

ORDINANCE NO. 1189

AN ORDINANCE OF THE CITY OF OKEECHOBEE AMENDING THE CITY OF OKEECHOBEE GENERAL EMPLOYEES' RETIREMENT SYSTEM, RESTATED PURSUANT TO ORDINANCE 1141, IS HEREBY AMENDED; AMENDING SECTION 4, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 8, DISABILITY; AMENDING SECTION 16, MISCELLANEOUS PROVISIONS; AMENDING SECTION 25, REEMPLOYMENT AFTER RETIREMENT; AMENDING SECTION 28, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Okeechobee General 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 General Employees' Retirement System, restated pursuant to Ordinance No. 1141, is hereby amended by amending Section 4, Finances and Fund Management, adding subsection 6.B.(5), to read as follows:

* * * * *

6. B. All monies paid into or held in the Fund shall be invested and reinvested by the Board and the investment of all or any part of such funds shall be limited to:
- (1) Annuity and life insurance contracts with life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the Members in the Fund shall be entitled under the provisions of this System and pay the initial and subsequent premium thereon.
 - (2) Time or savings accounts of a national bank, a state bank insured by the Bank Insurance fund or a savings/building and loan association insured Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.
 - (3) Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States or an agency of the government of the United States.
 - (4) Stocks, commingled or mutual funds, bonds or other evidences of indebtedness, provided that:
 - (a) Except as provided in subparagraph (b), all individually held securities and all securities in a commingled or mutual fund must be issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia.
 - (b) Up to fifteen percent (15%) of the assets of the Fund may be invested in foreign securities.
 - (c) The Board shall not invest more than five percent (5%) of its assets in the common stock, capital stock, or convertible securities of any one issuing company, nor shall the aggregate investment in any one issuing company exceed five percent (5%) of the outstanding capital stock of that company; nor shall the aggregate of its investments in common stock, capital stock, international equity securities and convertible securities at cost exceed sixty percent (60%) of the assets of the Fund.

- (5) Real estate investments in an amount not to exceed at cost value ten percent (10%) of the assets of the Fund. The Board may invest in real estate directly or through an investment vehicle approved by the Board.

* * * * *

SECTION 2: That the City of Okeechobee General Employees' Retirement System, restated pursuant to Ordinance No. 1141, is hereby amended by amending Section 8, Disability, subsection 1., Disability Benefits In-Line of Duty, to read as follows:

SECTION 8. DISABILITY.

1. Disability Benefits.

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 perform the duties that the General Employee was assigned at the time of the impairment and is unable to perform the duties of another General Employee position which the City of Okeechobee makes available to him in a similar job classification and rank at no reduction in Salary for which the General Employee is qualified by reason of training, education, or experience, whether or not such disability was directly caused by the performance of his duty as a General Employee. Upon establishing the same to the satisfaction of the Board, the General Employee shall be entitled to a monthly pension determined in the same manner as for Early Retirement set forth in Section 6, subsection 4.B, if the benefit begins at or after age fifty-five (55), and if the benefit begins prior to age fifty-five (55), the benefit shall be actuarially reduced for the period prior to age fifty-five (55). ~~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, below.~~

Eligibility for Disability Benefits.

Subject to subsection (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 3: That the City of Okeechobee General Employees' Retirement System, restated pursuant to Ordinance No. 1141, is hereby amended by amending Section 16, Miscellaneous Provisions, adding subsection 9., Missing Benefit Recipients, to read as follows:

* * * * *

9. 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 4: That the City of Okeechobee General Employees' Retirement System, restated pursuant to Ordinance No. 1141, is hereby amended by amending Section 25, Reemployment After Retirement, subsections 1. and 4., to read as follows:

1. Any Retiree who is retired 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.

* * * * *

4. After Early or Disability Retirement. Any Retiree who is retired under early or disability 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 until the earlier of termination of employment or such time as the reemployed Retiree reaches age sixty-two (62). A Retiree who returns to work under the provisions of this Section shall not be eligible for membership in the System, and, therefore, shall not accumulate additional Credited Service for subsequent periods of employment described in this Section, shall not be required to make contributions to the System, nor shall he be eligible for any other benefit other than the Retiree's early retirement benefit when he again becomes eligible as provided herein. 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.

* * * * *

SECTION 5: That the City of Okeechobee General Employees' Retirement System, restated pursuant to Ordinance No. 1141, is hereby amended by amending Section 28, Deferred Retirement Option Plan, deleting subsection 6.H. and renumbering the remaining subsections, to read as follows:

* * * * *

6. General Provisions.

* * * * *

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.

~~J~~. 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.

~~K~~. 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.

~~L~~. 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.

~~M~~. 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 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.

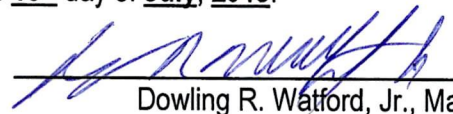
SECTION 8: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application 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 16th day of July, 2019.


ATTEST:

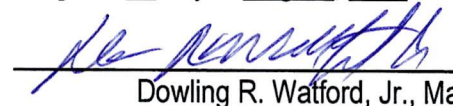

Lane Gamiotea, CMC, City Clerk


Dowling R. Watford, Jr., Mayor

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

ATTEST:


Lane Gamiotea, CMC, City Clerk


Dowling R. Watford, Jr., Mayor

APPROVED FOR LEGAL SUFFICIENCY:


John R. Cook, City Attorney