

**SUNRISE, FLORIDA**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF SUNRISE, FLORIDA, AMENDING CHAPTER 11 "RETIREMENT AND PENSIONS\*;" AMENDING SECTION 11-3, "DEFINITIONS;" AMENDING SECTION 11-15 "INVESTMENT POLICY;" AMENDING SECTION 11-36 "OPTIONAL BENEFITS;" AMENDING SECTION 11-40 "DESIGNATED BENEFICIARY;" CREATING A NEW SECTION 11-64 "TERMINATION OF POLICE OR FIREFIGHTER PLAN AND DISTRIBUTION OF FUND;" PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature enacted Ch. 2009-97, amending Chapters 175 and 185, Florida Statutes; and

WHEREAS, Ch. 2009-97, requires that certain amendments be adopted to the City of Sunrise retirement plans for police officers and firefighters; and

WHEREAS, the City has determined that certain changes to the City retirement plans are appropriate; and

WHEREAS, the City has obtained an actuarial impact statement 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:

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Section 1. That section 11-3 of the Code of the City of Sunrise, Florida is hereby amended to read as follows:

**Sec. 11-3. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Actuarial equivalent shall mean that any benefit payable under the terms of the plan other than the normal form of benefit shall have the same actuarial present value as the normal form of payment on any single measurement date. The determination of the actuarial present value of any form of benefit, including lump sum distributions, shall be based on:

- (1) the RP-2000 static mortality table (h) unisex 50/50 for healthy lives projected to 2010 for healthy participants and the RP-2000 static mortality table (d) unisex 50/50 projected to 2010 for disabled participants, and
- (2) the interest discount rate of 8% per annum, compounded annually.

~~Means the equivalent or non-discriminatory approximations thereof, when computed at regular interest on the basis of the mortality tables last adopted by the board. For purposes of the police officer's retirement plan, actuarial equivalent means the equivalent or non-discriminatory approximations thereof, computed on the basis of the 1983 group annuity tables for males (unisex) and an interest rate of seven (7) percent.~~

\* \* \*

Section 2. That section 11-15 of the Code of the City of Sunrise, Florida is hereby amended to read as follow:

**Sec. 11-15. Investment policy.**

- (a) Trust funds may be invested in:

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(1) Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund or a savings and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund;

(2) Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States;

(3) Bonds, stocks, and other evidence of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia provided:

a. Bonds must hold a rating in one (1) of the three (3) highest classifications by a major rating service;

b. Except as provided in paragraph c., all securities must be issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, any state or organized territory of the United States, or the District of Columbia, and is listed on any one or more of the national stock exchanges.

c. Not more than twenty-five (25) ~~ten (10)~~ percent of the assets of the fund may be invested in foreign securities.

d. Each board shall not invest more than five (5) percent of its assets in the common stock or capital stock of any one (1) issuing company, nor shall any plan invest in the aggregate of five (5) percent of the outstanding stock of any one (1) issuing company, nor shall the aggregate of its investments under this paragraph at fair market value in common stock and capital stock exceed sixty-five (65) percent of the retirement plan trust fund's assets at acquisition, nor grow to exceed seventy (70) percent of the retirement plan fund assets.

(4) Bonds issued by the State of Israel.

(5) Annuity and life insurance contracts with life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the members in the trust fund shall be entitled under the provisions of this system and pay the initial and subsequent premiums thereon.

(b) Pursuant to written agreement, each board shall retain one (1) or more financial consultants for the management of the fund

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property. The board shall convey property of the fund to custodians approved by the board to be held in trust for investment and reinvestment in accordance with the following provisions of this article:

(1) Each board shall establish written guidelines and objectives against which the investment performance of any financial consultant retained by the board shall be measured. If a financial consultant fails to meet the guidelines and objectives or fails to perform in accordance with its contractual agreement with the board, the financial consultant may be terminated by the board. The performance of the investment portfolio of the plan shall be not less than ninety (90) percent of the median performance of comparable portfolios. If the performance falls below that minimum standard, the board may at its option remove the financial consultant.

(2) Upon written request of the board, the custodian shall distribute cash and properties in the fund to the board or its designee. In requesting the custodian to make such disposition, the board shall follow the provisions of this article and shall not direct that any payment be made that would cause any part of the fund to be used for or diverted for purposes other than providing benefits to members and designated beneficiaries of the retirement plan and defraying reasonable expenses of administering the plan. Any written request of the custodian from the board shall constitute a certification that the distribution, as requested, is one that the board is authorized to direct, and the custodian shall not be required to investigate the application of such money by the board or its designee.

(c) Each board shall have a continuing duty to observe and evaluate the performance of the custodian and the financial consultants retained by the board. The board shall, in selecting custodians and other financial consultants, exercise all judgment and care under the circumstances then prevailing, which person's prudence, discretion and intelligence is exercised in the management of his own affairs.

(d) At least once every three (3) years, the board shall retain an independent consultant professionally qualified to evaluate the performance of financial consultants approved by the board. The independent consultant shall make recommendations to the board regarding the selection of the financial consultants for the next investment term. These recommendations shall be considered by the board at its next regularly scheduled meeting. The time, date, place and subject of this meeting shall

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be advertised in a newspaper of general circulation in the city at least ten (10) days prior to the date of the meeting.

(e) The boards of the police officers and firefighters retirement plans shall identify and publicly report any direct or indirect holdings they may have in any scrutinized company, as defined in section 215.473, Florida Statutes, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in that company. The divestiture of any such security shall be completed by September 30, 2010. The board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the participants of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by section 215.473, Florida Statutes and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of effecting compliance with that section, the pension fund shall designate terror-free plans that allocate their funds among securities not subject to divestiture. No person may bring any civil, criminal, or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this subsection.

Section 3. That section 11-36 of the Code of the City of Sunrise, Florida is hereby amended to read as follows:

Sec. 11-36. Optional benefits.

\* \* \*

*(e) Designation of joint pensioner by police officers and firefighters.* In lieu of the benefit provided under Option 3, above, a police officer or firefighter who has attained a vested interest in the plan shall have the right to select to receive a reduced retirement benefit with the provision that a joint pensioner designated by the member shall continue to draw such reduced retirement benefit. The amount of such reduced retirement benefit shall be the actuarial equivalent of the amount of such retirement compensation otherwise payable to the member or such member may direct that the payment of a benefit of fifty (50) percent of the member's monthly retirement allowance to be paid at the member's death to the joint

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pensioner, such benefit to be payable during the lifetime of the joint pensioner. The joint pensioner must be designated in writing by the member on a form provided by the pension board prior to retirement. If no joint pensioner is designated prior to retirement, survivor benefits, if any, shall be paid in accordance with subsections (a) through (c), above. A police officer or firefighter will have the power to change such joint pensioner designation from time to time, but any such change shall be deemed a new election and will be subject to approval by the board of trustees. If a member elects an option with a joint pensioner and the member's retirement benefits have commenced, the member may thereafter change the designated joint pensioner up to two times, ~~but only if the board of trustees consents to such change and if the joint pensioner last previously designated by the police officer or firefighter is alive when the request for change is filed with the board.~~ The consent of a member's joint pensioner or of the board of trustees to any such change shall not be required. ~~The board of trustees may request such evidence of the good health of the joint pensioner that is being removed as it may require, and the~~ The amount of the retirement income payable to the member upon designation of a new joint pensioner shall be actuarially redetermined by the application of actuarial tables and calculations to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit and that there is no impact to the plan taking into account the age and sex of the former joint pensioner, the new joint pensioner, and the member. Each such designation will be made in writing on a form prepared by the board of trustees and on completion will be filed with the board of trustees. In the event that no joint pensioner survives the member, such benefits as are payable in the event of the death of the member subsequent to his or her retirement shall be paid as provided in section 11-35.

\* \* \*

Section 4. That section 11-40 of the Code of the City of Sunrise, Florida is hereby amended to read as follows:

**Sec. 11-40. Designated beneficiary.**

(a) Any member of the plan may file, in writing, a designation of beneficiary. It shall be the duty of the board to refund one

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hundred (100) percent, without interest, of the contributions made to the plan by such deceased member to such designated beneficiary. If the member who attained a vested interest in the plan dies prior to retiring and has made a written selection of an optional allowance in accordance with section 11-36, the designated beneficiary shall be paid as provided therein.

(b) Any member of the plan may in writing change the designated beneficiary, and a retired police officer or firefighter may change his or her designated beneficiary up to two times.; ~~however, if a member changes the spouse or joint pensioner designated to receive an optional benefit under section 11-36, to the extent the newly designated spouse or joint pensioner is younger or older than the previously designated spouse or joint pensioner, the benefit payable shall be actuarially adjusted to reflect the life expectancy of the newly designated spouse or joint pensioner.~~

(c) Upon failure of a member of the general employees plan to designate a beneficiary, the refund of the member's contribution shall be made to the person in the same order as provided by state law for wages due deceased employees. Upon failure of a member of the police officers and firefighters plans to designate a beneficiary, the refund of the member's contribution shall be made to the estate of the deceased employee.

(d) Any member of the police officers and firefighters plans may designate a choice of one (1) or more persons, named sequentially or jointly, as his or her beneficiary (or beneficiaries).

Section 5. That the Code of the City of Sunrise, Florida, is hereby amended by adding a section to be numbered 11-64, which section reads as follows:

**11-64. Termination of police or firefighter plan and distribution of fund.**

Upon termination of the police or firefighter plans for any reason, the rights of all members to benefits accrued to the date of such termination and the amounts credited to the employees' accounts are nonforfeitable. The fund shall be distributed in accordance with the following procedures:

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(1) The board shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits after taking into account the expenses of such distribution. The board shall inform the City if additional assets are required, in which event the City shall continue to financially support the plan until all nonforfeitable benefits have been funded.

(2) The board shall determine the method of distribution of the asset value, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each police officer or firefighter entitled to benefits under the plan as specified in subsection (3).

(3) The board shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income is the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income is the single premium payable for such annuity. The actuarial single-sum value may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.

(4) The board shall distribute, in accordance with subsection (2) above, the amounts determined under subsection (3) above.

(5) If there is asset value remaining after the full distribution specified in subsection (3), and after the payment of any expenses incurred with such distribution, such excess shall be returned to the City, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the City and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the City and the state.

Section 6. Conflict. All ordinances or parts of ordinances, all City Code Sections or parts of City Code

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sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 7. 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, nor any part thereof, other than the part declared to be invalid.

Section 8. 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 9. Effective Date. This Ordinance shall be effective immediately upon its passage.

PASSED AND ADOPTED upon this first reading this \_\_\_\_ day of \_\_\_\_\_ 2010.

PASSED AND ADOPTED upon this second reading this \_\_\_\_ day of \_\_\_\_\_ 2010.

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Mayor Roger B. Wishner

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Authentication:

\_\_\_\_\_  
Felicia M. Bravo  
City Clerk

FIRST READING

MOTION: \_\_\_\_\_  
SECOND: \_\_\_\_\_

ALU: \_\_\_\_\_  
ROSEN: \_\_\_\_\_  
SCUOTTO: \_\_\_\_\_  
SOFIELD: \_\_\_\_\_  
WISHNER: \_\_\_\_\_

SECOND READING

MOTION: \_\_\_\_\_  
SECOND: \_\_\_\_\_

ALU: \_\_\_\_\_  
ROSEN: \_\_\_\_\_  
SCUOTTO: \_\_\_\_\_  
SOFIELD: \_\_\_\_\_  
WISHNER: \_\_\_\_\_

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

\_\_\_\_\_  
Stuart R. Michelson

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