

ORDINANCE 19-15

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 58-58, DISABILITY; AMENDING SECTION 58-65, MAXIMUM PENSION; AMENDING SECTION 58-67, MISCELLANEOUS PROVISIONS; AMENDING SECTION 58-77, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 58-79, REEMPLOYMENT AFTER RETIREMENT; 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 58-58, 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. Eligibility requirements for disability benefits are set forth in subsection (h), below.

(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. Eligibility requirements for disability benefits are set forth in subsection (h), below. 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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(g) Workers' compensation. When a member is receiving a disability pension and workers' compensation benefits pursuant to F.S. ch. 440, for the same disability, and the total monthly benefits received from both exceed 100 percent of the member's final monthly salary, excluding overtime, the disability pension benefit shall be reduced so that the total monthly amount received by the member does not exceed 100 percent of such salary. Notwithstanding the foregoing, in no event shall the disability pension benefit be reduced below the greater of 42 percent of average final compensation or two and three quarters percent of average final compensation times years of credited service.

(h) Eligibility for disability benefits. Subject to (h)(4) below, only active members of the system on the date the board determines entitlement to a disability benefit are eligible for disability benefits.

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

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

Section 2: That Chapter 58, Pensions and Retirement, Article 11, Retirement, Division 2, Firefighters' Retirement System, of the City of Dunedin Code of Ordinances, is hereby amended by amending Section 58-65, Maximum Pension, subsection (h) *Ten Thousand Dollar (\$10,000) Limit; Less Than Ten Years of Service*, to read as follows:

(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 or for any prior limitation year, and the City has not at 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).

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 58-67, Miscellaneous provisions, adding subsection (i) *Missing benefit recipients*, to read as follows:

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

Section 4: That 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 mending Section 58-77, Deferred Retirement Option Plan, deleting subsection (8) *Prevention of escheat* and renumbering the remaining subsections, to read as follows:

(f) General provisions.

(8) *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.

(9) *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.

(10) *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.

(11) *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.

- (12) *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 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 adding new Section 58-79, Reemployment after retirement, amending subsection (a), adding subsection (e) *After disability retirement and renumbering the remaining subsections*, to read as follows:

(a) Any retiree under this system, may be reemployed by any public or private employer, and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this system. Notwithstanding the previous sentence, reemployment by the city shall be subject to the limitations set forth in this section.

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(e) *After disability retirement.*

- (1) Subject to paragraph (2) below, any retiree who is retired under Section 58-58, Disability ('disability retiree'), may, subject to subsection (e), Physical examination requirement, of that section, be reemployed by any public or private employer, and may receive compensation from that employment without limiting or restricting in any way, the retirement benefits payable under this system.
- (2) Any disability retiree who subsequently becomes an employee of the city in any capacity, except as a firefighter, shall discontinue receipt of disability benefits from the system for the period of any such employment.
- (3) If a disability retiree is reemployed as a firefighter for the city, his disability benefit shall cease and Section 58-58. subsection (e) shall apply.

(f) *Reemployment of terminated vested persons.* Reemployed terminated vested persons shall not be subject to the provisions of this section until such time as they begin to actually receive benefits. Upon receipt of benefits, terminated vested persons shall be treated as normal or early retirees for purposes of applying the provisions of this section and their status

as an early or normal retiree shall be determined by the date they elect to begin to receive their benefit.

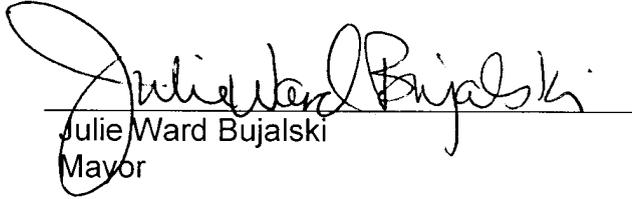
(g) *DROP participants.* Members or Ret who are or were in the deferred retirement option plan shall have the options provided for in this section for reemployment after termination of employment.

Section 6: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

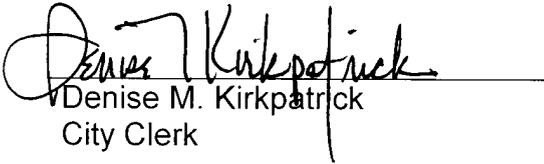
Section 7: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

Section 8: 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 20th day of June, 2019.


Julie Ward Bujalski
Mayor

ATTEST:


Denise M. Kirkpatrick
City Clerk

READ FIRST TIME AND PASSED: May 2, 2019

READ SECOND TIME AND ADOPTED: June 20, 2019