

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

AN ORDINANCE OF THE CITY OF PEMBROKE PINES, FLORIDA REVISING THE CITY'S POLICE AND FIRE PENSION PLAN BY SPECIFICALLY AMENDING §§34.36, 34.39, 34.43, 34.53 OF THE CITY'S CODE OF ORDINANCES TO INCORPORATE THE MODIFICATION AND REDUCTION OF CERTAIN BENEFITS WHICH HAVE BEEN COLLECTIVELY BARGAINED; PROVIDING FOR THE APPLICATION OF THE STATE PREMIUM TAX DOLLARS TOWARDS THE COST OF THE ENHANCED BENEFITS PROVIDED FOR HEREIN; BY AMENDING §§ 34.36, 34.50, 34.52 AND 34.64 TO COMPLY WITH THE INTERNAL REVENUE CODE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, pursuant to the economic hardships facing the City of Pembroke Pines ("City") specifically, and the State of Florida and the United States generally, the City has negotiated amendments to the Police & Fire Pension Plan ("Plan") with the unions that represent both the police and fire employees of the City; and

**WHEREAS**, on May 19, 2010, the City Commission of the City of Pembroke Pines, Florida ("City") ratified a Memorandum of Understanding to the Collective Bargaining Agreement reached with the Local 2292, International Association of Firefighters effective April 30, 2010; and

**WHEREAS**, on May 19, 2010, the City Commission further ratified a Collective Bargaining Agreement reached with the Broward County Police Benevolent Association for the period of October 1, 2009 – September 30, 2012; and

**CODING:** Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

**PROPOSED ORDINANCE NO. 2010-19**

**REVISION NO. 1**

**ORDINANCE NO. 1669**

**WHEREAS**, the City Commission intends to amend the City's Police and Fire Pension Plan ("Plan") to effectuate the terms of these Collective Bargaining Agreements; and

**WHEREAS**, the City Commission further desires to amend the Plan to comply with certain provisions of the Internal Revenue Code; and

**WHEREAS**, the City Commission of the City of Pembroke Pines, Florida finds that it is in the best interests of the City to effectuate these amendments as described herein and hereby determines that it will have positive fiscal impact to the City;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA THAT:**

**SECTION 1.** The foregoing "WHEREAS" clauses are hereby ratified as being true and correct and incorporated herein by this reference.

**SECTION 2.** The City Commission of the City of Pembroke Pines hereby amends the City's Code of Ordinances by amending §34.36, entitled "Definitions;" §34.39, entitled "Eligible Employees to Complete Contract Form" §34.43, entitled "Normal Retirement;" and §34.52, entitled "Optional Benefits," in accordance with the terms and conditions of the Memorandum of Understanding to the Collective Bargaining Agreement reached with the Local 2292, International Association of

**CODING:** Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

Firefighters and the Collective Bargaining Agreement reached with the Broward County Police Benevolent Association, as follows:

**§34.36 DEFINITIONS.**

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) ***ACTUARIAL EQUIVALENT OR ACTUARIAL EQUIVALENCE.*** The equivalent value of a benefit beginning at normal retirement in the normal form of benefit when computed on the basis of 7 ½% interest assumption and a 1983 Group Annuity mortality table with beneficiaries set back six years. Effective October 1, 2010, the equivalent value of a benefit beginning at normal retirement is the normal form of benefit when computed on the basis of a 7½% interest assumption and the RP-2000 Combined Mortality Table with Blue Collar Adjustment, projected to 2010, based upon a fixed blend of 50% male mortality rates – 50% female mortality rates, set forward five (5) years for impaired lives.

...

(8) ***CONTINUOUS SERVICE.***

...

Military optional service selection. Continuous service for members may also purchase up to four years of active duty service in the Armed Forces or Merchant Marine of the United States prior to employment by the city. Police officer members may purchase up to four years prior to service as a certified police officer or a certified correctional officer in the United States. The maximum credit for purchased service credit shall be four years. Credit for such purchased service credits may be awarded so long as such service is not used towards creditable service for any other retirement plan,

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

provided that the member pays into the Pension Fund the full actuarial cost of such service, as computed by the Pension Fund's actuary. Payments for such service may be made, at the member's option, by a lump sum payment, direct in-service transfer from a member's deferred compensation account pursuant to Section 457(e)(17) of the Internal Revenue Code, or periodic payments bearing interest at the system's actuarially assumed rate of return made according to an installment payment schedule approved by the Board of Trustees, or a combination of the foregoing. Credit shall be awarded only for that service purchased and only upon receipt of payment. While military service credit may be purchased at any time upon becoming a member in the system, credit for purchased service shall only be awarded after the member has completed ten years of service with the city. If the member separates from service with the city prior to completing ten years of service, all monies paid towards the purchase of military service shall be refunded to the member.

...

(10) **EARNINGS.** Shall include wages, regular longevity paid to a member, and overtime includable in gross income of the member, voluntary deductions, or deferred compensation plans in accordance with Internal Revenue Code Section 457 and Chapters 175 and 185, Florida Statutes. A member's earnings of members may include payment of up to 1,000 hours of accrued unused leave earned by the member as of April 30, 2010 for those members who opt to select the benefits as provided in § 34.52. Effective May 1, 2010, accrued leave earned by a member on or after May 1, 2010 shall not be included as part of the member's "earnings" for purpose of calculating the member's benefits under the System.

...

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

ORDINANCE NO. 1669

**§ 34.39 ELIGIBLE EMPLOYEES TO COMPLETE CONTRACT FORM.**

Employees hired on or after May 1, 2010 shall not be eligible for individual employee contracts as set forth in this section. Each eligible employee employed prior to May 1, 2010 shall execute such employee contracts as are required by this section. Failure to execute such contract shall result in the employee being eligible to receive only those minimum benefits provided in Chapters 175 and 185, Florida Statutes. The employee contract shall be in substantially the following form:

...

**§34.43 NORMAL RETIREMENT.**

(A) Eligibility for retirement under this section shall be defined as "Normal Retirement Status." A member may elect to retire as follows:

(1) On the first day of any month if coincident with, following with, or following the attainment of his or her fiftieth birthday and completion of 20 years of continuous service;

(2) Effective on or after March 12, 1999, on the first day of any month coincident with or following the attainment of his or her fifty-fifth birthday and completion of 10 years of continuous service;

(3) For an employee who is eligible to and becomes a member as of February 19, 1981, on the attainment of his or her fifty-fifth birthday, regardless of the number of years of continuous service;

(4) For a police officer member, after completion of 20 years of continuous service regardless of age;

(5) Effective on or after October 1, 2000, for a police officer member, on the attainment of his or her fiftieth birthday and completion of 10 years continuous service;

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

(6) Effective on or after December 15, 1999, for a firefighter member, after completion of 20 years of continuous service regardless of age;

(7) Effective on or after December 15, 1999, for firefighter members, on the first day of any month coincident with or following the attainment of his or her fiftieth birthday and completion of 10 years of continuous service.

(8) Effective March 17, 2004, a police officer member who has completed 16 years of service, but no more than 20 years of service, may purchase an increase to the benefit multiplier to achieve a final retirement benefit not to exceed 80% of his or her average monthly earnings. Payment for such increase in the multiplier may be made, at the member's option, by a lump sum payment, direct in-service transfer from a member's deferred compensation account pursuant to Section 457(e)(17) of the Internal Revenue Code, or periodic payments bearing interest at the Plan's actuarially assumed rate of return made according to an installment payment schedule approved by the Board of Trustees, or a combination of the foregoing. Credit shall be awarded only for that service purchased and only upon receipt of payment. Credit for purchased service shall only be awarded upon the member's vesting. If the member separates from service with the city prior to vesting, all monies paid towards the purchase of such service shall be refunded to the member.

...

(C) As of November 4, 1992, the amount of the benefit shall be 3% of average monthly earnings for the highest two years of continuous service multiplied by years of continuous service, subject in any event to a maximum of 80% of average monthly earnings for the highest two years of continuous service. However, members as of February 19, 1981 shall receive at their normal retirement date (age 55, regardless of years of continuous service) the greater of the benefit provided by the formula above or 50% of average monthly earnings for the highest two years of continuous service. In any event, effective as of March 12, 1999, the benefit

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

ORDINANCE NO. 1669

REVISION NO. 1

cannot be less than 2% of average monthly earnings for each year of continuous service.

(D) (1) As of October 1, 2000, the amount of the benefit multiplier for all police officer members shall increase to 4% for every year after the member's twentieth anniversary of participation in the pension system up to a maximum benefit as provided in § 34.43(C) of the Code of Ordinances. For police officer members hired prior to May 1, 2010, the benefit multiplier for all continuous service earned after April 30, 2010 shall be 3.5% and the maximum benefit shall be 80% of the police officer's average monthly earnings for the member's highest two years of continuous service.

(2) For police officer members hired after April 30, 2010, the benefit multiplier for all continuous service shall be 3% and the maximum benefit shall be 80% of the police officer's average monthly earnings for the member's highest two years of continuous service.

...

(J) All firefighter members hired on or after April 1, 2006 will have the retirement benefit calculated to equal 4%, rather than the 3% set forth in division (C) of this section for continuous service prior to May 1, 2010, of average monthly earnings for the highest two years of continuous service multiplied by years of continuous service, subject in any event to a maximum of 80% of average monthly earnings for the highest two years of continuous service, but in no event shall the benefit exceed 98% of average monthly regular wages.

(K) For all firefighter members, effective May 1, 2010:

(1) If a firefighter member was hired on or prior to June 18, 2003, the benefit multiplier shall be 4% for each year of continuous service accrued prior to May 1, 2010 and the benefit multiplier shall be 3.5% for each year of continuous service accrued on or after May 1, 2010. The firefighter shall be eligible to retire or enter the DROP, as set forth in §34.52, upon reaching a benefit of 80% of average

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

earnings; attainment of age 50 with a minimum of 10 years of continuous service; or upon completion of 20 years of service regardless of age. If the firefighter's service with the City terminates prior to the earlier of (1) reaching age 50 with at least 10 years of continuous service or (2) completion of 20 years of continuous service regardless of age, the firefighter's benefit multiplier for each year of creditable service shall be reduced to 3%, and the 10 year vesting requirement shall continue to apply.

(2) If a firefighter member is hired after June 18, 2003, and prior to May 1, 2010, the benefit multiplier shall be 4% for each year of continuous service accrued prior to May 1, 2010, and the benefit multiplier shall be 3.5% for each year of continuous service accrued on or after May 1, 2010. The firefighter shall remain eligible to be an active employee of the City until such time as the firefighter's benefit equals the maximum benefit the firefighter would have been entitled to under the provisions of the Plan in effect prior to April 30, 2010.<sup>1</sup> The firefighter is eligible to retire or enter the DROP upon reaching the maximum benefit calculated in accordance with the preceding sentence or attainment of age 50 with a minimum of 10 years of continuous service. If the firefighter's service with the City is terminated prior to reaching the earlier of (1) age 50 with at least 10 years of continuous service or (2) completion of 20 years of service regardless of age, the firefighter's benefit multiplier for each year of creditable service shall be reduced to 3% and the 10 year vesting requirement shall continue to apply.

(3) If a Firefighter member is hired after April 30, 2010, the amount of the benefit multiplier shall be 3% of average monthly earnings for the highest 2 years of continuous service and the maximum benefit shall be 80% of the firefighter's average monthly earnings for the highest 2 years of continuous service.

<sup>1</sup> By way of example only, a firefighter member hired at age 35 after June 18, 2003 would have been eligible to retire at age 50 with 15 years of credited service with a 4% multiplier resulting in a benefit equal to 60% of earnings. The same employee would remain eligible for active participation until such 60% benefit is achieved with the reduced multiplier of 3.5% for credited service earned after April 30, 2010.

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

(L) Police Officers actively employed by the City on April 30, 2010, who retire or enter the DROP on or after May 1, 2010, or their beneficiaries, shall receive a 2% cost-of-living adjustment to their retirement benefit on October 1, 2010 and on each October 1<sup>st</sup> thereafter. Police Officers hired on or after May 1, 2010 who retire or enter the DROP, or their beneficiaries, shall receive a 1.5% cost-of-living adjustment to their retirement benefit on October 1<sup>st</sup> of each year. For those receiving benefits for less than one year, the increase shall be prorated.

(M) Firefighters actively employed by the City on April 30, 2010, who retire or enter the DROP on or after May 1, 2010, or their beneficiaries, shall receive a 2% cost-of-living adjustment to their retirement benefit on April 1, 2011 and on each April 1<sup>st</sup> thereafter. Firefighters hired on or after May 1, 2010 who retire or enter the DROP, or their beneficiaries, shall receive a 1.5% cost-of-living adjustment to their retirement benefit on April 1<sup>st</sup> of each year. For those receiving benefits for less than one year, the increase shall be prorated.

...

**§ 34.50 TERMINATION OF EMPLOYMENT.**

(A) If a member terminates his employment with the Police or Fire Departments, either voluntarily or by lawful discharge, and is not eligible for any other benefits under this system, he shall be entitled to the following:

(1) With less than ten years of continuous service, refund of member's member contributions, plus simple interest, at the rate of 3% per annum payable only upon a written request by the member in a form and manner determined by the Board.

(2) With ten or more years of continuous service:

(a) Provided he does not elect to withdraw his member contributions, the pension benefit accrued to his date of termination, payable commencing at his otherwise earliest normal retirement date, or, effective as of March 12, 1999, his

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

early retirement date with the appropriate early retirement reduction calculated in accordance with § 34.44; or

(b) Refund of the member's member contributions, plus simple interest, at the rate of 3% per annum payable only upon a written request by the member in a form and manner determined by the Board.

...

**§34.52 OPTIONAL BENEFITS**

...

(C) A deferred retirement option plan ("DROP") is hereby created at no cost and with no liability to the city. An employee who is a member of the pension system and would be eligible to receive a service retirement pension under the city's retirement system and has attained "Normal Retirement Status," as specified in § 34.43 of this code, shall be eligible to participate in the Deferred Retirement Option Plan ("DROP"). A member who elects to enter the DROP shall have no recourse against the city for any claims with respect to the DROP payments or the DROP plan. Upon entering the DROP plan, a member will be required to provide to the city a letter of resignation dated the last day allowed by the DROP ordinance.

...

(5) Upon election to participate in the DROP, monthly retirement benefits that would have been payable had the member terminated employment and elected to receive monthly pension payments shall be made into the member's DROP account. Payments to the member's DROP account shall be made on a monthly basis for the term of a member's participation in the DROP, but shall not exceed 60 months. DROP payments contributed to a member's DROP account shall earn or lose interest, as chosen by the member ~~member within 60 days following the effective date of this division or~~ upon election to participate in the DROP,

CODING: Words in ~~strike-through~~ type are deletions from existing law; Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

which may be changed annually during the month of September. A member's DROP account shall earn or lose interest as follows:

(a) Members participating in the DROP on April 30, 2010, shall be eligible to elect between earning at the same rate and frequency as in the Pension Fund, less reasonable and necessary administrative expenses, or earn an annual fixed interest rate of 8% on future payments to the member's DROP account and on all or any portion of the member's DROP account balance.

(b) Members hired prior to May 1, 2010, and not currently participating in the DROP on April 30, 2010, shall be eligible to elect between earning at the same gross rate and frequency as the Pension Fund or guaranteed return based upon the Pension Funds gross rate of return. The guaranteed return shall be calculated as follows:

1. If the Pension Fund's gross rate of return is less than 5% then the member's DROP account shall earn 5%.

2. If the Pension Fund's gross rate of return is more than 8%, then the member's DROP account shall earn 8%.

3. If the Pension Fund's gross rate of return is between 5% and 8%, then the member's DROP account shall earn the same as the Pension Fund's gross rate of return.

(c) For members hired after April 30, 2010, the member's DROP account shall earn or lose interest at the same gross rate of return and frequency as the Pension Fund.

During a member's participation in the DROP, he or she shall not be paid any amounts from the System.

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

...

(10) The assets of the DROP shall be managed by the Board. The Board may appoint a subcommittee with such powers as they shall determine; may adopt such administrative procedures and regulations as they may deem desirable for the conduct of the affairs and duties if under the DROP. A member of the Board shall not vote on any question relating exclusively to himself. The Board shall maintain or cause to be maintained records showing the operations and conditions of the DROP, including records showing the individual balances in each DROP account. The Board shall prepare or cause to be prepared and distributed to employees participating in the DROP and other individuals or filed with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, and data required to be distributed or filed for the DROP pursuant to the Internal Revenue Code, ~~the Employee Retirement Income Security Act~~, and any other applicable laws. The Board may pay reasonable and necessary expenses of administering DROP's assets, from funds of the DROP.

(D) Career Anniversary Pension Retirement Incentive Option.

(1) For police officer members who elect to retire or enter the DROP upon, no earlier than attainment of age 50 with ten years of service and no later than completion of 20 years of service regardless of age as set forth in § 34.43, shall receive the benefits as set forth below.

(2) In order to receive the following benefits, firefighter members who were members of the plan on June 18, 2003, when Ordinance No. 1443 took effect, must retire or enter the DROP upon but not after attaining 20 years of service unless they, before attaining 20 years of service, have attained age 50 with ten years of service, in which case the member must retire or enter the DROP no earlier than attainment of age 50 with ten years of service and no later than attainment of 20 years of service. Firefighter members

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

who entered the pension fund after June 18, 2003 will receive the following benefits if they elect to retire or enter the DROP upon, but not after, attaining the earlier of the normal retirement age of 20 years of service or age 50 with ten years of service as set forth in § 34.43.

(a) The amount of the benefit shall be 4%, rather than the 3% set forth in § 34.43(C), of average monthly earnings for the highest two years of continuous service multiplied by years of continuous service, subject in any event to a maximum of 80% of average monthly earnings for the highest two years of continuous service.

For police officer members hired on or before April 30, 2010, the benefit multiplier shall be 4% for continuous service accrued on or before April 30, 2010 and 3.5% for continuous service accrued after April 30, 2010.

For police officer members hired after April 30, 2010, the benefit multiplier shall be 3% for each year of continuous service and average final compensation shall be the average of the highest two (2) years of continuous service, subject in any event to a maximum of 80% of average final compensation.

For firefighter members, effective April 30, 2010, the benefit multiplier shall be 4% for service accrued on or before April 30, 2010. For any continuous service accrued by a firefighter on or after May 1, 2010:

(1) If a firefighter member was hired on or prior to June 18, 2003, the benefit multiplier shall be 4% for each year of continuous service accrued prior to May 1, 2010 and the benefit multiplier shall be 3.5% for each year of continuous service accrued on or after May 1, 2010. The firefighter shall be eligible to retire or enter the DROP, as set forth

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

in §34.52, upon reaching a benefit of 80% of average earnings; attainment of age 50 with a minimum of 10 years of continuous service; or upon completion of 20 years of service regardless of age. If the firefighter's service with the City terminates prior to either (1) reaching age 50 with at least 10 years of continuous service, or (2) completion of 20 years of continuous service regardless of age, the firefighter's benefit multiplier for each year of creditable service shall be reduced to 3%, and the 10 year vesting requirement shall continue to apply.

(2) If a firefighter member is hired after June 18, 2003, and prior to May 1, 2010, the benefit multiplier shall be 4% for each year of continuous service accrued prior to May 1, 2010, and the benefit multiplier shall be 3.5% for each year of continuous service accrued on or after May 1, 2010. The firefighter shall remain eligible to be an active employee of the City until such time as the firefighter's benefit equals the maximum benefit the firefighter would have been entitled to under the provisions of the Plan in effect on April 30, 2010.<sup>2</sup> The firefighter is eligible to retire or enter the DROP upon reaching the maximum benefit calculated in accordance with the preceding sentence or attainment of age 50 with a minimum of 10 years of continuous service. If the firefighter's service with the City terminates prior to either (1) reaching age 50 with at least 10 years of continuous service, or (2) completion of 20 years of continuous

<sup>2</sup> By way of example only, a firefighter member hired at age 35 after June 18, 2003 would have been eligible to retire at age 50 with 15 years of credited service with a 4% multiplier resulting in a benefit equal to 60% of earnings. The same employee would remain eligible for active participation until such 60% benefit is achieved with the reduced multiplier of 3.5% for credited service earned after April 30, 2010.

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

service regardless of age, the firefighter's benefit multiplier for each year of creditable service shall be reduced to 3%, and the 10 year vesting requirement shall continue to apply.

(3) If a Firefighter member is hired after April 30, 2010, the amount of the benefit multiplier shall be 3% of average monthly earnings for the highest 2 years of continuous service and the maximum benefit shall be 80% of the firefighter's average monthly earnings for the highest 2 years of continuous service.

(b) For firefighter members hired on or after April 1, 2006 the amount of the benefit shall be as calculated in division (D)(1)(a) of this section and shall in no event exceed 98% of average monthly regular wages for the same highest two years of continuous service selected above and as defined in § 34.36(A)(4) and (18).

(3) Prior to May 1, 2010, "earnings" for purposes of calculating any benefits pursuant to the Career Anniversary Pension Retirement Incentive Option set forth in this section shall include payment for up to 1,000 hours of accrued unused leave as set forth in "earnings" as defined in § 34.36(A)(10). Effective May 1, 2010, accrued leave earned by a member on or after May 1, 2010 shall not be included as part of the member's "earnings" for purposed of calculating the member's benefit under the System.

(4) Negotiated Adjustment to Pension Income.

(a) For firefighter retirees:

1. Effective April 1, 2005, and April 1st of each year thereafter, retirees, their beneficiaries and DROP participants will receive either a 2% increase to their retirement benefit or an adjustment equal to the total

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

percentage increase in base wages, excluding performance or merit adjustments provided in the collective bargaining agreement to bargaining unit members, for the city fiscal year commencing the preceding October 1st, whichever is greater. This increase shall be applied to all monthly benefit payments for all participants (including retirees and DROP participants) and beneficiaries who were receiving benefits for at least one year from June 18, 2003.

2. Upon retirement, firefighter members who were hired on or after April 1, 2006 shall receive a fixed 3% increase to their monthly retirement benefit on April 1 of each year following retirement. Effective May 1, 2010, firefighters who were hired prior to May 1, 2010 and retire or enter the DROP after April 30, 2010, or their beneficiaries, shall receive a 2% cost-of-living adjustment on April 1<sup>st</sup> of each year following retirement. Firefighters hired on or after May 1, 2010, and retire or enter the DROP, or their beneficiaries, shall receive a 1.5% cost-of-living adjustment on April 1<sup>st</sup> of each year following retirement.

3. Firefighter members who were hired prior to April 1, 2006 and retirees and DROP participants who were hired prior to April 1, 2006 shall within 60 days from the effective date of this section irrevocably elect to receive the negotiated adjustment to pension income as set forth in either division (D)(3)(a) or (b) of this section.

(b) For police officer retirees:

1. ~~Effective April 1, 2005, and April 1st of each year thereafter, retirees, their beneficiaries and DROP participants will~~

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

~~receive either a 2% increase to their retirement benefit or an adjustment equal to the total percentage increase in base wages, excluding performance or merit adjustments provided in the collective bargaining agreement to bargaining unit members, for the city fiscal year commencing the preceding October 1st, whichever is greater. This increase shall be applied to all monthly benefit payments for all participants (including retirees and DROP participants) and beneficiaries who were receiving benefits for at least one year from June 18, 2003. Effective October 1, 2009, and October 1<sup>st</sup> of each year thereafter, retirees who retired on or after October 1, 2003 or are participating in the DROP on or after October 1, 2003 or their beneficiaries will receive a 1.5% increase to their retirement benefit. This increase shall be applied to all monthly benefit payments for all participants (including retirees and DROP participants) and beneficiaries who were receiving benefits for at least one year from March 17, 2003. For those receiving benefits for less than one year from the first cost of living adjustment, the increase shall be prorated.~~

2. Effective October 1, 2009, and October 1st of each year thereafter, retirees who retired or entered the DROP on or after October 1, 2006 or their beneficiaries will receive a 3% increase to their retirement benefit. This increase shall be applied to all monthly benefit payments for all participants (including retirees and DROP participants) and beneficiaries who were receiving benefits for at least one year from October 1, 2008. Effective May 1, 2010, police officers who were hired prior to May 1, 2010 and retire or enter the DROP after April 30, 2010 and their beneficiaries, shall receive a 2% cost-of-living

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

ORDINANCE NO. 1669

adjustment on October 1st each year following retirement. Police officers hired on or after May 1, 2010, who retire or enter the DROP, and their beneficiaries, shall receive a 1.5% cost-of-living adjustment on October 1<sup>st</sup> of each year following retirement.

(c) For those firefighter and police officer retirees receiving benefits for less than one year from the first cost of living adjustment, the annual increase shall be prorated.

...

**§ 34.64 TAX PROVISIONS.**

(A) Notwithstanding any other provisions of this plan, the retirement benefit of a member shall be reduced to the extent that it exceeds amounts specified in Section 415 of the Internal Revenue Code (IRC). ~~Notwithstanding the preceding sentence, the limitations of Section 415 shall be applied taking into account the special rules in IRC Sections 415(b)(1)(B), 415(b)(2)(F)-(H). If a member is also a participant in a defined contribution plan sponsored by the city, the limitations of Section 415 of the IRC will apply, with the benefits of this plan reduced first, if necessary, to comply with those limitations. In the event that there are questions that arise in calculations involving Section 415 limitations, the Board will follow applicable provisions of the IRC and any regulations thereunder.~~

(B) The city shall solely for the purpose of compliance with Sections 125, 457, and 414(h) of the Internal Revenue Code, pick up the members' contributions required to be made by employees on earnings paid with respect to payroll periods upon this section becoming effective. The member contributions so picked up shall be designated as employer contributions in determining tax treatment under the Internal Revenue Code. Member contributions picked up by the city pursuant to this subsection shall be treated for all other purposes of this and other laws of the city in the same manner and to the same extent as member contributions made prior to the effective date of this division (B). No employee shall have the option of choosing to

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

receive the contributed amounts directly instead of having them paid by the city to the System.

(C) This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at any time and in any manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For the purposes of this section the following definitions shall apply:

***DIRECT ROLLOVER.*** A payment by the plan to the eligible retirement plan specified by the distributee. Effective as of January 1, 2008, a non-spouse beneficiary may make a direct rollover only to an "inherited" individual retirement account as described in IRC section 408(b).

***DISTRIBUTEES.*** An employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse. Effective as of January 1, 2008, an employee's or former employee's non-spouse beneficiary is a distributee with regard to the interest of the employee or former employee.

***ELIGIBLE RETIREMENT PLAN.*** An individual retirement account described in § 408(a) of the IRC, an individual retirement annuity account described in §408(b), an individual retirement plan described in § 403(a) of the IRC, or a qualified trust described in § 401(a) of the IRC, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in IRC section 403(b) and an eligible plan under IRC section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan.

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

**ELIGIBLE ROLLOVER DISTRIBUTION.** Any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) of the distributee and the distributee's designated beneficiary, for a specified period of ten years or more; any distribution to the extent such distribution is required under § 401(a)(9) of the Internal Revenue Code of 1986 as amended (IRC); and, the portion of any distribution that is not includable in gross income.

(D) In addition to other applicable limitations set forth in the plan, and notwithstanding any other provisions of the plan to the contrary, for the plan years beginning on or after October 1, 1996, the annual compensation of each employee (who first became a plan participant in a plan year beginning after September 30, 1996) taken into account under the plan shall not exceed the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) annual compensation limit. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the Commissioner for increases in the cost-of-living in accordance with § 401(a)(17)(B) of the IRC. The cost-of-living adjustment in effect for a calendar year applies for any period, not exceeding 12 months, over which compensation is determined (determination period), beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 annual compensation limit will be prorated. ~~For plan years beginning multiplied by a fraction, the numerator of which is the number of months in the determination period~~ on or after October 1, 1996, any reference in this plan to the limitation under § 401(a)(17) of the IRC shall mean OBRA '93 annual compensation limit set forth in this provision. The OBRA '93 annual compensation limit shall not apply to employees who were participants in the plan before the first plan year beginning after September 30, 1996.

(E) Notwithstanding anything herein to the contrary, a member's benefits shall commence no later than April 1 of the calendar year following the later of (i) the calendar year in which he or she attains age 70 ½ or (ii) the calendar year in which he or she retires (the "Required Beginning Date"). All distributions from the plan (including the DROP) shall conform to the regulations issued under Section 401(a)(9) of the IRC, including the incidental death

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

benefit provision of Section 401(A)(9)(G) of the IRC. Further, such regulation shall override any plan or DROP provision that is inconsistent with Section 401(a)(9) of the IRC.

(F) Any provision of this plan that would cause it to fail to comply with the applicable requirements for qualified plans under the IRC shall, to the extent ~~be~~ necessary to maintain the qualified status of the Plan, be null and void ab initio, and of no force and effect, and the plan shall be construed as if such provision had never been inserted in the plan.

(G) Notwithstanding any other provision of this plan to the contrary, the form of retirement income payable from this plan shall satisfy the following conditions:

(1) If the retirement income is payable before the member's death:

(a) It shall either be distributed or commence to the member not later than April 1 of the calendar year following the later of the calendar year in which the Member attains age 70 1/2, or the calendar year in which Member retires;

(b) The distribution shall commence not later than the calendar year defined above; and (a) shall be paid over the life of the member or over the lifetimes of the member and spouse, issue or dependent, or (b) shall be paid over the period extending not beyond the life expectancy of the member and spouse, issue or dependent.

Where the form of retirement income payment has commenced in accordance with the preceding paragraphs and the member dies before his entire interest in the plan has been distributed, the remaining portion of such interest in the plan shall be distributed no less rapidly than under the form of distribution in effect at the time of the member's death.

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

(2) If the member's death occurs before the distribution of his interest in the plan has commenced, member's entire interest in the plan shall be distributed within five years of member's death, unless it is to be distributed in accordance with the following rules:

(a) The member's remaining interest in the plan is payable to his spouse, issue or dependent;

(b) The remaining interest is to be distributed over the life of the spouse, issue or dependent or over a period not extending beyond the life expectancy of the spouse, issue or dependent; and

(c) Such distribution begins within one year of the member's death unless the member's spouse, is the sole designated beneficiary, in which case the distribution need not begin before the date on which the member would have attained age 70 1/2 and if the member's spouse dies before the distribution to the spouse begins, this section shall be applied as if the spouse were the member.

**SECTION 3.** Pursuant to the Memorandum of Understanding to the Collective Bargaining Agreement reached between the City and the Local 2292, International Association of Firefighters and the Collective Bargaining Agreement reached between the City and the Broward County Police Benevolent Association during negotiations for the pension benefits provided for herein below, the insurance premium tax dollars received from the State of Florida pursuant to the provisions of Chapters 175 and 185, Florida Statutes, shall be applied towards the cost of any enhanced pension benefits provided for herein.

CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

**PROPOSED ORDINANCE NO. 2010-19**

**REVISION NO. 1**

**ORDINANCE NO. 1669**

**SECTION 4.** It is the intention of the City Commission of the City of Pembroke Pines that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Pembroke Pines, Florida. The Sections of this ordinance may be re-numbered, 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 5.** 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 affecting the validity of the remaining portions or applications remaining in full force and effect.

**SECTION 6.** 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.

**SECTION 7.** This Ordinance shall become effective when all of the following have occurred:

- (a) the City Commission has received and has accepted a report establishing the actuarial soundness of these amendments; and
- (b) the amendments have been sent to the State of Florida Division of Retirement; and
- (c) when a collective bargaining agreement ratifying the foregoing changes to pension benefits has been ratified by the City Commission and the Broward County Police Benevolent Association, or its

**CODING:** Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.

PROPOSED ORDINANCE NO. 2010-19

REVISION NO. 1

ORDINANCE NO. 1669

successor organization, and the Local 2292, International Association of Firefighters, or its successor organization.

Upon satisfaction of all of the above requirements, then in that event, the terms and provisions of this Ordinance shall become effective.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA ON THE FIRST READING THIS 8th DAY OF July, 2010.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA ON THE SECOND READING THIS 4th DAY OF August, 2010.

CITY OF PEMBROKE PINES, FLORIDA

ATTEST: [Signature] 8/10/10  
JUDITH A. NEUGENT, CITY CLERK

BY: [Signature]  
MAYOR FRANK ORTIS

ORTIS	<u>AYE</u>
CASTILLO	<u>AYE</u>
McCLUSKEY	<u>AYE</u>
SHECHTER	<u>AYE</u>
SIPLE	<u>AYE</u>

APPROVED AS TO FORM:  
[Signature]  
OFFICE OF THE CITY ATTORNEY



CODING: Words in ~~strike-through~~ type are deletions from existing law;  
Words in underlined type are additions.