

**CITY OF SANIBEL**

**ORDINANCE 12-002**

**AN ORDINANCE OF THE CITY OF SANIBEL, FLORIDA, AMENDING CHAPTER 50 PERSONNEL, ARTICLE IV, GENERAL EMPLOYEES RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF SANIBEL; AMENDING SECTION 50-477, PARTICIPATION, BY CLOSING THE PLAN TO NEW HIRES; PROVIDING FOR CODIFICATION AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Sanibel desires to amend the General Employees' Retirement Plan to exclude new hires from participation in the plan; and

**WHEREAS**, the City of Sanibel has negotiated this retirement plan amendment with the Fraternal Order of Police, which represents the Police Dispatchers, and the American Federation of State, County and Municipal Employees, which represents general employees.

**NOW THEREFORE, BE IT ORDAINED** by the City Council of the City of Sanibel as follows:

**SECTION 1.** The Code of Ordinances of the City of Sanibel, Article IV, General Employees' Retirement Plan, Section 50-477. "Participation.", paragraph (a), "Participation", is hereby amended with additions indicated by underline and deletions indicated by strikeout:

**Sec. 50-477. Participation.**

(a) *Participation.*

(1) All employees hired on or after January 3, 2005 and prior to February 7, 2012 shall first become a participant of plan A on the date in which the employee first becomes employed as a regular full-time employee by the City of Sanibel. All employees hired on or after February 7, 2012 are not eligible for participation in the plan.

(2) All employees who are active participants in this plan on January 2, 2005 shall be deemed plan B members unless, prior to March 4, 2005, they elect to become members of plan A.

(3) Employees who elect not to join plan A in accordance with paragraph (2) above will remain members of plan B.

(4) Notwithstanding the provisions of paragraphs (1), (2) and (3) above, all employees who are hired or rehired by the City on or after March 4, 2005 and prior to February 7, 2012 shall become members of Plan A, unless they elect to opt out of the plan in accordance with paragraph (5) below.

(5) Notwithstanding the provisions of paragraphs (1), (2), (3) and (4) above, all employees except police dispatchers who are active participants in the plan on March 1, 2011, and all employees except police dispatchers who become participants of the plan after that date, and police dispatchers who are active participants in the plan on November 1, 2011 and all police dispatchers who

become participants of the plan after that date, shall have a one-time, irrevocable option to opt out of the plan and participate in a defined contribution plan, as follows:

(a) Employees other than police dispatchers who are active participants in the plan on March 1, 2011, may elect to opt out of the plan and participate in a defined contribution plan by submitting a written election on a form provided by the city to the administrative services department on or before April 30, 2011. Police dispatchers who are active participants in the plan on November 1, 2011, may elect to opt out of the plan and participate in a defined contribution plan by submitting a written election on a form provided by the city to the administrative services department on or before December 31, 2011. Any employees who are active participants in the plan on March 1, 2011 and police dispatchers who are active participants in the plan on November 1, 2011, and do not submit a timely written election to opt out of the plan shall continue to participate in the plan as a member of the same plan (A or B) in which they were participating on March 1, 2011 and November 1, 2011 respectively. Employees who elect to opt out of the plan and participate in a defined contribution plan in accordance with this subparagraph (a) shall cease to be an active participant of this plan on May 1, 2011, and shall become a member of the defined contribution plan on that date. Police dispatchers who elect to opt out of the plan and participate in a defined contribution plan in accordance with this subparagraph (a) shall cease to be an

active participant of this plan on January 1, 2012, and shall become a member of the defined contribution plan on that date.

1. Employees who are 100% vested in the plan on April 30, 2011 and police dispatchers who are 100% vested in the plan on December 31, 2011 and elect to opt out of the plan and participate in a defined contribution plan in accordance with subparagraph (a) above shall retain their accrued benefit in the plan. The accrued benefit of such participants, calculated based on the participant's average compensation and credited service on April 30, 2011 for participants other than police dispatchers and December 31, 2011 for police dispatchers, shall be payable when the participant attains the normal retirement date or early retirement date in accordance with sections 50-479 and 50-481. Such employees shall be eligible for the 2.75% cost of living adjustment to commence on October 1 after receipt of 36 monthly retirement payments and to continue for 25 years thereafter as provided in section 50-479(8).

2. Employees who are not 100% vested in the plan on April 30, 2011 and police dispatchers who are not 100% vested in the plan on December 31, 2011 and elect to opt out of the plan and participate in a defined contribution plan in accordance with subparagraph (a) above may elect to roll over their accumulated employee contributions, plus the value of their accrued benefit not to exceed the amount of accumulated employee contributions, to the

defined contribution plan in lieu of obtaining a refund of employee contributions.

(b) Employees who are hired after March 1, 2011 and prior to February 7, 2012 and police dispatchers who are hired after November 1, 2011 and prior to February 7, 2012, may elect to opt out of the plan and participate in a defined contribution plan by submitting a written election on a form provided by the city to the administrative services department within 30 calendar days following their date of hire. Any employee hired after March 1, 2011 and after November 1, 2011 for police dispatcher, but prior to February 7, 2012, who does not submit a timely written election to opt out of the plan shall continue to participate in the plan as a member of plan A. Employees who elect to opt out of the plan and participate in a defined contribution plan in accordance with this subparagraph (b) shall be deemed to have never participated in this plan, and shall become a member of the defined contribution plan effective as of their date of hire.

## **SECTION 2. CODIFICATION.**

This ordinance shall be deemed an amendment to the Code of Ordinances of the City of Sanibel and the Sanibel Code of Ordinances is hereby amended.

## **SECTION 3. SEVERABILITY.**

If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or

application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of application hereof.

**SECTION 4.** Effective date.

This Ordinance shall take effect immediately upon adoption.

**DULY PASSED AND ENACTED** by the Council of the City of Sanibel, Florida, this 7<sup>th</sup> day of February, 2012.

**AUTHENTICATION:**

\_\_\_\_\_  
KEVIN RUANE, Mayor

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PAMELA SMITH, City Clerk

APPROVED AS TO FORM: \_\_\_\_\_  
Kenneth B. Cuyler, City Attorney                      \_\_\_\_\_  
Date

First Reading: \_\_\_\_\_  
Publication Notice: \_\_\_\_\_  
Second Reading: \_\_\_\_\_

Vote of Council members:

Ruane: \_\_\_\_\_  
Denham: \_\_\_\_\_  
Congress \_\_\_\_\_  
Harrity: \_\_\_\_\_  
Jennings: \_\_\_\_\_

Date filed with the City Clerk: \_\_\_\_\_