

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA; AMENDING CHAPTER 14 ENTITLED PENSIONS AND RETIREMENT PROGRAMS ARTICLE III ENTITLED FIREFIGHTERS PENSION PROGRAM OF THE CITY OF RIVIERA BEACH CODE OF ORDINANCES BY ESTABLISHING SECTION 14-62 TO BE ENTITLED "SHARE PLAN"; PROVIDING FOR CODIFICATION, SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Riviera Beach has established a pension fund for its firefighters pursuant to Chapter 175, Florida Statutes, utilizing premium tax refund monies; and

**WHEREAS**, Chapter 175, Florida Statutes, provides that the amount of premium tax refunds received in 1998 will serve as the original base amount and that increases in premium tax refunds above that original base amount must be used on an incremental basis to fund minimum benefits and then to fund extra benefits; and

**WHEREAS**, any premium tax refund monies in excess of \$86,456 per year can only be used to fund extra or supplemental benefits for firefighters; and

**WHEREAS**, by establishing a share plan, any excess premium tax refunds will be distributed to eligible members without any additional liability to the City; and

**WHEREAS**, the members of the City of Riviera Beach Firefighters' Retirement System have voted to establish the share plan pursuant to Section 175.351, Florida Statutes.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH:**

**SECTION 1.** Chapter 14, Article III, of the City Code of Ordinances of the City of Riviera Beach is hereby amended by establishing Section 14-62, to be entitled "Share Plan", as follows:

Section 14-62. Share Plan.

- (a) The purpose of this section is to implement the provisions of F.S. Ch. 175 and to provide a mechanism to pay required "Chapter 175 monies" to firefighters and current and future retirees based on the growth of premium tax revenue pursuant to Chapter 175. The fund created by this section, hereinafter the City of Riviera Beach Firefighters' Share Plan, shall be exclusively derived from and funded by monies received from the state and not from any additional taxes levied by the City and shall be in addition to, and shall supplement, the defined benefit pension paid by the City of Riviera Beach Firefighters' Retirement System. The share plan shall be administered by the Board of Trustees of the City of Riviera Beach Firefighters' Retirement System (hereinafter "Retirement System"). The implementation (including fund distribution), operation, and/or administration of the Share Plan shall not cause the City to incur any cost and/or liability in addition to that required to adequately fund the defined benefit pension paid by the City of Riviera Beach Firefighter's Retirement System.
- (b) In each fiscal year, beginning with the fiscal year beginning January 1, 1998 and each fiscal year thereafter, as determined by the Board of Trustees, the Board of Trustees shall determine the amount of premium tax revenues accrued by the City during the preceding fiscal year which are above the adjusted base amount pursuant to F.S. 175.131. The sum of all premium tax revenues accrued by the City above the adjusted base amount shall be known as the "funds in excess of the based amount" All funds in excess of the based amount which have not specifically allocated to a different benefit enacted heretofore or hereinafter will be known as "available funds".
- (c) In each fiscal year, beginning with the fiscal year beginning January 1, 1998 and each fiscal year thereafter, as determined by the Board of Trustees, each member of the Retirement System, which shall not include a beneficiary of a member of the Retirement System or any person receiving a survivor benefit, shall accrue one-twelfth (1/12) of a share, if the member is actively employed as a firefighter by the City, for each month of credited service earned within the fiscal year or, if the member is a retired firefighter receiving a defined benefit from the Retirement System, for each month the member receives a defined benefit payment from the Retirement System (including those members participating in the DROP and receiving a defined benefit payment into a DROP account). Provided however, for the fiscal year beginning January 1, 2005, through September 30, 2005 each

member of the Retirement System, which shall not include a beneficiary of a member of the Retirement System or any person receiving a survivor benefit, shall accrue one-ninth (1/9) of a share, if the member is actively employed as a firefighter by the City, for each month of credited service earned within the fiscal year or, if the member is retired firefighter receiving a defined benefit from the Retirement System, for each month the member receives a defined benefit payment from the Retirement System (including those members participating in the DROP and receiving a defined benefit payment into a DROP account). Shares shall not accrue from one fiscal year to the next and each member shall begin each fiscal year with zero (0) shares. No member shall accrue more than one (1) share in any one (1) fiscal year.

- (d) In accordance with the provisions of Section 14-62, in each fiscal year, beginning with the fiscal year January 1, 1998 and each fiscal year thereafter, as determined by the Board of Trustee, all available funds shall be allocated to those active and retired members eligible to receive a distribution or allocation from the Share Plan based on the number of shares accrued by each member in the preceding fiscal year. The value of each share shall be equal to the quotient of: the total amount of all available funds divided by the total number of shares earned by all members during the preceding fiscal year. Each share shall have equal value such that all members with an equal share shall receive the same distributions or allocation.
- (e) An individual share account shall be established for each member of the Retirement System to receive an allocation or distribution from the Share Plan. These members shall include all members who, at any time on or after January 1, 1998, are or were actively employed as firefighters by the City or who are or were retired members receiving a defined benefit payment from the Retirement System (including those members participating in the DROP and receiving a defined benefit payment into a DROP account). Available funds shall be allocated to each member eligible for an allocation of the available funds by credit to the member's individual account. In order to be eligible for an allocation of the available funds, a member must have been either actively employed on October 1 of the fiscal year preceding the fiscal year in which the allocation is to be made or must have received a defined benefit payment for the month of October of the fiscal year preceding the fiscal year in which the allocation is to be made. Available funds shall be allocated and paid directly to each

retired member who is separated from service and is no longer employed by the City as a firefighter.

- (f) All members will vest in their share account ten after (10) years of credited service. If a member terminates or terminated his or her employment or has or had his or her employment terminated for any reason without vesting, the balance of the member's share account shall be re-allocated among the remaining members of the Share Plan and shall be considered available funds at the time of the next allocation.
- (g) All available funds, and all funds allocated to an individual share account but not yet distributed, shall be invested by the Board of Trustees and may be commingled for the purposes of investment with other assets of the Retirement System. Individual share accounts shall be credited or debited quarterly at a rate equal to the actual rate of return (positive or negative) earned by the assets of the Share Plan net of any expenses associated with the investment of such assets. The Board of Trustees shall produce to each member with an individual share account balance an annual statement clearly identifying the balance of the member's individual share account, the annual allocation to the individual share account, the earnings or losses credited to or debited from the individual share account, and any expense charge debited from the individual share account.
- (h) Members of the Share Plan with an individual share account who have completed at least ten (10) years of credited service shall be eligible to receive payment of the balance of the individual share account in the form of either a lump sum payment or direct rollover to a qualified plan upon separation from employment with the City and receipt of a defined benefit from the Retirement System. Any member who separates from employment with the City without having completed at least ten (10) years of credited service shall forfeit the balance of his or her individual share account and the balance of that individual share account shall be reallocated as provided herein. Members of the Share Plan with an individual share account who become disabled in the line of duty and receive an in the line of duty disability benefit from the Retirement System shall be eligible to receive payment of the balance of the individual share account in the form of either a lump sum payout or direct rollover to a qualified plan upon separation from employment with the City and receipt of the disability benefit regardless of years of service.

- (i) In the event of the death a firefighter who was actively employed by the City at the time of death and who had completed at least ten (10) years of credited service at the time of death, the balance of that firefighter's individual share account shall be paid to the designated beneficiary. In the event of an in the line of duty death of an actively employed firefighter, the balance of that firefighter's individual share account shall be paid to the designated beneficiary regardless of years of service. In the event of the death of a retired member, the retired member shall not accrue a share, or any portion of a share, for any month beginning on or after the first day of the first month following the death of the retired member. In the event of the death of a retired member, the balance of the retired member's individual share account, which shall include an allocation for any shares earned up to and including the month in which the retired member died, shall be paid to the retired member's beneficiary.
- (j) The Board of Trustees shall be authorized to adopt any rules, policies, or procedures necessary for the effective and efficient administration of the Share Plan so long as those rules, policies, or procedures are consistent with Section 14-62, the Internal Revenue Code (to include Section 401 (a)(9)) and any other applicable local, state, or federal law. The Board of Trustees shall adopt rules, regarding the distribution of amount allocated to individual share accounts, which rules may allow the Board of Trustees to retain a portion of the balance of the individual share account until such time as the final balance of the individual share account to be distributed is determined. These rules may also allow the Board of Trustees to charge a fee for administration of the Share Plan.

**SECTION 2.** The use of future Chapter 175 funds in excess of the base amount is subject to bargaining. It is the intention of the City not to create vested rights with regard to the use of future Chapter 175 revenue.

**SECTION 3.** It is the intention of the City Council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Riviera Beach, and the sections of this ordinance may be renumbered to accomplish such intentions.

**SECTION 4.** If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining parts of this ordinance.

**SECTION 5.** That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to extent of such conflict.

**SECTION 6.** Specific authority is hereby granted to codify this ordinance.

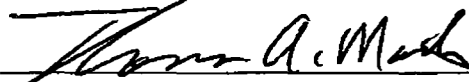
**SECTION 7.** That this ordinance shall be in full force and effect immediately upon its final passage and adoption.

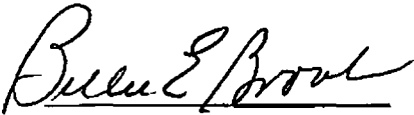
PASSED AND APPROVED on first reading this 2nd day of May, 2012.

PASSED AND APPROVED on second and final reading this 16TH day of MAY, 2012.

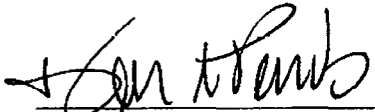
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APPROVED:

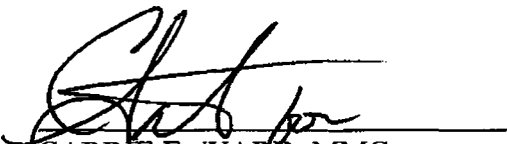
  
THOMAS A. MASTERS  
MAYOR

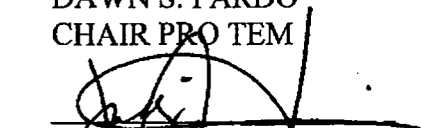
  
BILLIE E. BROOKS  
CHAIRPERSON

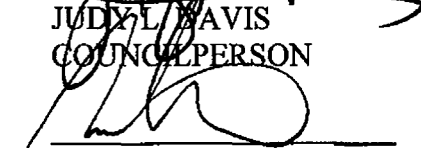
(MUNICIPAL SEAL)

  
DAWN S. PARDO  
CHAIR PRO TEM

ATTEST:

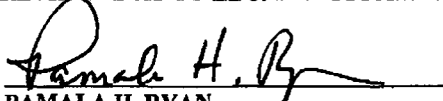
  
CARRIE E. WARD, MMC  
CITY CLERK

  
JUDY L. DAVIS  
COUNCILPERSON

  
CEDRICK A. THOMAS  
COUNCILPERSON

  
SHELBY L. LOWE  
COUNCILPERSON

REVIEWED AS TO LEGAL SUFFICIENCY

  
PAMALA H. RYAN  
CITY ATTORNEY

DATE: 4/26/12

ORDINANCE NO. 4013  
PAGE 8

**1<sup>ST</sup> READING**

MOTIONED BY: D. PARDO

SECONDED BY: S. LOWE

B. BROOKS AYE

D. PARDO AYE

J. DAVIS AYE

C. THOMAS AYE

S. LOWE AYE

**2<sup>ND</sup> & FINAL READING**

MOTIONED BY: D. PARDO

SECONDED BY: S. LOWE

B. BROOKS AYE

D. PARDO AYE

J. DAVIS AYE

C. THOMAS AYE

S. LOWE AYE

ORDINANCE NO. 4013

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**CERTIFICATION OF PUBLICATION**

I hereby certify that notice of the proposed enactment of this Ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

5/9/2012  
DATE

C. E. Ward  
CARRIE E. WARD, MMC  
CITY CLERK