

Dunedin Firefighters' Pension Trust Fund

Board of Trustees

City Code, Chapter 58, Pensions and Retirement

Article II, Retirement, Division 2, Firefighters Retirement System

Ordinance 11-01 Amended and Restated Ch. 58

Ordinance 00-12 Repealed Ord. 86-70 Amended Sec. 2 Article V Div. 4

Ordinance 86-70 Amended Sec. 2-124

Ordinance 80-42 Established a new Board of Trustees

Chapter 58

PENSIONS AND RETIREMENT*

Article I. In General

Secs. 58-1—58-30. Reserved.

Article II. Retirement

Division 1. Generally

Secs. 58-31—58-50. Reserved.

Division 2. Firefighters' Retirement System

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*Cross reference—Administration, ch. 2.

State law reference—Social security for public employees generally, F.S. ch. 650.

ARTICLE I. IN GENERAL

Secs. 58-1—58-30. Reserved.

ARTICLE II. RETIREMENT*

DIVISION 1. GENERALLY

Secs. 58-31—58-50. Reserved.

DIVISION 2. FIREFIGHTERS' RETIREMENT SYSTEM†

Sec. 58-51. Definitions.

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

Accumulated contribution means a member's own contributions without interest. For those members who purchase credited service with interest or at no cost to the system, any payment representing the amount attributable to member contributions based on the applicable member contribution rate, interest and any required actuarially calculated payments for the purchase of such credited service, shall be included in accumulated contributions.

Actuarial equivalent means a benefit or amount of equal value, based upon the 1983 Group Annuity Mortality Table and an interest rate of seven percent per annum determined on the basis of actuarial equivalency using assumptions adopted by the board such that benefit calculations are not subject to city discretion.

Average final compensation means $\frac{1}{12}$ of the average salary of the three best years of the last ten years of credited service prior to retirement, termination, or death. A year shall be 12 consecutive months.

Beneficiary means the person entitled to receive benefits under this division at the death of a

*State law reference—Actual soundness, F.S. § 112.60 et seq.

†State law reference—Municipal firefighters pension, F.S. ch. 175.

member who has or have been designated in writing by the member and filed with the board. If no such designation is in effect, or if no person so designated is living, at the time of death of the member, the beneficiary shall be the estate of the member.

Board means the board of trustees, which shall administer and manage the system provided in this division and serve as trustees of the fund.

Code means the Internal Revenue Code of 1986, as amended from time to time.

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.

Effective date means December 31, 1999.

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. § 633.35, 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 firefight-

ers, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters.

Fund means the trust fund established in this division as part of the system.

Member means an actively employed firefighter who fulfills the prescribed participation requirements. Benefit improvements which, in the past, have been provided for by amendments to the system adopted by city ordinance, and any benefit improvements which might be made in the future shall apply prospectively and shall not apply to members who terminate employment or who retire prior to the effective date of any ordinance adopting such benefit improvements, unless such ordinance specifically provides to the contrary.

Plan year means the 12-month period beginning October 1 and ending September 30 of the following year.

Retiree means a member who has entered retirement status.

Retirement means a member's separation from city employment with eligibility for immediate receipt of benefits under the system or entry into the Deferred Retirement Option Plan.

Salary means the fixed monthly compensation for services rendered to the city as a firefighter, including holiday pay, plus all tax deferred, tax sheltered and tax exempt items of income otherwise includable as fixed monthly compensation. Compensation in excess of the limitations set forth in § 401(a)(17) of the 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 \$200,000, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). Compensation means compensation during the plan 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 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 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 under this division as in effect on July 1, 1993. An eligible employee is an individual who was a member before the first plan year beginning after December 31, 1995.

Spouse means the lawful wife or husband of a member or retiree at the time benefits become payable.

System means the city firefighters' retirement system as contained in this division and all amendments thereto.

(Ord. No. 00-12, § 2-116, 6-20-2000; Ord. No. 06-08, § 1, 4-20-2006; Ord. No. 11-01, § 1, 1-20-2011)

Cross reference—Definitions generally, § 1-2.

Sec. 58-52. Membership.

(a) Conditions of eligibility.

- (1) All firefighters as of December 31, 1999, and all future new firefighters, shall become members of this system as a condition of employment.
- (2) All future new firefighters after December 31, 1999, shall be required to complete a medical examination as prescribed by the board.

(b) Designation of beneficiary. Each firefighter shall complete a form prescribed by the board designating a beneficiary.

(Ord. No. 00-12, § 2-117, 6-20-2000; Ord. No. 11-01, § 1, 1-20-2011)

Sec. 58-53. Board of trustees.

(a) Scope of administrative power; composition; election and appointment; terms. The sole and exclusive administration of and responsibility for the proper operation of the system and for making effective the provisions of this division are hereby vested in a board of trustees. The board is hereby designated as the plan administrator. The board shall consist of five trustees, two of whom, unless otherwise prohibited by law, shall be legal residents of the city, who shall be appointed by the city commission, and two of whom shall be members of the system, who shall be elected by a majority of the firefighters who are members of the system. The fifth trustee shall be chosen by a majority of the previous four trustees as provided for in this subsection, and such person's name shall be submitted to the city commission. Upon receipt of the fifth person's name, the city commission shall, as a ministerial duty, appoint such person to the board of trustees as its fifth trustee. The fifth trustee shall have the same rights as each of the other four trustees appointed or elected as provided in this subsection and shall serve a two-year term unless he sooner vacates the office. Each resident trustee shall serve as trustee for a period of two years, unless he sooner vacates the office or is sooner replaced by the city commission at whose pleasure he shall serve. Each member trustee shall serve as trustee for a period of two years, unless he sooner leaves the employment of the city as a firefighter or otherwise vacates his office as trustee, whereupon a successor shall be chosen in the same manner as the departing trustee. Each trustee may succeed himself in office. DROP participants can be elected as but not vote for elected trustees. The board shall establish and administer the nominating and election procedures for each election. The board shall meet at least quarterly each year. The board shall be a legal entity with, in addition to other powers and responsibilities contained in this division, the power to bring and defend lawsuits of every kind, nature, and description.

(b) Election of officers; minutes; compensation. The trustees shall, by a majority vote, elect a chair and a vice-chair/secretary. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board.

The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

(c) *Voting.* Each trustee shall be entitled to one vote on the board. Three affirmative votes shall be necessary for any decision by the trustees at any meeting of the board. A trustee shall have the right to abstain from voting as the result of a conflict of interest, provided that the trustee complies with the provisions of F.S. § 112.3143.

(d) *Engagement of actuarial, accounting, legal and other services.* The board shall engage such actuarial, accounting, legal, and other services as shall be required to transact the business of the system. The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the system shall be paid from the fund at such rates and in such amounts as the board shall agree. If the board chooses to use the city's legal counsel, actuary or other professional, technical or other advisors, it shall do so only under terms and conditions acceptable to the board.

(e) *Duties and responsibilities.* The duties and responsibilities of the board shall include, but not necessarily be limited to, the following:

- (1) To construe the provisions of the system and determine all questions arising under the system.
- (2) To determine all questions relating to eligibility and membership.
- (3) To determine and certify the amount of all retirement allowances or other benefits under this division.
- (4) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the system.
- (5) To distribute to members, at regular intervals, information concerning the system.
- (6) To receive and process all applications for benefits.
- (7) To authorize all payments whatsoever from the fund, and to notify the disbursing agent, in writing, of approved benefit pay-

ments and other expenditures arising through operation of the system and fund.

- (8) To have performed actuarial studies and valuations, at least as often as required by law, and make recommendations regarding any and all changes in the provisions of the system.
- (9) To perform such other duties as are required to prudently administer the system.

(Ord. No. 00-12, § 2-118, 6-20-2000; Ord. No. 06-08, § 2, 4-20-2006; Ord. No. 11-01, § 1, 1-20-2011)

Cross reference—Boards, committees, commissions, § 2-61 et seq.

Sec. 58-54. Finances and fund management; establishment and operation of fund.

(a) As part of the system, there exists the fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the system.

(b) The actual custody and supervision of the fund (and its assets) shall be vested in the board. Payment of benefits and disbursements from the fund shall be made by the disbursing agent but only upon written authorization from the board.

(c) All funds of the firefighters' retirement system may be deposited by the board with the finance director of the city, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the city. However, any funds so deposited with the finance director of the city shall be kept in a separate fund by the finance director or clearly identified as such funds of the firefighters' retirement system. In lieu of such safekeeping, the board shall deposit the funds of the firefighters' retirement system in a qualified public depository as defined in F.S. § 280.02, which depository with regard to such funds shall conform to and be bound by all of the provisions of F.S. ch. 280. In order to fulfill its investment responsibilities as set forth in this division, the board may retain the services of a custodian bank, an investment advisor registered under Investment Advisors Act of 1940 or other-

wise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment manager shall have discretion, subject to any guidelines as prescribed by the board, in the investment of all fund assets.

(d) All funds and securities of the system may be commingled in the fund, provided that accurate records are maintained at all times reflecting the financial composition of the fund, including accurate current accounts and entries as regards to the following:

- (1) Current amounts of accumulated contributions of members on both an individual and aggregate account basis; and
- (2) Receipts and disbursements; and
- (3) Benefit payments; and
- (4) Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the city; and
- (5) All interest, dividends and gains (or losses) whatsoever; and
- (6) Such other entries as may be properly required so as to reflect a clear and complete financial report of the fund.

(e) An audit shall be performed annually by a certified public accountant for the most recent fiscal year of the system showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year. Such a report shall reflect a complete evaluation of assets on both a cost and market basis, as well as other items normally included in a certified audit.

(f) The board shall have the following investment powers and authority:

- (1) The board shall be vested with full legal title to the fund; subject, however, and in any event to the authority and power of the city commission to amend or terminate this fund, provided that no amendment or fund termination shall ever result in the use of any assets of this fund except for the payment of regular ex-

penses and benefits under this system, except as otherwise provided in this division. All contributions from time to time paid into the fund, and the income of such contributions, without distinction between principal and income, shall be held and administered by the board or its agent in the fund, and the board shall not be required to segregate or invest separately any portion of the fund.

(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 limited to:

- a. Annuity and life insurance contracts with life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the members in the fund shall be entitled under the provisions of this system and pay the initial and subsequent premium thereon.
- b. Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund or a savings/building and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.
- c. Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States or by an agency of the government of the United States.
- d. Bonds issued by the State of Israel.
- e. Stocks, commingled funds administered by national or state banks, mutual funds and bonds or other evidences of indebtedness, provided that:
 1. Except as provided in subsection (f)(2)e.2 of this section, all

- individually held securities and all securities in a commingled or mutual fund must be issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia and, in the case of bonds only, shall hold a rating in one of the three highest classifications by a major rating service.
2. Up to 25 percent of the assets of the fund on a market value basis may be invested in foreign securities.
 3. The board of trustees shall not invest more than five percent of its assets in the common stock, capital stock or convertible securities of any one issuing company, nor shall the aggregate investment in any one issuing company exceed five percent of the outstanding capital stock of that company. The board shall determine and establish in its written investment policy the maximum investment in common stock, capital stock and convertible securities.
- f. Real estate, provided that the board shall not invest more than ten percent at cost in real property or real estate.
- (3) At least once every three years, and more often as determined by the board, the board shall retain a professionally qualified independent consultant, as defined in F.S. § 175.071, to evaluate the performance of all current investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the board at its next regularly scheduled meeting.
 - (4) The board may retain in cash and keep unproductive of income such amount of the fund as it may deem advisable, having regard for the cash requirements of the system.
 - (5) Neither the board nor any trustee shall be liable for the making, retention or sale of any investment or reinvestment made as provided in this section, nor for any loss or diminishment of the fund, except that due to his or its own negligence, willful misconduct or lack of good faith.
 - (6) The board may cause any investment in securities held by it to be registered in or transferred into its name as trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the trust fund.
 - (7) The board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the fund which it may deem to be to the best interest of the fund to exercise.
 - (8) The board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained in this division.
 - (9) Where any action which the board is required to take or any duty or function which it is required to perform either

under the terms of this division or under the general law applicable to it as trustee under this division, can reasonably be taken or performed only after receipt by it from a member, the city, or any other entity, of specific information, certification, direction or instructions, the board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.

- (10) Any overpayments or underpayments from the fund to a member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the board in such a manner that the actuarial equivalent of the benefit to which the member, retiree or beneficiary was correctly entitled, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Underpayments shall be made up from the fund in a prudent manner.
 - (11) The board shall sustain no liability whatsoever for the sufficiency of the fund to meet the payments and benefits provided for in this division.
 - (12) In any application to or proceeding or action in the courts, only the board shall be a necessary party, and no member or other person having an interest in the fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.
 - (13) Any of the powers and functions in this section reposed in the board may be performed or carried out by the board through duly authorized agents, provided that the board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to the fund shall always remain in the board.
- (Ord. No. 00-12, § 2-119, 6-20-2000; Ord. No. 03-18, § 1, 8-21-2003; Ord. No. 11-01, § 1, 1-20-2011)

Sec. 58-55. Contributions.

(a) *Member contributions.*

- (1) *Amount.* Each member of the system shall be required to make regular contributions to the fund in the amount of 5.5 percent of his salary. Member contributions withheld by the city on behalf of the member shall be deposited with the board immediately after each pay period. The contributions made by each member to the fund shall be designated as employer contributions pursuant to § 414(h) of the Code. Such designation is contingent upon the contributions being excluded from the members' gross income for federal income tax purposes. For all other purposes of the system, such contributions shall be considered to be member contributions.
- (2) *Method.* Such contributions shall be made by payroll deduction.

(b) *State contributions.* Any monies received or receivable by reason of laws of the state, for the express purpose of funding and paying for retirement benefits for firefighters of the city shall be deposited in the fund comprising part of this system immediately and under no circumstances more than five days after receipt by the city.

(c) *City contributions.* So long as this system is in effect, the city shall make quarterly contributions to the fund in an amount equal to the required city contribution, as shown by the applicable actuarial valuation of the system, provided, however, that the city shall have the right to prospectively reduce, subject to collective bargaining, the benefits provided by this system to the extent provided by F.S. ch. 175, in order to reduce the city's portion of the total cost to the amount contributed by the city in the immediately preceding plan year.

(d) *Other.* Private donations, gifts and contributions may be deposited to the fund, but such deposits must be accounted for separately and kept on a segregated bookkeeping basis. Funds arising from these sources may be used only for additional benefits for members, as determined

by the board, and may not be used to reduce what would have otherwise been required city contributions.

(Ord. No. 00-12, § 2-120, 6-20-2000; Ord. No. 2003-07, § 1, 3-20-2003; Ord. No. 11-01, § 1, 1-20-2011)

Sec. 58-56. Benefit amounts and eligibility.

(a) *Normal retirement date.* A member's normal retirement date shall be the first day of the month coincident with, or next following 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. A member may retire on his normal retirement date or on the first day of any month thereafter, and each member shall become 100 percent vested in his accrued benefit on the member's normal retirement date. Normal retirement under the system is retirement from employment with the city on or after the normal retirement date.

(b) *Normal retirement benefit.* A member retiring under the requirements of this section 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 the member's lifetime, ceasing upon death, but with 120 payments guaranteed in any event. The monthly retirement benefit shall be calculated based on an accrual rate of not less than two percent but not more than three percent of average final compensation. The applicable accrual rate shall be determined as follows:

- (1) One to 25 years of credited service: Three percent.
- (2) 25 to 37.5 years of credited service: The accrual rate will be determined by dividing the number of years of credited service by 75 percent.
- (3) More than 37.5 years of credited service: Two percent.

Notwithstanding anything to the contrary, the accrued benefit of any member as of September 30, 2000 shall be preserved.

(c) *Early retirement 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 45 and the completion of ten 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 under this system on his early retirement date may receive either a deferred or an immediate monthly retirement benefit payable in the same form as for normal retirement as follows:

- (1) A deferred monthly retirement benefit which shall commence on what would have been his normal retirement date had he remained a firefighter and shall be continued on the first day of each month thereafter. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement on his normal retirement date except that credited service and average final compensation shall be determined as of his early retirement date.
- (2) An immediate monthly retirement benefit which shall commence on his early retirement date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in subsection (d)(1) of this section, except that the benefit shall be reduced by three percent for each year to age 50 and reduced by three and thirty-three hundredths percent from age 50 to age 45, by which the commencement of benefits precedes the date which would have been the member's normal retirement date had he continued employment as a firefighter. For this purpose, the alternative normal retirement date of completion of 20 years of service shall be disregarded.

(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 March 21, 2003, shall receive a monthly retirement subsidy payment equal to the number

ORDINANCE NO. 11-01

AN ORDINANCE OF THE CITY OF DUNEDIN, AMENDING AND RESTATING CHAPTER 58, PENSIONS AND RETIREMENT, ARTICLE II, RETIREMENT, DIVISION 2, FIREFIGHTERS' RETIREMENT SYSTEM, SECTIONS 58-51 THROUGH 58-79, INCLUSIVE, OF THE CODE OF ORDINANCES OF THE CITY OF DUNEDIN; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Dunedin Firefighters are presently provided pension and certain other benefits under Ordinances of the City of Dunedin and;

WHEREAS, the City Commission desires to clarify and restate the provisions of the Firefighters' Retirement System to consolidate all prior ordinances and Code provisions and to incorporate Federal law and the applicable provisions of Chapter 175, Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA;

SECTION 1: That the City of Dunedin Firefighters' Retirement System is hereby amended and restated as set forth in the document designated THE CITY OF DUNEDIN FIREFIGHTERS' RETIREMENT SYSTEM, attached hereto and made a part hereof.

SECTION 2: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Dunedin.

SECTION 3: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4: 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 5: That these amendments are effective as of July 1, 2009, except as otherwise noted.

SECTION 6: That this Ordinance shall become effective upon its adoption.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN,
FLORIDA, this 20th day of January, 2011.


MAYOR

ATTEST:


CITY CLERK, ACTING

Passed on First Reading: January 6, 2011

Passed on Second Reading: January 20, 2011

CITY OF DUNEDIN FIREFIGHTERS' RETIREMENT SYSTEM

Sec. 58-51. Definitions.

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

Accumulated contribution means a member's own contributions without interest. For those members who purchase credited service with interest or at no cost to the system, any payment representing the amount attributable to member contributions based on the applicable member contribution rate, interest and any required actuarially calculated payments for the purchase of such credited service, shall be included in accumulated contributions.

Actuarial equivalent means a benefit or amount of equal value, based upon the 1983 Group Annuity Mortality Table and an interest rate of seven percent per annum determined on the basis of actuarial equivalency using assumptions adopted by the board such that benefit calculations are not subject to city discretion.

Average final compensation means 1/12 of the average salary of the three best years of the last ten years of credited service prior to retirement, termination, or death. A year shall be 12 consecutive months.

Beneficiary means the person entitled to receive benefits under this division at the death of a member who has or have been designated in writing by the member and filed with the board. If no such designation is in effect, or if no person so designated is living, at the time of death of the member, the beneficiary shall be the estate of the member.

Board means the board of trustees, which shall administer and manage the system provided in this division and serve as trustees of the fund.

Code means the Internal Revenue Code of 1986, as amended from time to time.

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.

Effective date means December 31, 1999.

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. § 633.35, 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.

Fund means the trust fund established in this division as part of the system.

Member means an actively employed firefighter who fulfills the prescribed participation requirements. Benefit improvements which, in the past, have been provided for by amendments to the system adopted by city ordinance, and any benefit improvements which might be made in the future shall apply prospectively and shall not apply to members who terminate employment or who retire prior to the effective date of any ordinance adopting such benefit improvements, unless such ordinance specifically provides to the contrary.

Plan year means the 12-month period beginning October 1 and ending September 30 of the following year.

Retiree means a member who has entered retirement status.

Retirement means a member's separation from city employment with eligibility for immediate receipt of benefits under the system or entry into the Deferred Retirement Option Plan.

Salary means the fixed monthly compensation for services rendered to the city as a firefighter, including holiday pay, plus all tax deferred, tax sheltered and tax exempt items of income otherwise includable as fixed monthly compensation. Compensation in excess of the limitations set forth in § 401(a)(17) of the 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 \$200,000, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). Compensation means compensation during the plan 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 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 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 under this division as in effect on July 1, 1993. An eligible employee is an individual who was a member before the first plan year beginning after December 31, 1995.

Spouse means the lawful wife or husband of a member or retiree at the time benefits become payable.

System means the city firefighters' retirement system as contained in this division and all amendments thereto.

Sec. 58-52. Membership.

(a) Conditions of eligibility.

- (1) All firefighters as of December 31, 1999, and all future new firefighters, shall become members of this system as a condition of employment.
- (2) All future new firefighters after December 31, 1999, shall be required to complete a medical examination as prescribed by the board.

(b) *Designation of beneficiary.* Each firefighter shall complete a form prescribed by the board designating a beneficiary.

Sec. 58-53. Board of trustees.

(a) *Scope of administrative power; composition; election and appointment; terms.* The sole and exclusive administration of and responsibility for the proper operation of the system and for making effective the provisions of this division are hereby vested in a board of trustees. The board is hereby designated as the plan administrator. The board shall consist of five trustees, two of whom, unless otherwise prohibited by law, shall be legal residents of the city, who shall be appointed by the city commission, and two of whom shall be members of the system, who shall be elected by a majority of the firefighters who are members of the system. The fifth trustee shall be chosen by a majority of the previous four trustees as provided for in this subsection, and such person's name shall be submitted to the city commission. Upon receipt of the fifth person's name, the city commission shall, as a ministerial duty, appoint such person to the board of trustees as its fifth trustee. The fifth trustee shall have the same rights as each of the other four trustees appointed or elected as provided in this subsection and shall serve a two-year term unless he sooner vacates the office. Each resident trustee shall serve as trustee for a period of two years, unless he sooner vacates the office or is sooner replaced by the city commission at whose pleasure he shall serve. Each member trustee shall serve as trustee for a period of two years, unless he sooner leaves the employment of the city as a firefighter or otherwise vacates his office as trustee, whereupon a successor shall be chosen in the same manner as the departing trustee. Each trustee may succeed himself in office. DROP participants can be elected as but not vote for elected trustees. The board shall establish and administer the nominating and election procedures for each election. The board shall meet at least quarterly each year. The board shall be a legal entity with, in addition to other powers and responsibilities contained in this division, the power to bring and defend lawsuits of every kind, nature, and description.

(b) *Election of officers; minutes; compensation.* The trustees shall, by a majority vote, elect a chair and a vice-chair/secretary. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

(c) *Voting.* Each trustee shall be entitled to one vote on the board. Three affirmative votes shall be necessary for any decision by the trustees at any meeting of the board. A trustee shall have the right to abstain from voting as the result of a conflict of interest, provided that the trustee complies with the provisions of F.S. § 112.3143.

(d) *Engagement of actuarial, accounting, legal and other services.* The board shall engage such actuarial, accounting, legal, and other services as shall be required to transact the business of the system. The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the system shall be paid from the fund at such rates and in such amounts as the board shall agree. If the board chooses to use the city's legal counsel, actuary or other professional, technical or other advisors, it shall do so only under terms and conditions acceptable to the board.

(e) *Duties and responsibilities.* The duties and responsibilities of the board shall include, but not necessarily be limited to, the following:

- (1) To construe the provisions of the system and determine all questions arising under the system.
- (2) To determine all questions relating to eligibility and membership.
- (3) To determine and certify the amount of all retirement allowances or other benefits under this division.
- (4) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the system.
- (5) To distribute to members, at regular intervals, information concerning the system.
- (6) To receive and process all applications for benefits.
- (7) To authorize all payments whatsoever from the fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the system and fund.
- (8) To have performed actuarial studies and valuations, at least as often as required by law, and make recommendations regarding any and all changes in the provisions of the system.
- (9) To perform such other duties as are required to prudently administer the system.

Sec. 58-54. Finances and fund management; establishment and operation of fund.

(a) As part of the system, there exists the fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the system.

(b) The actual custody and supervision of the fund (and its assets) shall be vested in the board. Payment of benefits and disbursements from the fund shall be made by the disbursing agent but only upon written authorization from the board.

(c) All funds of the firefighters' retirement system may be deposited by the board with the finance director of the city, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the city. However, any funds so deposited with the finance director of the city shall be kept in a separate fund by the finance director or clearly identified as such funds of the firefighters' retirement system. In lieu of such safekeeping, the board shall deposit the funds of the firefighters' retirement system in a qualified

public depository as defined in F.S. § 280.02, which depository with regard to such funds shall conform to and be bound by all of the provisions of F.S. ch. 280. In order to fulfill its investment responsibilities as set forth in this division, the board may retain the services of a custodian bank, an investment advisor registered under Investment Advisors Act of 1940 or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment manager shall have discretion, subject to any guidelines as prescribed by the board, in the investment of all fund assets.

(d) All funds and securities of the system may be commingled in the fund, provided that accurate records are maintained at all times reflecting the financial composition of the fund, including accurate current accounts and entries as regards to the following:

- (1) Current amounts of accumulated contributions of members on both an individual and aggregate account basis; and
- (2) Receipts and disbursements; and
- (3) Benefit payments; and
- (4) Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the city; and
- (5) All interest, dividends and gains (or losses) whatsoever; and
- (6) Such other entries as may be properly required so as to reflect a clear and complete financial report of the fund.

(e) An audit shall be performed annually by a certified public accountant for the most recent fiscal year of the system showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year. Such a report shall reflect a complete evaluation of assets on both a cost and market basis, as well as other items normally included in a certified audit.

(f) The board shall have the following investment powers and authority:

- (1) The board shall be vested with full legal title to the fund; subject, however, and in any event to the authority and power of the city commission to amend or terminate this fund, provided that no amendment or fund termination shall ever result in the use of any assets of this fund except for the payment of regular expenses and benefits under this system, except as otherwise provided in this division. All contributions from time to time paid into the fund, and the income of such contributions, without distinction between principal and income, shall be held and administered by the board or its agent in the fund, and the board shall not be required to segregate or invest separately any portion of the fund.
- (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 limited to:
 - a. Annuity and life insurance contracts with life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the members in the fund shall be entitled under the provisions of this system and pay the initial and subsequent premium thereon.
 - b. Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund or a savings/building and loan association insured by the Savings Association Insurance Fund which is administered by the Federal

Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

- c. Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States or by an agency of the government of the United States.
 - d. Bonds issued by the State of Israel.
 - e. Stocks, commingled funds administered by national or state banks, mutual funds and bonds or other evidences of indebtedness, provided that:
 - 1. Except as provided in subsection (f)(2)e.2 of this section, all individually held securities and all securities in a commingled or mutual fund must be issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia and, in the case of bonds only, shall hold a rating in one of the three highest classifications by a major rating service.
 - 2. Up to twenty-five percent of the assets of the fund on a market value basis may be invested in foreign securities.
 - 3. The board of trustees shall not invest more than five percent of its assets in the common stock, capital stock or convertible securities of any one issuing company, nor shall the aggregate investment in any one issuing company exceed five percent of the outstanding capital stock of that company. The board shall determine and establish in its written investment policy the maximum investment in common stock, capital stock and convertible securities.
 - f. Real estate, provided that the board shall not invest more than ten percent at cost in real property or real estate.
- (3) At least once every three years, and more often as determined by the board, the board shall retain a professionally qualified independent consultant, as defined in F.S. § 175.071, to evaluate the performance of all current investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the board at its next regularly scheduled meeting.
 - (4) The board may retain in cash and keep unproductive of income such amount of the fund as it may deem advisable, having regard for the cash requirements of the system.
 - (5) Neither the board nor any trustee shall be liable for the making, retention or sale of any investment or reinvestment made as provided in this section, nor for any loss or diminishment of the fund, except that due to his or its own negligence, willful misconduct or lack of good faith.
 - (6) The board may cause any investment in securities held by it to be registered in or transferred into its name as trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the trust fund.

- (7) The board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the fund which it may deem to be to the best interest of the fund to exercise.
- (8) The board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained in this division.
- (9) Where any action which the board is required to take or any duty or function which it is required to perform either under the terms of this division or under the general law applicable to it as trustee under this division, can reasonably be taken or performed only after receipt by it from a member, the city, or any other entity, of specific information, certification, direction or instructions, the board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.
- (10) Any overpayments or underpayments from the fund to a member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the board in such a manner that the actuarial equivalent of the benefit to which the member, retiree or beneficiary was correctly entitled, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Underpayments shall be made up from the fund in a prudent manner.
- (11) The board shall sustain no liability whatsoever for the sufficiency of the fund to meet the payments and benefits provided for in this division.
- (12) In any application to or proceeding or action in the courts, only the board shall be a necessary party, and no member or other person having an interest in the fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.
- (13) Any of the powers and functions in this section reposed in the board may be performed or carried out by the board through duly authorized agents, provided that the board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to the fund shall always remain in the board.

Sec. 58-55. Contributions.

- (a) *Member contributions.*
 - (1) *Amount.* Each member of the system shall be required to make regular contributions to the fund in the amount of 5.5 percent of his salary. Member contributions withheld by the city on behalf of the member shall be deposited with the board immediately after each pay period. The contributions made by each member to the fund shall be designated as employer contributions pursuant to § 414(h) of the Code. Such designation is contingent upon the contributions being excluded from the members'

ORDINANCE NO. 86-70

AN ORDINANCE AMENDING SECTION 2-124 OF THE CODE OF ORDINANCES OF THE CITY OF DUNEDIN DEALING WITH ADMINISTRATION OF THE FIREMENS PENSION PLAN; PROVIDING FOR MEMBERSHIP OF THE BOARD OF TRUSTEES; PROVIDING FOR QUALIFICATIONS OF THE BOARD OF TRUSTEES; PROVIDE FOR TERM OF OFFICE OF MEMBERS OF THE BOARD OF TRUSTEES; PROVIDING FOR ELECTION AND APPOINTMENT TO THE BOARD OF TRUSTEES; PROVIDING FOR VACANCIES ON THE BOARD OF TRUSTEES; PROVIDING FOR REIMBURSEMENT OF EXPENSES; PROVIDING FOR AN OATH OF OFFICE; PROVIDING FOR A QUORUM AND VOTING PROCEDURES; PROVIDING FOR REGULATIONS RELATIVE TO ADMINISTRATION OF FUNDS AND EXPULSION OF MEMBERS; PROVIDING FOR THE PURCHASE OF ACTUARIAL SERVICES; PROVIDING FOR DUTIES AND RESPONSIBILITIES OF THE BOARD OF TRUSTEES AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

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

Section 1. That Section 2-124 of the Code of Ordinances of the City of Dunedin, is amended in its entirety to read as follows:

"Section 2-124. Administration

- (a) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this division are hereby vested in a Board of Trustees consisting of five (5) persons as follows:
- (1) Two (2) members to be appointed by the City Commission who are legal residents of the City of Dunedin.
 - (2) Two (2) members shall be firefighters as defined in Section 175.032(1) Florida Statutes and shall be elected by a majority of the firefighters who are actively employed members of the firefighters pension plan.
 - (3) One (1) member to be chosen by a majority of the other four members of the Board of Trustees. Such persons names shall be submitted to the City Commission of the City of Dunedin and upon receipt of such name the City Commission shall appoint such person to the Board of Trustees.

- (b) The regular term of office of each trustee shall be for two (2) years. A trustee may succeed himself in office.
- (c) Firefighter trustees shall be elected in the following manner: by vote of all actively employed members of the Public Safety Department who come within the purview of this division at places designated by the Board, of which all qualified members entitled to vote shall be notified in person or by written notice ten (10) days in advance of said election. The candidate receiving the highest number of votes for office shall be declared elected and shall take office immediately upon commencement of the term of office for which elected or as soon thereafter as he shall qualify therefor. An election shall be held not more than thirty (30) and not less than ten (10) days prior to the commencement of the term for which a trustee is to be elected. The Board shall establish and administer the nominating and election procedure for each election. The Board of Trustees shall elect from among its members a Chairman, and a Secretary, annually.
- (d) If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.
- (e) The trustees shall serve without compensation, but may receive expenses and per diem as provided by law.
- (f) Each trustee shall, within ten (10) days after his appointment, or election and approval, take an oath of office before the City Clerk of the City, that so far as it devolves upon him he will diligently and honestly administer the affairs of the said Board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oaths shall be subscribed to by the trustee making it and certified by the said Clerk and filed in the office of the City Clerk.
- (g) Each trustee shall be entitled to one vote on the Board. Three (3) affirmative votes shall be necessary for a decision by the trustees at any meeting of the Board. The Chairman shall have the right to one (1) vote only and may not cast proxy votes.
- (h) Subject to the limitations of this division, the Board of Trustees shall from time to time establish uniform rules and regulations for the administration of funds created by this division and for transactions of its business, including provisions for expulsion due to non-attendance of its appointed and elected members which could result in a

vacancy. The City Commission shall have the continuing right to remove its appointees serving at its pleasure for any reason deemed appropriate by the City Commission.

- (i) Subject to approval by the City Commission of the selection made, the Board of Trustees shall engage such actuarial, accounting and other similar services as shall be required to transact the business of the retirement system. Compensation of all persons engaged by the Board of Trustees and all other expenses of the Board necessary for the operation of the retirement system shall be paid from the fund at such rates and in such amounts as the Board of Trustees shall determine. Funds may be disbursed by the City Finance Department or other disbursing agent as determined by the Board, but only upon written authorization by the Board of Trustees.
- (j) Any appointed or elected trustee who neglects the duty of his office, as determined by the Board, may be removed by four (4) concurring votes among the Board of Trustees.
- (k) The duties and responsibilities of the Board of trustees shall include but not necessarily be limited to the following:
 - (1) To construe the provisions of this ordinance and determine all questions arising thereunder.
 - (2) To determine all questions relating to eligibility and participation.
 - (3) To determine and certify the amount of all retirement allowances or other benefits hereunder.
 - (4) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the system.
 - (5) To distribute to members at regular intervals information concerning the system.
 - (6) To receive and process all applications for participation and benefits.
 - (7) To authorize all payments whatsoever from the fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the system and fund.
 - (8) To have performed actuarial studies and annual actuarial valuations, and make recommendations regarding any and all changes in the provisions of the system.

(9) To perform such other duties as are specified in this division or by statute."

Section 2. Firefighter members currently holding office shall continue in office until the expiration of their term of office.

Section 3. 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 9th DAY OF October, 1986.


Mayor/Commissioner

ATTEST:


City Clerk

PASSED ON FIRST READING: 25 September 1986
PASSED ON SECOND READING: 9 October 1986

ORDINANCE NO. 80-42

AN ORDINANCE OF THE CITY OF DUNEDIN, FLORIDA, ENACTING INTO LAW AN AMENDED PENSION PLAN FOR FIREFIGHTERS; PROVIDING FOR AN ORDERLY TRANSFER OF FUNDS TO THE NEW FUND; PROVIDING FOR THE ESTABLISHMENT OF A NEW BOARD OF TRUSTEES; PROVIDING A SAVING CLAUSE; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Dunedin Firefighters are presently provided pension and certain other benefits under Chapter 175, F.S.A., and

WHEREAS, the City Commission is desirous of updating the Municipal Firemen's Pension Trust Fund; and

WHEREAS, the City Commission, the City Administration, and the Trustees of the Municipal Firemen's Pension Trust Fund, upon extensive examination of the present Plan and the proposed City of Dunedin Firefighters' Retirement System desire to adopt the proposed Retirement System; and,

WHEREAS, the proposed Retirement System preserves all benefits accrued to date under the present Trust Fund,

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

SECTION 1 - DEFINITIONS - As used herein, unless otherwise defined by context, the following words and phrases shall have the meaning indicated:

1. City means City of Dunedin, Florida
2. System means the City of Dunedin Firefighters' Retirement System as contained herein and all amendments thereto.
3. Fund means the Trust Fund established herein as part of the system
4. Board means the Board of Trustees, which shall administer and manage the System herein provided and serve as Trustees of the Fund.
5. Employee shall mean all actively employed employees of the City, including those in their initial probationary employment period, classified as full-time Firefighters, but shall exclude all civilian members of the Fire Department.

OPTION 3 - Other - In lieu of the other optional forms enumerated in this section, benefits may be paid in any form approved by the Board so long as actuarial equivalence with the benefits otherwise payable is maintained.

SECTION 5 - CONTRIBUTIONS

1. Member Contributions

- a. Amount - Members of the Retirement System shall make regular contributions to the Fund at a rate equal to 5% of their respective Earnings.
- b. Duration - Contributions shall be deducted from said Earnings before the same are paid, until the Member retires, dies, becomes disabled, or otherwise terminates employment with the City as an Employee as defined hereunder or until such Member has accrued the full 75% retirement benefit.
- c. Interest - No interest shall be credited to Member Contributions.
- d. Guaranteed Refund - All benefits payable under this System are in lieu of a refund of Accumulated Contributions. In any event, however, each Member shall be guaranteed the payment of benefits on his behalf at least equal in total amount to his Accumulated Contributions.

2. State Contributions

Any monies received or receivable by reason of laws of the State of Florida, for the express purpose of funding and paying for retirement benefits for Firefighters of the City shall be deposited in the Trust Fund comprising part of this System.

3. City Contributions

So long as this System is in effect, the City shall make an annual contribution to the Trust Fund in an amount equal to the difference in each year as between the total aggregate Member contributions for the year plus State contributions for the year and the total cost for the year as shown by the most recent actuarial valuation of the System. The total cost for any year shall be defined as the total Normal Cost plus the additional amount sufficient to amortize the Unfunded Past Service Liability over a forty (40) year period commencing with the fiscal year in which the Effective date of this System occurs.

4. Other

Private donations, gifts and contributions may be deposited to the Fund, but such deposits must be accounted for separately and kept on a segregated bookkeeping basis. Funds arising from these sources may be used only for additional benefits for Members, as determined by the Board, and may not be used to reduce what would have otherwise been required City contributions.

SECTION 6 - ADMINISTRATION

1. The general administration and responsibility for the proper operation of the Retirement System and for

making effective the provisions of this Ordinance are hereby vested in a Board of Trustees consisting of 5 persons as follows:

- a. One Public Member to be appointed by the City Commission;
 - b. The Mayor or a Public Member nominated by the Mayor subject to approval by the City Commission;
 - c. The Fire Chief or other individual occupying a similar functional position; and
 - d. Two Employee members of the Fire Department to be elected by a majority of the actively employed Members and approved by the City Commission, as hereinafter provided.
2. The regular term of office of each Employee Trustee and of Public Member Trustees shall be 2 years. The Employee Trustees shall be 2 years. The Employee Trustees and the Public Member Trustee under the prior Pension Trust Fund immediately preceding the Effective date of this System shall continue in office as Trustees for the duration of their original terms.
 3. Future Employee Trustees shall be elected in the following manner: by vote of all actively employed members of the Fire Department who come within the purview of this Ordinance at places designated by the Board, of which all qualified members entitled to vote shall be notified in person or by written notice ten days in advance of said election. The candidate receiving the highest number of votes for office shall be declared elected, and upon approval by the City Commission shall take office immediately upon commencement of the term of office for which elected or as soon thereafter as he shall qualify therefor. In the event that 2 Trustees are elected in the first election held under this Ordinance, the candidate with the second highest number of votes shall be elected for a term of 1 year only. An election shall be held not more than 30 and not less than 10 days prior to the commencement of the term for which a Trustee is to be elected. The Board shall establish and administer the nominating and election procedure for each election. The Board of Trustees shall elect from among its members a Chairman, Vice Chairman, and Secretary, annually.
 4. If a vacancy occurs in the office of Trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.
 5. The Trustees shall serve without compensation, but they may be reimbursed from the Fund for all necessary expenses which they may actually expend through service on the Board.
 6. Each Trustee shall, within 10 days after his appointment, or election and approval, take an oath of office before the City Clerk of the City, that so far as it develops upon him he will diligently and honestly administer the affairs of the said Board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the Retirement System. Such oath shall be subscribed to by the members making it and certified by

the said Clerk and filed in the office of the City Clerk.

7. Each Trustee shall be entitled to one vote on the Board. Three affirmative votes shall be necessary for a decision by the Trustees at any meeting of the Board. The Chairman shall have the right to one vote only and may not cast proxy votes. No Trustee may vote on any matter in which he has a personal interest different than the other members.
8. Subject to the limitations of this Ordinance the Board of Trustees shall from time to time establish uniform rules and regulations for the administration of funds created by this Ordinance and for transactions of its business, including provisions for expulsion due to non-attendance of its appointed and elected members which could result in a vacancy.
9. Subject to approval by the City of the selection made, the Board of Trustees shall engage such actuarial, accounting, and other similar services as shall be required to transact the business of the Retirement System. The compensation of all persons engaged by the Board of Trustees and all other expenses of the Board necessary for the operation of the Retirement System shall be paid from the Fund at such rates and in such amounts as the Board of Trustees shall determine. Funds may be disbursed by the City Finance Department or other disbursing agent as determined by the Board, but only upon written authorization by the Board of Trustees.
10. Any appointed or elected Trustee who neglects the duties of his office, as determined by the Board, may be removed by a concurring votes among the Board of Trustees.
11. The duties and responsibilities of the Board of Trustees shall include, but not necessarily be limited by the following:
 - a. To construe the provisions of the System and determine all questions arising thereunder.
 - b. To determine all questions relating to eligibility and participation.
 - c. To determine and certify the amount of all retirement allowances or other benefits hereunder.
 - d. To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the System.
 - e. To distribute to Members at regular intervals information concerning the System.
 - f. To receive and process all applications for participation and benefits.
 - g. To authorize all payments whatsoever from the Fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the System and Fund.
 - h. To have performed actuarial studies and annual actuarial valuations, and make recommendations regarding any and all changes in the provisions of the System.

- i. To perform such other duties as are specified in this Ordinance.

SECTION 7 - FINANCES AND FUND MANAGEMENT

Establishment and Operation of Fund

1. As part of the System there is hereby established the Fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the System, including the assets of the prior Municipal Firemen's Pension Trust Fund.
2. The actual custody and supervision of the Fund (and assets thereof) shall be vested in the Board of Trustees. Payment of benefits and disbursements from the Fund shall be made by the disbursing agent but only upon written authorization from the Board.
3. The Board, in its sole discretion, shall be required to appoint a National or State Bank with Trust powers for the purpose of serving as Custodian of the Fund and assets of the Fund shall be promptly and continually deposited therewith. In order to fulfill its investment responsibilities as set forth herein, the Board, in its sole discretion, shall be required to retain the services of the Custodian Bank, an investment advisor registered under Investment Advisors Act of 1940, an insurance company, or a combination of these, for purposes of investment decisions and management. Such investment manager shall have full discretion, subject to any broad guidelines as prescribed by the Board, in the investment of all Fund assets.
4. All funds and securities of the System may be commingled in the Fund, provided that accurate records are maintained at all times reflecting the financial composition of the Fund, including accurate current accounts and entries as regards the following:
 - a. Current amounts of Accumulated Contributions of Members on both an individual and aggregate account basis, and
 - b. Receipts and disbursements, and
 - c. Benefit payments, and
 - d. Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the City, and
 - e. All interest, dividends and gains (or losses) whatsoever, and
 - f. Such other entries as may be properly required so as to reflect a clear and complete financial report of the Fund.

The annual certified audit and report shall be performed by an accounting firm chosen by the Board. Such report shall reflect a complete valuation of assets on both a cost and market basis, as well as other items normally included in a certified audit.

5. The Board of Trustees shall have the following investment powers and authority:

- a. The Board of Trustees shall be vested with full legal title to said Fund, subject however, and in any event to the authority and power of the City Commission to amend or terminate this Trust, provided that no amendment or Fund termination shall ever result in the use of any assets of this Fund except for the payment of regular expenses and benefits under this System. All contributions from time to time paid into the Fund, and the income thereof, without distinction between principal and income, shall be held and administered by the Board or its Agent in the Fund and the Board shall not be required to segregate or invest separately any portion of the Fund.
- b. The Fund may be invested and reinvested in such securities or property, real or personal, wherever situated and of whatever kind, as shall be approved by the Board of Trustees, including but not limited to stocks, common or preferred, and bonds, and other evidences of indebtedness or ownership.
- c. The Board of Trustees may retain in cash and keep unproductive of income such amount of the Fund as it may deem advisable, having regard for the cash requirements of the System.
- d. No person or entity shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the Fund, except that due to his or its own negligence, willful misconduct or lack of good faith.
- e. The Board may cause any investment in securities held by it to be registered in or transferred into its name as Trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability but the books and records shall at all times show that all investments are part of the Trust Fund.
- f. The Board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the Trustee or with depositories designated thereby; to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally, to exercise any of the power of an owner with respect to stocks, bonds, or other investments comprising the Fund which it may deem to be to the best interest of the Fund to exercise.
- g. The Board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power herein contained.

- h. Where any action which the Board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as Trustee under this Ordinance, can reasonably be taken or performed only after receipt by it from a Member, the City, or any other entity, of specific information, certification, direction or instructions, the Board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.
 - i. Any overpayments or underpayments from the Fund to a Member or Beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the Board. Overpayments shall be charged against payments next succeeding the correction. Underpayments shall be made up from the Trust Fund.
 - j. The Board shall sustain no liability whatsoever for the sufficiency of the Fund to meet the payments and benefits herein provided.
 - k. In any application to or proceeding or action in the courts, only the City and the Board shall be necessary parties, and no Member or other person having an interest in the Fund shall be entitled to any notice of service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.
6. Any of the foregoing powers and functions reposed in the Board may be performed or carried out by the Board through duly authorized Agents, provided that the Board at all times maintains continuous supervision over the acts of any such Agent; provided, further, that legal title to said Fund shall always remain in the Board of Trustees.

SECTION 8 - REPEAL OR TERMINATION OF SYSTEM

- 1. This Ordinance establishing the System and Fund, and subsequent Ordinances pertaining to said System and Fund, may be modified, terminated, or amended, in whole or in part; provided that if this or any subsequent Ordinance shall be amended or repealed in its application to any person benefiting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to the Member or Beneficiary shall not be affected thereby, except to the extent that the assets of the Fund may be determined to be inadequate.
- 2. If this Ordinance shall be repealed, or if contribution to the System are discontinued, the Board shall continue to administer the System in accordance with the provisions of this Ordinance, for the sole benefit of the then Members, any Beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one of the Options provided for in this Ordinance who are designated by any of said Members. In the event of repeal or if contributions to the System are discontinued, there shall be full vesting (100%) of benefits accrued to date of repeal and the assets of the System shall be allocated in an equitable manner to

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City of Dunedin
750 Milwaukee Avenue
Dunedin, Florida 33528

provide benefits on a proportionate basis to the persons so entitled to benefits in accordance with the provisions hereof.

3. The following shall be the order of priority for purposes of allocating the assets of the System as of the date of repeal of this Ordinance, or if contributions to the System are discontinued with the date of such discontinuance being determined by the Board.
 - a. Apportionment shall first be made in respect of each retired Firefighter receiving a retirement or disability benefit hereunder on such date, each person receiving a benefit on such date on account of a retired or disabled (but since deceased) Firefighter, and each Firefighter who has, by such date, become eligible for Early or Normal Retirement but has not yet retired, an amount which is the actuarial equivalent of such benefit, provided that, if such asset value be less than the aggregate of such amounts, such amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such asset value.
 - b. If there be any asset value remaining after the apportionment under sub-paragraph a, apportionment shall next be made in respect of each Firefighter in the service of the City on such date who has completed at least ten years of Credited Service and who is not entitled to an apportionment under subparagraph a, in the amount required to provide the actuarial equivalent of the accrued Normal Retirement benefit, based on the Credited Service and Average Monthly Earnings as of such date, and each vested Member then entitled to a deferred benefit who has not, by such date, begun receiving benefit payments, in the amount required to provide the actuarial equivalent of the accrued Early or Normal Retirement benefit, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.
 - c. If there be any asset value after the apportionments under subparagraph a and b, apportionment shall be made in respect of each Firefighter in the City on such date who is not entitled to an apportionment under subparagraphs a and b in the amount equal to his Accumulated Contributions, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.
 - d. If there be any asset value remaining after the apportionments under subparagraphs a, b and c, apportionment shall lastly be made in respect of each Firefighter included in subparagraph c above to the extent of the actuarial equivalent of the accrued Normal Retirement benefit, less the amount apportioned in subparagraph c, based

on the Credited Service and Average Monthly Earnings as of such date, provided that, if such remaining asset value be less than the aggregate of the amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

- e. In the event that there be asset value remaining after the full apportionment specified in subparagraphs a, b, c, and d, such excess shall be returned to the City, less return of the State's contributions to the State, provided that, if the excess is less than the total contributions made by the City and the State to the date of termination such excess shall be divided proportionately to the total contributions made by the City and the State.

The allocation of the Fund provided for in this subsection may, as decided by the Board be carried out through the purchase of insurance company contracts to provide the benefits determined in accordance with this subsection. The Fund may be distributed in one sum to the persons entitled to said benefits or the distribution may be carried out in such other equitable manner as the Board may direct. The Trust may be continued in existence for purposes of subsequent distributions.

If, at any time during the first ten years after the Effective Date of the System, the System shall be terminated or the full current costs of the System shall not have been met, anything in this Ordinance to the contrary notwithstanding, City contributions which may be used for the benefit of any one of the 25 highest paid Employees of the City on the Effective Date, whose anticipated annual retirement allowance provided by the City's contributions at his Normal Retirement Date would exceed \$1,500, shall not exceed the greater of either (a) \$20,000 or (b) an amount computed by multiplying the smaller of \$10,000 or twenty percentum of such Employee's average annual earnings during his last five years of service by the number of years of service since the Effective Date. In the event that it shall hereafter be determined by statute, court decision, ruling by the Commissioner of Internal Revenue or otherwise, that the provisions of this paragraph are not then necessary to qualify the System under the Internal Revenue Code, this paragraph shall be ineffective without the necessity of further amendment of this Ordinance.

4. After all the vested and accrued benefits provided hereunder have been paid and after all other liabilities have been satisfied, including a return to the State of Florida of funds as required under Chapter 175, Florida Statutes, then and only then shall any remaining funds revert to the general fund of the City.

SECTION 9 - MISCELLANEOUS

1. Medical Board - the Board of Trustees shall designate a Medical Board to be composed of three (3) physicians but limited to either M.D.'s and/or D.O.'s, who shall arrange for and pass upon all medical examinations required under the provisions of this Ordinance, shall investigate all essential statements or certificates

made by or on behalf of a Member in connection with an application for disability or retirement and shall report in writing to the Board of Trustees its conclusions and recommendations upon all matters referred to it. The payment for such services shall be determined by the Board of Trustees.

2. Discharged Members - Members entitled to a pension shall not forfeit the same upon dismissal from the Department, but shall be retired as herein described.
3. Non-Assignability - No benefit provided for herein shall be assignable or subject to garnishment for debt or for other legal process.
4. Pension Validity - The Board of Trustees shall have the power to examine into the facts upon which any pension shall heretofore have been granted under any prior or existing law, or shall hereafter be granted or obtained erroneously, fraudulently, or illegally for any reason. Said Board is empowered to purge the pension roll of any person heretofore granted a pension under prior or existing law or heretofore granted under this Ordinance if the same is found to be erroneous, fraudulent or illegal for any reason; and to reclassify any pensioner who has heretofore under any prior or existing law or who shall hereafter under this Ordinance be erroneously, improperly or illegally classified.
5. Incompetents - If any Member or Beneficiary is a minor or is, in the judgment of the Board, otherwise incapable of personally receiving and giving a valid receipt for any payment due him under the System, the Board may, unless and until claims shall have been made by a duly appointed guardian or committee of such person, make such payment or any part thereof to such person's Spouse, children or other person deemed by the Board to have incurred expenses or assumed responsibility for the expenses of such person. Any payment so made shall be a complete discharge of any liability under the System for such payment.

SECTION 10

That upon the transfer of the assets from the Trustees of the Municipal Firemen's Pension Trust Fund to the Dunedin Firefighters' Retirement System, the Board of Trustees of the Municipal Firemen's Pension Trust Fund is dissolved.

SECTION 11

Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Dunedin.

SECTION 12

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

SECTION 13

This Ordinance shall take effect immediately upon final passage and adoption.

SECTION 14

That should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be

declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part to be declared invalid.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS 21st DAY OF AUGUST, 1980.

ATTEST:

R. E. Jernick
City Clerk

Cecil R. Eppel
Mayor-Commissioner

PASSED ON FIRST READING: 7 AUGUST 1980

PASSED ON SECOND READING: 21 AUGUST 1980