

ORDINANCE NO. C-15-39

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, PERTAINING TO THE SUBJECT OF RETIREMENT; AMENDING CHAPTER 20, PERSONNEL, ARTICLE IV, PENSIONS, DIVISION 3, POLICE AND FIREFIGHTERS RETIREMENT SYSTEM, SECTION 20-135, MISCELLANEOUS PROVISIONS, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, TO ADD A NEW SUBSECTION 20-135(u) TO CLEARLY AUTHORIZE IN-SERVICE DISTRIBUTIONS UNDER LIMITED CASES; PROVIDING A STATEMENT OF PURPOSE AND INTENT; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE THEREFOR.

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Whereas, the City of Fort Lauderdale's Police and Fire Pension Plan (the "Plan") is required to maintain the Plan in accordance with applicable federal and state law and regulations applicable thereto to maintain the tax qualified status of governmental plans; and

Whereas, the City of Fort Lauderdale has learned that the Plan may have been operated in a manner that is not in compliance with certain applicable federal tax laws due to the re-employment by the City of certain members who had commenced the receipt of retirement benefits or whose re-employment with the City did not terminate; and

Whereas, the City of Fort Lauderdale desires to correct any such operational defects in the administration of the Plan by the adoption of this Ordinance retroactively and to submit for approval to the IRS under its Voluntary Correction Program to be approved by the IRS to maintain and preserve the tax qualified status of the Plan; and

Whereas, under certain circumstances the City of Fort Lauderdale is permitted to re-employ employees who retire and still permit in-service distributions; and

Whereas, the City of Fort Lauderdale has determined that it is in the best interest of the City of Fort Lauderdale that the rehiring and retention of certain qualified and experienced public safety employees be continued provided such rehiring and retention does not adversely affect the tax qualified status of the Plan;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, THAT:

**Section 1:** Subsection 20-135(u) of the Code of Ordinance of the City of Fort Lauderdale is hereby created to read as follows:

**“(u) In-Service Distributions**

(1) Notwithstanding any other provision of the “Plan” to the contrary:

A. A Member who had attained such Member’s “Normal Retirement Date” as defined in the Plan, and who satisfied all of the conditions for eligibility for retirement contained therein, and who was re-employed by the City after such retirement shall continue to receive retirement benefits from the Plan as an in-service distribution while re-employed, and shall continue to receive earnings on such member’s DROP account and may also elect to receive payments from the member’s DROP account as an in-service distribution while re-employed.

B. If retiree described in Paragraph (1) A is returned to employment as a certified police officer or firefighter as defined in F.S. Chapters 175 and 185 and thus becomes again a mandatory Member of this Plan, such re-employed member shall continue to receive such Member’s retirement benefits as provided for under Paragraph (1) A above and shall be required to make contributions to the Plan for the period of such re-employment. Upon retirement from the City following such Member’s period of re-employment, any benefits earned during such period of re-employment shall be calculated separate and apart from the benefits earned during the period of initial employment, and shall be paid to the Member, subject to maximum benefit limits allowed under the Plan.

C. The right to receive an in-service distribution under this Subsection 20-135(u) shall be retroactive to January 1, 1999 and shall terminate on December 31, 2013 and no future in-service distribution rights shall exist thereafter under the Plan, except as specifically provided for in Paragraph D. Notwithstanding the preceding sentence, no in-service distribution rights granted to any Member prior to December 31, 2013 shall be adversely affected by this amendment and any such Member shall continue to receive in-service distribution retirement benefits under the Plan including, but not limited to, any Member who was a certified police officer and elected to transfer his or her employment and serve as a reserve officer performing

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booking facility, prisoner transport or War Memorial security services or to any other position of employment by the City.

D. Exceptions To Paragraph C.

1. Any retiree described in Paragraph (1) A who is a certified police officer and who has elected or who elects to transfer his or her employment and serve as a reserve officer performing booking facility, prisoner transport or War Memorial security services, may elect to receive an in-service distribution and may continue employment with the City.

2. Any retiree described in Paragraph (1) A above who serves as the Chief of Police and who has elected or who elects to receive an in-service distribution may continue employment with the City as the Chief of Police.

3. Any retiree described in Paragraph (1) A above who serves as the Fire Chief and who has elected or who elects to receive an in-service distribution may continue employment with the City as the Fire Chief.

The rights granted under this Paragraph D shall be retroactive to January 1, 1999. No in-service distribution rights granted to any Member under this Paragraph D shall be adversely affected by this amendment and such Member shall continue to receive in-service retirement benefits under the Plan.

D. A Member shall become 100% vested in his or her benefits provided under the Plan upon attaining Normal Retirement Age.

**Section 2.** Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

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**Section 3.** In the event the provisions of this Ordinance conflict with the provisions of any other Ordinance or Resolution or Plan or Agreement, the provisions of this Ordinance shall control.

**Section 4.** Effective Date. This Ordinance shall be in full force and effect upon its final passage.

PASSED FIRST READING this the 20th day of October, 2015.

PASSED SECOND READING this the 3rd day of November, 2015.

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Mayor  
JOHN P. "JACK" SEILER

ATTEST:

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City Clerk  
JEFFREY A. MODARELLI

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