

ORDINANCE NO. 2016 - 02

AN ORDINANCE OF THE CITY OF NORTH PORT, SARASOTA COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE V, DIVISION 6, OF THE NORTH PORT CODE OF ORDINANCES ENTITLED “FIREFIGHTERS’ PENSIONS”; IMPLEMENTING PROVISIONS OF THE 2015-2018 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF NORTH PORT AND THE SUNCOAST PROFESIONAL FIREFIGHTERS AND PARAMEDICS, LOCAL NO. 2546, IAFF; AMENDING SECTION 2-305 DEFINITIONS; AMENDING SECTION 2-306, MEMBERSHIP; AMENDING SECTION 2-309, CONTRIBUTIONS; AMENDING SECTION 2-310, BENEFIT AMOUNTS AND ELIGIBILITY; PROVIDING AN EFFECTIVE DATE; AND REPEALING ALL ORDINANCES INCONSISTENT HEREWITH.

WHEREAS, the City of North Port recently entered into a collective bargaining agreement with the Suncoast Professional Firefighters and Paramedics, Local No. 2546, I.A.F.F. for 2015 – 2018; and

WHEREAS, the collective bargaining agreement contains certain changes to the City of North Port Firefighters’ Pension Fund; and

WHEREAS, to implement the pension changes contained in the collective bargaining agreement it is necessary to amend the Firefighters’ Pension Fund ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF COMMISSION OF THE CITY OF NORTH PORT:

SECTION 1. That the recitals and findings contained in the Preamble of this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

SECTION 2. That Section 2-305 of the “Code of Ordinances, City of North Port, Florida” pertaining to “Firefighters’ Pensions” is hereby amended to read as follows:

Sec. 2-305. – Definitions.

Average final compensation. One-twelfth of the average salary of the five best years of the last ten years of credited service prior to retirement, termination or death, or the career average as a full-time firefighter, whichever is greater. Notwithstanding the preceding sentence, for members who have not reached normal retirement on March 1, 2016, average final compensation for credited service on or after that date shall mean one-twelfth of the average salary of the five best years of credited service prior to retirement, termination or death, or the career average as a full-time firefighter, whichever is greater. A year shall be 12 consecutive months.

SECTION 3. That Section 2-306 of the “Code of Ordinances, City of North Port, Florida” pertaining to “Firefighters’ Pensions” is hereby amended to read as follows:

Sec. 2-306. - Membership.

(a) Conditions of eligibility.

(1) All firefighters, as of the effective date, and all future new firefighters shall become members of this system as a condition of employment.

(2) All future new firefighters shall be required to complete a medical examination as prescribed by the city.

(b) Membership. Each firefighter shall complete a form prescribed by the board designating a beneficiary or beneficiaries.

(c) Notwithstanding any other provision of this section, the City shall join the Florida Retirement System (FRS) for firefighters effective March 1, 2016, or as soon thereafter as administratively feasible, and this system shall be closed to new members on that date. Firefighters hired on or after the date the city joins FRS shall become compulsory members of the Florida Retirement System and shall not be eligible for membership in this system. Firefighters hired before the date the city joins FRS who are members of this system on the date the city joins FRS may elect to participate in FRS or continue participating in this system, in accordance with section 2-310(e).

SECTION 4. That a new Section 2-309 of the “Code of Ordinances, City of North Port, Florida” pertaining to “Firefighters’ Pensions” is hereby created to read as follows:

Sec. 2-309. – Contributions.

(a) Member contributions.

(1) Amount. Each member of the system shall be required to make regular contributions to the fund in the amount of 10.3 percent of his or her salary. Notwithstanding the preceding sentence, effective March 1, 2016, each member of the system, who is employed with the City and has not reached normal retirement on that date, shall be required to be make regular contribution to the fund in the amount of 10.6 percent of his or her salary. Effective October 1, 2016 and every year thereafter, the plan actuary shall determine whether the costs associated with the changes in early retirement benefits contained in section 5 of this Ordinance have increased or decreased and member contribution shall be adjusted to reflect the impact of the early retirement benefits contained in section 5 of this Ordinance. Any reduction in a member contribution associated with the early retirement benefit less than the current contribution must be

mutually agreed by the City of North Port and the members of the Suncoast Professional Firefighters and Paramedics, Local 2546, I.A.F.F. prior to any reduction being made.

Member contributions withheld by the city on behalf of the member shall be deposited with the board immediately after each pay period. The contributions made by each member to the fund shall be designated as employer contributions pursuant to Section 414(h) of the Internal Revenue Code of 1986. Such designation is contingent upon the contributions being excluded from the members' gross income for federal income tax purposes. For all other purposes of the system, such contributions shall be considered to be member contributions.

SECTION 5. That Section 2-310 of the “Code of Ordinances, City of North Port, Florida” pertaining to “Firefighters’ Pensions” is hereby amended to read as follows:

Sec. 2-310. – Benefit amounts and eligibility.

(b) Early retirement.

(1) Early retirement date. A member may retire on his or her early retirement date which shall be the first day of any month coincident with or next following the later of the attainment of age 50 and the completion of ten years of credited service. Early retirement under the system is retirement from employment with the city on or after the early retirement date and prior to the normal retirement date.

(2) Early retirement benefit. A member retiring hereunder on his or her early retirement date may receive either a deferred or an immediate monthly retirement benefit payable in the same form as form as for normal retirement as follows:

a. A deferred monthly retirement benefit which shall commence on what would have been his or her normal retirement date had he or she remained a firefighter and shall be continued on the first day of each month thereafter. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement as his or her normal retirement date except that credited service and average final compensation shall be determined as of his or her early retirement date; or

b. An immediate monthly retirement benefit which shall commence on his or her early retirement date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in subsection (b)(2)a above, reduced by three percent for each year by which the commencement of benefits precedes the normal retirement date. Notwithstanding the preceding sentence, effective March 1, 2016, for members who are employed and have not reached normal retirement on that date, the early retirement benefit payable as determined in subsection (b)(2)a above, shall be reduced by:

i. Three percent per year by which the commencement of benefits precedes the normal retirement date, if the member has less than 15 years of credited service at the time of retirement; or

ii. Two percent per year by which the commencement of benefits precedes the normal retirement date, if the member has at least 15 years of credited service, but less than 20 years of credited service at the time of retirement; or

iii. One percent per year by which the commencement of benefits precedes the normal retirement date, if the member has 20 or more years of credited service at the time of retirement.

(d) Supplemental retirement benefit. Effective September 1, 2012, there is hereby created a supplemental retirement benefit in accordance with this subsection (d). The supplemental retirement benefit shall consist of an individual share account for each active firefighter, living retiree including DROP participants and disability benefit recipients and beneficiary survivors receiving a survivor retirement benefit, for the City of North Port Firefighters' Pension—Local Option Plan on or after the effective date hereof. The supplemental retirement benefit shall be funded solely by premium tax revenues received by the city pursuant to F.S. ch. 175, as provided in this subsection (d). The total initial amount to be allocated to the participants' share accounts as provided herein shall be \$1,183,978.24, which reflects the accumulated excess premium tax revenues in the pension fund as of the October 1, 2011, actuarial valuation report, plus premium tax revenues received in excess of \$250,000.00 during 2012. For plan years beginning October 1, 2012, and later, all premium tax revenues received by the city pursuant to F.S. ch. 175 in excess of \$250,000.00 shall be allocated to the participants' share accounts as provided herein. Participants' share accounts shall be credited with premium tax revenues and investment earnings or losses, and interest, and distributed as follows:

(1) Initial crediting. No later than December 31, 2012, the share account of each active firefighter (including DROP participants) and retiree participant (including disability benefit recipients and beneficiary survivors) who was an employee and a member of the plan between December 1, 2005, and September 30, 2012, shall be credited retroactively as follows. Each eligible member shall receive one share for each month of credited service, earned from date of hire through September 30, 2012. The total number of shares thus determined shall be divided into the initial amount of premium tax revenues to be allocated in accordance with subsection (d) above to derive the initial value of each share. Each beneficiary survivor receiving a survivor

retirement benefit, including survivors of disability benefit recipients, shall be entitled to one-half share for each share earned by the deceased participant.

(2) Annual crediting. For plan years beginning October 1, 2012, and later, premium tax revenues received by the city each year in excess of the \$250,000.00 applicable frozen amount shall be allocated to the members' (including DROP participants) and retirees' (including disability benefit recipients and beneficiary survivors) share accounts. On or before January 1, 2014, and each January 1 thereafter, the share account of each member (including DROP participants) who was a member of the plan or a retired member (including disability benefit recipients) that was alive on the preceding September 30 shall be credited with one share of credited service earned during the plan year ending on the preceding September 30. Each beneficiary survivor receiving a survivor retirement benefit, (including survivors of disability benefit recipients), that was alive on the preceding September 30 shall be credited with one-half share of credited service for the plan year ending on the preceding September 30. The total number of shares determined shall then be divided into the excess premium tax revenues received during that plan year to determine the amount credited to the share account of each eligible share plan member and retiree.

(3) Investment earnings and losses, or interest. Effective December 31, 2013, and each December 31 thereafter, the share account of each active firefighter (including DROP participants) and retiree participant shall be credited or debited with earnings or losses based upon the amount in the share account at the close of the immediately preceding plan year at a rate equal to the pension plan's actual net rate of investment return for the preceding plan year.

(4) Distribution of share accounts. An active firefighter (including DROP participants) 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. Retiree participants (including disability benefit recipients and beneficiary survivors) shall receive distribution of the annual share allocation in the form of a thirteenth monthly check equal to the annual crediting described above. Vested terminated members shall be entitled to participate in this supplemental retirement benefit upon commencing receipt a retirement benefit from this plan. No benefit shall be payable to an active firefighter who terminates covered 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 participants' share accounts in the same manner as premium tax revenues in the following fiscal year. The designated beneficiary of a share plan member who dies shall receive the accumulated total of the 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 the member's 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 active firefighter's share account or, at the participant'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.

(5) Notwithstanding any provision of this section to the contrary, in the event any additional pension benefits are mandated by state law in the future, the \$250,000.00 "applicable frozen amount" shall be adjusted such that the additional benefits are paid for with premium tax

revenues in accordance with F.S. ch. 175. In such event, all provisions of this section shall remain in effect, except that the adjusted applicable frozen amount shall be applied instead of the \$250,000.00 applicable frozen amount.

(6) Effective March 1, 2016, the share account of a member who elects to join the Florida Retirement System (FRS) shall be frozen as of that date and distributed as part of the member's frozen accrued benefit in accordance with subsection (e) of this section. Members who elect to join FRS shall not be eligible for share account annual crediting as defined in subsection (d)(2) of this section.

(e) Participation in the Florida Retirement System. Effective March 1, 2016, or as soon thereafter as administratively feasible, the city will join the Florida Retirement System (FRS), and this system will be closed to new members. Firefighters hired on or after the date the city joins FRS shall become compulsory members of the Florida Retirement System and shall not be eligible for membership in this system. Firefighters hired before the date the city joins FRS who are members of this system on the date the city joins FRS may elect to participate in FRS or continue participating in this system. The accrued benefits earned under this system prior to the date the city joins FRS by members who are employed on the date the city joins FRS and elect to join the Florida Retirement System will be frozen on that date, based on the member's average final compensation and credited service on the date the city joins FRS. Such members shall be 100 percent vested in their frozen accrued benefit under this system. The frozen accrued benefit shall be payable when the member reaches the early retirement date, if applicable, or normal retirement date, and separates from city employment. Alternatively, members who elect to join FRS may obtain a refund of their employee contributions or accrued benefit under the system. Eligibility for participation in the FRS, as well as FRS benefits and contributions, will be

determined in accordance with F.S. Ch. 121, as that statute now exists and as it may be amended in the future.

SECTION 6. That Section 2-329 of the “Code of Ordinances, City of North Port, Florida” pertaining to “Firefighters’ Pensions” is hereby amended to read as follows:

Sec. 2-239. – Deferred retirement option plan.

(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 or her 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.

Notwithstanding the preceding paragraph, a member who elects to participate in DROP after March 1, 2016, shall receive payment for accrued annual and sick leave in accordance with the City policy and provisions of this code. The member shall not accrue any additional credited service or any additional benefits under the system (except for 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 pre-retirement death benefits except as provided in this division.

SECTION 7. Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8. Should any section, sentence, clause, part or provision of this Ordinance be declared invalid or unenforceable by a court of competent jurisdiction, the same shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part declared to be invalid.

SECTION 9. This ordinance shall take effect immediately upon second reading.

PASSED on first reading by title only this _____ day of _____, 2016.

PASSED on second reading and finally adopted this _____ day of _____, 2016.

CITY OF NORTH PORT, FLORIDA

Jacqueline Moore, Mayor

ATTEST:

Helen Raimbeau
City Clerk

Approved as to form:

City Attorney