




Memorandum

To: GENERAL EMPLOYEE'S RETIREMENT BOARD
POLICE OFFICERS' RETIREMENT BOARD
FIREFIGHTERS' RETIREMENT BOARD

From: KIMBERLY A. REGISTER, CITY ATTORNEY 

Date: NOVEMBER 7, 2005

Re: PROPOSED AMENDMENT TO CHAPTER 11 – C05315

Enclosed is a proposed amendment to the pension ordinance. This Ordinance makes several changes that are required for compliance with applicable provisions of the U.S. Internal Revenue Code and regulations adopted pursuant to the Code.

The most significant change concerns mandatory distributions. In IRS Notice 2005-5, the IRS directed that mandatory distributions from a qualified retirement plan to a participant who is missing or does not consent to the distribution must be rolled over into an IRA established on the participant's behalf at a bank or other financial institution. This Ordinance replaces all mandatory distributions with elective distributions to plan participants. If the participant does not elect to receive the distribution, the assets remain in the pension fund until the participant or beneficiary elects to receive it. No interest will be paid on an elective distribution after the participant is first eligible to receive it. The Ordinance also adds a new section 11-60 ("Construction of the Plan") to expressly state that the retirement plans shall in all cases be construed to comply with all applicable requirements of the Internal Revenue Code, and regulations promulgated there under. Finally, the Ordinance makes several technical corrections to the plans.

The first reading is scheduled for November 8, 2005. Second reading should be December 13, 2005.

Enclosure

cc: Pension Board Chair
Pension Board Administrator ✓

SUNRISE, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SUNRISE, FLORIDA, IMPLEMENTING CERTAIN PROVISIONS OF THE U.S. INTERNAL REVENUE CODE AND TREASURY REGULATIONS; AMENDING SECTION 11-38, REVISING PROVISIONS RELATING TO REFUND OF MEMBER CONTRIBUTIONS UPON TERMINATION OF EMPLOYMENT; AMENDING SECTION 11-52, REVISING THE DROP PROGRAM FOR POLICE OFFICERS; AMENDING SECTION 11-53, REVISING THE DROP PROGRAM FOR MANAGEMENT AND SENIOR MANAGEMENT PERSONNEL; AMENDING SECTION 11-55, REVISING THE DROP PROGRAM FOR FIREFIGHTERS; AMENDING SECTION 11-59, REVISING THE DROP PROGRAM FOR GENERAL EMPLOYEES; CREATING A NEW SECTION 11-60, CONCERNING CONSTRUCTION OF THE PLAN; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Sunrise Retirement Plans are intended to comply with all applicable provisions of the U.S. Internal Revenue Code, pertaining to qualified governmental retirement plans; and

WHEREAS, U.S. Department of Treasury and the U.S. Internal Revenue Service have issued regulations concerning certain aspects of governmental retirement plans; and

WHEREAS, the City's retirement plans must be amended to comply with the above-described Code and regulations to maintain the qualified status of the plans; and

WHEREAS, the City has obtained actuarial impact statements concerning the retirement plan changes in accordance with Article X, Section 14 of the Florida Constitution and Section 112.63, Florida Statutes;

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

Section 1. Section 11-38 of the City Code is amended to
read:

Sec. 11-38. Termination of employment and buy-back provisions.

(a) *Termination of employment.*

(1) *Vested member.*

- a. Should any member who has a vested interest in the plan and who has contributed to the plan leave the service of the city, he may leave the contributions in the plan and receive a deferred benefit. The deferred benefit shall be calculated in the same manner as set forth in section 11-31 using years of creditable service and average final compensation as of the actual date of termination. The commencement date of the benefit shall be the normal or early retirement age, based on creditable service as set forth in section 11-3 in the definition of "retirement ages." A member may elect to accept a refund of one hundred (100) percent of his contribution to the plan, without interest. Any member who accepts such refund shall be forever barred from ~~for~~ receiving prior creditable service under the provisions of this article, except in accordance with ~~for~~ the buy-back provisions in this article.
- b. In the event a member who leaves the service of the city who has attained a vested interest in the plan dies prior to the commencement of benefits at the normal or early retirement age, the designated beneficiary shall receive one hundred (100) percent of the member's contribution to the fund, unless the beneficiary is a joint annuitant surviving spouse and an optional benefit has been selected by the member.
- c. The benefits payable to a member who has a vested interest in the plan and who leaves the

service of the city prior to retirement, shall be those benefits in effect on the date that the member terminates city employment.

(2) *Nonvested member.*

- a. Should any member of the plan leave the service of the city other than by death or disability before having become a vested member of the plan, such member may elect to receive a refund of one hundred (100) percent of the member's contributions to the plan, without interest. Any member who accepts such refund shall be forever barred from receiving prior creditable service under the provisions of this article, except in accordance with the buy-back provisions in this article shall be entitled to a refund of one hundred (100) percent of his contributions made to the system without interest.

- b. Any member of the plan who leaves the service of the city other than by death or disability before having attained a vested interest of the plan may leave such contributions in the plan for a period not exceeding five (5) years pending reemployment with the city. If a member is reemployed within those five (5) years, the member shall receive credit for such prior service. Any member who fails to be reemployed by the city within those five (5) years may elect to receive a refund of one hundred (100) percent of the member's contributions to the plan, without interest. Any member who accepts such a refund shall be forever barred for receiving prior creditable service under the provisions of this article, except in accordance with the buy-back provisions in this article. shall be refunded one hundred (100) percent of his regular employee contributions to the plan, without interest. All prior service credit shall be forfeited should he be reemployed at a later date.

Section 2. Section 11-52 of the City Code is amended to

read:

KARRM1104

~~scored through~~ words are deletions

underscored words are additions

Sec. 11-52. Supplemental benefit for police officers; deferred retirement option program for police officers.

(b) Deferred retirement option program for police officers (DROP).

(3) DROP plan features:

f. Within thirty (30) days following a DROP participant's termination of city employment or death, the member, or in the event of the member's death the member's designated beneficiary, may submit a written election on a form approved by the board, to receive the member's entire DROP account balance, which shall be distributed to the member (or in the event of the member's death, to the member's designated beneficiary or estate in accordance with paragraph (2)g. below) in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover will be accomplished in accordance with section 11-50 of the pension plan. In the event a member or designated beneficiary does not submit a written election to receive a distribution of the member's DROP account balance within thirty (30) days following the member's termination of city employment or death, the DROP account shall be maintained but shall not earn interest.

Section 3. Section 11-53 of the City Code is amended to read:

Sec. 11-53. Retirement Benefits for management and senior management personnel.

(h) Deferred retirement option plan.

(10) Within thirty (30) days following a DROP participant's termination of city employment or death, the member, or in the event of the member's death the member's designated beneficiary, may

submit a written election on a form approved by the board, to receive the member's entire DROP account balance, which shall be distributed to the member (or in the event of the member's death, to the member's designated beneficiary or estate in accordance with paragraph (11), below) in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover will be accomplished in accordance with section 11-50 of the pension plan. In the event a member or designated beneficiary does not submit a written election to receive a distribution of the member's DROP account balance within thirty (30) days following the member's termination of city employment or death, the DROP account shall be maintained but shall not earn interest.

Section 4. Section 11-55 of the City Code is amended to read:

Sec. 11-55. Deferred retirement option plan.

(b) A deferred retirement option program ("DROP") shall be established for firefighters effective September 30, 2001, in accordance with this section.

(c) DROP plan features.

(5) Within thirty (30) days following a DROP participant's termination of city employment or death, the member, or in the event of the member's death the member's designated beneficiary, may submit a written election on a form approved by the board, to receive the member's entire DROP account balance, which shall be distributed to the member (or in the event of the member's death to the member's designated beneficiary or estate in accordance with paragraph (6) below) in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover would be accomplished in accordance with

section 11-50 of the pension plan. In the event a member or designated beneficiary does not submit a written election to receive a distribution of the member's DROP account balance within thirty (30) days following the member's termination of city employment or death, the DROP account shall be maintained but shall not earn interest.

Section 5. Section 11-59 of the City Code is amended to read:

Sec. 11-59. Deferred retirement option program for general employees.

(b) Deferred retirement option program for general employees who are not management or senior management.

(3) DROP plan features.

(f) Within thirty (30) days following a DROP participant's termination of city employment or death, the member, or in the event of the member's death the member's designated beneficiary, may submit a written election on a form approved by the board, to receive the member's entire DROP account balance, which shall be distributed to the member (or in the event of the member's death to the member's designated beneficiary or estate in accordance with paragraph (2)g. below) in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover would be accomplished in accordance with section 11-50 of the pension plan. In the event a member or designated beneficiary does not submit a written election to receive a distribution of the member's DROP account balance within thirty (30) days following the member's termination of city employment or death, the DROP account shall be maintained but shall not earn interest.

Section 6. A new Section 11-60 of the City Code is created to read:

Sec. 11-60. Construction of plan.

This plan shall in all cases be construed to comply with the applicable requirements of the Internal Revenue Code, including but not limited to applicable requirements contained in Sections 401 and 415, and regulations promulgated thereunder.

Section 7. Conflict. All ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 8. Severability. Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

Section 9. Inclusion in the City Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Sunrise, Florida.

Section 10. Effective Date. This Ordinance shall be effective immediately upon its passage.

PASSED AND ADOPTED upon this first reading this ____ DAY
OF _____, 2005.

PASSED AND ADOPTED upon this second reading this ____ DAY
OF _____, 2005.

Mayor Steven B. Feren

Authentication:

Felicia M. Bravo
City Clerk

FIRST READING

SECOND READING

MOTION: _____
SECOND: _____

MOTION: _____
SECOND: _____

ALU: _____
HARLEM: _____
ROSEN: _____
SCUOTTO: _____
FEREN: _____

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Approved by the City Attorney
As to Form and Legal Sufficiency.

Kimberly A. Register