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2 **ORDINANCE 20-010**
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4 **AN ORDINANCE OF THE CITY OF BOYNTON BEACH FLORIDA**
5 **AMENDING ARTICLE III OF CHAPTER 18 OF THE BOYNTON**
6 **BEACH CODE OF ORDINANCES ENTITLED MUNICIPAL POLICE**
7 **OFFICERS' RETIREMENT TRUST FUND AMENDING SECTION**
8 **18-164 TO PROVIDE FOR MUTUAL CONSENT REGARDING USE**
9 **OF THE 185 MONEY AND AN INCREASE IN THE MEMBER**
10 **CONTRIBUTIONS; AMENDING SECTION 18-165 DEFINITION OF**
11 **BENEFICIARY TO ALLOW FOR PAYMENT OF LUMP SUM**
12 **BENEFITS TO A TRUST; AMENDING SECTION 18-169 TO ADD A**
13 **NEW NORMAL RETIREMENT BENEFIT FOR POLICE OFFICERS**
14 **Hired AFTER OCTOBER 1, 2019 AND ADD A MAXIMUM**
15 **PENSION BENEFIT; AMENDING SECTION 18-169(e) TO REFLECT**
16 **THE NEW BENEFIT FOR POLICE OFFICERS HIRED AFTER**
17 **OCTOBER 1, 2019; AMENDING SECTION 18-174 TO COMPLY**
18 **WITH THE NEW FEDERAL SECURE ACT; AMENDING SECTION**
19 **18-175 DEFERRED RETIREMENT OPTION PLAN TO PROVIDE**
20 **THAT MEMBERS HIRED AFTER OCTOBER 1, 2019 WILL ARE**
21 **SUBJECT TO SECTION 18-300 OF THE CITY CODE FOR THE**
22 **TERMS OF THE DROP PLAN AND TO PROVIDE THE PROCESS**
23 **FOR DISTRIBUTION OF THE DROP IN THE EVENT OF DEATH**
24 **OF THE DROP PARTICIPANT WITH A BALANCE IN THE**
25 **ACCOUNT AND ESTABLISHING A PRIORITY DISTRIBUTION IN**
26 **THE EVENT THERE IS NO DESIGNATED BENEFICIARY;**
27 **PROVIDING FOR CODIFICATION CONFLICT, SEVERABILITY,**
28 **AND AN EFFECTIVE DATE.**
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30 **WHEREAS**, the City and the Palm Beach County Police Benevolent Association
31 ("Union") have agreed in collective bargaining to make certain changes to the Pension Benefits
32 provided to the Police Officer members of the Pension Plan;

33 **WHEREAS**, the City and the Union have agreed in collective bargaining to a change
34 to the DROP plan which is effective for members hired on or after October 1, 2019;

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

37 **NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE**
38 **CITY 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(b) 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. **Beginning** ~~in~~ November of 2017 and **ending** November of ~~2021~~ ~~2018~~ ~~only~~, \$30,000.00 of **each year's distribution 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 insurance premium excise tax received each year** 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.

- a. Effective the first full payroll period after October 1, 2019, the employee contribution will increase to 7.5%.**
- b. Effective the first full payroll period after October 1, 2020, the employee contribution will increase to 8.0%.**
- c. Effective the first full payroll period after October 1, 2021, the employee contribution will increase to 8.5%.**
- d. The increase in employee contributions provided for in subsections a-c will not reduce the City's contribution. The excess City contribution**

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created by those additional contributions will be used to offset the unfunded actuarial liability.

e. To fund the monthly supplemental benefit provided for in Section 18-169(f), effective October 1, 2001, each police officer shall contribute an additional 1% of salary through twenty years of service. This contribution is picked up rather than deducted under the provisions of Code section 414(h)(2).

(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.

(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 18-165 Definition of *Beneficiary* of Article III of Chapter 18 of the Boynton Beach Code of Ordinances is hereby amended as follows:

Sec. 18-165. - Definitions.

The following words and phrases as used in this article shall have the following meanings:

Beneficiary. Any natural person, ~~including the estate of the member,~~ who is entitled to receive a pension benefit payable from the Boynton Beach Police Officers' Pension Fund upon the death of a member or participant. F.S. Ch. 185. A member's trust may only be a beneficiary of the DROP Account. If there is no named beneficiary eligible to receive the remaining DROP, member refund of contributions, or the remainder of the 10 year certain period, the benefit can be paid to the member's estate.

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

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

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131 (a) *Normal retirement.*

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133 (1) *Normal retirement date.* The normal retirement date of:

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- (1) *Normal retirement date.* The normal retirement date of:
- a. Police Officers hired before October 1, 2019 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 credited 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 credited 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.
 - b. Police Officers hired on and after October 1, 2019 will be the first day of the month coinciding with, or next following, the date on which he or she has attained and completed 25 years of credited 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 credited service. In the case of a retirement with twenty-five (25) years of service, effective October 1, 2019, Normal Retirement Age is the age a police officer has attained when retired at twenty (25) years of service.

- (2) *Normal retirement benefit.* The normal retirement benefit payable to a police officer who retires on or after the normal retirement date shall be an amount equal to the number of years of his or her credited service multiplied by 3.5% of his or her average final compensation. For Effective [insert effective date], for all police officers hired on or after October 1, 2015, the 3.5% multiplier provided for in this the paragraph shall be 3.0%. Effective [insert date of passage] for all police officers, the maximum retirement benefit under the normal form of benefit is 85% of average final compensation, provided that in all cases the benefit is at least 2.75% for each year of service.

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 years. The vesting period for members who were hired before October 1, 2016, and terminated

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after October 1, 2020, is five years of service. If a member leaves the service of the city before vesting, 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.*

a. Police Officers hired before October 1, 2019 and on or after October 1, 2016: 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.

b. Police Officers hired on or after October 1, 2019: 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 25 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.

(3) *Benefit commencement date for five-year vesting.* 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. Section 18-174 of Article III of Chapter 18 of the City of Boynton Beach Code is amended as follows:

Sec. 18-174. Miscellaneous.

(f) *Required distributions.*

(1) In accordance with section 401(a)(9) of the Internal Revenue Code, all benefits under this plan will be distributed, beginning not later than the required beginning date set forth below, over a period not extending beyond the life expectancy of the member or the life expectancy of the member and a beneficiary.

- 214 (2) Any and all benefit payments shall begin by the later of:
 215 a. April 1 of the calendar year following the calendar year of the member's retirement
 216 date; or
 217 b. April 1 of the calendar year following the calendar year in which the member attains
 218 age 72, provided the member has not reached age 70.5 by December 31, 2019.
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220 (3) If an employee dies before his or her entire vested interest has been distributed to him
 221 or her, the remaining portion of such interest will be distributed at least as rapidly as provided
 222 for under this plan.
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225 Section 7. Subsections 18-175(a) and (l) of Article III of Chapter 18 of the City of
 226 Boynton Beach Code is amended as follows:
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228 **Sec. 18-175. Deferred retirement option plan**

- 229 (a) A deferred retirement option plan ("DROP") is hereby created.
 230 (1) Members hired on and before September 30, 2019 who elect to participate
 231 in the DROP are subject to the DROP terms as provided for in this Section
 232 18-175.
 233 (2) Members hired on and after October 1, 2019 who elect to participate in
 234 the DROP are subject to the DROP terms as provided for in Section 18-
 235 300 of the City of Boynton Beach Code.
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- 238 (l) Death benefits-If an employee shall die during participation in the DROP, a
 239 survivor benefit shall be payable in accordance with the form of benefit chosen
 240 at the time of entry into the DROP.

241 (1) If a DROP Participant dies with a DROP balance in the Pension
 242 Fund, then the entire balance of the DROP account shall be converted to
 243 the name of the beneficiary, designated on a form provided by the board
 244 of trustees.

245 a. If the designated beneficiary is the surviving spouse, the
 246 account may remain with the fund until the latest period specified
 247 under Internal Revenue Code Section 401(a)(9) and the regulations
 248 thereunder.

249 b. If the designated beneficiary is a non-spouse beneficiary,
 250 then the distribution must be made within 5 years of the DROP
 251 participant's death.

252 c. If the beneficiary is a trust or the DROP participant's
 253 estate, the balance must be paid out of the Fund in a lump sum.
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(2) If a DROP Participant fails to designate a beneficiary, or if the beneficiary predeceases the DROP Participant, the entire balance shall be converted, in the following order, to the name or names of:

- a. The DROP Participant’s surviving children on a pro rata basis;
- b. If no children are alive, the DROP Participant’s spouse;
- c. If no spouse is alive, the DROP Participant’s surviving parents on a pro rata basis; or
- d. If none are alive, the estate of the DROP Participant. The accounts which are converted to the names of the beneficiaries shall have the right to name a successor beneficiary. This option is not available to a trust.

[THE REMAINDER OF SECTION 18-175 IS UNCHANGED]

Section 8. 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 9. 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.

Section 10. This Ordinance shall take effect when the following conditions precedent to the adoption of this Ordinance have occurred.

- (a) the City Commission has received and has accepted a report establishing the actuarial soundness of these amendments or a letter of opinion from the Plan Actuary that the amendment has no actuarial impact; and
- (b) the Ordinance and impact statement have been sent to the State of Florida Division of Retirement.

FIRST READING THIS 5th DAY OF May, 2020.

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SECOND, FINAL READING and PASSAGE THIS 19th DAY OF May,
2020.

CITY OF BOYNTON BEACH, FLORIDA

| YES | NO |
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ATTEST:

Crystal A. Gibson
Crystal Gibson, MMC
City Clerk

(Corporate Seal)

