

## ORDINANCE NO. 1188

AN ORDINANCE OF THE CITY OF OKEECHOBEE FURTHER AMENDING THE CITY OF OKEECHOBEE MUNICIPAL FIREFIGHTERS' PENSION FUND, ADOPTED PURSUANT TO ORDINANCE 889, AS SUBSEQUENTLY AMENDED; AMENDING SECTION 8, DISABILITY; AMENDING SECTION 17, MISCELLANEOUS PROVISIONS; AMENDING SECTION 28, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 29, REEMPLOYMENT AFTER RETIREMENT; AMENDING SECTION 30, SUPPLEMENTAL BENEFIT COMPONENT FOR EXTRA BENEFITS; CHAPTER 175 SHARE ACCOUNTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City of Okeechobee Firefighter employees are presently provided pension and certain other benefits under Ordinances of the City of Okeechobee; and

**WHEREAS**, it becomes necessary from time to time to amend said ordinances in order to clarify or restate certain provisions of the ordinance, or to enact amendments to comply with revised Federal regulations.

**NOW THEREFORE**, be it ordained before the City Council of the City of Okeechobee, Florida; presented at a duly advertised public meeting; and passed by majority vote of the City Council; and properly executed by the Mayor or designee, as Chief Presiding Officer for the City:

**SECTION 1:** That the City of Okeechobee Municipal Firefighters' Pension Fund, adopted pursuant to Ordinance No. 889, as subsequently amended, is hereby further amended by amending Section 8, Disability, subsection 1., Disability Benefits In-Line of Duty, and subsection 3., Disability Benefits Not-in-Line of Duty, subsection 7, Benefit Offset and adding subsection 8., Eligibility for Disability Benefits, to read as follows:

1. Disability Benefits In-Line of Duty.

Any Member who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Firefighter, which disability was directly caused by the performance of his duty as a Firefighter, shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to three percent (3%) of his Average Final Compensation multiplied by the total years of Credited Service, but in any event, the minimum amount paid to the Member shall be forty-two percent (42%) of the Average Final Compensation of the Member. ~~Terminated persons, either vested or non-vested, are not eligible for disability benefits. Notwithstanding the previous sentence, if a Member is terminated by the City for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the Board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the Board otherwise determines that he is totally and permanently disabled as provided for above.~~ Eligibility requirements for disability benefits are set forth in subsection 8., below.

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3. Disability Benefits Not-in-Line of Duty.

Any Member with five (5) or more years of Credited Service who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Firefighter, which disability is not directly caused by the performance of his duties as a Firefighter shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to the greater of (i) or (ii) where (i) is two percent (2%) of Average Final Compensation multiplied by the total years of Credited Service and (ii) is a benefit determined in the same manner as for early retirement as set forth in Section 6, subsection 4B, providing for an actuarial reduction. In any event, the minimum amount paid to the Member shall be twenty-five percent (25%) of his Average Final Compensation. ~~Terminated persons, either vested or non-vested, are not eligible for disability benefits. Notwithstanding the previous sentence, if a Member is terminated by the City for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the Board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the Board otherwise determines that he is totally and permanently disabled as provided for above.~~ Eligibility requirements for disability benefits are set forth in subsection 8., below.

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7. Benefit Offsets.

When a Retiree is receiving a disability pension and workers' compensation benefits pursuant to Florida Statute Chapter 440, for the same disability, and the total monthly benefits received from both exceed 100% of the Member's average monthly wage, as defined in Chapter 440, Florida Statutes, the disability pension benefit shall be reduced so that the total monthly amount received by the Retiree does not exceed 100% of such average monthly wage. The amount of any lump sum workers' compensation payment shall be converted to an equivalent monthly benefit payable for ten (10) Years Certain by dividing the lump sum amount by 83.9692. Notwithstanding the foregoing, in no event shall the disability pension benefit be reduced below the greater of forty-two percent (42%) of Average Final Compensation or two and three quarters percent (2.75%) of Average Final Compensation times years of Credited Service.

8. Eligibility for Disability Benefits.

Subject to 8.(4) below, only active Members of the System on the date the Board determines entitlement to a disability benefit are eligible for disability benefits.

- (1) Terminated persons, either vested or non-vested, are not eligible for disability benefits.
- (2) If a Member voluntarily terminates his employment, either before or after filing an application for disability benefits, he is not eligible for disability benefits.
- (3) If a Member is terminated by the City for any reason other than for medical reasons, either before or after he files an application for disability benefits, he is not eligible for disability benefits.
- (4) The only exception to (1) above is:
  - a. If the Member is terminated by the City for medical reasons and he has already applied for disability benefits before the medical termination, or;
  - b. If the Member is terminated by the City for medical reasons and he applies within 30 days after the medical termination date.

If either (4)a., or (4)b. above applies, the Member's application will be processed and fully considered by the Board.

**SECTION 2:** That the City of Okeechobee Municipal Firefighters' Pension Fund, adopted pursuant to Ordinance No. 889, as subsequently amended, is hereby further amended by amending Section 17, Miscellaneous Provisions, adding subsection 10., to read as follows:

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10. Missing Benefit Recipients.

The System shall follow the procedures outlined in the IRS Employee Plans Compliance Resolution System (EPCRS) Program and other applicable IRS guidance to locate any missing individuals to whom a full unreduced benefit payment is due and if, at the conclusion of such efforts, the individual cannot be located, the existing procedure of cancelling payments otherwise due (provided that, if the individual is later located, the benefits due shall be paid) will apply.

**SECTION 3:** That the City of Okeechobee Municipal Firefighters' Pension Fund, adopted pursuant to Ordinance No. 889, as subsequently amended, is hereby further amended by amending Section 28, Deferred Retirement Option Plan, deleting subsection 6.H. Prevention of Escheat and renumbering the remaining subsections, to read as follows:

6. General Provisions.

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H. Prevention of Escheat.

~~————— If the Board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the Board may, no earlier than three (3) years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the Board or the City. If such person has not made written claim therefor within three (3) months of the date of the mailing, the Board may, if it so elects and upon receiving advice from counsel to the System, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the System. Upon such cancellation, the System shall have no further liability therefor except that, in the event such person or his Beneficiary later notifies the Board of his whereabouts~~

~~and requests the payment or payments due to him under the DROP, the amount so applied shall be paid to him in accordance with the provisions of the DROP.~~

~~+~~ H.     Written Elections, Notification.

- (1) Any elections, notifications or designations made by a Member pursuant to the provisions of the DROP shall be made in writing and filed with the Board in a time and manner determined by the Board under rules uniformly applicable to all employees similarly situated. The Board reserves the right to change from time to time the manner for making notifications, elections or designations by Members under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.
- (2) Each Member or Retiree who has a DROP Account shall be responsible for furnishing the Board with his current address and any subsequent changes in his address. Any notice required to be given to a Member or Retiree hereunder shall be deemed given if directed to him at the last such address given to the Board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the Member or Retiree notifies the Board of his address.

~~+~~ I.     Benefits Not Guaranteed.

All benefits payable to a Member from the DROP shall be paid only from the assets of the Member's DROP Account and neither the City nor the Board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.

~~+~~ J.     Construction.

- (1) The DROP shall be construed, regulated and administered under the laws of Florida, except where other applicable law controls.
- (2) The titles and headings of the subsections in this Section 28 are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

~~+~~ K.     Forfeiture of Retirement Benefits.

Nothing in this Section shall be construed to remove DROP participants from the application of any forfeiture provisions applicable to the System. DROP participants shall be subject to forfeiture of all retirement benefits, including DROP benefits.

~~+~~ L.     Effect of DROP Participation on Employment.

Participation in the DROP is not a guarantee of employment and DROP participants shall be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.

**SECTION 4:** That the City of Okeechobee Municipal Firefighters' Pension Fund, adopted pursuant to Ordinance No. 889, as subsequently amended, is hereby further amended by amending Section 29, Reemployment After Retirement, to read as follows:

**SECTION 29. REEMPLOYMENT AFTER RETIREMENT.**

1. 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. Notwithstanding the previous sentence, reemployment by the City shall be subject to the limitations set forth in this Section.

2. After Normal Retirement. Any Retiree who is retired under normal ~~(or early)~~ retirement pursuant to this System and who is reemployed as a Firefighter and, by virtue of that reemployment, is eligible to participate in this System, shall upon being reemployed, discontinue receipt of benefits. Upon reemployment, the ~~Member~~ Retiree 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. 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 Member may select a different optional form and joint pensioner applicable only to the subsequent retirement benefit.

3 Any Retiree who is retired under normal retirement pursuant to this System who is reemployed by the City ~~in a position other than as a Firefighter~~ after that Retirement and, by virtue of that reemployment is ineligible to participate in this system, shall ~~upon being reemployed, during the period of reemployment,~~ continue receipt of benefits for the period of any subsequent employment period. ~~Former DROP participants shall begin receipt of benefits under these circumstances.~~

4. After Early Retirement. Any Retiree who is retired under early retirement pursuant to this System and who subsequently becomes an employee of the City in any capacity, shall discontinue receipt of benefits from the System. ~~If the reemployed person, by virtue of his that reemployment, the Retiree is eligible to participate in this System, that person the Retiree shall accrue a second benefit as provided for in subsection 2. above and benefit payments shall remain suspended during any such subsequent employment period. If the reemployed person is not eligible to participate in this System, that person's pension benefit payments shall be suspended until the earlier of termination of employment or such time as the reemployed retiree reaches the date that he would have been eligible for normal retirement under this system had he continued employment and not elected early retirement. "Normal retirement" as used in this subsection shall be the current normal retirement date provided for under this system. 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. Calculations of benefits upon retirement shall be based upon the benefit accrual rate, Average Final Compensation, Credited Service and early retirement reduction factor 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 Credited Service as of the date of subsequent retirement. The amount of any death or disability benefit received as a result of 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 member may select a different optional form and joint pensioner applicable to the subsequent retirement benefit. Retirement pursuant to an early retirement incentive program shall be deemed early retirement for purposes of this Section if the Member was permitted to retire prior to the customary retirement date provided for in the System at the time of retirement.~~

5. After Disability Retirement.

- A. Subject to paragraph B. below, any Retiree who is retired under Section 8., Disability ("disability retiree"), may, subject to subsection 5., Physical Examination Requirement, of that section, be reemployed by any public or private employer, and may receive compensation from that employment without limiting or restricting in any way, the retirement benefits payable under this system.
- B. Any disability Retiree who subsequently becomes an employee of the City in any capacity, except as a Firefighter, shall discontinue receipt of disability benefits from the system for the period of any such employment.
- C. If a disability Retiree is reemployed as a Firefighter for the City, his disability benefit shall cease and Section 8, subsection 5. shall apply.

5 6. Reemployment of Terminated Vested Persons. Reemployed terminated vested persons shall not be subject to the provisions of this section until such time as they begin to actually receive benefits. Upon receipt of benefits, terminated vested persons shall be treated as normal or early retirees for purposes of applying the provisions of this section and their status as an early or normal retiree shall be determined by the date they elect to begin to receive their benefit.

6 7. DROP Participants. ~~Members or~~ Retirees who are or were in the Deferred Retirement Option Plan shall, following termination of employment after DROP participation, have the options provided for in this section for reemployment.

**SECTION 5:** That the City of Okeechobee Municipal Firefighters' Pension Fund, adopted pursuant to Ordinance No. 889, as subsequently amended, is hereby further amended by amending Section 30, Supplemental Benefit Component for Extra Benefits; Chapter 175 Share Accounts, deleting subsection 3.C., Allocation of Costs, Fees and Expenses and renaming subsections 3.C. through 3.D., to read as follows:

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3. ~~C.~~ Allocation of Costs, Fees and Expenses.

~~On each valuation date, each individual Member Share Account shall be adjusted to allocate its pro rata share of the costs, fees and expenses of administration of the Share Plan. These fees shall be allocated to each individual Member Share Account on a proportionate basis taking the costs, fees and expenses of administration of the Share Plan as a whole multiplied by a fraction, the numerator of which is the total assets in each individual Member Share Account (after adding the annual investment gain or loss) and the denominator of which is the total assets of the fund as a whole as of the same date.~~

~~D C.~~ No Right to Allocation.

The fact of allocation or credit of an allocation to a Member's Share Account by the Board shall not vest in any Member, any right, title, or interest in the assets of the trust or in the Chapter 175, Florida Statutes, tax revenues except at the time or times, to the extent, and subject to the terms and conditions provided in this Section.

~~E D.~~ Members and DROP participant shall be provided annual statements setting forth their share account balance as of the end of the Plan Year.

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**SECTION 6:** Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Okeechobee.

**SECTION 7:** All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.


**SECTION 8:** 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 9:** That this Ordinance shall become effective upon adoption.

INTRODUCED on First Reading and set for Final Public Hearing this 16<sup>th</sup> day of July, 2019.


ATTEST:


  
Lane Gamiotea, CMC, City Clerk

  
Dowling R. Watford, Jr., Mayor

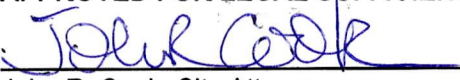
PASSED AND ADOPTED after Second Reading and Final Public Hearing this 6<sup>th</sup> day of August, 2019.

ATTEST:

  
Lane Gamiotea, CMC, City Clerk

  
Dowling R. Watford, Jr., Mayor

APPROVED FOR LEGAL SUFFICIENCY:

  
John R. Cook, City Attorney