

INTRODUCED BY:  
COUNCILOR WILEY



ORDINANCE NO. 2020-06

**A BILL TO BE ENTITLED**

**AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE V, EMPLOYEE BENEFITS, DIVISION 4, POLICE OFFICERS' RETIREMENT SYSTEM OF THE CODE OF ORDINANCES OF THE CITY OF NEPTUNE BEACH; AMENDING SECTION 2-349.12, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 2-349.25, REEMPLOYMENT AFTER RETIREMENT; AMENDING SECTION 2-349.27, INDIVIDUAL MEMBER SHARE ACCOUNTS; PROVIDING FOR COMPLIANCE WITH THE SECURE ACT PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Setting Every Community Up for Retirement Enhancement ("SECURE") Act, signed into law on December 20, 2019, amended the definition of "Required Beginning Date" under Section 401(a)(9) of the Internal Revenue Code; and

**WHEREAS**, amendments to the Plan are necessary to conform the Retirement System to the requirements of the SECURE Act; and

**WHEREAS**, the Board of Trustees of the City of Neptune Beach and Police Officers' Retirement System has recommended an amendment to the Retirement System to comply with the SECURE Act; and

**WHEREAS**, an amendment to the Plan is necessary to reconcile existing administrative practice with employment of certain City personnel; and

**WHEREAS**, an amendment to the Plan is necessary to fully define the eligibility rules, value and administration of Plan member share accounts as elected by the police officer union; and

**WHEREAS**, the trustees of the City of Neptune Beach Police Officers' Retirement System have requested and approved the amendments provided herein as being in the best interests of the participants and beneficiaries and improving the administration of the Fund, and

**WHEREAS**, the City Council has received and reviewed an actuarial impact statement related to this change and attached as such; and

**WHEREAS**, the City Council deems it to be in the public interest to provide this change to the Retirement System for its police officers; and

**WHEREAS**, the City Council of the City of Neptune Beach, Florida has determined that it is necessary to amend the following

**NOW, THEREFORE**, be it ordained by the City Council of the City of Neptune Beach, Florida that:

**SECTION 1:** That Chapter 2, Administration, Article V, Employee Benefits, Division 4, Police Officers' Retirement System, of the Code of Ordinances of the City of Neptune Beach is hereby amended by amending Section 2-349.12, Minimum Distribution of Benefits, subparagraph (b), *Time and manner of distribution*, by adding the following underlined language and deleting the stricken through language:

**Sec. 2-349.12. - Minimum distribution of benefits.**

\* \* \* \* \*

(b) *Time and manner of distribution.*

- (1) *Required beginning date.* The member's entire interest will be distributed, or begin to be distributed, to the member no later than:

- a. *With regard to distributions required to be made to a member who reaches age 70 ½ before January 1, 2020:* April 1 of the calendar year following the later of the calendar year in which the member attains age seventy and one-half (70 ½); or April 1 of the calendar year in which the member terminates employment with the district, whichever is later.

- b. *With regard to distributions required to be made on or after January 1, 2020 to a participant who reaches the age of 70 ½ on or after said date: April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of 72 years, or April 1 of the calendar year that next follows the calendar year in which the participant retires, whichever is later.*

\* \* \* \* \*

**SECTION 2:** That Chapter 2, Administration, Article V, Employee Benefits, Division 4, Police Officers' Retirement System, of the Code of Ordinances of the City of Neptune Beach is hereby amended by amending Section 2-349.25, Reemployment After Retirement, subparagraph (b), *After normal retirement*, by adding the following underlined language and deleting the stricken through language:

**Sec. 2-349.25. - Reemployment after retirement.**

- (a) Any retiree under this system, except for disability retirement as previously provided for, may be reemployed by any public or private employer, except the city, and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this system. Reemployment by the city shall be subject to the limitations set forth in this section.
- (b) *After normal retirement.* Any retiree who is retired under normal (or early) retirement pursuant to this system and who is reemployed as a police officer and, by virtue of that reemployment, is required to participate in this system, shall upon being reemployed, discontinue receipt of benefits. Upon reemployment, the member shall be deemed to be fully vested and the additional credited service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to the benefit determined upon the initial retirement to determine the total benefit payable upon final retirement. Notwithstanding, a retiree who is retired under normal (or early) retirement pursuant to this system and is subsequently reemployed as the Police Chief, and by virtue of such reemployment is permitted to opt out of participation in this system, shall be required to opt out of participation in this system pursuant to F.S. 185.02(16) and shall continue receiving eligible benefit payments during his period of

reemployment. Calculations of benefits upon retirement shall be based upon the benefit accrual rate, average final compensation, and credited service (and early retirement reduction factor, if applicable) as of that date and the retirement benefit amount for any subsequent employment period shall be based upon the benefit accrual rate, average final compensation (based only on the subsequent employment period and not including any period of DROP participation), and credited service (and early retirement reduction factor, if applicable) as of the date of subsequent retirement. The amount of any death or disability benefit received during a subsequent period of employment shall be reduced by the amount of accrued benefit eligible to be paid for a prior period of employment. The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but the retiree may select a different optional form and joint pensioner applicable only to the subsequent retirement benefit.

\* \* \* \* \*

**SECTION 3:** That Chapter 2, Administration, Article V, Employee Benefits, Division 4, Police Officers' Retirement System, of the Code of Ordinances of the City of Neptune Beach is hereby amended by amending Section 2-349.27, Individual Member Share Accounts, by adding the following underlined language and deleting the stricken through language:

**Section 2-349.27. - Individual Member Share Accounts.**

- (a) *Individual member share accounts.* The board shall create individual "member share accounts" ("Share Plan") for all eligible actively employed plan members and DROP participants and maintain appropriate books and records showing the respective interest of each member or DROP participant hereunder. Each member or DROP participant shall have a member share account for his respective share as provided for herein. The board shall maintain separate member share accounts; however, the maintenance of separate accounts is for accounting purposes only and a segregation of the assets of the trust fund to each account shall not be required or permitted.
- (b) In accordance with F.S. § 185.35, all annual premium tax revenues received up to \$48,395.90 shall be used to reduce the city's annual required contribution to the System. Annual premium tax revenues received in excess of \$48,395.90 shall be split 50/50, with 50 percent of the excess used to fund the share plan provided for herein, and the other 50 percent used to reduce the city's annual contribution to

the system. Additionally, the portion of the Excess State Monies Reserve in place as of September 30, 2015 (after adjustment for the 13<sup>th</sup> check benefit provided in Ordinance 2015-06) is equally split between a credit to the Plan's Unfunded Actuarial Accrued Liability and a Share Plan allocation. Accordingly, the Share Plan allocation for this use of the Excess State Monies Reserve is \$115,524.10.

- (c) The supplemental pension retirement benefit shall consist of an individual share account for each active police officer employed by the City on or after September 11, 2019. DROP participants and retirees on such date shall be ineligible for such supplemental pension benefits. On or after September 11, 2019, all active police officers on the City's payroll, or new hires, or who enter the DROP, shall remain eligible for the supplemental pension retirement benefits provided for herein. The supplemental retirement benefit shall be funded solely by premium tax revenues received by the city pursuant to F.S. Chapter 185, as provided for by the City of Neptune Beach. The total initial amount to be allocated to the participants' share accounts as provided herein shall be \$126,120.74, comprised of the \$115,524.10 described in paragraph (b) above, in addition to allocations for fiscal years 2016 through 2018 due to retroactive application of the "Default" methodology pursuant to F.S. 185.35(1). Additionally, \$13,908.10 shall be allocated to the Share Plan for the fiscal year ending September 30, 2019. For plan years beginning October 1, 2019 and later, 50% of all premium tax revenues received by the city pursuant to F.S. Chapter 185, in excess of \$48,395.90 shall be allocated to the participants' share accounts as provided for herein. Participants' share accounts shall be credited with premium tax revenues and investment earnings or losses, and interest, and distributed as follows:
- (d) Initial crediting. The share account of each active police officer, excluding DROP participants, on the city's payroll as of September 11, 2019, shall be credited as of that date based on the Plan's definition of Credited Service. Each member who was employed on September 11, 2019 as a police officer, excluding members participating in DROP as of that date, shall receive a portion of the initial allocation of \$126,120.74, based on their Credited Service as a fraction of the total Credited Service of all members eligible for a Share allocation. Additionally, the fiscal 2019 allocation of \$13,908.10 shall be equally allocated to all members eligible for a Share allocation as of September 11, 2019.
- (e) Annual crediting. Effective January 1, 2020, and each January 1 thereafter, the share account of each eligible active police officer and DROP participant on the city's payroll as of the preceding September 30<sup>th</sup> shall receive an equal allocation of available Chapter 185

Premium Tax Monies. The total amount for allocation shall be 50% of amounts in excess of \$48,395.90.

- (f) Investment earnings and losses. Effective January 1, 2020, and each January 1 thereafter, the share account of each eligible active police officer and DROP participant shall be credited or debited with earnings or losses based upon the amount in the share account at the close of the immediately preceding calendar year at a rate equal to the pension plan's actual net rate of investment return for the preceding plan year. An annual administrative fee may be charged on each January 1 for the costs associated with the administration and operation of a participant's Share Plan account at a rate to be set by the Board of Trustees, however, in no event to exceed one-half ( $\frac{1}{2}$ ) of one (1) percent. In the case of a participant who separates from service after January 1, the administrative fee shall be paid on a prorated basis for the partial year of participation.
- (g) Distribution of share accounts. An eligible active police officer, or DROP participant, with ten or more years of continuous service upon termination of employment and eligibility for receipt of pension benefits shall be eligible to receive a distribution of 50% of the balance in his or her share account, together with all earnings and losses credited to the share account through the quarter immediately preceding the date of termination of employment. An eligible active police officer or DROP participant with 15 or more years of continuous service upon termination of employment and eligibility for receipt of pension benefits shall be eligible to receive a distribution of 75% of the balance in his or her share account, together with all earnings and losses and interest credited to the share account through the date of termination of employment. An eligible active police officer or DROP participant with 20 or more years of continuous service upon termination of employment and eligibility for receipt of pension benefits shall be eligible to receive a distribution of 100% of the balance in his or her share account, together with all earnings and losses and interest credited to the share account through the date of termination of employment. No benefit shall be payable to an active police officer who terminates covered employment with less than ten years of credited service. The share account balances of such partially vested, as described herein, and non-vested terminated members shall be redistributed among all eligible participants' share accounts in the same manner as premium tax revenues in the following calendar year. The designated beneficiary of an active police officer who dies shall receive the accumulated total of his or her share account balance, and an active police officer awarded a disability pension from the Retirement System shall receive the accumulated total of his or her share account balance. There shall be no forfeiture of a member's share account based on the member's death, disability or termination of

employment with ten or more years of credited service. Payment of share account benefits shall be by lump sum, which shall consist of the accumulated total balance of the active police officer's share account, or, at the participant's direction, the share account balance may be rolled over to another qualified plan in accordance with applicable Internal Revenue Code provisions and regulations, with an additional final payment made for any amount credited in the year following termination of employment.

**SECTION 4:** Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Neptune Beach.

**SECTION 5:** All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 6:** If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

**SECTION 7:** That this Ordinance shall become effective immediately upon its passage and adoption by the City Council.

**VOTE RESULTS OF FIRST READING:**


Mayor Elaine Brown	YES
Vice Mayor Fred Jones	YES
Councilor Scott Wiley	YES
Councilor Josh Messinger	YES
Councilor Kerry Chin	YES

Passed on First Reading this 8<sup>th</sup> day of September, 2020.


**VOTE RESULTS OF SECOND AND FINAL READING:**

Mayor Elaine Brown	YES
Vice Mayor Fred Jones	YES
Councilor Scott Wiley	YES
Councilor Josh Messinger	ABSENT
Councilor Kerry Chin	YES

Passed on Second and Final Reading this 5<sup>th</sup> day of October, 2020.

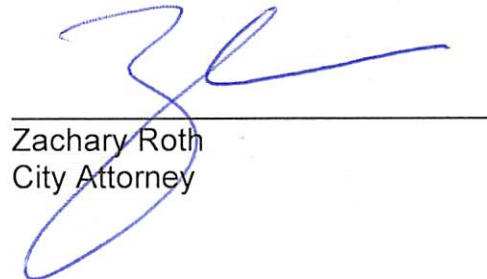
  
Elaine Brown  
Mayor

ATTEST:

  
Catherine Ponson, CMC  
City Clerk



Approved as to form and correctness:

  
Zachary Roth  
City Attorney