

## ORDINANCE NO. 2019-11

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE IV, POLICE OFFICERS RETIREMENT, OF THE WEST MELBOURNE CODE OF ORDINANCES; AMENDING SECTION 34-78, DISABILITY; ADDING SECTION 34-88, ADDITIONAL CREDITED SERVICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

**BE IT ORDAINED** by the City Council of the City of West Melbourne, Brevard County, Florida, that:

**Section 1.** That Article IV, Police Officers Retirement, of the Code of Ordinances of the City Code of West Melbourne, Florida, is hereby amended to amend Section 34-78, Disability, to read as follows:

Sec. 34-78. - Disability.

(a) *Disability benefits on-duty.* Each 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 police officer, which disability was directly caused by the performance of his duty as a police officer, shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to the accrued pension benefit as of the date of disability. However, in no event shall the benefit be less than 42 percent of his or her average ~~monthly~~ final compensation as of the police officer's disability retirement date.

Any condition or impairment of health of a member caused by tuberculosis, hypertension, heart disease or hardening of the arteries, resulting in total or partial disability or death, shall be presumed to be accidental and suffered in line of duty unless the contrary is shown by competent evidence. Any condition or impairment of health caused directly or proximately by exposure, which exposure occurred in the active performance of duty at some definite time or place without willful negligence on the part of the police officer, resulting in total or partial disability, shall be presumed to be accidental and suffered in the line of duty, provided that such police officer shall have successfully passed a physical examination upon entering such service, which physical examination including an electrocardiogram failed to reveal any evidence of such condition and, further that such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance.

(b) *Disability benefits off-duty.* Each member with ten years or more 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

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and efficient service as a police officer, which disability is not directly caused by the performance of his duties as a police officer, shall, upon establishing the same to the satisfaction of the board, be entitled to the accrued pension benefit as of the date of disability. However, in no event shall the benefit be less than 25 percent of his or her average ~~monthly~~ final compensation as of the police officer's disability retirement date.

\* \* \*

**Section 2.** That Article IV, Police Officers Retirement, of the Code of Ordinances of the City Code of West Melbourne, Florida, is hereby amended to add a new Section 34-88, Additional credited service, to read as follows:

Sec. 34-88. - Additional credited service

(a) *Prior police service.* In addition to credited service actually earned as a police officer for the City, the full years that a member served as a full-time police officer for any other municipal, county, or state law enforcement department in the State of Florida, for which credited service is not otherwise due shall be added to the member's years of credited service, provided that:

(1) The member contributes to the plan a sum equal to:

a. the amount the member would have contributed, based on the member's salary and the member contribution rate in effect at the time that the request for purchase of prior credited service is filed with the Board, had he been a member of the system for the full years for which the member is requesting credit, plus

b. the actuarial cost for such prior service credit as determined by the system's actuary such that the crediting of service under this section does not result in any additional cost to the plan. Such additional amount shall be determined by the Board's actuary, using the actuarial assumptions and methodologies contained in the most recent Board-adopted actuarial valuation, except that the actuary shall use the future investment earnings assumption contained in the most recent Board-adopted actuarial valuation, or six percent, whichever is less, plus

c. the non-refundable fee charged by the actuary for its services in calculating the actuarial cost that the member must contribute to the system to purchase the additional credited service as provided for under this section.

(2) Payment by the member of the required amount shall be made in either a lump sum payment or in five (5) equal annual installments, with interest accruing on the unpaid balance at the rate determined by the actuary in accordance with (a)(1)b above. In no event will any prior police service be added to a member's years of credited service if the required payment for

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all service requested is not paid in full to the plan before the member's retirement date.

- (3) In addition to service as a police officer in the State of Florida, credit may be purchased in the same manner as provided above for the full years that a member served as a full-time law enforcement officer for a federal, or other state, county or municipal agency, if such prior service is recognized by the Criminal Justice Standards and Training Commission with the Department of Law Enforcement, as provided under Chapter 943, Florida Statutes, or the member submits proof, and demonstrates to the satisfaction of the Board that such service is equivalent to service required to meet the definition of police officer under sec. 34-71(a) of this plan.

- (b) *Military service prior to employment.* The full years that a member served on active duty in the military service of the Armed Forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily, and honorably or under honorable conditions discharged prior to initial employment with the City as a police officer, shall be added to the member's years of service provided that:

- (1) The member contributes to the plan a sum equal to:
- a. the amount the member would have contributed, based on the member's salary and the member contribution rate in effect at the time that the request for purchase of prior credited service is filed with the Board, had he been a member of the system for the full years for which the member is requesting credit, plus
  - b. the actuarial cost for such prior service credit as determined by the system's actuary, such that the crediting of service under this section does not result in any additional cost to the plan. Such additional amount shall be determined by the Board's actuary, using the actuarial assumptions and methodologies contained in the most recent Board-adopted actuarial valuation, except that the actuary shall use the future investment earnings assumption contained in the most recent Board-adopted actuarial valuation, or six percent, whichever is less, plus
  - c. the non-refundable fee charged by the actuary for its services in calculating the actuarial cost that the member must contribute to the system to purchase the additional credited service as provided for under this section.

- (2) Payment by the member of the required amount shall be made in either a lump sum payment or in five (5) equal annual installments, with interest accruing on the unpaid balance at the rate determined by the actuary in accordance with (b)(1)b above. In no event will any prior military service be added to a member's years of credited service if the required payment for

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all service requested is not paid in full to the plan before the member's retirement date.

- (c) Effective [Effective Date], members may make a one-time election to purchase additional service credit pursuant to this sec. 34-88, during which the member must specify in writing, on a form provided by the Board, the number of full years of prior service to be purchased and the method(s) of payment. A member may not make multiple requests to purchase additional credited service under this section. The one-time election to purchase additional credited service may be exercised by the member at any time prior to retirement.
- (d) Additional credited service may be purchased in full-year increments only. The total combined service credit purchased under this section 34-88 may not exceed five (5) years, and such credit shall count for all plan purposes except vesting and eligibility for off-duty disability benefits.
- (e) Additional credited service purchased pursuant to this section 34-88 may be funded in whole or in part by direct transfer or rollover from an eligible retirement plan, as defined in sec. 34-97(d)(2)b.
- (f) In no event may additional credited service be purchased pursuant to this section 34-88 if such prior service forms or will form the basis of a retirement benefit or pension from another retirement system or plan.
- (g) Should a member terminate service and receive a refund of his member accumulated contributions, the amounts already paid for such prior credited service, if any, shall also be refunded accordingly consistent with Section 34-79(1).

**Section 3. Severability.** That it is hereby declared to be the intention of the Council that the section, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clauses sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

**Section 4. Conflict with Other Ordinances.** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 5. Inclusion in Code.** It is the intention of the City Council of the City of West Melbourne that the provisions of this ordinance hereto shall be made a part of the City of West Melbourne Code of Ordinances and the sections be renumbered to accomplish such intention.

**Section 6. Effective Date.** That this Ordinance shall become effective immediately upon adoption in accordance with the Charter of the City of West Melbourne, except as otherwise specified above.

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PASSED AND ADOPTED by the City Council of the City of West Melbourne,  
Brevard County, Florida, this 18th day of June, 2019.



ATTEST:

Cynthia Hanscom  
CYNTHIA HANSCOM, CITY CLERK

Hal Rose  
HAL J. ROSE, MAYOR

Reviewed as to form and legal sufficiency:

Morris Richardson  
Morris Richardson, City Attorney

1<sup>st</sup> READING: May 21, 2019

2<sup>nd</sup> READING: June 18, 2019

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