

Temp. Ord. No. 1713  
1/31/19  
1/31/19

**CITY OF MIRAMAR  
MIRAMAR, FLORIDA**

**ORDINANCE NO. 19-13**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, AMENDING THE CITY CODE CHAPTER 15, PENSIONS, ARTICLE IV, "POLICE OFFICERS' RETIREMENT PLAN AND TRUST FUND," AMENDING SECTION 15-166 OF THE CITY CODE TO REVISE THE DEFINITION OF "TIER TWO;" AMENDING SECTION 15-173 OF THE MIRAMAR CITY CODE REGARDING MILITARY SERVICE BUYBACK; AMENDING SECTION 15-174 OF THE MIRAMAR CITY CODE TO PERMIT THE PURCHASE OF PERMISSIVE SERVICE CREDIT; AMENDING SECTION 15-211 OF THE MIRAMAR CITY CODE TO PROVIDE FOR NORMAL RETIREMENT WITH TWENTY YEARS OF SERVICE; AMENDING SECTION 15-212 OF THE MIRAMAR CITY CODE TO INCREASE THE BENEFIT FORMULA TO PROVIDE FOR A SEVENTY-FIVE PERCENT MULTIPLIER AFTER TWENTY YEARS OF SERVICE; AMENDING SECTION 15-223 OF THE MIRAMAR CITY CODE TO CREATE A DROP LOAN PROGRAM; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on March 19, 2008, the City adopted Ordinance 08-20 creating a Second Tier pension benefit for police officers hired on or after June 9, 2008 ("the Second Tier"); and

**WHEREAS**, the City and the Police Benevolent Association of Broward County have agreed to revise the Second Tier benefit for police officers; and

**WHEREAS**, the Board of Trustees has also recommended the following additional pension amendments: 1) adopting a DROP loan program, 2) revising the military buyback program, and 3) permitting members to purchase permissive service credit; and

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**WHEREAS**, the membership would be required to defray the administrative costs of the DROP loan program and pay the actuarial cost of permissive service credit, or military buyback, as applicable; and

**WHEREAS**, the Board of Trustees of the Police Pension Plan has prepared this ordinance for adoption by the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AS FOLLOWS:**

**Section 1:** That the foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

**Section 2:** Section 15-166 of the Miramar City code is hereby amended to read as follows:

**Section 15-166. Definitions.**

Tier Two means the defined benefit pension program for police officers hired on or after the creation of the second tier. Tier Two benefits shall be administered as follows: (1) the normal retirement date for Tier Two participants shall be the completion of twenty (20) years of service or reaches age fifty-five (55) and completes ten (10) years of credited service, whichever occurs first; (2) the normal retirement benefit for Tier Two participants shall be calculated using a three percent (3%) multiplier for each year of service; (3) upon completion of twenty (20) years of service the benefit shall be increased to seventy-five percent (75%) of average monthly earnings; (4) the maximum benefit shall be eighty percent (80%) of average monthly earnings; and (5) Tier Two participants shall not be entitled to the COLA set forth in Section 15-225. Tier Two shall be interpreted at all times as is necessary to comply with all minimum benefits and standards under Chapter 185, Florida Statutes.

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~~Tier Two means the defined benefit pension program for police officers hired on or after the creation of the second tier. Tier Two benefits shall be administered in the same manner as Tier One benefits, except as follows: (1) the normal retirement date for Tier Two participants shall be the completion of twenty-five (25) years of service rather than twenty (20) years of service for Tier One participants; (2) the normal retirement benefit for Tier Two participants shall be calculated using a three percent (3%) multiplier for each year of service resulting in a seventy-five percent (75%) benefit after twenty-five (25) years of service and a maximum benefit of eighty percent (80%) of average monthly earnings; and (3) Tier Two participants shall not be entitled to the COLA set forth in Section 15-225. Tier Two shall be interpreted at all times as is necessary to comply with all minimum benefits and standards under Chapter 185, Florida Statutes.~~

**Section 3:** Section 15-173 of the Miramar City Code is hereby amended to read as follows:

**Section 15-173. Buy-back for military service.**

(b) Any member who has served on active military duty but is ineligible to claim credit for service under (a) above shall receive credit up to a maximum of four (4) years for the time spent on active military service in the armed forces of the United States provided that the member pays to the retirement plan the contributions he or she would have contributed had they been employed for that period of time, provided that the member pays the cost of the military service within four (4) years of their date of hire.

(c) The method of payment of the military buy-back shall be as determined by the board.

(d) All members shall have four years from their date of hire to purchase military service under subsection 15-173(b). If a member desires to purchase military service more than four years after their date of hire, the member shall be required to pay the full actuarial cost of the service. ~~All persons who are members of the plan on the effective date of this section who have not yet begun the purchase of service credits for military time shall commence the buyback within one and one half (1½) years of the effective date of Ordinance No. 92-47 or the right to a military buyback shall be deemed forever waived. All persons hired after the effective date of this section shall commence a military buyback within two (2) years from the date of entry into the plan or the right to purchase military service shall be deemed forever waived. Any member who, on the effective date of this section, has already begun the purchase of military service credits shall be unaffected by the provisions of this section.~~

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**Section 4:** Section 15-174 of the Miramar City Code is hereby created to read as follows:

**Section 15-174. Permissive service credit.**

(a) *Purchase of higher multiplier.* Members shall be permitted to purchase permissive service credit, applied as an increased benefit accrual factor ("multiplier"), as set forth below. The increased multiplier may be purchased in one percent (1%) increments in an amount not to exceed twenty percent (20%) of Final Average Earnings. The eighty percent (80%) maximum benefit cap shall remain in place notwithstanding the purchase of permissive service credit.

(b) *Purchase of a lower retirement age.* Alternatively, members shall be permitted to purchase permissive service credit expressed as an earlier normal retirement date. A member selecting this option will not accrue a higher multiplier, but will be permitted to begin receiving an unreduced benefit with fewer years of actual service, not to exceed a five (5) year reduction in their normal retirement age.

(c) *Simultaneous Purchase of higher multiplier and lower retirement age.* Members shall be permitted to simultaneously purchase both a higher multiplier and a lower retirement age.

(d) *Procedure:*

- (1) Permissive service credit shall not be granted until: 1) the member has paid to the Pension Fund the actuarial cost of the purchase, as determined by the actuary for the Plan, and 2) the member is vested. The Board shall establish a uniform rule for the implementation of this provision.
- (2) The cost of such permissive service credit purchase shall be determined as the increase in the actuarial present value of the member's plan benefits before and after the purchase.
- (3) The total benefits actually paid from the Plan to the member or their beneficiaries after the permissive service credit purchase shall be guaranteed to be not less than the total amount of contributions that the member has made, including permissive service credit purchase contributions.

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- (4) The contribution by the member of the actuarially determined cost of the permissive service may be made in one lump sum or may be made by payroll deductions in installments for a period not to exceed five (5) years. A member electing to make installment payments shall be charged interest based on the Plan's assumed rate of return. A member making installment payments shall complete all required payments prior to payment of any enhanced benefit under this section. If a member separates from service prior to vesting, their permissive service contributions shall be returned without interest.

**Section 5:** Section 15-211 of the Miramar City Code is hereby amended to read as follows:

**Section 15-211. Normal retirement date.**

(a) A member shall be eligible to retire on the first day of the month coincident with or next following that date on which such member completes twenty (20) years of credited service regardless of age, or reaches age fifty-five (55) and completes ten (10) years of credited service, whichever shall occur first. Vested members separating from service on or before November 25, 2004 shall be permitted to commence receipt of normal retirement benefits on what would have been the member's twentieth anniversary of service, had the member remained continuously employed. Members continuing in service on or after November 26, 2004 or hired on or after February 21, 2002 shall be permitted to commence receipt of normal retirement upon the completion of twenty (20) years of actual creditable service, including purchases of service credit as authorized by the plan, or the attainment of age fifty five (55) with ten (10) years of actual creditable service. ~~Notwithstanding anything to the contrary, Tier Two members shall be eligible to retire on the first day of the month coincident with or next following the date on which such member completes twenty-five (25) years of credited service, regardless of age, or reaches age fifty-five (55) and completes ten (10) years of credited service, whichever shall occur first.~~

**Section 6:** Section 15-212 of the Miramar City code is hereby amended to read as follows:

**Section 15-212. Normal retirement benefit.**

(a) Amount. The monthly retirement benefit shall be an amount determined as follows: Three and one quarter (3.25%) percent of average monthly earnings times credited service. For members retiring on or after October 1, 1994, the maximum benefit provided shall be eighty (80%) percent of their average monthly earnings, unless the member was eligible for normal retirement as of April 5, 1995 and remains employed as of October 1, 2004, in which case, there shall be no maximum accrual, as permitted by state law. Any member who as of October 1, 1994, has accrued in excess of eighty (80%) of average monthly earnings shall be permitted to retain the accrued benefit, but shall not be permitted to accrue additional benefits under the plan. Notwithstanding the eighty percent (80%) cap, members' monthly retirement benefit shall not be less than two percent (2%) of average monthly earnings times credited service. Effective October 1, 2006, the monthly retirement benefit for members who retire or enter the DROP on or after October 1, 2006 shall be an amount determined as follows: five (5%) percent of average monthly earnings times credited service for the twenty-first (21st), twenty-second (22<sup>nd</sup>), and twenty-third (23<sup>rd</sup>) years of employment as a member of the Plan. Effective October 1, 2007 Tier One members retiring with twenty (20) or more years of service shall be entitled to the maximum benefit of eighty percent (80%) of average monthly earnings. Effective October 1, 2018, notwithstanding anything to the contrary, the multiplier for Tier Two members shall be three percent (3%) of average monthly earnings, ~~resulting in a~~ but upon the completion of twenty (20) years of service or reaching age fifty-five (55) and completing ten (10) years of credited service, a Tier Two member shall be entitled to a benefit of seventy-five percent (75%) benefit upon the completion of twenty-five (25) years of service of Average Monthly Earnings, which shall be subject to an eighty percent (80%) maximum benefit cap.

**Section 7:** Section 15-223(s) of the Miramar City code is hereby created to read as follows:

**Section 15-223. Deferred retirement option plan.**

(s) *DROP Loan Program:* A DROP Loan Program is hereby established for police officer retirees who participated in the DROP program.

(1) Availability of loans.

- a. Loans are available to members only after termination of employment, provided the member had participated in the DROP for a period of 12 months.
- b. Loans may only be made from a member's own account.
- c. There may be no more than one loan at a time.

(2) Amount of loan.

- a. Loans may be made up to a maximum of 50% of account balance.
- b. The maximum dollar amount of a loan is \$50,000, reduced by the highest outstanding loan balance during the last 12 months.
- c. The minimum loan is \$5,000.
- d. After taking a loan, no additional distributions may be taken from a member's DROP account, unless the remaining DROP account balance is at least 200% of the outstanding DROP loan.

(3) Limitations on loans shall be made from the amounts paid into the DROP and the earnings thereon.

(4) Term of loan.

- a. The loan must be for at least one year.
- b. The loan shall be no longer than five years.

(5) Loan interest rate.

- a. The interest rate shall be fixed at time the loan is originated for the entire term of loan.
- b. The interest rate shall be equal to the prime rate published by an established local bank on the last day of each calendar quarter preceding the date of loan application.

(6) Defaults on loans.

- a. Loans shall be in default if two consecutive months' repayments are missed or if a total of four months' repayments are missed.
- b. Upon default, the entire balance becomes due and payable immediately.

- c. If a loan in default is not repaid in full immediately, the loan may be canceled and the outstanding balance treated as a distribution, which may be taxable.
- d. Upon default of a loan, a member will not be eligible for additional loans.

(7) Miscellaneous provisions.

- a. All loans must be evidenced by a written loan agreement signed by the member and the Board of Trustees. The agreement shall contain a promissory note.
- b. Notice of a loan shall be provided to a member's spouse, including a copy of the promissory note.
- c. Loans shall be considered a general asset of the fund.
- d. Loans shall be subject to administrative fees to be set by the Board of Trustees.
- e. Outstanding loan balances shall not be credited with earnings or losses. As the outstanding balance is repaid with interest, earnings and losses shall be applied to the payments and interest on a quarterly basis.

**Section 8:** 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 Miramar, that the sections of the Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 9:** If any clause, section, or other part or application of this Ordinance shall be held in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and shall

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not affect the validity of the remaining portions or applications, which shall remain in full force and effect.

**Section 10:** All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

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**Section 11:** This Ordinance, including the establishment of Tier Two, shall become effective immediately upon adoption, unless otherwise provided.

**PASSED FIRST READING:** February 6, 2019

**PASSED AND ADOPTED ON SECOND READING:** February 20, 2019

\_\_\_\_\_  
Mayor, Wayne M. Messam

\_\_\_\_\_  
Vice Mayor, Yvette Colbourne

ATTEST:

\_\_\_\_\_  
City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved  
this ORDINANCE as to form:

\_\_\_\_\_  
City Attorney  
Weiss Serota Helfman  
Cole & Bierman, P. L.

<b><u>Requested by Administration</u></b>	<b><u>Voted</u></b>
Commissioner Winston F. Barnes	Yes
Commissioner Maxwell B. Chambers	Yes
Vice Mayor Yvette Colbourne	Yes
Commissioner Darline B. Riggs	Yes
Mayor Wayne M. Messam	Yes