

ORDINANCE 16-16

AN ORDINANCE OF THE CITY OF DUNEDIN AMENDING CHAPTER 58, PENSIONS AND RETIREMENT, ARTICLE II, RETIREMENT, DIVISION 2, FIREFIGHTERS' RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES OF THE CITY OF DUNEDIN; AMENDING SECTION 58-51, DEFINITIONS, BY AMENDING THE DEFINITIONS OF "ACTUARIAL EQUIVALENT", "CREDITED SERVICE", "FIREFIGHTER" AND "SPOUSE"; AMENDING SECTION 58-54, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 58-56, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 58-58, DISABILITY; AMENDING SECTION 58-60, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 58-65, MAXIMUM PENSION; AMENDING SECTION 58-77, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 58-78, PRIOR FIRE SERVICE; AMENDING SECTION 58-80, SHARE PLAN BENEFIT; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1: That Chapter 58, Pensions and Retirement, Article II, Retirement, Division 2, Firefighters' Retirement System, of the City of Dunedin Code of Ordinances, is hereby amended by amending Section 58-51, Definitions, by amending the definitions of *Actuarial Equivalent*, *Credited Service*, *Firefighter*, and *Spouse*, to read as follows:

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Actuarial equivalent means a benefit or amount of equal value, based upon the RP-2000 Unisex Combined Healthy Mortality Table and an interest rate equal to the investment return assumption set forth in the last actuarial valuation report approved by the board.

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Credited service means the total number of years and fractional parts of years of service as a firefighter with member contributions when required, omitting intervening years or fractional parts of years when such member was not employed by the city as a firefighter. A member may voluntarily leave his accumulated contributions in the fund for a period of five years after leaving the employ of the fire department pending the possibility of being reemployed as a firefighter, without losing credit for the time that he was a member of the system. If a vested member leaves the employ of the fire department, his accumulated contributions will be returned only upon his written request. If a member who is not vested is not reemployed as a firefighter with the fire department within five years, his accumulated contributions, if less than \$1,000.00, shall be returned. If a member who is not vested is not reemployed within five years, his accumulated contributions, if \$1,000.00 or more, will be returned only upon the written request of the member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the board. Upon return of a member's accumulated contributions, all of his rights and benefits under the system are forfeited and

terminated. Upon any reemployment, a firefighter shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his accumulated contributions from the fund, unless the firefighter repays into the fund the contributions he has withdrawn, with interest, as determined by the board, within 90 days after his reemployment.

The years or fractional parts of years that a member performs "Qualified Military Service" consisting of voluntary or involuntary "service in the uniformed services" as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L.103-353), after separation from employment as a firefighter with the city to perform training or service, shall be added to his years of credited service, provided that:

- (1) The member is entitled to reemployment under the provisions of USERRA.
- (2) The member returns to his employment as a firefighter with the city within one year from the earlier of the date of his military discharge or his release from active service, unless otherwise required by USERRA.
- (3) The maximum credit for military service pursuant to this subsection shall be five years.
- (4) This paragraph is intended to satisfy the minimum requirements of USERRA. To the extent that this paragraph does not meet the minimum standards of USERRA, as it may be amended from time to time, the minimum standards shall apply.

In the event a member dies on or after January 1, 2007, while performing USERRA Qualified Military Service, the beneficiaries of the member are entitled to any benefits (other than benefit accruals relating to the period of qualified military service) as if the member had resumed employment and then died while employed.

Beginning January 1, 2009, to the extent required by section 414(u)(12) of the code, an individual receiving differential wage payments (as defined under section 3401(h)(2) of the code) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Leave conversions of unused accrued paid time off shall not be permitted to be applied toward the accrual of credited service either during each plan year of a member's employment with the city or in the plan year in which the member terminates employment.

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Firefighter means an actively employed full-time person employed by the city, including his initial probationary employment period, who is certified as a firefighter as a condition of employment in accordance with the provisions of F.S. § 633.408, and whose duty it is to extinguish fires, to protect life and to protect property. The term includes all certified, supervisory, and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time firefighters, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters.

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Spouse means the member's or retiree's spouse under applicable law at the time benefits become payable.

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Section 2: That Chapter 58, Pensions and Retirement, Article II, Retirement, Division 2, Firefighters' Retirement System, of the City of Dunedin Code of Ordinances, is hereby amended by amending Section 58-54, Finances and Fund Management, subsection (f)(2), to read as follows:

* * *

- (f)(2) 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 subject to the following:
- a. Notwithstanding any limitation provided for in F.S. ch. 175, to the contrary (unless such limitation may not be amended by local ordinance) or any limitation in prior city ordinances to the contrary, all monies paid into or held in the fund may be invested and reinvested in such securities, investment vehicles or property wherever situated and of whatever kind, as shall be approved by the board, including but not limited to common or preferred stocks, bonds, and other evidences of indebtedness or ownership. In no event, however, shall more than twenty-five percent of the assets of the fund at market value be invested in foreign securities.
 - b. The board shall develop and adopt a written investment policy statement setting forth permissible types of investments, goals and objectives of investments and setting quality and quantity limitations on investments in accordance with the recommendations of its investment consultants. The investment policy statement shall be reviewed by the board at least annually.
 - c. In addition, the board may, upon recommendation by the board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100, Revenue Ruling 2011-1, IRS Notice 2012-6 and Revenue Ruling 2014-24 or successor rulings or guidance of similar import, and operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under section 401(a) of the code, individual retirement accounts that are exempt under section 408(e) of the code, eligible governmental plans that meet the requirements of section 457(b) of the code, and governmental plans under 401(a)(24) of the code. For this purpose, a trust includes a custodial account or separate tax favored account maintained by an insurance company that is treated as a trust under section 401(f) or under section 457(g)(3) of the code. While any portion of the assets of the fund are invested in such a group trust, such group trust is itself adopted as a part of the system or plan.
 1. Any collective or common group trust to which assets of the fund are transferred pursuant to subsection c. shall be adopted by the board as part of the plan by executing appropriate participation, adoption agreements, and/or trust agreements with the group trust's trustee.

2. The separate account maintained by the group trust for the plan pursuant to subsection c. shall not be used for, or diverted to, any purpose other than for the exclusive benefit of the members and beneficiaries of the plan.
3. For purposes of valuation, the value of the separate account maintained by the group trust for the plan shall be the fair market value of the portion of the group trust held for the plan, determined in accordance with generally recognized valuation procedures.

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Section 3: That Chapter 58, Pensions and Retirement, Article II, Retirement, Division 2, Firefighters' Retirement System, of the City of Dunedin Code of Ordinances, is hereby amended by amending Section 58-56, Benefit Amounts and Eligibility, subsections (a), *Normal retirement date*, and subsection (e), *Retirement Subsidy*, to read as follows:

(a) *Normal retirement age and date.* A member's normal retirement age is the earlier of the attainment of age 52 and the completion of 25 years of credited service, the attainment of age 55 and the completion of ten years of credited service or the completion of 20 years of credited service regardless of age. Each member shall become one hundred percent (100%) 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.

* * *

(e) *Retirement subsidy.* In addition to the benefit provided for in subsection (b) above, each retiree who has retired under normal retirement on or after October 1, 2016, or entered DROP on or after October 1, 2014, shall receive a monthly retirement subsidy payment equal to the number of complete years of credited service at the time of retirement multiplied by thirteen dollars (\$13), but not to exceed \$325 per month (amount estimated by the actuary). The retirement subsidy is payable for the life of the retiree and ceases on the last day of the month of death of the retiree. DROP participants are not eligible for the subsidy payment until termination of employment with the city. Each retiree who retired under normal retirement on or after March 21, 2003 but before October 1, 2016, shall continue to receive a monthly retirement subsidy payment equal to the number of complete years of credited service at the time of retirement multiplied by three dollars (\$3), but not to exceed \$75 per month. This benefit shall be paid in lieu of the health subsidy benefit formerly provided for herein.

Section 4: That Chapter 58, Pensions and Retirement, Article II, Retirement, Division 2, Firefighters' Retirement System, of the City of Dunedin Code of Ordinances, is hereby amended by amending Section 58-58, Disability, subsections (a), *Disability benefits in line of duty* and (c), *Disability benefits not in line of duty*, to read as follows:

(a) *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 the greater of 60 percent of the average salary of the member over the five best years of credited service of the member, or the member's accrued benefit as of the date of disability. Terminated persons, either vested or nonvested, 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.

* * *

(c) *Disability benefits not in line of duty.* Any member with ten 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 be entitled to a monthly pension equal to the greater of 30 percent of the average salary of the member over the five best years of credited service of the member or the member's accrued benefit as of the date of disability. Terminated persons, either vested or nonvested, 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. The city shall make available long-term disability insurance coverage which may be purchased by the member to provide disability benefits during the ten-year waiting period for not in line of duty disability benefits under this system.

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Section 5: That Chapter 58, Pensions and Retirement, Article II, Retirement, Division 2, Firefighters' Retirement System, of the City of Dunedin Code of Ordinances, is hereby amended by amending Section 58-60, Optional Forms of Benefits, subsection (b), to read as follows:

* * *

(b) The member, upon electing any option of this section, will designate the joint pensioner (subsection (a)(2) of this section) or the beneficiary to receive the benefit, if any, payable under the system in the event of a member's death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one or more primary beneficiaries where applicable. A member may change his beneficiary at any time. If a member has elected an option with a joint pensioner and the member's retirement income benefits have commenced, the member may thereafter change his designated beneficiary at any time, but may only change his joint pensioner twice. Subject to the restriction in the previous sentence, a member may substitute a new joint pensioner for a deceased joint pensioner. In the absence of proof of good health of the joint pensioner being replaced, the actuary will assume that the joint pensioner has deceased for purposes of calculating the new payment.

* * *

Section 6: That Chapter 58, Pensions and Retirement, Article II, Retirement, Division 2, Firefighters' Retirement System, of the City of Dunedin Code of Ordinances, is hereby amended by amending Section 58-65, Maximum Pension, to read as follows:

Sec. 58-65. Maximum pension.

(a) *Basic limitation.* Notwithstanding any other provisions of this system to the contrary, the member contributions paid to, and retirement benefits paid from, the system shall be limited to such extent as may be necessary to conform to the requirements of Code Section 415 for a qualified retirement plan. Before January 1, 1995, a plan member may not receive an annual benefit that exceeds the limits specified in Code Section 415(b), subject to the applicable

adjustments in that section. On and after January 1, 1995, a plan member may not receive an annual benefit that exceeds the dollar amount specified in Code Section 415(b)(1)(A) (\$160,000), subject to the applicable adjustments in Code Section 415(b) and subject to any additional limits that may be specified in this System. For purposes of this section, "limitation year" shall be the calendar year.

For purposes of Code Section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to Code Section 415(n) and to rollover contributions (as defined in Code Section 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(b) *Adjustments to Basic Limitation for Form of Benefit.* If the benefit under the plan is other than the annual benefit described in subsection (a), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations. If the form of the benefit without regard to any automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Code Section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the additional benefits under the form of benefit as follows:

- (1) For a benefit paid in a form to which section 417(e)(3) of the code does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:
 - a. The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member, or
 - b. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the code); or
- (2) For a benefit paid in a form to which section 417(e)(3) of the code applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:
 - a. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;
 - b. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to

January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the code); or

- c. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the code), divided by 1.05.

- (3) The actuary may adjust the 415(b) limit at the annuity starting date in accordance with subsections (1) and (2) above.

(c) *Benefits not taken into account.* For purposes of this Section, the following benefits shall not be taken into account in applying these limits:

- (1) Any ancillary benefit which is not directly related to retirement income benefits;
- (2) Any other benefit not required under §415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of Code Section 415(b)(1); and
- (3) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity.

(d) *COLA Effect.* Effective on and after January 1, 2003, for purposes of applying the limits under Code Section 415(b) (the "Limit"), the following will apply:

- (1) A member's applicable limit will be applied to the member's annual benefit in the member's first limitation year of benefit payments without regard to any automatic cost of living adjustments;
- (2) thereafter, in any subsequent limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable benefit limit including any adjustment to the Code Section 415(b)(1)(A) dollar limit under Code Section 415(d), and the regulations thereunder; but
- (3) in no event shall a member's benefit payable under the system in any limitation year be greater than the limit applicable at the annuity starting date, as increased

in subsequent years pursuant to Code Section 415(d) and the regulations thereunder.

Unless otherwise specified in the system, for purposes of applying the limits under Code Section 415(b), a Member's applicable limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Internal Revenue Code and applicable Treasury Regulations.

(e) *Other Adjustments in Limitations.*

- (1) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of Code Section 415(b) of the Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) annual benefit beginning at age sixty-two (62).
- (2) In the event the member's benefit is based on at least fifteen (15) years of credited service as a full-time employee of the fire department of the City, the adjustments provided for in (e)(1) above shall not apply.
- (3) The reductions provided for in (e)(1) above shall not be applicable to disability benefits pursuant to Sec. 50-58, or pre-retirement death benefits paid pursuant to Sec. 50-57.
- (4) In the event the member's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the limit set forth in subsection (a) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age sixty-five (65). This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

(f) *Less than Ten (10) Years of Participation.* The maximum retirement benefits payable under this section to any member who has completed less than ten (10) years of participation shall be the amount determined under subsection (a) of this section multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits paid pursuant to Sec. 58-58, or pre-retirement death benefits paid pursuant to Sec. 58-57.

(g) *Participation in Other Defined Benefit Plans.* The limit of this section with respect to any member who at any time has been a member in any other defined benefit plan as defined in Code Section 414(j) maintained by the City shall apply as if the total benefits payable under all City defined benefit plans in which the member has been a member were payable from one (1) plan.

(h) *Ten Thousand Dollar (\$10,000) Limit; Less Than Ten Years of Service.* Notwithstanding anything in this section 58-65, the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this subsection (h) of section 58-65 if the benefits payable, with respect to such member under this system and under all other qualified defined benefit pension plans to which the City contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the City has not any time maintained a qualified defined contribution plan in which the member participated;

provided, however, that if the member has completed less than ten (10) years of credited service with the City, the limit under this subsection (h) of section 58-65 shall be a reduced limit equal to ten thousand dollars (\$10,000) multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten (10).

(i) *Reduction of Benefits.* Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such member.

(j) *Service Credit Purchase Limits.*

- (1) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the system, as allowed in Sec. 50-76 and Sec. 50-77, then the requirements of this section will be treated as met only if:
- a. the requirements of Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Code Section 415(b), or
 - b. the requirements of Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).

For purposes of applying subparagraph (j)(1)a., the System will not fail to meet the reduced limit under Code Section 415(b)(2)(C) solely by reason of this subparagraph, and for purposes of applying subparagraph (j)(1)b. the System will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code solely by reason of this subparagraph.

- (2) For purposes of this subsection the term "permissive service credit" means service credit—
- a. recognized by the system for purposes of calculating a member's benefit under the plan,
 - b. which such member has not received under the plan, and
 - c. which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may, if otherwise provided by the system, include service credit for periods for which there is no performance of service, and, notwithstanding clause (j)(2)b., may include service credited in

order to provide an increased benefit for service credit which a member is receiving under the system.

(k) *Contribution Limits.*

- (1) For purposes of applying the Code Section 415(c) limits which are incorporated by reference and for purposes of this subsection (k), only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulations Section 1.415(c)-2, or successor regulations. Unless another definition of compensation that is permitted by Treasury Regulations Section 1.415(c)-2, or successor regulation, is specified by the system, compensation will be defined as wages within the meaning of Code Section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).
 - a. However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Code Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For limitation years beginning after December 31, 2000, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of Code Section 132(f)(4).
 - b. For limitation years beginning on and after January 1, 2007, compensation for the limitation year will also include compensation paid by the later of 2½ months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:
 1. the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or
 2. the payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.
 - c. Back pay, within the meaning of Treasury Regulations Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.
- (2) Notwithstanding any other provision of law to the contrary, the board may modify a request by a member to make a contribution to the system if the amount of the

contribution would exceed the limits provided in Code Section 415 by using the following methods:

- a. If the law requires a lump sum payment for the purchase of service credit, the board may establish a periodic payment deduction plan for the member to avoid a contribution in excess of the limits under Code Sections 415(c) or 415(n).
 - b. If payment pursuant to subparagraph (k)(2)a. will not avoid a contribution in excess of the limits imposed by Code Section 415(c), the board may either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution.
- (3) If the annual additions for any member for a limitation year exceed the limitation under section 415(c) of the code, the excess annual addition will be corrected as permitted under the Employee Plans Compliance Resolution System (or similar IRS correction program).
- (4) For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of this subsection (k) shall not exceed the annual limit under section 401(a)(17) of the code.
- (l) *Additional limitation on pension benefits.* Notwithstanding anything in this section to the contrary:
- (1) The normal retirement benefit or pension payable to a retiree who becomes a member of the system and who has not previously participated in such system, on or after January 1, 1980, shall not exceed 100 percent of his average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.
 - (2) No member of the system shall be allowed to receive a retirement benefit or pension which is, in part or in whole, based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 1223, Title 10, U.S. Code.
- (m) *Effect of Direct Rollover on 415(b) Limit.* If the plan accepts a direct rollover of an employee's or former employee's benefit from a defined contribution plan qualified under Code Section 401(a) which is maintained by the employer, any annuity resulting from the rollover amount that is determined using a more favorable actuarial basis than required under Code Section 417(e) shall be included in the annual benefit for purposes of the limit under Code Section 415(b).

Section 7: That Chapter 58, Pensions and Retirement, Article II, Retirement, Division 2, Firefighters' Retirement System, of the City of Dunedin Code of Ordinances, is hereby amended by amending Section 58-77, Deferred Retirement Option Plan, to read as follows:

Sec. 58-77. Deferred retirement option plan.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

DROP means the city firefighters' retirement system deferred retirement option plan.

DROP account means the account established for each DROP participant under subsection (c) of this section.

Total return of the assets means For purposes of calculating earnings on a member's DROP account pursuant to subsection (c)(2)b.2., for each fiscal year quarter, the percentage increase (or decrease) in the interest and dividends earned on investments, including realized and unrealized gains (or losses), of the total Plan assets.

(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.

(2) *Election to participate.* A member's election to participate in the DROP must be made in writing in a time and manner determined by the board and shall be effective on the first day of the first calendar month which is at least 15 business days after it is received by the board.

(3) *Period of participation.* A member may participate in the DROP for a period not to exceed the shorter of (1) 60 months beginning at the time of election to participate in the DROP first becomes effective or (2) the end of member's 30th year of employment as a firefighter with the city. An election to participation in the DROP shall constitute an irrevocable election to resign from the service of the city not later than the date provided for in the previous sentence. A member may participate in the DROP only once.

(4) *Termination of participation.*

a. A member's participation in the DROP shall cease at the earlier of:

1. The end of his period of participation in the DROP as determined under subsection (c) of this section; or
2. Termination of his employment as a firefighter.

b. Upon the member's termination of participation in the DROP, pursuant to subsections (b)(4)a.1 of this section, all amounts provided for in subsection (c)(2) of this section, including monthly benefits and investment earnings and losses or interest, shall cease to be transferred from the system to his DROP account. Any amounts remaining in his DROP account shall be paid to him in accordance with the provisions of subsection (d) of this section when he terminates his employment as a firefighter.

c. A member who terminates his participation in the DROP under this subsection (b)(4) shall not be permitted to again become a participant in the DROP.

(5) *Effect of DROP participation on the system.*

- a. A member's credited service and his accrued benefit under the system shall be determined on the date his election to participate in the DROP first becomes effective. The member shall not accrue any additional credited service or any additional benefits under the system (except for any supplemental benefit payable to DROP participants or any additional benefits provided under any cost-of-living adjustment for retirees in the system) while he is a participant in the DROP. After a member commences participation, he shall not be permitted to again contribute to the system nor shall he be eligible for disability or preretirement death benefits.
- b. No amounts shall be paid to a member from the system while the member is a participant in the DROP. Unless otherwise specified in the system, if a member's participation in the DROP is terminated other than by terminating his employment as a firefighter, no amounts shall be paid to him from the system until he terminates his employment as a firefighter. Unless otherwise specified in the system, amounts transferred from the system to the member's DROP account shall be paid directly to the member only on the termination of his employment as a firefighter.

(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) of this section, and earnings, gains or losses 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 under the system shall be transferred to his DROP account, except as otherwise provided for in subsection (b)(4)b of this section. A member's period of participation in the DROP shall be determined in accordance with the provisions of subsections (b)(3) and (b)(4) of this section, 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 of this section, a member's DROP account under this subsection (c)(2) shall be debited or credited with earnings, gains or losses, 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 actual net rate of investment return realized by the system for that quarter. The term "net investment return," for the purpose of this subsection, 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.

- c. A member's DROP account shall only be credited or debited with earnings, gains or losses 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 plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter and prior to distribution. If a member is employed by the city fire department 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 of the permissible period of DROP participation, the member's DROP account will no longer be credited or debited with earnings or interest, nor will monthly benefits be transferred to the DROP account. All such nontransferred 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 preretirement death or disability benefits under the system, nor will he accrue additional credited service.

(d) *Distribution of DROP accounts on termination of employment.*

- (1) *Eligibility for benefits.* A member shall receive the balance in his DROP account in accordance with the provisions of this subsection (d) upon his termination of employment as a firefighter. Except as provided in subsection (d)(5) of this section, no amounts shall be paid to a member from the DROP prior to his termination of employment as a firefighter.

(2) *Form of distribution.*

- a. Unless the member elects otherwise, distribution of his DROP account shall be made in a cash lump sum, subject to the direct rollover provisions set forth in subsection (d)(6) of this section. Elections under this subsection shall be in writing and shall be made in such time or manner as the board shall determine.
- b. If a member dies before his benefit is paid, his DROP account shall be paid to his beneficiary in such optional form as his beneficiary may select. If no beneficiary designation is made, the DROP account shall be distributed to the member's estate.

- (3) *Date of payment of distribution.* Except as otherwise provided in this subsection (d), distribution of a member's DROP account shall be made as soon as administratively practicable following the member's termination of employment. Distribution of the amount in a member's DROP account will not be made unless the member completes a written request for distribution and a written election, on forms designated by the board, to either receive a cash lump sum or a rollover of the lump sum amount.

- (4) *Proof of death and right of beneficiary or other person.* The board may require and rely upon such proof of death and such evidence of the right of any

beneficiary or other person to receive the value of a deceased member's DROP account as the board may deem proper, and its determination of the right of that beneficiary or other person to receive payment shall be conclusive.

- (5) *Distribution limitation.* Notwithstanding any other provision of this subsection (d), all distributions from the DROP shall conform to the "Minimum Distribution Of Benefits" provisions as provided for herein.
- (6) *Direct rollover of certain distributions.* This subsection (d)(6) applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the DROP to the contrary, a distributee may elect to have any portion of an eligible rollover distribution paid in a direct rollover as otherwise provided under the system in section 58-75.
- (e) *Administration of DROP.*
 - (1) *Board administers the DROP.* The general administration of the DROP, the responsibility for carrying out the provisions of the DROP and the responsibility of overseeing the investment of the DROP's assets shall be placed in the board. The members of the board may appoint from their number such subcommittees with such powers as they shall determine; may adopt such administrative procedures and regulations as they deem desirable for the conduct of their affairs; may authorize one or more of their number or any agent to execute or deliver any instrument or make any payment on their behalf; may retain counsel, employ agents and provide for such clerical, accounting, actuarial and consulting services as they may require in carrying out the provisions of the DROP; and may allocate among themselves or delegate to other persons all or such portion of their duties under the DROP, other than those granted to them as trustee under any trust agreement adopted for use in implementing the DROP, as they, in their sole discretion, shall decide. A trustee shall not vote on any question relating exclusively to himself.
 - (2) *Individual accounts, records and reports.* The board shall maintain, or cause to be maintained, records showing the operation and condition of the DROP, including records showing the individual balances in each member's DROP account, and the board shall keep, or cause to be kept, in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The board shall prepare or cause to be prepared and distributed to members participating in the DROP and other individuals or filed with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Code and any other applicable laws.
 - (3) *Establishment of rules.* Subject to the limitations of the DROP, the board from time to time shall establish rules for the administration of the DROP and the transaction of its business. The board shall have discretionary authority to construe and interpret the DROP, including, but not limited to, determination of an individual's eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a participant in the DROP. The determination of the board as to the interpretation of the DROP or its determination of any disputed questions shall be conclusive and final to the extent permitted by applicable law. The board shall also oversee the investment of the DROP'S assets.

- (4) *Limitation of liability.* Neither the board nor any trustee of the board shall be responsible for any reports furnished by any expert retained or employed by the board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or an actuary, and on all opinions of counsel. The board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.
- (f) *General provisions.*
 - (1) *The DROP is not a separate retirement plan.* Instead, it is a program under which a member who is eligible for normal retirement under the system may elect to accrue future retirement benefits in the manner provided in this section 58-77 for the remainder of his employment, rather than in the normal manner provided under the plan. Upon termination of employment, a member is entitled to a lump sum distribution of his or her DROP account balance or may elect a rollover. The DROP account distribution is in addition to the member's monthly benefit.
 - (2) *Notional account.* The DROP account established for such a member is a notional account, used only for the purpose of calculation of the DROP distribution amount. It is not a separate account in the system. There is no change in the system's assets, and there is no distribution available to the member until the member's termination from the DROP. The member has no control over the investment of the DROP account.
 - (3) *No employer discretion.* The DROP benefit is determined pursuant to a specific formula which does not involve employer discretion.
 - (4) *IRC limit.* The DROP account distribution, along with other benefits payable from the system, is subject to limitation under Internal Revenue Code Section 415(b).
 - (5) *Amendment of DROP.* The DROP may be amended by an ordinance of the city at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend, in whole or in part, any or all of the provisions of the DROP. However, except as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of the DROP account of any member.
 - (6) *Facility of payment.* If the board shall find that a member or other person entitled to a benefit under the DROP is unable to care for his affairs because of illness or accident or is a minor, the board may direct that any benefit due him, unless claim shall have been made for the benefit by a duly appointed legal representative, be paid to his spouse, a child, a parent or other blood relative, or to a person with whom he resides. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.
 - (7) *Information.* Each member, beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the DROP, shall file with the board the information that it shall require to establish his rights and benefits under the DROP.

- (8) *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 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 months of the date of the mailing, the board may, if it so elects and upon receiving advice from counsel to the DROP, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the DROP. Upon such cancellation, the DROP 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.
- (9) *Written elections; notification.*
- a. 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 the time and 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.
 - b. 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 under this system 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.
- (10) *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.
- (11) *Construction.*
- a. The DROP shall be construed, regulated and administered under the laws of the state, except where other applicable law controls.
 - b. The titles and headings of the subsections in this section are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.
- (12) *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.

- (13) *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 8: That Chapter 58, Pensions and Retirement, Article II, Retirement, Division 2, Firefighters' Retirement System, of the City of Dunedin Code of Ordinances, is hereby amended by amending Section 58-78, Prior Fire Service, subsection (5), to read as follows:

* * *

- (5) In no event, however, may credited service be purchased pursuant to this section for prior service with any other municipal, county or special district fire department, if such prior service forms or will form the basis of a retirement benefit or pension from a different employer's retirement system or plan as set forth in section 58-65, subsection(i)(2).

* * *

Section 9: That Chapter 58, Pensions and Retirement, Article II, Retirement, Division 2, Firefighters' Retirement System, of the City of Dunedin Code of Ordinances, is hereby amended by amending Section 58-80, Share plan benefit, sections (b), *Definitions*, and (c) *Share plan contributions*, to read as follows:

Sec. 58-80. - Share plan benefit and use of premium tax revenues.

* * *

- (b)(5) *Share plan* shall mean an established additional defined contribution 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 F.S. Chapter 175, premium tax monies for each plan year which are allocated to this supplemental component as provided for in F.S. §175.351. Amounts allocated to this supplemental component ("Share Plan") shall be further allocated to the individual members and DROP participants in a manner described herein, and in accordance with the applicable provisions of the Internal Revenue Code and related regulations.
- (6) *Share plan account* shall mean an account established for an eligible firefighter to hold contributions made pursuant to this section. Such accounts shall accrue earnings and be administered in a manner similar to the DROP provisions in section 58-77. These accounts will be subject to the limits prescribed by Code § 415(c). For any eligible firefighter that has a DROP account, that account may serve as that firefighter's share plan account.
- (7) *Share plan contribution* shall mean a contribution to the share plan accounts.

- (8) *Year of credited service* shall have the same meaning as elsewhere in the plan except that for purposes of this section, such term refers to a full year of credited service with no rounding and no credit for partial years of service. Additionally, any eligible firefighter with more than 12 years of credited service will be treated as if they had 12 years of credited service for the purposes of this section only.

* * *

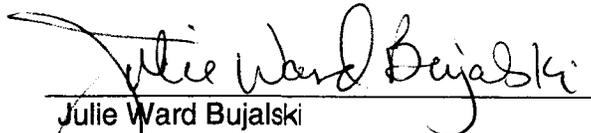
- (c)(2) For plan years following the plan year described in subsection (1) above, a share plan contribution shall be made based on the annual insurance premium tax dollars in excess of the frozen annual amount. 75% of the additional premium tax dollars will be distributed to members' share accounts in accordance with past practice as described below and the remaining 25% will be used by the City to offset its required contribution to the Plan. The City shall continue to use the applicable "frozen" amount to offset its required contribution to the Plan.

Section 10: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

Section 11: 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.

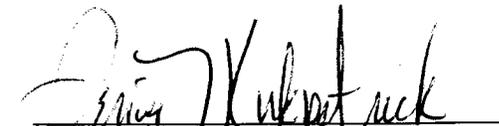
Section 12: That this Ordinance shall become effective immediately upon final passage and adoption.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS 3rd day of May, 2016.



Julie Ward Bujalski
Mayor

ATTEST:



Denise M. Kirkpatrick
City Clerk

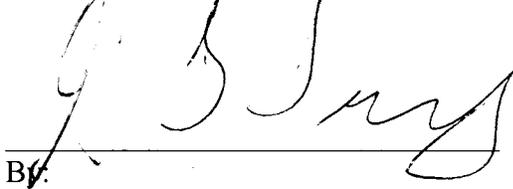
Passed on First Reading: April 21, 2016

Passed on Second Reading: May 3, 2016

MUTUAL CONSENT AGREEMENT

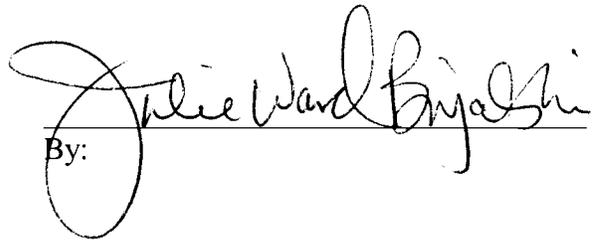
The City of Dunedin and the International Association of Firefighters, Dunedin Local 2327, mutually consent that annual Chapter 175 premium tax revenues will continue to be used in the same manner in the future as they have been under existing past practice, meaning that the City shall continue to use the applicable "frozen" amount to offset its required contribution to the Plan and that, of the excess state monies for reserve, 75% will be distributed to members' share accounts in accordance with past practice and the remaining 25% will be used by the City to offset its required contribution to the Plan.

**INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS DUNEDIN LOCAL 2327**


By: _____

4-20-16
Date

CITY OF DUNEDIN


By: _____

4/20/16
Date