

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.

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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 1<sup>st</sup> 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~~

76 shall not be reduced below seventy five thousand dollars (\$75,000.00) if payment of benefits  
77 begins at or after age fifty five (55) and not below the actuarial equivalent of seventy five  
78 thousand dollars (\$75,000.00) if payment of benefits begins before age fifty five (55). For a  
79 member with fifteen (15) or more years of service with the city, the reductions described above  
80 shall not reduce such member's benefit below fifty thousand dollars (\$50,000.00) (adjusted for  
81 cost of living in accordance with IRS Section 415(d), but only for the year in which such  
82 adjustment is effective). If retirement benefits begin after age sixty five (65), the dollar  
83 limitation of paragraph (1) shall be increased actuarially by using an interest assumption equal  
84 to the lesser of five (5) percent or the rate used for actuarial equivalence.  
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86 For purposes of this subsection, the "average annual compensation for a member's three (3)  
87 highest paid consecutive years" shall mean the member's greatest aggregate compensation  
88 during the period of three (3) consecutive calendar years in which the individual was an active  
89 member of the plan. The sum of the defined benefit fraction and the defined contribution  
90 fraction for all qualified plans of the city for each common participant shall not exceed one  
91 (1.0).  
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93 Section 3: Section 18-180.1 is hereby amended to read as follows:

94 Sec. 18-180.1 Computation of monthly retirement income in the instance of early retirement.  
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96 The benefit payable for early retirement shall be the same as determined for normal  
97 retirement, as set forth in section 18-180, less three (3) per cent for each year or portion thereof  
98 of which the member's actual retirement date precedes she date which would have been the  
99 member's normal retirement date had such member remained in full-time employment with the  
100 city. For all new members hired on or after February 5, 2019 (hereinafter "Tier 2 members"),  
101 early retirement shall be available at age fifty (50) with at least ten (10) years of service, reduced  
102 by less the three (3) per cent per year early retirement reduction described above. The maximum  
103 benefit cap established in 2019 shall apply to early retirement benefits, but for calculation  
104 purposes shall be actuarially determined based on the member's normal retirement benefit.  
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106 Section 4: Section 18-183 is hereby amended to read as follows:

107 Sec. 18-182 Disability retirement benefits.  
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109 (a) Service incurred. Any member who receives a medically substantiated service  
110 connected injury, disease or disability, which injury, disease or disability totally and  
111 permanently disables such member to the extent that, in the opinion of the board of trustees, the  
112 member is wholly prevented from rendering useful and efficient service as a firefighter, shall  
113 receive a monthly benefit equal to sixty-six and two-thirds (66 2/3) per cent of the member's  
114 basic rate of earnings in effect on the date of disability. Such benefit shall be payable on the  
115 first day each month, commencing on the first day of the month following the latter to occur of  
116 the date on which the disability has existed for three (3) months and the date the board of  
117 trustees approved the payment of such retirement income. In the event of recovery prior to the  
118 otherwise normal retirement date, credit for service during the period of disability shall be  
119 granted for purposes of subsequent retirement benefits. The amount of the disability benefit

120 payable from the fund shall be reduced by any amounts paid or payable as disability benefits  
121 from workers' compensation and the federal social security system. The reduction for social  
122 security benefits shall be in the amount of the primary insurance amount (PIA) only, and future  
123 increase, if any, in the disabled member's social security disability benefit shall not serve to  
124 reduce any further the disability benefit from the fund. The reduction for social security shall  
125 terminate upon the attainment of age sixty-five (65). For purposes of compliance with Chapter  
126 175, Florida Statutes, service-incurred disability benefits shall not be offset below 42% of  
127 average final compensation. The maximum benefit cap established in 2019 shall apply to  
128 service incurred disability retirement benefits under this subsection.

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130 (b) Nonservice incurred. Any member with ten (10) years of continuous service who  
131 receives a nonservice incurred injury, illness, disease or disability, and which illness, injury,  
132 disease or disability totally and permanently disables such member to the extent that, in the  
133 opinion of the board of trustees, the member is wholly prevented from rendering useful and  
134 efficient service as a firefighter, shall receive from the fund in equal monthly installments an  
135 amount equal to two and one-half (2½) per cent of that member's average final compensation  
136 for each year of continuous service until death or recovery from disability, whichever shall first  
137 occur; Such benefit shall be payable on the first day of each month, commencing on the first  
138 day of the month following the latter to occur of the date on which the disability has existed for  
139 three (3) months and the date the board of trustees approved the payment of such retirement  
140 income. For purposes of compliance with F.S. Chapter 175, the minimum nonservice-incurred  
141 disability benefit shall be 25% of average final compensation. The maximum benefit cap  
142 established in 2019 shall apply to non-service incurred disability retirement benefits under this  
143 subsection.  
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145 Section 5: Section 18-185 is hereby amended to read as follows:

146 Sec. 18-185 Normal retirement date.

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148 The normal retirement date of each firefighter will be the first day of the month coinciding with,  
149 or next following, the earlier of the date on which such firefighter has attained and completed  
150 twenty (20) years of service, regardless of age, or at fifty-five (55) years of age with ten (10)  
151 years of service. There is no age requirement for a normal retirement. For all members first  
152 hired on or after February 5, 2019 (hereinafter "Tier 2 members"), the normal retirement date  
153 will be the first day of the month coinciding with or next following the date on which the  
154 firefighter has attained and completed twenty-five (25) years of service, regardless of age, or  
155 at fifty-five (55) years of age with ten (10) years of service. If a Tier 2 member separates from  
156 service with less than twenty-five (25) years of service the normal retirement date shall be the  
157 first day of the month coinciding with, or next following, attainment of age fifty-five (55).  
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161 Section 6: That all ordinances or parts of ordinances in conflict herewith be and the

162 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 5<sup>th</sup> 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)