



Writer's email: adam@robertdklausner.com

November 6, 2020

Ray Carter, Fire Chief
City of Boynton Beach
2080 High Ridge Road
Boynton Beach, FL 33426

Shawn Weeks
Local 1891, President
2080 High Ridge Road
Boynton Beach, FL 33426

Re: Boynton Beach Fire Pension
Our File No.: 900334

Dear Chief Carter & President Weeks:

As discussed with the Boynton Beach Firefighter Pension Board this week, the purpose of this letter is to allow labor and management the opportunity to provide input and/or clarification on the intended application of the maximum benefit cap contained in Section 18-180 of the Plan.

At the recent Board meeting, several Plan members inquired whether the benefit cap applied to the life annuity. As discussed, the actuary is currently applying the cap to all optional forms of benefit. The actuary does so by first applying the cap to the ten-year certain option, which is the normal form of benefit. Other benefit options are then actuarially adjusted (up or down) based on the form of benefit selected by the member.

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If a member selects the life annuity, the monthly benefit is actuarially adjusted up and will result in a higher monthly benefit for the member's lifetime, as the Fund will bear no liability for a survivor benefit after the death of the member. Our office has opined that the life annuity may thus exceed the maximum benefit cap when calculated in this manner as it is the same lifetime dollar value payable on behalf of the member under the cap based on the value of the normal form of retirement.

In later 2018 when the cap was negotiated, the Board's actuary was tasked with reviewing the accrued benefit for "grandfathered" members. Section 11 of the Ordinance provides that the accrued benefit for grandfathered members (who were eligible for normal retirement in 2019) would be exempt from the cap.

The actuary also reviewed the accrued benefit of members who were close to normal retirement eligibility. Based on payroll at the time, it was not anticipated that members close to normal retirement eligibility would be impacted by the cap.

A year later it turns out that at least one pending retirement would be impacted by the cap due to higher than anticipated earnings.

Attached hereto are copies of Ordinance 19-009 which was subsequently amended by Ordinance 20-003. While our office was involved in the drafting of the ordinances, we cannot speak to the parties' intent at the bargaining table. With that said, the Plan's actuary is valuing the cap as applying to all forms of benefit, adjusted from the normal form of benefit.

It is our view that interpretation of the collective bargaining agreement is a matter best left to the parties to that agreement. As you are both aware, the exclusive means of interpreting the collective bargaining agreement is the grievance arbitration process provided for in Section 447.401, Fla. Stat. The Board has no standing or role in that process. If, however, the parties do not determine between themselves the meaning of the negotiated benefit cap, it will fall to the Board of Trustees to determine the meaning of the plan as provided in Section 175.071(5) Fla. Stat., and incorporated by Section 18-179 of the Boynton Beach City Code.

If the Board is advised that the City and the union will be seeking an interpretation of the benefit cap provision, the Board will defer to the parties' ultimate interpretation of their own labor contract, whether by mutual agreement or alternative dispute resolution.

The Board would appreciate your collective advice as to whether you will be resolving this issue in an alternate forum or whether it is the wish of the parties to leave that matter to the Board.

November 6, 2020
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As directed by the Board, our office and the actuary are available to answer any questions. A copy of the impact statement for Ordinance 19-009 is also attached, along with Addendum E which contains the negotiated language at issue.

Respectfully,

/s/ Adam P. Levinson
ADAM P. LEVINSON

APL/yv

Enclosures

cc: City Attorney's Office
John Raybuck, Chair
Dave Williams, Administrator

ORDINANCE NO. 19-009

AN ORDINANCE OF THE CITY OF BOYNTON BEACH AMENDING CHAPTER 18, ARTICLE IV, PENSIONS FOR FIREFIGHTERS; AMENDING SECTION 18-180 TO PROVIDE A MAXIMUM BENEFIT CAP OF \$95,000; AMENDING SECTION 18-180.1 TO PROVIDE FOR A REVISED EARLY RETIREMENT DATE FOR NEWLY HIRED FIREFIGHTERS; AMENDING SECTION 18-185 TO PROVIDE FOR A REVISED NORMAL RETIREMENT DATE FOR NEWLY HIRED FIREFIGHTERS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Boynton Beach and the International Association of Firefighters, Local 1891 have negotiated amendments to the Boynton Beach Firefighter Pension Trust Fund;

WHEREAS, Addendum "E" to the parties' collective bargaining agreement provides for a revised benefit structure for new firefighters. In particular, Addendum "E" provides for revised early and normal retirement dates for newly hired firefighters;

WHEREAS, Addendum "E" also provides for a maximum benefit cap of \$95,000 for active firefighters, as permitted by law;

WHEREAS, the Board of Trustees of the Boynton Beach Firefighter Pension Trust Fund has recommended the adoption of an Ordinance to codify Addendum "E";

WHEREAS, the City Commission of the City of Boynton Beach, desires to amend Chapter 18 of the Code of Ordinances of the City as recommended by the Board of Trustees.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOYNTON BEACH, FLORIDA:

Section 1. The foregoing Whereas clauses are true and correct and are now ratified and confirmed by the City Commission.

Section 2: Section 18-180 is hereby amended to read as follows:

Sec. 18-180. Monthly retirement income.

(a) The amount of monthly retirement income payable to a firefighter who retires on or after the firefighter's normal retirement date shall be an amount equal to the number of the firefighter's years of credited service multiplied by 3% of such firefighter's average final compensation. Effective October 1, 2018 the maximum normal retirement benefit shall be capped at ninety-five thousand dollars (\$95,000)(hereinafter the "maximum benefit cap"). The maximum benefit cap will be increased annually beginning on the first (1st) day of October 2023 (and on each October 1st thereafter) by one and a half percent (1.5%). The maximum benefit cap shall also apply to early retirement, deferred vested retirement and disability retirement. In the case of early retirement and deferred vested retirement, the maximum benefit cap shall be applied to the normal retirement benefit before reflecting any reductions for early retirement. At all times, the Plan shall comply with the maximum benefit limitations of IRS Code Section 415(d) and all applicable Treasury Regulations.

(b) ~~In no event may a member's annual benefit exceed the lesser of:~~

(1) ~~Ninety thousand dollars (adjusted for cost of living in accordance with Internal Revenue Code (IRC) Section 415(d), but only for the year in which such adjustment is effective); or~~

(2) ~~One hundred percent of the average annual compensation for the member's three highest paid consecutive years; however, benefits of up to \$10,000 a year can be paid without regard to the 100% limitation if the total retirement benefits payable to a member under all defined benefit plans (as defined in IRC, Section 141(j)) maintained by the city for the present and any prior year do not exceed \$10,000 and the city has not at any time maintained a defined contribution plan (as defined in IRC, Section 414(i)), in which the employee was a member.~~

~~If a member has less than ten years of service with the city, the applicable limitation in paragraph (1) or paragraph (2) of this subsection shall be reduced by multiplying such limitation by a fraction, not to exceed one. The numerator of such fraction shall be the number of years, or part thereof, of service with the city; the denominator shall be ten years.~~

~~For purposes of this subsection, "annual benefit" means a benefit payable annually in the form of a straight life annuity with no ancillary or incidental benefits and with no member or rollover contributions. To the extent that ancillary benefits are provided, the limits set forth in paragraphs (1) and (2) above will be reduced actuarially, using an interest rate assumption equal to the greater of 5% or the rate used for actuarial equivalence, to reflect such ancillary benefits.~~

~~If distribution of retirement benefits begins before age 62, the dollar limitation as described in paragraph (1) shall be reduced actuarially using an interest rate assumption equal to the greater of 5% of the interest rate used for actuarial equivalence; however, retirement benefits~~

shall not be reduced below seventy five thousand dollars (\$75,000.00) if payment of benefits begins at or after age fifty five (55) and not below the actuarial equivalent of seventy five thousand dollars (\$75,000.00) if payment of benefits begins before age fifty five (55). For a member with fifteen (15) or more years of service with the city, the reductions described above shall not reduce such member's benefit below fifty thousand dollars (\$50,000.00) (adjusted for cost of living in accordance with IRS Section 415(d), but only for the year in which such adjustment is effective). If retirement benefits begin after age sixty five (65), the dollar limitation of paragraph (1) shall be increased actuarially by using an interest assumption equal to the lesser of five (5) percent or the rate used for actuarial equivalence.

For purposes of this subsection, the "average annual compensation for a member's three (3) highest paid consecutive years" shall mean the member's greatest aggregate compensation during the period of three (3) consecutive calendar years in which the individual was an active member of the plan. The sum of the defined benefit fraction and the defined contribution fraction for all qualified plans of the city for each common participant shall not exceed one (1.0).

Section 3: Section 18-180.1 is hereby amended to read as follows:

Sec. 18-180.1 Computation of monthly retirement income in the instance of early retirement.

The benefit payable for early retirement shall be the same as determined for normal retirement, as set forth in section 18-180, less three (3) per cent for each year or portion thereof of which the member's actual retirement date precedes the date which would have been the member's normal retirement date had such member remained in full-time employment with the city. For all new members hired on or after February 5, 2019 (hereinafter "Tier 2 members"), early retirement shall be available at age fifty (50) with at least ten (10) years of service, reduced by less the three (3) per cent per year early retirement reduction described above. The maximum benefit cap established in 2019 shall apply to early retirement benefits, but for calculation purposes shall be actuarially determined based on the member's normal retirement benefit.

Section 4: Section 18-183 is hereby amended to read as follows:

Sec. 18-182 Disability retirement benefits.

(a) Service incurred. Any member who receives a medically substantiated service connected injury, disease or disability, which injury, disease or disability totally and permanently disables such member to the extent that, in the opinion of the board of trustees, the member is wholly prevented from rendering useful and efficient service as a firefighter, shall receive a monthly benefit equal to sixty-six and two-thirds ($66 \frac{2}{3}$) per cent of the member's basic rate of earnings in effect on the date of disability. Such benefit shall be payable on the first day each month, commencing on the first day of the month following the latter to occur of the date on which the disability has existed for three (3) months and the date the board of trustees approved the payment of such retirement income. In the event of recovery prior to the otherwise normal retirement date, credit for service during the period of disability shall be granted for purposes of subsequent retirement benefits. The amount of the disability benefit

payable from the fund shall be reduced by any amounts paid or payable as disability benefits from workers' compensation and the federal social security system. The reduction for social security benefits shall be in the amount of the primary insurance amount (PIA) only, and future increase, if any, in the disabled member's social security disability benefit shall not serve to reduce any further the disability benefit from the fund. The reduction for social security shall terminate upon the attainment of age sixty-five (65). For purposes of compliance with Chapter 175, Florida Statutes, service-incurred disability benefits shall not be offset below 42% of average final compensation. The maximum benefit cap established in 2019 shall apply to service incurred disability retirement benefits under this subsection.

(b) Nonservice incurred. Any member with ten (10) years of continuous service who receives a nonservice incurred injury, illness, disease or disability, and which illness, injury, disease or disability totally and permanently disables such member to the extent that, in the opinion of the board of trustees, the member is wholly prevented from rendering useful and efficient service as a firefighter, shall receive from the fund in equal monthly installments an amount equal to two and one-half (2½) per cent of that member's average final compensation for each year of continuous service until death or recovery from disability, whichever shall first occur; Such benefit shall be payable on the first day of each month, commencing on the first day of the month following the latter to occur of the date on which the disability has existed for three (3) months and the date the board of trustees approved the payment of such retirement income. For purposes of compliance with F.S. Chapter 175, the minimum nonservice-incurred disability benefit shall be 25% of average final compensation. The maximum benefit cap established in 2019 shall apply to non-service incurred disability retirement benefits under this subsection.

Section 5: Section 18-185 is hereby amended to read as follows:

Sec. 18-185 Normal retirement date.

The normal retirement date of each firefighter will be the first day of the month coinciding with, or next following, the earlier of the date on which such firefighter has attained and completed twenty (20) years of service, regardless of age, or at fifty-five (55) years of age with ten (10) years of service. There is no age requirement for a normal retirement. For all members first hired on or after February 5, 2019 (hereinafter "Tier 2 members"), the normal retirement date will be the first day of the month coinciding with or next following the date on which the firefighter has attained and completed twenty-five (25) years of service, regardless of age, or at fifty-five (55) years of age with ten (10) years of service. If a Tier 2 member separates from service with less than twenty-five (25) years of service the normal retirement date shall be the first day of the month coinciding with, or next following, attainment of age fifty-five (55).

Section 6: That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

163 Section 7: Should any section or provision of this ordinance or portion hereof, any
164 paragraph, any sentence, or word be declared by a court of competent jurisdiction to be invalid,
165 such decision shall not affect the remainder of this ordinance.

166 Section 8: Authority is hereby granted to codify this ordinance.

167 Section 9: As agreed by the parties, the sum of \$150,000 of Chapter 175 insurance
168 premium taxes (IPT) shall be used to reduce the Pension Fund's unfunded liability as follows:
169 \$75,000 of IPT shall be allocated effective October 1, 2019 and \$75,000 of IPT shall be
170 allocated effective October 1 2020, consistent with SB 172 and past practice.

171 Section 10: Once this Ordinance shall become effective the \$95,000 cap shall not be
172 interpreted as applying to the accrued benefit of any grandfathered members as of October 1,
173 2018. For purposes of this section, "grandfathered member" shall include existing retirees,
174 deferred vested members, DROP participants and currently employed firefighters who are
175 presently eligible for normal retirement.

176 Section 11. This Ordinance shall take effect when the following conditions precedent
177 to the adoption of this Ordinance have occurred.

178 (a) the City Commission has received and has accepted a report establishing the actuarial
179 soundness of these amendments or a letter of opinion from the Plan Actuary that the amendment
180 has no actuarial impact; and

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182 (b) the Ordinance and impact statement have been sent to the State of Florida Division of
183 Retirement; and

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185 (c) the IAFF has advised the City in writing that they have accept the changes proposed
186 in this ordinance and waive both pre-implementation and impact bargaining.

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188 (d) the Boynton Beach Firefighter Pension Board Attorney has provided the City with a
189 written legal opinion that the amendments are in accord with all State and Federal Statutes and
190 Regulations.

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FIRST READING this 5th day of February, 2019.

SECOND, FINAL READING AND PASSAGE this ____ day of _____, 2019.

CITY OF BOYNTON BEACH, FLORIDA

YES NO

Mayor – Steven B. Grant

Vice Mayor – Christina L. Romelus

Commissioner – Mack McCray

Commissioner – Justin Katz

Commissioner – Aimee Kelley

VOTE

ATTEST:

Judith A. Pyle, CMC
City Clerk

(Corporate Seal)

ORDINANCE NO. 20-003

AN ORDINANCE OF THE CITY OF BOYNTON BEACH, FLORIDA; AMENDING CHAPTER 18, ARTICLE IV, PENSIONS FOR FIREFIGHTERS; AMENDING SECTION 18-180 TO INCREASE THE MAXIMUM BENEFIT CAP BEGINNING IN 2020; AMENDING SECTION 18-182(g) TO ALIGN THE DEATH BENEFIT WITH THE ACCRUED BENEFIT; AMENDING SECTION 18-182(i) OF THE CITY CODE TO IMPLEMENT THE CONCLUSIVE CANCER PRESUMPTION ESTABLISHED BY SECTION 112.1816, FLA. STAT., AND THE REBUTTABLE DISEASE PRESUMPTIONS UNDER SECTIONS 112.18, 112.181 AND 175.231, FLA. STAT; CREATING SECTION 18-194 TO PROVIDE FOR A UNIFORM DROP BENEFIT FOR NEWLY HIRED FIREFIGHTERS; RENUMBERING SECTION 18-222 AS SECTION 18-194 TO GOVERN DROP BENEFITS FOR GRANDFATHERED MEMBERS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Boynton Beach and Local 1891 have negotiated a new collective bargaining agreement addressing pension and related matters.

WHEREAS, the Board of Trustees of the City of Boynton Beach Municipal Firefighters Pension Trust Fund has prepared this ordinance to implement the parties' agreement.

WHEREAS, the Florida Legislature has created a conclusive duty-related cancer presumption.

WHEREAS, Senate Bill 426 (SB 426) amends Chapter 112, Florida Statutes, by creating Section 112.1816, governing disability and death benefits for firefighters.

WHEREAS, SB 426 governs all Firefighter Pension Plans in Florida.

WHEREAS, the Board of Trustees of the City of Boynton Beach Municipal Firefighters Pension Trust Fund has prepared this ordinance to implement SB 426, effective July 1, 2019.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOYNTON BEACH, FLORIDA, THAT:

Section 1: The foregoing "Whereas" clauses are true and correct and incorporated herein by this reference.

Section 2: Section 18-180 of the Code of Ordinances of the City of Boynton Beach is hereby amended to read as follows:

47
48 **Sec. 18-180. Monthly retirement income.**
49

- 50 (a) The amount of monthly retirement income payable to a firefighter who retires on or
51 after the firefighter's normal retirement date shall be an amount equal to the number of
52 the firefighter's years of credited service multiplied by 3% of such firefighter's average
53 final compensation. Effective October 1, 2018 the maximum normal retirement benefit
54 shall be capped at ninety-five thousand dollars (\$95,000) (hereinafter the "maximum
55 benefit cap"). The maximum benefit cap will be increased annually beginning on the
56 first day of October 2023 2020 (and on each October 1 thereafter) by one and a half
57 percent (1.5%). The maximum benefit cap shall also apply to early retirement, deferred
58 vested retirement and disability retirement. In the case of early retirement and deferred
59 vested retirement, the maximum benefit cap shall be applied to the normal retirement
60 benefit before reflecting any reductions for early retirement. At all times, the plan shall
61 comply with the maximum benefit limitations of IRS Code Section 415(d) and all
62 applicable Treasury Regulations.

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64 Section 3: Section 18-182(g) of the Code of Ordinances of the City of Boynton Beach is
65 hereby amended to read as follows:
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67 **Section 18-182. Disability retirement and death benefits.**
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- 69 (g) Survivor's benefit. If any member with at least ten (10) years of continuous service shall
70 die prior to retirement or other termination of employment with the city, a death benefit
71 shall be payable to the deceased member's spouse. The benefit shall equal ~~two and one-~~
72 ~~half (2½)~~ three percent (3%) of average final compensation for each year of continuous
73 service. It shall be payable in equal monthly installments commencing the first day of
74 the month following the date of death ~~and ceasing upon the death or remarriage of the~~
75 ~~spouse.~~

76
77 Section 4: Section 18-182(i) of the Code of Ordinances of the City of Boynton Beach is
78 hereby created to read as follows:
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80 (i) Line of duty presumptions.
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- 82 (1) Rebuttable presumptions: The provisions of Sections 112.18, 112.181, 175.231,
83 Fla. Stat., are hereby codified within the Plan and are intended to be incorporated
84 by reference. The Board of Trustees may adopt uniform administrative rules
85 relating to these rebuttable presumptions and for the determination of any
86 disqualifying events reflected in Chapters 112 and 175, Fla. Stat.
87
88 (2) Non-rebuttable conclusive cancer presumption: The provisions of Section
89 112.1816, Fla. Stat., are hereby codified within the Plan and are intended to be
90 incorporated by reference. The Board of Trustees may adopt uniform
91 administrative rules relating to this presumption and for the determination of any
92 disqualifying events as reflected in Chapters 112 and 175, Fla. Stat.

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94 Section 5: Section 18-222 of the Code of Ordinances of the City of Boynton Beach is
95 hereby renumbered as Section 18-194 and amended follows:
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97 Sec. 18-194 ~~18-222~~. Deferred retirement option plan.

98 (a) The following provisions shall apply to members hired prior to January 21, 2020:

99 (1) A deferred retirement option plan ("DROP") is hereby created.

100 (2) Eligibility to participate in the DROP is based upon eligibility for normal service
101 retirement in the plan.

102 (3) Participation in the DROP must be exercised within the first thirty (30) years of
103 employment; provided, however, that participation in the DROP, when
104 combined with participation in the retirement plan as an active member, may not
105 exceed thirty (30) years. The maximum period of participation in the DROP is
106 five (5) years. An employee's election to participate in the DROP plan shall be
107 irrevocable and shall be made by executing a resignation notice on a form
108 prescribed by the City.

109 (4) Upon exercising the right to participate in the DROP, an employee's creditable
110 service, accrued benefits and compensation calculation shall be frozen and shall
111 utilize the average of the five (5) highest of the ten (10) years immediately
112 preceding participation in the DROP as the compensation basis. Accumulated,
113 unused sick and vacation leave shall be included in the compensation
114 calculation; provided, however, that a minimum balance of 120 hours of sick
115 leave and 120 hours of vacation leave shall be maintained by the employee and
116 excluded from this calculation. The retained leave balance, including any
117 additions, shall be distributed at the conclusion of DROP participation and
118 separation from service.

119 (5) Payment shall be made into the employee's DROP account as if the employee
120 had terminated employment in the City in an amount determined by the
121 employee's selection of the payment option.

122 (6) An employee's account in the DROP program shall earn interest in one of three
123 ways. The selection of the earnings program shall be irrevocable and shall be
124 made prior to the first deposit in the DROP account. The options are:

125 (a) Gain or lose interest at the same rate as the Plan; or,

126 (b) At an annual fixed rate of seven percent (7%); or,

127 (c) In a self-directed account utilizing mutual funds selected by the board.

128 (7) An employee shall terminate service with the City at the conclusion of five (5)
129 years in the DROP.

- 130 (8) All interest shall be credited to the employee's DROP account on the last day of
131 the month in which the member separates from service. In the event that a
132 member dies while in the DROP, interest shall be pro-rated to the last business
133 day of the month preceding the death of the member.
- 134 (9) Upon termination with the City, an employee may receive payment within forty-
135 five (45) days of the member requesting payment or may defer payment until a
136 time not later than the latest date authorized by Section 401(a)(9) of the Internal
137 Revenue Code at the option of the member.
- 138 (10) Payments from the DROP may be received as a lump sum installment payment
139 or annuity, provided, however, that at all times, the DROP shall be subject to the
140 provisions of the Internal Revenue Service.
- 141 (11) No payment may be made from the DROP until the employee actually separates
142 from service with the City.
- 143 (12) If an employee shall die during participation in the DROP, a survivor benefit
144 shall be payable in accordance with the form of benefit chosen at the time of
145 entry into the DROP.
- 146 (13) Upon commencement of participation in the DROP, the member shall no longer
147 be eligible for disability retirement from the pension plan. If a member becomes
148 disabled during the DROP period, the member shall be treated as if he/she retired
149 on the day prior to the date of disability.
- 150 (b) The following provisions of the "Consolidated Deferred Retirement Option Plan" shall
151 apply to members hired on or after January 1, 2020:
- 152 (1) A City employee deferred retirement option plan ("DROP") is hereby created,
153 amending, implementation, all conflicting provisions in existing DROP plans for
154 general employees, police officer employees, and fire/rescue employees.
- 155 (2) Employees who reach eligibility for normal service retirement in the employee's
156 retirement plan may elect to enter DROP.
- 157 (3) An Employee may elect to participate in the Deferred Retirement Option Plan
158 ("DROP") provided they make the election no later than 30 days after reaching
159 their normal retirement date. Notwithstanding the foregoing, upon enactment of
160 this Ordinance employees who have reached normal retirement date and did not
161 enter DROP may make their initial election to participate in the DROP no later
162 than ninety (90) days after the implementation date of this ordinance.
- 163 (4) An election to participate in the DROP plan is irrevocable.
- 164 (5) Employees may elect to participate by submitting an election to enter DROP to the
165 City's Human Resource Department ("Department") on a form available from the
166 Department for that purpose. On receipt of the election to enter DROP the
167 Department will notify the administrator of the pension plan in which the
168 employee participates.

- 169 (6) Participation in the DROP must be exercised within the first 30 years of combined
170 credited service (25 for law enforcement officers).
- 171 (7) An employee shall not participate in the DROP for more than five years.
- 172 (8) Upon an employee's election to participate in the DROP, the employee shall cease
173 to be an employee of the retirement plan and is precluded from accruing any
174 additional benefit under the Pension Fund. For all fund purposes, the employee
175 becomes a "retiree" (which term shall be synonymous with "employees" who elect
176 to enter DROP). The amount of credited service and final average salary freeze as
177 of the date of entry into the DROP.
- 178 (9) Accumulated, unused sick (over 120 hours) and vacation leave (over 120 hours)
179 shall be deemed cashed out and included in the compensation calculation:
180 provided however, that a minimum balance of 120 hours of sick leave and 120
181 hours of vacation leave shall be maintained by the employee and excluded from
182 this calculation. The retained leave balance, including any additions, shall be paid
183 to the employee at the conclusion of DROP participation and separation from
184 service.
- 185 (10) DROP plan account shall be established for each employee who elects to
186 participate. These are not actual accounts but nominal accounts and balances are
187 kept as a bookkeeping process.
- 188 (11) Payment shall be made into the employee's DROP account as if the employee had
189 retired from the employ of the city. Payments into the DROP will be made
190 monthly over the period the employee participates in the DROP, up to a maximum
191 of 60 months or, pursuant to 401(A)(9) of the Internal Revenue Code, whichever
192 occurs first.
- 193 (12) An employee's participation in the DROP shall terminate at the end of five years
194 and the employee shall separate from City employment. Upon entering into the
195 DROP, an employee shall file with the Board a binding non-revocable letter of
196 resignation from city employment. The binding letter of resignation shall establish
197 a deferred termination date in accordance with the limitations of this DROP which
198 may be amended if an employee wished to separate from employment earlier than
199 the deferred termination date.
- 200 (13) All interest shall be credited to the employee's DROP account less any
201 outstanding loan balances on a quarterly basis with quarterly statements provided.
202 In the event that a employee dies while in the DROP, interest shall be pro-rated to
203 the last business day of the month preceding the death of the employee.
- 204 (14) During the period of the employee's participation in the DROP plan, the
205 employee's normal retirement benefit shall be accounted for and paid into the
206 employee's DROP plan account.
- 207 (15) The employee's DROP plan account shall be invested with the retirement plan
208 assets and credited with interest equal to the overall net (earning less costs)
209 investment rate of return on the retirement plan assets during the period of the
210 employee's participation in the DROP plan. Notwithstanding Fund performance,
211 the crediting rate will be no less than 0% and no more than 8%.

- 212 (16) At the conclusion of the retiree's participation in the DROP plan, and as a
213 condition of participating in such plan, the retiree will continue retirement and
214 terminate City employment. The retiree will thereafter receive a normal monthly
215 retirement benefit at the same rate as previously calculated upon entry into the
216 DROP but the monthly amount will be paid to the retiree and no longer accounted
217 for in the DROP plan account. If the employee does not terminate participation in
218 the DROP plan at the end of the sixty (60) month maximum participation period,
219 no earnings will be credited on the DROP balance and no further DROP deposits
220 will be made.
- 221 (17) No amount can be paid from the retirement plan until the DROP employee
222 terminates employment.
- 223 (18) Upon termination, the retiree's DROP plan account will thereafter be distributed to
224 the retiree in a cash lump sum, which can be rolled over or paid in cash unless the
225 retiree elects an alternative distribution (a/k/a rollover). Direct rollover may be
226 accomplished by any reasonable means determined by the Pension Board.
- 227 (19) If a retiree dies before distribution of the retiree's DROP plan account commences,
228 the account balance shall be distributed paid to the retiree's designated beneficiary
229 in a lump sum, which can be rolled over or paid in cash at the beneficiary's
230 discretion.
- 231 (20) Distribution of an employee's DROP plan account shall begin as soon as
232 administratively practicable following the employee's termination of employment.
233 The employee must elect the distribution within but in no event later than 45 days
234 following the employee's termination date. If the employee does not timely
235 request the withdrawal of the asset in the DROP plan, no further earnings will be
236 credited on the DROP balance.
- 237 (21) Any form of payment selected by the employee must comply with the minimum
238 distribution requirements of the IRC 401(A)(9) e.g., payments must commence by
239 age 70½, or age 72 for retirees who attain age 70 ½ on or after January 1, 2020.

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241 Section 6: It is the intention of the City Commission, and it is hereby ordained that the
242 provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the
243 City of Boynton Beach, that the sections of the Ordinance may be renumbered or relettered to
244 accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or
245 other appropriate word.

246
247 Section 7: If any clause, section, or other part or application of this Ordinance shall be held
248 in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional
249 or invalid part or application shall be considered as eliminated and shall not affect the validity
250 of the remaining portions or applications which shall remain in full force and effect.

251
252 Section 8: All ordinances or parts of ordinances, resolutions or parts of resolutions in
253 conflict herewith are hereby repealed to the extent of such conflict.

254
255 Section 9: This Ordinance shall take effect when the following conditions precedent to the

adoption of this Ordinance have occurred:

(a) the City Commission has received and has accepted a report establishing the actuarial soundness of these amendments or a letter of opinion from the Plan Actuary that the amendment has no actuarial impact; and

(b) the Ordinance and impact statement have been sent to the State of Florida Division of Retirement.

FIRST READING this 4th day of February, 2020.

SECOND, FINAL READING AND PASSAGE this ____ day of _____, 2020.

CITY OF BOYNTON BEACH, FLORIDA

YES NO

Mayor – Steven B. Grant _____

Vice Mayor – Justin Katz _____

Commissioner – Mack McCray _____

Commissioner – Christina L. Romelus _____

Commissioner – Ty Penserga _____

VOTE _____

ATTEST:

Crystal Gibson, MMC
City Clerk

(Corporate Seal)

Coding: Words in strikeout type are deletions from existing text.
Words in underline type are additions.

ADDENDUM "E"

PENSION AGREEMENT

(ALL EMPLOYEES - ON RATIFICATION)

Sec. 18-180.

Effective October 1, 2018, for any member meeting a definition of deferred vested, early, or normal retirement date, will have the average final compensation (AFC) benefit capped at ninety five thousand dollars (\$95,000.00). The cap will be adjusted annually on the first (1st) day of October by one and a half percent (1.5%) after a five year delay. The first adjustment to the cap is effective for members on or after October 1, 2023.

IAFF sc

CITY gg

DATE: 12/28/18

(NEW HIRES - ON OR AFTER RATIFICATION)

Sec. 18-180.1.

Upon ratification, new members entering the plan, the benefit payable for early retirement or deferred vested shall be the same as determined for normal retirement, as set forth in section 18-180, and shall not be payable until the member reaches a minimum age of fifty five (55).

IAFF 8

CITY gg

DATE: 12/28/18

Sec. 18-185. Normal retirement date.

Upon ratification, new members entering the plan, the normal retirement date of each firefighter will be the first day of the month coinciding with, or next following, the earlier of the date on which such firefighter has attained and completed twenty five (25) years of service, regardless of age, or at fifty-five (55) years of age with ten (10) years of service. There is no age requirement for a normal retirement.

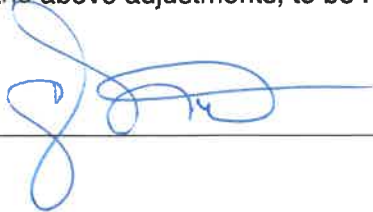
IAFF 2

CITY gg

DATE: 12/28/18

Both parties mutually agree to have the Pension Fund Attorney draft appropriate ordinance to reflect the above adjustments, to be reviewed and approved by City Attorney before ratification.

IAFF



CITY

