

**ORDINANCE NO. 2018-2139**

**AN ORDINANCE OF THE CITY OF NEW PORT RICHEY AMENDING CHAPTER 17, PENSIONS AND RETIREMENT, ARTICLE III, FIREFIGHTERS' RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES OF THE CITY OF NEW PORT RICHEY; AMENDING SECTION 17-36, DEFINITIONS; AMENDING SECTION 17-40, CONTRIBUTIONS; AMENDING SECTION 17-41, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 17-50.17, DEFERRED RETIREMENT OPTION PLAN; DELETING SECTION 17-50.18, BACK DROP AND REPLACING IT WITH SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS; CHAPTER 175 SHARE ACCOUNTS; PROVIDING FOR SEVERABILITY OF PROVISION; PROVIDING FOR CODIFICATION; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA:

**SECTION 1:** That Chapter 17, Pensions and Retirement, Article III, Firefighters' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-36, Definitions, by amending the definition of "Salary", to read as follows:

*Salary* means total compensation for services rendered to the city as a firefighter reportable on the member's W-2 form, including paramedic compensation and overtime, but excluding lump sum unused sick leave payments, lump sum unused vacation payments and plus all tax deferred, tax sheltered or tax-exempt items of income derived from elective employee payroll deductions or salary reductions. If the state monies are less than one hundred fifty-eight thousand two hundred seventy-five dollars and seventy-three cents (\$158,275.73), then the salary definition will revert back to the definition in place prior to the adoption of this improvement. If the state monies fall between one hundred fifty-eight thousand two hundred seventy-five dollars and seventy-three cents (\$158,275.73) and one hundred sixty-three thousand eight hundred twenty-five dollars and seventy-three cents (\$163,825.73), then the salary definition will be reduced in proportion to the reduction in state monies. Any changes to the salary definition would not apply to members already receiving benefits as of the change date. In lieu of the reduced benefits, the membership may agree to an increased member contribution rate sufficient to make up the shortfall in state contributions. Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as of the first day of the plan year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions for any plan year beginning on or after January 1, 2002, may not exceed two hundred thousand dollars (\$200,000.00), as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the code. Compensation means compensation during the fiscal year. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within

such calendar year. If the determination period consists of fewer than twelve (12) months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is twelve (12). If the compensation for any prior determination period is taken into account in determining a member's contributions or benefits for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. The limitation on compensation for an "eligible employee" shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. "Eligible employee" is an individual who was a member before the first plan year beginning after December 31, 1995. The definition of salary set forth above is frozen at midnight, September 30, 2013. Under the benefit structure effective October 1, 2013, salary means total cash remuneration paid by the city for services rendered, including overtime paid up to but not exceeding one hundred fifty (150) hours per year, and excluding payments for accrued unused sick or annual leave. The definition of salary set forth above is frozen at midnight on June 18, 2018. Under the benefit structure effective June 19, 2018, salary means total cash remuneration paid by the city for services rendered, including overtime paid up to but not exceeding three hundred (300) hours per year, and excluding payments for accrued unused sick or annual leave. Salary includes all tax deferred, tax sheltered or tax-exempt items of income derived from elective employee payroll deductions or salary reductions. Salary excludes any compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code.

**SECTION 2:** That Chapter 17, Pensions and Retirement, Article III, Firefighters' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-40(a)(1) and adding 17-40(e), to read as follows:

(a) *Member contributions.*

- (1) *Amount.* Effective June 19, 2018 each member of the system shall contribute six and one-half (6.5) percent ~~eight (8)~~ percent of his or her salary to the fund. The contributions made by each member to the fund shall be designated as employer contributions pursuant to section 414(H) of the Internal Revenue Code. Such designation is contingent upon the contributions being excluded from the member's gross income for Federal Income Tax purposes. For all other purposes of the plan, such contributions shall be considered to be member contributions.

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- (e) Effective June 19, 2018, in any year in which the City's net actuarially required contribution is less than six and one-half (6.5) percent of covered payroll, the City's and members' contributions will be adjusted so that both the City and the member's share equally in the reduction (e.g., if the City's net required contribution is scheduled to be

\$20,000 less than 6.5%, then the City's contribution will be \$10,000 less than 6.5% and the members' contribution will be \$10,000 less than 6.5%).

**SECTION 3:** That Chapter 17, Pensions and Retirement, Article III, Firefighters' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-41(a) through (d), to read as follows:

- (a) *Normal retirement age and date.* A member's normal retirement age is the earlier of the attainment of age fifty-two (52) and accrual of ten (10) years of credited service or the completion of twenty-three (23) attainment of age forty-eight (48) and accrual of twenty-five (25) years of credited service; provided, however, that any member who has completed at least ten (10) years of credited service as of September 4, 2013, shall be eligible for normal retirement upon the earlier of the attainment of age fifty (50) and the completion of ten (10) years of credited service or the attainment of age forty (40) and the completion of twenty (20) years of credited service. Each member shall become one hundred (100) percent vested in his accrued benefit at normal retirement age. A member's normal retirement date shall be the first day of the month coincident with or next following the date the member retires from the city after attaining normal retirement age.
- (b) *Normal retirement benefit.* A member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his retirement and be continued thereafter during member's lifetime, ceasing upon death, but with one hundred twenty (120) monthly payments guaranteed in any event. The monthly retirement benefit shall equal three and one-half (3½) percent of average final compensation, for each year of credited service accrued through September 30, 2013; ~~however, the monthly retirement benefit for any member shall not exceed seventy-five (75) percent of average final compensation; provided, however, that in any event the benefit shall equal at least two (2) percent of average final compensation for each year of credited service averaged over the entire period of credited service of the member.~~ The monthly retirement benefit shall equal three (3) percent of average final compensation for each year or part thereof of credited service accrued after September 30, 2013 and prior to June 19, 2018. The monthly retirement benefit shall equal three and one-quarter (3.25) percent of average final compensation for each year or part thereof of credited service accrued after June 19, 2018. The monthly retirement benefit for any member shall not exceed seventy-five (75) percent of average final compensation; provided, however, that in any event the benefit shall equal at least two and three-quarter (2.75) percent of average final compensation for each year of credited service averaged over the entire period of credited service of the member. An additional benefit of two hundred dollars (\$200.00) per month shall be paid to all normal retirees, ceasing at death. An optional form of benefit may be elected by member as provided in section 17-45.

- (c) Early retirement age and date. A member may retire on his early retirement date which shall be the first day of any month coincident with or next following the attainment of age fifty (50) and the completion of ten (10) years of credited service. Early retirement under the system is retirement from employment with the city on or after the early retirement date and prior to the normal retirement date.
- (d) Early retirement benefit. A member retiring hereunder on his early retirement date may receive an immediate monthly retirement benefit determined in the same manner and payable in the same form as for normal retirement. The immediate monthly retirement benefit shall commence on his early retirement date and shall be continued on the first day of each month thereafter. Credited service and average final compensation shall be determined as of the early retirement date but actuarially reduced to take into account the member's younger age and the earlier commencement of retirement income payments not to exceed three (3) percent for each year by which the member's age at retirement preceded the member's normal retirement age.
- (e e) Required distribution date. The member's benefit under this section must begin to be distributed to the member no later than April 1 of the calendar year following the later of the calendar year in which the member attains age seventy and one-half (70½) or the calendar year in which the member terminates employment with the city.

**SECTION 4:** That Chapter 17, Pensions and Retirement, Article III, Firefighters' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-50.17(b) and (c) to read as follows:

(b) *Participation.*

- (1) *Eligibility to participate.* In lieu of terminating his employment as a firefighter, any member who is eligible for normal retirement under the system may elect to defer receipt of such service retirement pension and to participate in the DROP. ~~A member who does not commence participation in the DROP prior to October 1, 2013, shall not be eligible to participate in the DROP, regardless of the date of election to participate in the DROP, except as expressly provided otherwise in section 17-36.1.~~

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(c) *Funding.*

- (1) *Establishment of DROP account.* A DROP account shall be established for each member participating in the DROP. A member's DROP account shall consist of amounts transferred to the DROP under subsection (c)(2), and earnings or interest on those amounts.

(2) *Transfers from retirement system.*

a. As of the first day of each month of a member's period of participation in the DROP, the monthly retirement benefit he would have received under the system had he terminated his employment as a firefighter and elected to receive monthly benefit payments thereunder shall be transferred to his DROP account, except as otherwise provided for in subsection (b)(4)b. A member's period of participation in the DROP shall be determined in accordance with the provisions of subsections (b)(3) and (b)(4), but in no event shall it continue past the date he terminates his employment as a firefighter.

b. Except as otherwise provided in subsection (b)(4)b., a member's DROP account under this subsection (c)(2) shall be debited or credited with earnings with either:

1. Interest at an effective rate of one and five tenths (1.5) six and five tenths (6.5) percent per annum compounded monthly determined on the last business day of the prior month's ending balance and credited to the member's DROP account as of such date (to be applicable to all current and future DROP participants); or

2. Earnings, to be credited or debited to the member's DROP account, determined as of the last business day of each fiscal year quarter and debited or credited as of such date, determined as follows:

The average daily balance in a member's DROP account shall be credited or debited at a rate equal to the net investment return realized by the system for that quarter, not to fall below zero (0) percent. "Net investment return" for the purpose of this paragraph is the total return of the assets in which the member's DROP account is invested by the board net of brokerage commissions, transaction costs and management fees.

For purposes of calculating earnings on a member's DROP account pursuant to this subsection (c)(2)b.2., brokerage commissions, transaction costs, and management fees shall be determined for each quarter by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these quarterly contractual fees to the board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total plan assets.

3. Earnings received on investment plans or on investment vehicles which the board makes available to members for DROP investment purposes, so long as there is no additional cost to the system by making such choices available to the members.

Upon electing participation in the DROP, the member shall elect to receive either interest or earnings on his account to be determined as provided above. This shall be a one-time irrevocable option. ~~The member may, in writing, elect to change his election once twice during his DROP participation. An election to change must be made prior to the end of a quarter and shall be effective beginning the following quarter.~~

- c. A member's DROP account shall only be credited or debited with earnings and monthly benefits while the member is a participant in the DROP. A member's final DROP account value for distribution to the member upon termination of participation in the DROP shall be the value of the account at the end of the quarter immediately preceding termination of participation date for participants electing the net plan return and at the end of the month immediately preceding termination of participation for participants electing the flat interest rate return, plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter or month, as applicable, and prior to distribution. If a member fails to terminate employment after participating in the DROP for the permissible period of DROP participation, then beginning with the member's first month of employment following the last month the permissible period of DROP participation, the member's DROP account will no longer be credited or debited with earnings, nor will monthly benefits be transferred to the DROP account. All such non-transferred amounts shall be forfeited and continue to be forfeited while the member is employed by the city fire department. A member employed by the city fire department after the permissible period of DROP participation will still not be eligible for pre-retirement death or disability benefits, nor will he accrue additional credited service, except as provided for in section 17-50.18, Reemployment after retirement.

**SECTION 5:** That Chapter 17, Pensions and Retirement, Article III, Firefighters' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by deleting Sec. 17-50.18 and replacing it as follows:

~~Sec. 17-50.18. Back Drop.~~

~~(a) — A Back Drop, as provided for herein, will be available to eligible members commencing October 1, 2013.~~

~~(b) — A member is eligible to elect Back Drop during the period commencing on the earlier of the date the member attains forty eight (48) years of age and twenty five (25) years of service or normal retirement age and ending before ten (10) years after the member attains eligibility.~~

~~(c) — A member electing Back Drop shall designate a Back Drop date and a proposed date of termination of employment. The Back Drop date may be any date on or after the date the member attains eligibility for Back Drop but no more than three (3) years prior to the proposed date of termination of employment (the "Back Drop Period"). The Back Drop Period shall in no case exceed three (3) years. The member's election shall be submitted to the board for its approval.~~

~~(d) — The member's retirement benefit, payable commencing upon termination of employment, will be calculated using the amount of credited service and average final compensation of the member as of the Back Drop date. Upon termination, the member will also receive a Back Drop lump sum payment calculated as the accumulated amount of monthly benefit payments the member would have received if the member had actually retired and terminated employment on the Back Drop date, plus interest at one and one-half (1½) percent per year, compounded annually.~~

~~(e) — All or a portion of the Back Drop lump sum payment may be rolled over into an eligible retirement plan or account. A member electing Back Drop must, at the time of election, designate for his or her monthly benefit either the normal retirement benefit or one (1) of the optional forms set forth in section 17-45.~~

~~(f) — Election of Back Drop, including the designation of the Back Drop date and the proposed termination date, is irrevocable. In no case shall the member remain employed after the termination date.~~

Sec. 17-50.18. - Supplemental benefit component for special benefits; Chapter 175 Share Accounts.

There is hereby established an additional plan component to provide special benefits in the form of a supplemental retirement, termination, death and disability benefits to be in addition to the benefits provided for in the previous Sections of this Plan, such benefit to be funded solely and entirely by Chapter 175, Florida Statutes, premium tax monies for each plan year which, in accordance with Section 175.351, Florida Statutes, shall be allocated to this supplemental component as provided by and in accordance with the mutual consent contained in the Collective Bargaining Agreement between the city and Local 1158 of the International Association of Firefighters.

**SECTION 7:** 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 8:** Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of New Port Richey.

**SECTION 9:** All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 10:** That this Ordinance shall become effective upon its adoption.

The above and foregoing Ordinance was read and adopted on second and final reading by the City Council of the City of New Port Richey, at a duly convened meeting thereof, at the Municipal Building, New Port Richey which was held on the \_\_\_\_ day of \_\_\_\_\_, 2018.

ATTEST:

By: \_\_\_\_\_  
Judy Meyers, City Clerk

By: \_\_\_\_\_  
Robert Marlowe, Mayor-Council Member

(Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE SOLE  
USE AND RELIANCE OF THE CITY OF NEW PORT RICHEY,  
FLORIDA:

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Timothy P. Driscoll, City Attorney