance and credited to the member's DROP account as of such date (to be applicable to all current and future DROP participants): or

[2] Earnings, to be credited or debited to the member's DROP account, determined as of the last business day of each fiscal year quarter and debited or credited as of such date, determined as follows:

The average daily balance in a member's DROP account shall be credited or debited at a rate equal to the net of investment return realized by the system for that quarter. "Net investment return" for the purpose of this subsection, is the total return of the assets in which the member's DROP account is invested by the board net of brokerage commissions, transaction costs and management fees.

For purposes of calculating earnings on a member's DROP account pursuant to this subsection (c)(2)b.[2], brokerage commissions, transaction costs, and management fees shall be determined for each quarter by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these quarterly contractual fees to the board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total plan assets.

Upon electing participation in the DROP, the member shall elect to receive either interest or earnings on his or her account to be determined as provided above. The member may, in writing, elect to change his or her election only once during his or her DROP participation. An election to change must be made prior to the end of a quarter and shall be effective beginning the following quarter.

- c. A member's DROP account shall only be credited with interest or earnings or debited with losses and monthly benefits while the member is a participant in the DROP. A member's final DROP account value for distribution to the member upon termination of participation in the DROP shall be the value of the account at the end of the quarter immediately preceding termination of participation for participants electing the net plan return and at the end of the month immediately preceding termination of participation for participants electing the flat interest rate return, plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter or month, as applicable, and prior to distribution. If a member fails to terminate employment after participating in the DROP for the permissible period of DROP participation, then beginning with the member's first month of employment following the last month of the permissible period of DROP participation, the member's DROP account will no longer be credited with interest or earnings or debited with losses, nor will monthly benefits be transferred to the DROP account. All such non-transferred amounts shall be forfeited and continue to be forfeited while the member is employed by the police department and no cost-of-living adjustment shall be applied to the member's credit during such period of continued employment. A member employed by the police department after the permissible period of DROP participation will be eligible for preretirement death or disability benefits, and will accrue additional credited service only as provided for in section 2-285.
- (d) *Distribution of DROP accounts on termination of employment.*
 - (1) *Eligibility for benefits.* A member shall receive the balance in his or her DROP account in accordance with the provisions of this subsection (d) upon his or her termination of employment as a police officer. Except as provided in subsection (d)(5), no amounts shall be paid to a member from the DROP prior to his or her termination of employment as a police officer.
 - (2) *Form of distribution.*
 - a. Unless the member elects otherwise, distribution of his or her DROP account shall be made in a lump sum, subject to the direct rollover provisions set forth in subsection (d)(6). Elections under this subsection shall be in writing and shall be made in such time or manner as the board shall determine.
 - b. If a member dies before his or her benefit is paid, his or her DROP account shall be paid to his or her beneficiary in such an optional form as his or her beneficiary may select. If no beneficiary designation is made, the DROP account shall be distributed to the member's estate.
 - (3) *Date of payment of distribution.* Except as otherwise provided in this subsection (d) distribution of a member's DROP account shall be made as soon as administratively practicable following the member's termination of employment. Distribution of the amount in a member's DROP account will not be made unless the member completes a written request for distribution and a written election, on forms designated by the board, to either receive a cash lump sum or a rollover of the lump sum amount.
 - (4) *Proof of death and right of beneficiary or other person.* The board may require and rely upon such proof of death and such evidence of the right of any beneficiary or

other person to receive the value of a deceased member's DROP account as the board may deem proper and its determination of the right of that beneficiary or other person to receive payment shall be conclusive.

- (5) *Distribution limitation.* Notwithstanding any other provision of this subsection (d), all distributions from the DROP shall conform to the "minimum distribution of benefits" provisions as provided for herein.
- (6) *Direct rollover of certain distributions.* This subsection applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the DROP to the contrary, a distributee may elect to have any portion of an eligible rollover distribution paid in a direct rollover as otherwise provided under the system in section 2-281.
- (e) *Administration of DROP.*
 - (1) *Board administers the DROP.* The general administration of the DROP, the responsibility for carrying out the provisions of the DROP and the responsibility of overseeing the investment of the DROP's assets shall be placed in the board. The members of the board may appoint from their number such subcommittees with such powers as they shall determine; may adopt such administrative procedures and regulations as they deem desirable for the conduct of their affairs; may authorize one or more of their number or any agent to execute or deliver any instrument or make any payment on their behalf; may retain counsel, employ agents and provide for such clerical, accounting, actuarial and consulting services as they may require in carrying out the provisions of the DROP; and may allocate among themselves or delegate to other persons all or such portion of their duties under the DROP, other than those granted to them as trustee under any trust agreement adopted for use in implementing the DROP, as they, in their sole discretion, shall decide. A trustee shall not vote on any question relating exclusively to himself or herself.
 - (2) *Individual accounts, records and reports.* The board shall maintain records showing the operation and condition of the DROP, including records showing the individual balances in each member's DROP account, and the board shall keep in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The board shall prepare and distributed to members participating in the DROP and other individuals or filed with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Internal Revenue Code and any other applicable laws.
 - (3) *Establishment of rules.* Subject to the limitations of the DROP, the board from time to time shall establish rules for the administration of the DROP and the transaction of its business. The board shall have discretionary authority to construe and interpret the DROP (including, but not limited to, determination of an individual's eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a participant in the DROP). The determination of the board as to the interpretation of the DROP or its determination of any disputed questions shall be conclusive and final to the extent permitted by applicable law.
 - (4) *Limitation of liability.*

- a. The trustees shall not incur any liability individually or on behalf of any other individuals for any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.
 - b. Neither the board nor any trustee of the board shall be responsible for any reports furnished by any expert retained or employed by the board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or an actuary, and on all opinions of counsel. The board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.
- (f) *General provisions.*
- (1) *The DROP is not a separate retirement plan.* Instead, it is a program under which a member who is eligible for normal retirement under the system may elect to accrue future retirement benefits in the manner provided in this Section 2-283 for the remainder of his employment, rather than in the normal manner provided under the plan. Upon termination of employment, a member is entitled to a lump sum distribution of his or her DROP account balance or may elect a rollover. The DROP account distribution is in addition to the member's monthly benefit.
 - (2) *Notional account.* The DROP account established for such a member is a notional account, used only for the purpose of calculation of the DROP distribution amount. It is not a separate account in the system. There is no change in the system's assets, and there is no distribution available to the member until the member's termination from the DROP. The member has no control over the investment of the DROP account.
 - (3) *No employer discretion.* The DROP benefit is determined pursuant to a specific formula which does not involve employer discretion.
 - (4) *IRC limit.* The DROP account distribution, along with other benefits payable from the system, is subject to limitation under Internal Revenue Code Section 415(b).
 - (4 5) *Amendment of DROP.* The DROP may be amended by an ordinance of the city at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. However, except as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for or diverted to purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of the DROP account of any member.
 - (2 6) *Facility of payment.* If a member or other person entitled to a benefit under the DROP is unable to care for his or her affairs because of illness or accident or is a minor, the board shall direct that any benefit due him or her, shall be made only to a duly appointed legal representative. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.
 - (3 7) *Information.* Each member, beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or her or on his or her account under the DROP, shall file with the board the information that it shall require to establish his or her rights and benefits under the DROP.

- (4 8) *Prevention of escheat.* If the board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the board may, no earlier than three years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the board or the city. If such person has not made written claim therefor within three months of the date of the mailing, the board may, if it so elects and upon receiving advice from counsel to the system, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the system. Upon such cancellation, the system shall have no further liability therefor except that, in the event such person or his or her beneficiary later notifies the board of his or her whereabouts and requests the payment or payments due to him or her under the DROP, the amount so applied shall be paid to him or her in accordance with the provisions of the DROP.
- (5 9) *Written elections; notification.*
- a. Any elections, notifications or designations made by a member pursuant to the provisions of the DROP shall be made in writing and filed with the board in a time and manner determined by the board under rules uniformly applicable to all employees similarly situated. The board reserves the right to change from time to time the manner for making notifications, elections or designations by members under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.
 - b. Each member or retiree who has a DROP account shall be responsible for furnishing the board with his or her current address and any subsequent changes in his or her address. Any notice required to be given to a member or retiree hereunder shall be deemed given if directed to him or her at the last such address given to the board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the member or retiree notifies the board of his or her address.
- (6 10) *Benefits not guaranteed.* All benefits payable to a member from the member's DROP shall be paid only from the assets of the DROP, and neither the city nor the board 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.
- (7 11) *Construction.*
- a. The DROP shall be construed, regulated and administered under the laws of Florida, except where other applicable law controls.
 - b. The titles and headings of the subsections in this section 2-283 are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.
- (8 12) *Forfeiture of retirement benefits.* Nothing in this section shall be construed to remove DROP participants from the application of any forfeiture provisions

applicable to the system. DROP participants shall be subject to forfeiture of all retirement benefits, including DROP benefits.

- (9 13) *Effect of DROP participation on employment.* Participation in the DROP is not a guarantee of employment and DROP participants shall be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.

SECTION 11: Chapter 2, Administration, Article V, Employee Benefits, Division 5, Police Officers' Pension, of the Code of Ordinances of the City of North Port, is hereby amended by amending 2-284, Prior Police Service, subsection (5), to read as follows:

- (5) In no event, however, may credited service be purchased pursuant to this section for prior service with any other municipal, county or state law enforcement department, if such prior service forms or will form the basis of a retirement benefit or pension from a different employer's retirement system or plan as set forth in subsection 2-269(1)(2).

SECTION 12: Chapter 2, Administration, Article V, Employee Benefits, Division 5, Police Officers' Pension, of the Code of Ordinances of the City of North Port, is hereby amended by amending 2-286, Supplemental Share Plan Retirement Benefits, to read as follows:

Sec. 2-286. - Supplemental share plan retirement benefit.

(4 a) Effective October 1, 2015, there is hereby created a defined contribution plan component to be known as the "supplemental share plan retirement benefit." The supplemental share plan retirement benefit shall consist of an individual share account for each active police officer (including DROP participants) on September 30, 2015, and on September 30 of each year thereafter. The supplemental share plan retirement benefit shall be funded solely by premium tax revenues received by the City pursuant to F.S. Ch. 185. The total initial amount to be allocated to the members' share accounts as provided herein shall be the premium tax revenues received in 2015 in excess of \$280,000. For plan years beginning October 1, 2016 and later, all premium tax revenues received by the City pursuant to F.S. Ch. 185, in excess of \$280,000 shall be allocated to the members' share accounts as provided herein.

(2 b) Members' share accounts shall be credited with premium tax revenues and investment earnings or losses, and interest, and distributed as follows:

- (a 1) **Annual Crediting to Member Share Accounts.** For plan years beginning October 1, 2015 and later, all premium tax revenues received during the preceding plan year in excess of \$280,000 shall be allocated to the eligible members' share accounts. On or before April 30, 2016 and each April 30 thereafter, the share account of each share member who was a plan member on the preceding September 30th shall be credited with one share of credited service earned during the plan year ending on the same September 30th. The total number of shares thus determined shall be divided into the premium tax revenues received during that plan year in excess of \$280,000, to determine the dollar amount credited to the share account of each eligible share plan member and retiree.
- (b 2) **Investment earnings and losses.** On December 31, 2016 and each December 31 thereafter, the share account of each share member or retiree shall be credited or debited with earnings or losses based upon the amount in the share account at the close of the immediately preceding calendar year at a rate equal to the pension plan's actual net rate of investment return for the preceding plan year.

(e 3) Distribution of share accounts. A share plan member with ten or more years of credited service upon termination of employment shall be eligible to receive a distribution of 100 percent of the balance in his or her share account, together with all earnings and losses and interest credited to the share account through the date of termination of employment. No benefit shall be payable to a share plan member who terminates employment with less than ten years of credited service. The share account balances of such non-vested terminated members shall be redistributed among all eligible members' and retirees' share accounts in the same manner as the excess premium tax revenues in the following calendar year, or applied to pay administrative expenses of the system. The designated beneficiary of a share plan member who has died shall receive the accumulated total of the member's share account balance at date of death, regardless of the member's length of service. A share plan member awarded a disability pension from the pension plan shall receive the accumulated total of his or her share account balance. There shall be no forfeiture of a member's share account based on the member's death, disability or termination of employment with ten or more years of credited service. Payment of share account benefits shall be by lump sum, which shall consist of the accumulated total balance of the member's share account, or, at the member's direction, the share account balance may be rolled over to another qualified plan in accordance with section 22-7 of the Internal Revenue Code, with an additional payment made for any amount credited in the year following termination of employment.

(d) *Benefits Not Guaranteed.* All benefits payable under this Section 2-286 shall be paid only from the assets accounted for in individual member share accounts. Neither the City nor the board shall have any duty or liability to furnish any additional funds, securities or other assets to fund share account benefits. Neither the board nor any trustee shall be liable for the making, retention, or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the member share account balances, except due to his or its own negligence, willful misconduct or lack of good faith. All investments shall be made by the board subject to the restrictions otherwise applicable to fund investments.

(e) *Notional account.* The member share account is a notional account, used only for the purpose of calculation of the share distribution amount. It is not a separate account in the system. There is no change in the system's assets, and there is no distribution available to the member or DROP participant until the member's or DROP participant's termination from employment. The member or DROP participant has no control over the investment of the share account.

(f) *No employer discretion.* The share account benefit is determined pursuant to a specific formula which does not involve employer discretion.

(g) *Maximum Additions.* Notwithstanding any other provision of this Section, annual additions under this Section shall not exceed the limitations of Section 415(c) of the code pursuant to the provisions of Section 2-269, subsection (k).

SECTION 13: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of North Port.

SECTION 14: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 15: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other

body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 16: That this Ordinance shall become effective upon its adoption.

PASSED ON FIRST READING, this _____ day of _____, 2016.

PASSED AND ADOPTED ON SECOND READING, this _____ day of _____, 2016.

JACQUELINE MOORE
MAYOR

ATTEST:

HELEN RAIMBEAU, MMC
CITY CLERK

Approved as to form:

MARK MORIARTY,
CITY ATTORNEY