

ORDINANCE 18-006

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3 AN ORDINANCE OF THE CITY OF BOYNTON BEACH FLORIDA  
4 AMENDING ARTICLE III OF CHAPTER 18 OF THE BOYNTON  
5 BEACH CODE OF ORDINANCES ENTITLED MUNICIPAL POLICE  
6 OFFICERS' RETIREMENT TRUST FUND AMENDING SECTION  
7 18-164 TO PROVIDE FOR MUTUAL CONSENT REGARDING USE  
8 OF THE 185 MONEY; AMENDING SECTION 18-169 TO ADD A  
9 NORMAL RETIREMENT AGE DEFINITION FOR MEMBERS WHO  
10 RETIRE WITH A YEARS OF SERVICE ONLY RETIREMENT, TO  
11 PROVIDE FOR PAYMENT OF DEATH BENEFITS TO A  
12 DESIGNATED BENEFICIARY IN THE EVENT THAT THERE IS NO  
13 SPOUSE, AND TO ADD TEN YEAR VESTING FOR POLICE  
14 OFFICERS HIRED ON OR AFTER OCTOBER 1, 2016; ADDING A  
15 NEW SECTION 18-178 TO ADD A REHIRE AFTER RETIREMENT  
16 PROVISION; PROVIDING FOR CODIFICATION CONFLICT,  
17 SEVERABILITY, AND AN EFFECTIVE DATE.  
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19 WHEREAS, the Internal Revenue Code governs rehire of City of Boynton Beach  
20 Retirees and contains provisions which allow for in-service distributions under certain  
21 circumstances;

22 WHEREAS, the Board of Trustees ("Trustees") of the Boynton Beach Police Officers  
23 Pension Fund ("Fund") recommends amendment of Article III, Section 18-169 of the Plan to  
24 comply with the Code;

25 WHEREAS, the City and the Palm Beach County Police Benevolent Association  
26 ("Union") have agreed in collective bargaining to mutually consent regarding the use of the  
27 Chapter 185 monies under the Florida Statutes §185.35 which requires an amendment to the  
28 Fund Plan document in the City Code;

29 WHEREAS, the City and the Union have agreed in collective bargaining to provide for  
30 ten year vesting for members hired on or after October 1, 2016;

31 WHEREAS, the Board recommends adding a provision to allow the payment of  
32 benefits to a designated beneficiary of a deceased member in the event that there is no spouse  
33 to save the heirs the cost of opening an estate; and

34 WHEREAS the City Commission of the City of Boynton Beach Florida desires to so  
35 amend the Boynton Beach Police Officers Pension Fund.

36 NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY  
37 OF BOYNTON BEACH FLORIDA

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Section 1. The foregoing **WHEREAS** clauses are hereby certified as being true and correct and are incorporated herein by this reference.

Section 2. Section 18-164 of Article III of Chapter 18 of the Boynton Beach Code of Ordinances is hereby amended as follows:

Sec. 18-164. Creation and maintenance of fund and retirement system.

\* \* \*

(b) The fund shall be maintained in the following manner:

(1) By payment to the fund of the net proceeds of the .85% excise tax which is imposed by the City of Boynton Beach upon certain casualty insurance companies on their gross receipts of premiums from holders of policies, which policies cover property within the corporate limits of the City of Boynton Beach as authorized in F.S. Chapter 185, amended. These amounts are to be deposited with the Board of Trustees within five days of receipt by the municipality. F.S. Ch. 185. **In November of 2017 and November of 2018 only, \$30,000.00 of the insurance premium excise tax provided for in this subsection will be used by the City to offset the unfunded actuarial liability of the Fund. The remainder of the Funds will be used as set forth in Section 18-169(f) of the Plan, which provides for a supplemental benefit as defined in Florida Statutes §185.02(22).**

(2) By the payment to the fund of 7% of the salary of each full time police officer duly appointed and enrolled as a member of the City of Boynton Beach Police Department; which 7% shall be picked up, rather than deducted, by the City of Boynton Beach from the compensation due to the Police Officer and paid over to the Board of Trustees of the Boynton Beach Police Officers' Pension Fund on a bi-weekly basis. All pickup contributions shall be treated as employer contributions for the purposes of determining tax treatment under the Internal Revenue Code of 1986, as amended. All such pick up amounts shall be considered as employee contributions for purposes of this plan. The percentage deducted from the police officers' salaries are to be deposited with the Board of Trustees immediately. F.S. Ch.185, Boynton Beach Code of Ordinances Sec. 18-170.

(3) By all fines and forfeitures imposed and collected from any police officer because of the violation of any rule and regulation adopted by the Board of Trustees. F.S. Ch. 185.

(4) By mandatory payment at least quarterly by the City of Boynton Beach a sum equal to the normal cost and the amount required to fund any actuarial deficiency shown by an actuarial valuation as provided in F.S. Chapter 112, Part VII. F.S. Ch. 185. On an annual basis, the Board of Trustees will evaluate the actuarial assumptions used.

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(5) By all gifts, bequests, and devises when donated to the fund. F.S. Ch. 185.

(6) By all accretions to the fund by way of interest or dividends on bank deposits, or otherwise. F.S. Ch. 185.

(7) By all other sources or income now or hereafter authorized by law for the augmentation of the Boynton Beach Police Officers' Pension Fund. F.S. Ch. 185.

Section 3. Section 18-169(a) of Article III of Chapter 18 of the Boynton Beach Code of Ordinances is hereby amended as follows:

**Sec. 18-169. Requirements for retirement- benefit amounts.**

(a) *Normal retirement.*

- (1) *Normal retirement date.* The normal retirement date of each police officer will be the first day of the month coinciding with, or next following, the date on which he or she has attained and completed 20 years of service, or the first day of the month coinciding with, or next following, the date on which the police officer has attained age 55 and completed ten years of service or age 50 and completed 15 years of service. In the case of a retirement with twenty (20) years of service, effective January 1, 2017, Normal Retirement Age is the age a police officer has attained when retired at twenty (20) years of service.

Section 4. Section 18-169(d) of Article III of Chapter 18 of the Boynton Beach Code of Ordinances is hereby amended as follows:

**Sec. 18-169 Requirements for retirement- benefit amounts**

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(d) *Death benefit.*

- (1) If any member shall die prior to retirement or other termination of employment with the city and that death is found by the Board of Trustees to have occurred in the line of duty regardless of the years of service, a death benefit shall be payable to the deceased member's spouse. The benefit shall equal 3.5% of average final compensation for each year of continuous service; provided, however, the benefit will be at least 30% of average final compensation. It shall be payable in equal monthly installments commencing the first day of the month following the date of death and ceasing upon the death of the spouse. If there is no spouse, the deceased member's accrued benefit shall be payable to the designated beneficiary on file with the Board of Trustees.

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payable as the Contingent Annuitant 100% survivor benefit. If there is no spouse or designated beneficiaries the benefit, if any, will be paid to the deceased participant's estate. Effective September 3, 2015, for all police officers hired on or after October 1, 2015, the 3.5% multiplier provided for in this paragraph shall be 3.0%.

- (2) If any member with at least ten years of continuous service shall die prior to retirement or other termination of employment with the city, a death benefit shall be payable to the deceased member's spouse. The benefit shall equal 3.5% of average final compensation for each year of continuous service. It shall be payable in equal monthly installments commencing the first day of the month following the date of death and ceasing upon the death or remarriage of the spouse. If there is no spouse, the deceased member's accrued benefit shall be payable to the designated beneficiary on file with the Board of Trustees, payable as the Contingent Annuitant 100% survivor benefit. If there is no spouse or designated beneficiaries, the benefit, if any, will be paid to the deceased participant's estate. Effective September 3, 2015, for all police officers hired on or after October 1, 2015, the 3.5% multiplier provided for in this paragraph shall be 3.0%.
  
- (3) If a member dies before being eligible to retire, the heirs, legatees, beneficiaries or personal representatives of such deceased member shall be entitled to a refund of 100% of the contributions made by the member to the fund, without interest.

Section 5. Section 18-169(e) of Article III of Chapter 18 of the Boynton Beach Code of Ordinances is hereby amended as follows:

(e) *Separation from service.*

- (1) The vesting period for members hired on or after October 1, 2016 is ten (10) years. The vesting period for members who were hired before October 1, 2016 and terminated after October 1, 2002 is five (5) years of service. ~~Effective for terminations on and after October 1, 2002, if~~ If a member leaves the service of the city before vesting ~~accumulating aggregate time of five years toward retirement and before being eligible to retire~~, such member shall be entitled to a refund of all of his or her contributions made to the fund, without interest.
  
- (2) Benefit Commencement Date for Ten Year Vesting If any member who had been in the service of the city for at least ten years elects to leave his or her accrued contributions in the fund, such police officer upon attaining age 50 years or more (without reaching what would have been 20 years of service had he or she not terminated his or her employment) may receive an early retirement benefit at the actuarial equivalent of the amount of such retirement income otherwise payable to him or her at early retirement or upon attaining what would have been normal retirement had he or she not terminated his employment, such police officer may receive his or her accrued normal retirement benefit.

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(3) Benefit Commencement Date for Five Year Vesting: ~~Effective for terminations after October 1, 2002, if~~ If any member who had been in the service of the city for at least five years elects to leave his or her accrued contributions in the fund, the police officer upon attaining age 55 with ten or more years of service (had he or she not terminated employment) or reaching what would have been 20 years of service (had he or she not terminated his or her employment), may receive the accrued normal retirement benefit. The member may receive the benefits payable in the normal form or any option available under Section 18-170.

Section 6. A new Section 18-178 is added to Article III of Chapter 18 of the City of Boynton Beach Code as follows:

Sec. 18-178. - Reemployment after retirement.

(a) Any Retiree who is retired under this fund, except for disability retirement, may be reemployed by any public or private employer, except the City, and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this fund. Reemployment of a Retiree by the City on or after January 1, 2017 shall be subject to the limitations set forth in this section.

(b) Reemployment in a position other than as a Police Officer or in a position supervising police officers. Notwithstanding any other provision of this Plan, a Retiree who is retired from the Fund on a Normal Retirement at Normal Retirement Age and who is subsequently reemployed by the city in a position other than as a Police Officer or in a position supervising police officers shall, upon being reemployed, continue receipt of benefits from this Fund. The benefit paid from this Fund shall not be changed in any way by such reemployment. These payments shall be considered in-service distributions.

(c) Reemployment as a Police Officer. In the event a Retiree who is retired from the Fund is subsequently reemployed by the city as a Police Officer or into a position that supervises Police Officers, the benefit payable to the Retiree from this Fund shall be suspended for the period of such reemployment, until the Retiree terminates employment with the city.

(1) If by virtue of re-employment as a Police Officer, the retiree is eligible to participate in this plan, the retiree shall be deemed to be one hundred (100) percent vested upon re-employment.

(2) The additional credited service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to

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the benefit determined upon the initial retirement to determine the total benefit payable upon final retirement.

(3) Calculations of benefits for each retirement shall be based upon the benefit accrual rate, average annual earnings, credited service, cost-of-living adjustment as of that date and the retirement benefit amount for any subsequent employment period shall be based upon the benefit accrual rate, average annual earnings (based only on the subsequent employment period), credited service, cost-of-living adjustment, if applicable, as of the date of subsequent retirement.

(4) The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but the member may select a different optional form and joint pensioner applicable to the subsequent retirement benefit.

(d) Re-employment of terminated vested persons. Re-employed terminated vested persons, including those elected or appointed to the City Commission, shall not be subject to the provisions of this section until such time as they begin to actually receive benefits after termination of employment in accordance with Section 18-169(c).

(e) Notwithstanding any provision of subsection (a), (b), (c) or (d) above, a Retiree who has retired on an Early Retirement or a Disability Retirement may not be reemployed by the city and continue to receive a benefit from this Fund. Retirement pursuant to an early retirement incentive program shall be deemed early retirement for purposes of this section if the member was permitted to retire prior to the customary retirement date provided for in the plan at the time of retirement.

Section 7. It is the intention of the City Commission of the City of Boynton Beach that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Boynton Beach Florida The Sections of this ordinance may be renumbered re-lettered and the word Ordinance may be changed to Section Article or such other word or phrase in order to accomplish such intention.

Section 8. All Ordinances or parts of Ordinances Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict. If any clause section or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid such unconstitutional or invalid part or application shall be considered as eliminated and so not effecting the validity of the remaining portions or applications remaining in full force and effect.

257 Section 9. This Ordinance shall become effective upon passage, unless otherwise provided for  
258 in this amendment.

259 FIRST READING this 3<sup>rd</sup> day of April, 2018.

260 SECOND, FINAL READING AND PASSAGE this 15<sup>th</sup> day of May,  
261 2018.

262 CITY OF BOYNTON BEACH, FLORIDA

YES NO

263 Mayor – Steven B. Grant ✓ \_\_\_\_\_

264 Vice Mayor – Christina L. Romelus ✓ \_\_\_\_\_

265 Commissioner – Mack McCray ✓ \_\_\_\_\_

266 Commissioner – Justin Katz ✓ \_\_\_\_\_

267 Commissioner – Joe Casello ✓ \_\_\_\_\_

276 VOTE 50

278 ATTEST:

279 Judith A. Pyle  
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281 Judith A. Pyle, CMC  
282 City Clerk  
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285 (Corporate Seal)



**ARTICLE 39**

**PENSION**

**Section 1.** Bargaining Unit Members hired on or after October 1, 2015 will have a pension multiplier of three percent (3%).

**Section 2.** Upon ratification of this Agreement, the City and the Union conformed to the statutory requirement to negotiate provisions of SB 172, codified as Laws of Florida 2015-39 by entering into a Mutual Consent Agreement. The Mutual Consent Agreement is attached hereto as Addendum "B."

**Section 3.** The vesting period for Police Officers and Detectives hired on or after October 1, 2016 is ten (10) years.

**Section 4.** The City and Union agree to reopen this Article at the request of City during year three of this contract.

  
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TA - PBA

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TA - City



**UNION CONTRACT – ADDENDUM “B”**

**MUTUAL CONSENT AGREEMENT**

**(Use of Insurance Premium Tax Revenue)**

This Mutual Consent Agreement is entered into between the CITY OF BOYNTON BEACH, a Florida municipal corporation, whose address is 100 E. Boynton Beach Boulevard, Boynton Beach, FL 33435 (the “CITY”) and the PALM BEACH COUNTY POLICE BENEVOLENT ASSOCIATION (“PBA”) POLICE OFFICERS AND DETECTIVES, POLICE SERGEANTS, AND POLICE LIEUTENANTS.

WHEREAS, the 2015 Florida Legislature enacted legislation (Chapter No. 2015-39, Laws of Florida), hereinafter “Legislation” regarding the use of insurance premium tax revenue (“IPTR”); and

WHEREAS, the City has a retirement pension plan and fund for police officers known as the Boynton Beach Police Officers’ Pension Fund (“Fund”) that exceeds the minimum benefits and minimum standards established by the State of Florida for public employee firefighter pension plans as set forth in chapter 185, Florida Statutes; and

WHEREAS, the Legislation provides that use of IPTR, including any accumulations of additional premium tax revenues which have not been allocated to fund benefits in excess of the minimum benefits, may deviate from the provisions of the Legislation by mutual consent of the members’ collective bargaining representative (PBA).

NOW THEREFORE, the City and Unions agree as follows:

1. The foregoing Whereas clauses are true and correct.
2. The total of sixty thousand dollars (\$60,000) of IPTR whether base premium tax revenue or additional premium tax revenue, received by the City will be used to reduce the City’s unfunded liability to the Boynton Beach Police Officers’ Pension Fund. These funds will be provided to the City in \$30,000 increments by November 2017 and November 2018.
3. This Consent Agreement takes effect when signed by PBA and City.

*Signature Page follows*

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TA - PBA




TA City

**THE CITY OF BOYNTON BEACH**

  
Lori LaVerriere, City Manager

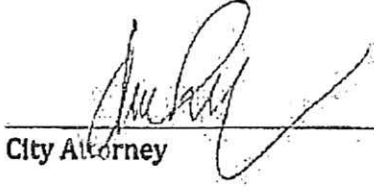
**ATTEST:**

  
City Clerk

**BOYNTON BEACH POLICE OFFICERS AND DETECTIVES, POLICE SERGEANTS, AND  
POLICE LIEUTENANTS**

  
John Kazanlian, President

**APPROVED AS TO LEGAL FORM:**

  
City Attorney