

ORDINANCE NO. 507

AN ORDINANCE OF THE TOWN OF BELLEAIR AMENDING CHAPTER 42, ARTICLE III, MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM, DIVISION 1, GENERALLY, DIVISION 4, MEMBERSHIP AND DIVISION 6, BENEFITS AND ELIGIBILITY, OF THE CODE OF ORDINANCES OF THE TOWN OF BELLEAIR; AMENDING SECTION 42-66, DEFINITIONS BY AMENDING THE DEFINITIONS OF ACTUARIAL EQUIVALENT, CREDITED SERVICE AND SPOUSE; AMENDING SECTION 42-78, PRIOR POLICE SERVICE; AMENDING SECTION 42-151, CONDITIONS OF ELIGIBILITY; AMENDING SECTION 42-201, NORMAL RETIREMENT DATE; AMENDING SECTION 42-208, DISABILITY BENEFITS IN LINE OF DUTY; AMENDING SECTION 42-209, DISABILITY NOT IN LINE OF DUTY; AMENDING SECTION 42-215, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 42-215, MAXIMUM PENSION; ADDING SECTION 42-216, SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS; CHAPTER 185 SHARE ACCOUNTS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF BELLEAIR, FLORIDA;

SECTION 1: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 1, Generally, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-66, Definitions, by amending the definitions of *Actuarial Equivalent*, *Credited Service* and *Spouse*, read as follows:

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Actuarial equivalent means a benefit or amount of equal value, based upon the RP 2000 Combined Healthy ~~Unisex~~ mortality table and an interest rate of ~~seven and three quarters percent per annum~~ equal to the investment return assumption set forth in the last actuarial valuation report approved by the board. This definition may only be amended by the town pursuant to the recommendation of the board using the assumptions adopted by the board with the advice of the plan's actuary, such that actuarial assumptions are not subject to town discretion.

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Credited service means a total number of years and fractional parts of years of service as a police officer with member contributions, when required, omitting intervening years or fractional parts of years when such member was not employed by the town as a police officer. A member may voluntarily leave his accumulated contributions in the fund for a period of five years after leaving the employ of the police department pending the possibility of being re-employed as a police officer, without losing credit for the time that he was a member of the system. If a vested member leaves the employ of the police department, his accumulated contributions will be returned only upon his written request. If a member who is not vested is not re-employed as a police officer with the police department with five years, his accumulated contributions, if \$1,000.00 or less shall be returned. If

a member who is not vested is not re-employed within five years, his accumulated contributions, if more than \$1,000.00, 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 police officer 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 police officer 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 police officer to perform training or service, shall be added to his years of credited service for all purposes, including vesting, provided that:

- (1) The Member is entitled to reemployment under the provisions of the USERRA.
- (2) The member returns to his employment as a police officer within one year from the earlier of the date of his military discharge or release from active service, unless otherwise required by USERRA.
- (3) The maximum credit for military service pursuant to this paragraph 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.

If a former police officer, who has withdrawn the contributions made during his previous employment with the town is reemployed as a police officer under any conditions other than those covered in the paragraph relating to military service and who has not redeposited his withdrawn contributions within 90 days as provided for above, he may receive credit for prior service only if the period of prior employment was of at least one year continuous duration and:

- (1) The police officer contributes to the fund the sum that he would have contributed, based on his salary and the member contribution rate in effect at the time that the credited service is requested, had he been a member of the system for the years or fractional parts of years for which he is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the fund, plus payment of costs for all professional services rendered to the board in connection with the purchase of years of credited service.
- (2) The request shall be made only once and made by the police officer on or before six months from the date of his reemployment with the town police department.
- (3) Payment by the police officer of the required amount shall be made within six months of his request for credit and shall be made in one lump sum payment, upon receipt of which credited service shall be issued.

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

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

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Spouse means the lawful wife or husband of a member's or retiree's spouse under applicable law at the time benefits become payable.

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SECTION 2: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 1, Generally, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-78, Prior police service, subsection 5, to read as follows:

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- (5) In no event, however, may credited service be purchased pursuant to this section for prior service with any other municipal, county, state law enforcement department, if such prior service forms or will form the basis of a retirement benefit or pension from another retirement system or plan as set forth in section 42-215, subsection (k)(2).

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SECTION 3: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 4, Membership, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-151, Conditions of eligibility, subsection (b), to read as follows:

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- (b) The police chief may not be a member of the system, except as provided below,
(1) Current employees of the town who are selected to become police chief may remain in the system.
(2) Current employees of the town who are selected to become police chief may elect, within 90 days of the date of upon his employment as police chief, to opt out of the system by notifying the board, in writing, of his election to do so. Thereupon it shall be the duty of the board to refund, from the fund, the full amount of his accumulated contributions. Thenceforward, no withholding shall be made from his salary and he shall be barred from participating in the system and shall not be eligible to be elected as a member trustee on the board or vote for a member trustee."

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SECTION 4: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-201, Normal retirement date, to read as follows:

Sec. 42-201. Normal retirement age and 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 55 and the completion of five years of credited service or the completion of 25 years of credited service, regardless of age. 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 town on or after the normal retirement date.~~

(a) A member's normal retirement age is the earlier of the attainment of age 55 and the completion of 5 years of credited service or the completion of 25 years of credited service, regardless of age. Each member shall become one hundred percent (100%) vested in his accrued benefit at normal retirement age. A member's normal retirement date shall be the first day of the month coincident with or next following the date the member retires from the city after attaining normal retirement age.

SECTION 5: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-208, Disability in line of duty, to read as follows:

(a) Any member who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a police officer, which disability was directly caused by the performance of his duty as a police officer shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to three and one-half percent of his average final compensation multiplied by the total years of credited service, but shall not be less than 42 percent of his average final compensation as of his disability retirement date. Terminated persons, either vested or nonvested are not eligible for disability benefits, ~~except that those terminated by the town for medical reasons may apply for a disability within 30 days after termination.~~ Notwithstanding the previous sentence, if a member is terminated by the city for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the board otherwise determines that he is totally and permanently disabled as provided for above.

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SECTION 6: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-209, Disability not in line of duty, to read as follows:

Sec. 42-209. Disability benefits not in line of duty.

Any member with ten years or more credited service who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a police officer, which disability is not directly caused by the performance of his duties as a police officer shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to three and one-half percent of his average final compensation multiplied by the total years of credited service. Terminated persons, either vested or nonvested, are not eligible for disability benefits, ~~except that those terminated by the town for medical reasons may apply for a disability within 30 days after termination.~~ Notwithstanding the previous sentence, if a member is terminated by the city for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the board otherwise determines that he is totally and permanently disabled as provided for

above.

SECTION 7: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-213, Optional forms of benefits, subsection (b), to read as follows:

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

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SECTION 8: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-215, Maximum Pension, subsections (f) and (l)(2) and adding subsection (m), *Effect of direct rollover on 415(b) limit*, to read as follows:

(f) ~~Less than Ten (10) Years of Participation or Service.~~ The maximum retirement benefits payable under this section to any member who has completed less than ten (10) years of ~~credited service with the Town participation~~ shall be the amount determined under subsection (a) of this section multiplied by a fraction, the numerator of which is the number of the member's years of ~~credited service participation~~ and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits paid pursuant to Secs. 42-208 and 42-209, or pre-retirement death benefits paid pursuant to Secs. 42-205 and 42-206.

* * *

(l)(2) No member of the system shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter ~~671223~~, Title 10, U.S. Code.

(m) *Effect of direct rollover on 415(b) limit.* If the plan accepts a direct rollover of an employee's or former employee's benefit from a defined contribution plan qualified under Code Section 401(a) which is maintained by the employer, any annuity resulting from the rollover amount that is determined using a more favorable actuarial basis than required under Code Section 417(e) shall be included in the annual benefit for purposes of the limit under Code Section 415(b).

SECTION 9: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by adding Section 42-216, Supplemental benefit component for special benefits; Chapter 185 share accounts, to read as follows:

Sec. 42-216. Reserved.

Sec. 42-216. Supplemental benefit component for special benefits; Chapter 185 share accounts.

There is hereby established an additional plan component to provide special benefits in the form of a supplemental retirement, termination, death and disability benefits to be in addition to the benefits provided for in the previous Sections of this Plan, such benefit to be funded solely and entirely by F.S. Chapter 185, premium tax monies for each plan year which are allocated to this supplemental component as provided for in F.S. §185.35. Amounts allocated to this supplemental component (“Share Plan”) shall be further allocated to the members and DROP participants in a manner to be agreed upon.

SECTION 10: 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 11: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the Town of Belleair.

SECTION 12: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 13: That this Ordinance shall become effective thirty days after adoption.

PASSED ON FIRST READING: **October 4, 2016*

PASSED ON SECOND AND FINAL READING: **October 18, 2016*

Mayor

ATTEST:

Town Clerk

APPROVED TO AS FORM:

Town Attorney