

ORDINANCE NO. 2017-22

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE I (POLICE OFFICER PENSION FUND) OF THE CHARTER OF THE CITY OF ORLANDO, FLORIDA, PURSUANT TO THE AUTHORITY CONTAINED IN SECTION 27, BY AMENDING SECTION 5, "CONTINUITY OF SERVICE; CONTINUITY OF BENEFITS; REINSTATEMENT," TO DELETE MILITARY SERVICE PROVISIONS COVERED BY NEWLY CREATED SECTION 30; BY AMENDING SECTION 6, "SERVICE REQUIREMENTS FOR VOLUNTARY RETIREMENT; BENEFITS UPON DEATH OF MEMBER," TO PROVIDE ADDITIONAL PAYMENT OPTIONS; AMENDING SECTION 8, "DISABILITY PENSIONS IN GENERAL," TO CONFORM TO STATE LAW; AMENDING SECTION 21, "QUALIFIED PENSION FUND," TO ADD CLARIFYING LANGUAGE AND LANGUAGE MEETING TAX CODE REQUIREMENTS; CREATING SECTION 29, "ORLANDO POLICE OFFICERS' SHARE PLAN," PROVIDING BENEFITS IN ACCORDANCE WITH STATE LAW; AND CREATING SECTION 30, "MILITARY SERVICE AFTER EMPLOYMENT," PROVIDING FOR UP TO FIVE YEARS OF CREDIT FOR MILITARY SERVICE TO CONFORM TO STATE LAW; PROVIDING FOR SEVERABILITY, SCRIVENER'S ERRORS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 2002-342, Laws of Florida provides that the legislative body of the City of Orlando is authorized to amend the pension plan to the limited extent necessary to maintain tax qualification of the plan under the Internal Revenue Code, but must obtain prior agreement of the members and their collective bargaining agent, if any, should such required amendments change any plan benefits; and

WHEREAS, Chapter 2002-342, Laws of Florida provides that the legislative body of the City of Orlando is authorized to amend the pension plan to the limited extent necessary to comply with the minimum standards and benefits levels required by Chapter 185, Florida Statutes, in order to allow the plan to receive funds from the Police and Firefighters' Premium Tax Trust Fund, but must obtain prior agreement of the members and their collective bargaining agent, if any, should such required amendments change any plan benefits; and

1 **WHEREAS**, the changes included in this ordinance are necessary in order for
2 the Police Officer Pension Plan to comply with the minimum standards and benefits
3 levels required by Chapter 185, Florida Statutes; and

4 **WHEREAS**, The Fraternal Order of Police, the collective bargaining agent for
5 police officers in the City of Orlando, has indicated that the proposed amendments have
6 been reviewed and approved by the membership.

7 **NOW, THEREFORE**, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
8 OF ORLANDO, FLORIDA:

9 **SECTION ONE:** Section 5 of the Police Officer Pension Plan, as codified in
10 Chapter 12, Article I of the Charter of the City of Orlando, Florida, be, and the same is
11 hereby amended to read:

12 **Sec. 5. - Continuity of Service; Continuity of Benefits; Reinstatement.**

13 (1) Any member of the Police Department of the City of Orlando who was otherwise
14 entitled to participate in the retirement plan created by Laws of Fla. ch. 22414(1943),
15 shall be permitted to establish continuity of service and continuity of benefits by making
16 the required regular contributions into the fund while such member of the Police
17 Department is absent from duty because of the acceptance of an appointment as
18 Director of Public Safety for the City of Orlando, or while absent from duty under leave
19 of absence because of illness, injury, or any other approved leave of absence.

20 (2) Any member of the Police Department of the City of Orlando who was otherwise
21 entitled to participate in the retirement plan created by Laws of Fla. ch. 22414(1943), as
22 amended, shall for pension purposes be permitted to establish continuity of service and
23 continuity of benefits by combining or tacking prior pension fund participation in the
24 event of transfer from the Fire Department to the Police Department; provided,
25 however, that such member must have completed at least 10 years' participation in the
26 police pension fund immediately prior to retirement in order to establish such continuity.

27 (3) ~~Any member of the Police Department of the City of Orlando who was otherwise~~
28 ~~entitled to participate in the retirement plan created by Laws of Fla. ch. 22414(1943), as~~
29 ~~amended, shall for pension purposes be permitted to establish continuity of service and~~

~~continuity of benefits by making the required regular contributions into the respective fund while such member is absent from duty because of service in the United States military forces; provided, however, that such member returns to duty with the department following completion of such military service, all in accordance with and as may be required by applicable federal or state law.~~

(4) In the event a member of the Orlando Police Department severs his employment with said department, but is subsequently rehired, said member shall be reinstated in the pension program and accorded all provided rights therein; and shall receive credit for those years or fractional parts of years of service for the prior service with said department, provided said member repays into the pension fund that sum of money which said member was refunded at the time he severed employment with said department in addition to simple interest on that sum of money due for the period of the absence. An appropriate simple interest rate shall be determined by the Orlando Police Pension Board based on the investment earnings of the pension fund. The member shall have at least 90 days after his or her re-employment to make repayment. A police officer may voluntarily leave his or her contributions in the pension fund for a period of 5 years after leaving the employ of the police department, pending the possibility of being rehired by the same department, without losing credit for the time he or she has participated actively as a police officer. If the police officer is not reemployed as a police officer, with the same department within 5 years, his or her contributions shall be returned without interest.

SECTION TWO: Section 6 of the Police Officer Pension Plan, as codified in Chapter 12, Article I of the Charter of the City of Orlando, Florida, be, and the same is hereby amended to read:

Sec. 6. - Service Requirements for Voluntary Retirement; Benefits upon Death of Retired Member.

- 1) For the purposes of this retirement plan, the following definitions shall apply:
 - a) "Credited service" means personal service rendered the City of Orlando Police Department while a participant in this plan, together with qualifying military service, which shall be credited to each member's credited service account each plan year in

1 accordance with rules established by the Board of Trustees. For purposes of benefit
2 calculation, "year of service" shall include both full and fractional years of service,
3 calculated on the appropriate fractional basis. In no event shall a member be credited
4 with more than 1 year of service for all service performed during a plan year.

5 b) "Average monthly salary" means one thirty-sixth of the total amount of salary
6 paid a member for the member's last 3 years of credited service, or by one sixtieth of
7 the total amount of salary paid a member for the member's five best years of the last
8 ten years of service, whichever amount is greater. If the member does not have 3 years
9 of credited service, average monthly salary is the aggregate amount of salary paid the
10 member for the member's total period of credited service divided by the member's total
11 period of credited service.

12 2) Any member of the Police Department who is employed by the police
13 department on July 1, 2003, or initially becomes so employed after July 1, 2003, may
14 retire after 20 years of credited service therein and shall receive and be paid a monthly
15 pension of an amount equal to 70 percent of his average monthly salary. Said average
16 monthly salary shall be determined by computing the average monthly salary for said
17 member's last 3 years of service or by computing the member's average monthly salary
18 for the five best years of the last ten years of service, whichever amount is greater.
19 Provided, further, that in addition to the aforesaid 70 percent pension, a member who
20 retires with more than 20 years' active service in the department shall receive 2 percent
21 of said average monthly salary computed as stated herein for each full year of said
22 service in excess of 20 years service. Said 2 percent increment shall be limited to 5
23 years of additional service.

24 (3) Normal Form of Payment

25 (a) Unmarried Member. The normal form of benefit payable to an unmarried
26 member shall be an unreduced monthly payment for the life of the member,
27 and if the member dies within ten years following retirement the same
28 monthly payment shall be made to the member's designated beneficiary for
29 the remainder of the ten year period following the member's retirement.

1 Alternatively, the member may elect an optional form of payment described in
2 subsection 9.

3 (b) Married Member. The normal form of benefit payable to a married
4 member shall be (1) an unreduced monthly payment for the life of the
5 member, and if the member dies within ten years following retirement the
6 same monthly payment shall be made to the member's designated
7 beneficiary for the remainder of the ten year period following the member's
8 retirement; or (2) a member may elect a single life annuity payable for the life
9 of the member, and upon the member's death the benefits described in
10 subsections (4) and (5) shall be paid to the member's widow or widower and
11 children. Alternatively, the member may elect an optional form of payment
12 described in subsection 9. If a member elects an optional form of payment
13 described in subsection 9, the member's widow or widower and children shall
14 not be eligible for the benefits set forth in Subsections (4) and (5).

15 (4) Upon the death of such a retired married member who has not elected a normal
16 form of benefit pursuant to subsection (b)(1) nor an optional form of payment pursuant
17 to subsection (9), the widow or widower, if any, shall be entitled for the remainder of his
18 or her natural life, subject to the provisions of sections 14 and 18 of this retirement plan,
19 to a monthly pension equal to 75 percent of the pension amount payable to the retired
20 member.

21 If the deceased retired married member who has not elected a normal form of
22 benefit pursuant to subsection (b)(1) nor an optional form of payment pursuant to
23 subsection (9), leaves a surviving child, in being who is the issue of such deceased
24 retired member and his or her surviving widow or widower and who is under the age of
25 18 years, then and in that event 25 percent of the 75 percent widow or widower
26 pension, provided for in this subsection (3), shall be paid to the widow or widower for
27 and on behalf of said issue until said issue become ineligible under the provisions of
28 section 14 of this retirement plan. Upon such ineligibility, the full 75 percent shall be
29 paid to the widow or widower for her or his own account as provided in subsection (2).

1 5) If ~~asaid~~ deceased retired member who has not elected a normal form of benefit
2 pursuant to subsection (b)(1) nor an optional form of payment pursuant to subsection
3 (9), leaves a surviving child in being who is under the age of 18 years and the issue of
4 such deceased retired member and of a wife or husband of a marriage other than to the
5 widow or widower, then and in that event 25 percent of the aforesaid 75 percent widow
6 or widower pension shall be divided and paid, on a per capita basis, to:

7 a) the legal guardian of said issue, for said issue, until said issue become ineligible
8 under the provisions of section 14 of this retirement plan; and

9 b) the widow or widower, for issue if any, said widow or widower and the deceased
10 retired member may have had who survived said deceased retired member and who
11 were in being and under the age of 18 years at the time of death. If the deceased
12 retired member leaves no widow or widower surviving but does leave issue as
13 aforesaid, the full 75 percent widow or widower pension shall be divided and paid on a
14 per capita basis to the legal guardian of said issue, for said issue, until said issue
15 become ineligible under the provisions of section 14 of this retirement plan.

16 6) Payments for any issue which shall cease pursuant to the provisions of section
17 14 of this retirement plan shall not have the effect nor serve to increase the payments
18 to any other issue. Such amounts shall be paid to the widow or widower for as long as
19 she or he remains eligible therefor.

20 7) Neither the Board of Trustees nor the City of Orlando or their authorized officials,
21 employees or agents shall be liable or responsible in any way for identification or
22 verification of the authenticity of widows or widowers, issue or guardians or changes in
23 status thereof; moreover, without limiting the foregoing, to be entitled to be considered
24 for said payments provided herein, proof of identification and authenticity of the widow
25 or widower, issue and guardians, along with sufficient address and status information
26 must be presented to the board in writing within 30 days of the death of said member
27 and proof of changes therein presented to the board in writing within 30 days after the
28 change. Without limiting the foregoing sentence, any widow or widower claiming
29 entitlement under this section to an increase in pension on account of change in status
30 of issue shall present in writing to said board proof satisfactory to the board of said

change within 30 days thereafter. If said board decides that proof of any of the aforesaid changes has been satisfactorily shown to it in writing, the change of pension shall be made by said board effective with the next monthly payment due after said showing; provided, however, no change in pension payment or amount thereof shall be retroactive.

8) Notwithstanding anything in this chapter to the contrary, any active member of the police department who has completed 40 years of credited service shall receive in addition to the amount specified in subsection (1), an additional 2 percent per year of service for each year in excess of 40 years of service; provided, however, the total monthly benefit shall not exceed 100 percent of the average monthly salary used in calculating the member's pension benefit.

(9) Description of Optional Forms of Payment. The value of each of the following forms of payment will be the actuarial equivalent of the benefit that would be payable to the member under the normal form of payment.

(a) Single Life Annuity. The single life annuity is an enhanced monthly benefit in the amount determined, beginning on the member's benefit commencement date and payable throughout his or her lifetime, ending with the last payment due on the first day of the month preceding the month in which his or her death occurs.

(b) Other Joint and Survivor Annuity Forms. The joint and survivor annuity is a reduced monthly benefit beginning on the member's benefit commencement date and payable throughout the member's lifetime, with either 50 percent, 66-2/3 percent, 75 percent or 100 percent of that monthly amount continuing for life to his or her joint annuitant, who may be any person designated by the member, beginning on the first day of the month following the member's date of death. A member who has elected a joint and

1 survivor form of benefit shall be permitted to change his or her joint annuitant
2 as provided in Sections 185.161 and 185.341, Florida Statutes.

3
4 **SECTION THREE:** Section 8 of the Police Officer Pension Plan, as codified in
5 Chapter 12, Article I of the Charter of the City of Orlando, Florida, be, and the same is
6 hereby amended to read:

7 **Sec. 8. - Disability Pensions in General.**

8 1) For the purposes of both sections 9 and 10 of this retirement plan, pertaining to
9 disability pensions, the term "permanently and totally disabled" shall be construed to
10 mean and include the loss of one or more limbs, loss of sight in one or both eyes, loss
11 of hearing in one or both ears, and any other condition which renders the member unfit
12 to perform the required duties of the member's rank held at the time of impairment.

13 (2) A police officer will not be entitled to receive any disability retirement income if
14 the disability is a result of:

15 (a) Excessive and habitual use by the police officer of drugs, intoxicants,
16 or narcotics;

17 (b) Injury or disease sustained by the police officer while willfully and
18 illegally participating in fights, riots, civil insurrections or while committing a crime;

19 (c) Injury or disease sustained by the police officer while serving in any
20 armed forces;

21 (d) Injury or disease sustained by the police officer after employment has
22 terminated;

23 (e) Injury or disease sustained by the police officer while working for
24 anyone other than the city and arising out of such employment. ~~No member of the~~

~~police department shall be entitled to a disability pension, whether in line of duty or not in line of duty, because of or due to the aggravation of a specific injury, impairment or other medical condition pre-existing at the time of employment with the police department, provided that such pre-existing condition and its relationship to a later injury, impairment or other medical condition be established by competent substantial evidence. Nothing herein shall be construed to preclude a disability pension to a member who, after employment with the police department suffers an injury, impairment or other medical condition different from some other injury, impairment, or other medical condition existing at or prior to said employment.~~

3) Notwithstanding any other provision of this retirement plan, a disability pension may be denied by the Board of Trustees if it is determined that:

a) the applicant is not totally disabled to do all of the functions which can be performed by members of his or her same rank;

b) the applicant is able to do some of the functions which can be performed by members of his or her same rank; and

c) the Chief of the Police Department is willing to permit the applicant to remain on the Orlando Police Department, performing limited duty with no reduction in pay or benefits.

4) If in any month a disability retiree receives both workers' compensation payments and disability pension benefits, a dollar-for-dollar offset will be made to disability pension payments otherwise due for any workers' compensation payments received; provided, however, the offset will not operate to reduce the total of workers' compensation payments and pension plan payments below 100 percent of the pensionable salary earned by the retiree on his or her last day of work for the Orlando

1 Police Department; and provided further that no offset shall be made if the member is
2 receiving benefits under Title 42 USCA Public Health and Welfare (Social Security)
3 guidelines as disabled. For purposes of offset calculation when lump sum workers'
4 compensation settlements are paid, the lump sum will be amortized over the period of
5 allowable benefits, not to exceed 10 years.

6
7 **SECTION FOUR:** Section 21 of the Police Officer Pension Plan, as codified in
8 Chapter 12, Article I of the Charter of the City of Orlando, Florida, be, and the same is
9 hereby amended to read:

10 **Sec. 21. - Qualified Pension Fund.**

11 The City intends the pension fund to be a qualified plan under Section 401 of the
12 Internal Revenue Code, as amended, and that the trust be an exempt organization
13 under Section 501 of the Internal Revenue Code. The board of trustees shall administer
14 the pension fund so as to fulfill this intent, including, but not limited to the following:

15 1) In the event the pension fund should terminate, or if there were to be a complete
16 discontinuance of contributions to the fund, the rights of all employees to benefits
17 accrued to the date of such termination or discontinuance, to the extent then funded,
18 shall be nonforfeitable.

19 2) Distributions from the pension fund will comply with the requirements of Section
20 401(a)(9) of the Internal Revenue Code and the regulations thereunder, including the
21 following specific requirements:

a) Distribution of a member's benefits will begin no later than the later of April 1 of the calendar year following the calendar year in which the employee attains age 70½ or April 1 of the calendar year following the calendar year in which the member retires.

b) If distribution of a member's benefits has commenced prior to the member's death, any remaining benefits will be distributed at least as rapidly as under the method of distribution used as of the date of the member's death.

c) If distribution of a member's benefits had not commenced prior to the member's death, any portion of his or her benefits payable after the member's death shall:

1. If payable to the member's surviving spouse, begin no later than the end of the calendar year following the calendar year in which the member would have attained age 70½; or

2. If payable to the member's designated beneficiary, begin no later than the end of the calendar year following the calendar year in which the member died and extend over a period not extending beyond the life expectancy of the eldest beneficiary; or

3. Otherwise, be distributed within 5 years of the member's death.

3) Notwithstanding any other provision in this retirement system, all benefits distributed from the pension fund shall comply with the limitations set forth in Section 415 of the Internal Revenue Code, and applicable regulations thereunder. For this purpose, compensation shall be determined in accordance with Code Section 415(c)(3)(b). ~~In the event it should become necessary to reduce or restrict a benefit in order to comply with section 415(e), the employer-provided portion of the benefit~~

~~payable under this retirement system shall be reduced or restricted to the extent necessary.~~

4) This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this subsection, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions shall apply with regard to this subsection.

a) *Eligible rollover distribution* is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more, any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code, and the portion of any distribution that is not includable in gross income.

b) *Eligible retirement plan* is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, a plan described in Section 457(b) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an

1 eligible rollover distribution to the surviving spouse, an eligible retirement plan is an
2 individual retirement account or individual retirement annuity.

3 c) *Distributee*: A distributee includes an employee or former employee. In addition,
4 the employee's or former employee's surviving spouse and the employee's or former
5 employee's spouse or former spouse who is the alternate payee under a qualified
6 domestic relations order, as defined in Section 414(p) of the Code, are distributees with
7 regard to the interest of the spouse or former spouse.

8 d) *Direct rollover* is a payment by the plan to the eligible retirement plan specified
9 by the distributee.

10 (e) *Notice of eligible rollover distribution*: Within a reasonable period of time before
11 making an eligible rollover distribution, the Board of Trustees shall provide a written
12 explanation to the recipient of such distribution explaining the following: (1) the
13 provisions under which the recipient may have the distribution directly transferred to an
14 eligible retirement plan and that the automatic distribution by direct transfer applies to
15 certain distributions in accordance with §401(a)(31)(B) of the Internal Revenue Code,
16 (2) the provision which requires the withholding of tax on the distribution if it is not
17 directly transferred to an eligible retirement plan, (3) the provisions under which the
18 distribution will not be subject to tax if transferred to an eligible retirement plan within 60
19 days after the date on which the recipient received the distribution, (4) the provisions
20 under which distributions from the eligible retirement plan receiving the distribution may
21 be subject to restrictions and tax consequences which are different from those
22 applicable to distributions from the plan making such distribution. For the purposes of

1 this Subsection, the term “reasonable period of time” shall have the meaning assigned
2 to it under §401(a)(31) of the Internal Revenue Code and the regulations thereunder.

3
4 **SECTION FIVE:** Section 29 of the Police Officer Pension Plan, as codified in
5 Chapter 12, Article I of the Charter of the City of Orlando, Florida, be, and the same is
6 hereby created to read:

7 **Sec. 29. - Orlando Police Officers' SHARE Program.**

8 (1)

9 *Creation and Purpose.*

10 (a)

11 Pursuant to Section 185.35 (6), Florida Statutes, a share program to be entitled "The
12 Orlando Police Officers' Share Program" is created. The purpose of this share program
13 is to place certain state premium tax revenues received pursuant to Chapter 185,
14 Florida Statutes, and earnings generated therefrom, in the share program to pay extra
15 benefits to city police officers participating in such share program, as required by state
16 law. The share program hereby created shall be in addition to any other benefits under
17 the Orlando Police Pension Plan, and nothing herein shall in any way affect any other
18 benefits that now or hereafter exist.

19 (b)

The benefits to be provided for or on behalf of participants of the Orlando Police Officers' Share Program shall be provided through participant - directed investments, and in accordance with s. 401(a) of the Internal Revenue Code and its related regulations.

(c)

The city shall not be required to levy any additional taxes on its residents or to make any contributions to the share program.

(2)

Definitions. The following words and phrases shall, unless otherwise defined or required by the context, for the purpose of the supplemental share program, have the meanings indicated below.

(a)

Account means the participant's share program individual account credited with (i) initial allocation of state premium tax revenues under Section 29(5) hereof, (ii) subsequent annual allocations of state premium tax revenues under Section 29(6) hereof, (iii) allocations of forfeitures under Section 29(9) hereof, and (iv) the net investment return of the participant's individual share program account.

(b)

State premium tax revenues means the state excise tax on casualty insurance premiums distributed to the city in accordance with Chapter 185, Florida Statutes..

1 _____

2 (c)

3 Available Funds for any calendar year from 1998 through 2015 shall mean total state
4 premium tax revenues received during that year by the City for deposit into the Police
5 Officer Pension Plan, less the 1997 base amount of \$2,155,329.40, and less any
6 administrative expenses. Available Funds for any calendar year from 2016 forward
7 shall mean 50% of the state premium tax revenues received during that year in
8 excess of the 2012 base amount of \$2,458,292.76, less any administrative expenses;
9 unless a different amount is legally required under state law.

10
11 (d)

12 Board or board of trustees means the Board of Trustees of the Orlando Police Pension
13 Plan, who shall likewise serve as the board of trustees of this share program. The board
14 shall determine the initial allocation of Available Funds, annual allocations of Available
15 Funds, forfeitures, and administrative expenses of the share program, and shall
16 otherwise administer the share program in accordance with this Section 29.

17 (e)

18 Effective date means the date on which this ordinance is enacted.

19 (f)

Forfeiture means the termination of a participant's account under Section 29 (9) "forfeiture for cause" and "nonvesting forfeiture" of this supplemental share program.

(g)

Includable time, for purposes of the calculation of shares for each calendar year, means "credited service" as defined in Section 6, and includes time in which the officer was participating in the BACKDROP Retirement Option Program (BACKDROP), time during which the officer was performing "qualified military service", time during which the officer was eligible to receive workers compensation benefits, and time in which the officer was on Family Medical Leave Act (FMLA) leave with pay, but excludes any time in which the officer was on any other leave of absence without pay.

(h)

Net investment return for the participant's share program account means the net investment return for the share participant's individual share program account, net of any investment expenses, and less any administrative expenses incurred by the share program not deducted from annual state premium tax revenues.

(i)

Plan means the Orlando Police Pension Plan.

(j)

Qualified military service means that military service as defined in Section 414(u) of the Internal Revenue Code after initial employment as a police officer with the City of Orlando.

1 (k)

2 Separated or separation from employment means a voluntary or involuntary cessation
3 of employment or death while as a police officer with the City of Orlando.

4 (l)

5 Share participant or participant means:

6 (i)

7 For the initial allocation, any person who was a Plan member, including retirees and
8 beneficiaries currently receiving benefits and any separated vested Plan members
9 eligible for a benefit from the Plan in the future, on the effective date of the ordinance
10 creating this share program and was a Plan member, including retirees and
11 beneficiaries currently receiving benefits and any separated vested Plan members
12 eligible for a benefit from the Plan in the future, with includable time constituting at least
13 one full calendar year between the years of 1998 and 2015.

14 (ii)

15 For the future annual allocations, any person who was employed as a police officer and
16 has one (1) full year of credited service on the last day of the calendar year in which
17 there are Available Funds.

18
19 (m)

Share program or program means the Orlando Police Officers' Share Program as provided in this Section 29.

(n)

Share program year means January 1 through December 31.

(3)

Eligibility for Allocations.

(a)

Calculation of Shares for the Initial Allocation.

Each Plan member who has or had at least one (1) full year of credited service on the last day of each calendar year from 1998 through 2015, in which there are Available Funds, shall receive an equal share of the Available Funds for that calendar year, less administrative expenses, deposited into his or her Police Officers' Share Program account.

(b)

Calculation of Shares for Annual Allocations.

Each Plan member who has or had at least one (1) full year of credited service on the last day of any calendar year, beginning in year 2016, in which there are Available Funds, shall receive an equal share of the Available Funds for that calendar year, deposited into his or her Police Officers' Share Program account.

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(4)

Participation.

(a)

Establishment of share program account. An individual account shall be established for each share participant.

(b)

Termination of participation. Every participant shall remain a participant until the participant is entitled to distribution of his or her account under the terms of this share program and actually receives full distribution, or upon forfeiture.

(5)

Initial Allocation of State premium Tax Revenues Collected During Calendar Years 1998 through 2015. The initial allocation shall be determined by the board as follows:

(a)

As provided in Section 29(3)(a), each participant shall be eligible for an allocation as provided for herein.

(b)

For each of the calendar years from 1998 through 2015, a determination will be made of Available Funds for each calendar year in accordance with s. 29(2)(c), and then the

1 pro-rata portion of the lump sum cost of the additional minimum benefits added in this
2 ordinance shall be deducted from the Available Funds for the purpose of calculating the
3 initial dollar allocations for each participant's account.

4
5 (c)

6 In calculating the initial dollar allocations for each participant's account of the state
7 premium tax revenues collected during calendar years 1998 through 2015, the
8 Available Funds for each calendar year as defined in s. 29(2)(c), less the pro-rata
9 portion of the lump sum cost of the additional minimum benefits added in this
10 ordinance, will be divided by the total number of eligible plan members, as defined in s.
11 29(3)(a), for each calendar year.

12 (d)

13 As soon as administratively possible after the effective date, the board shall be given a
14 spreadsheet listing each eligible police officer and for each of the aforesaid calendar
15 years, the share amount to be distributed to each eligible officer for each calendar year
16 and the cumulative distribution to each eligible officer for the initial allocation.

17 (e)

18 After review and approval by the board, said spreadsheet shall be published on the
19 City's website, e-mailed to each eligible participant who has not separated from
20 employment using their City e-mail address, and sent via U.S. regular mail to the last
21 known address of all other persons listed on said spreadsheet.

1 (f)

2 Any person shall have the right to contest the calculation of shares by filing a written
3 complaint with the board within thirty (30) days of publication of the spreadsheet on the
4 City's website. Within sixty (60) days but not less than thirty (30) days of publication of
5 the spreadsheet on the City's website, the board shall hold a quasi-judicial hearing to
6 determine each officer's share amount, and render an order.

7 (g)

8 As soon as administratively possible, distribution shall be made to the participant's
9 individual share account.

10
11
12
13 (6)

14 Annual Allocation of State Premium Tax Revenues Collected for Calendar Year 2016,
15 and Each Calendar Year Thereafter.

16 (a)

17 Except as provided herein, each eligible participant during any calendar year beginning
18 in 2016 shall participate in the annual allocation as provided for herein.

19 (b)

1 The Available Funds for calendar year 2016, and each calendar year thereafter,
2 regardless of when such state premium tax monies are received by the City or the plan,
3 shall be allocated to the share accounts of eligible participants, such that each eligible
4 participant receives an equal share of the Available Funds for that calendar year.

5 (c)

6 Within sixty days of the receipt of any state premium tax monies by the City, the board
7 shall be given a spread sheet listing the total Available Funds for the calendar year, a
8 list of eligible participants, and the share amount to be distributed to each eligible
9 participant for that year.

10 (d)

11 After review and approval by the board, said spreadsheet shall be published on the
12 City's website, e-mailed to each eligible participant who has not separated from
13 employment using their City e-mail address, and sent via U.S. regular mail to the last
14 known address of all other persons listed on said spreadsheet.

15 (e)

16 Any person shall have the right to contest the calculation of shares by filing a written
17 complaint with the board within thirty (30) days of publication of the spreadsheet on the
18 City's website. Within sixty (60) days but not less than thirty (30) days of publication of
19 the spreadsheet on the City's website, the board shall hold a quasi-judicial hearing to
20 determine each participant's share amount, and render an order.

21 (f)

1 As soon as administratively possible but no later than thirty (30) days after resolution of
2 any appeal, or if none, within sixty days of board review and approval, distribution shall
3 be made to the participant's individual share account.

4
5
6 (g)

7 The annual dollar allocation to the participant's account of the state premium tax
8 revenues collected shall be reduced by an amount determined by the board as
9 sufficient to cover administrative expenses.

10 (h)

11 For those eligible participants who have separated from employment, distribution shall
12 be made pursuant to a written request from eligible share participant following delivery
13 by the board or its designee of "Special Tax Notice Regarding Program Payments
14 Under Governmental 401(a) Programs".

15 (7)

16 *Share Program Benefits.*

17 (a)

18 Share program benefits shall be provided in accordance with s. 401(a) of the Internal
19 Revenue Code.

1 (b)

2 Share program benefits shall accrue in individual accounts that are participant-directed,
3 and be funded in accordance with this Section.

4 (c)

5 Share program benefits may not be paid under this section unless the participant has
6 separated from employment and a proper application has been filed in the manner
7 prescribed by the board or its designee. The board or its designee may cancel an
8 application when the participant or beneficiary fails to timely provide the information and
9 documents required by the board or its designee.

10 (8)

11 Vesting Requirement.

12 (a)

13 Solely for the purposes of the Orlando Police Officers' Share Program, vested or
14 vesting means the guarantee that a participant is eligible to receive a retirement benefit
15 from the plan on the completion of ten (10) years of credited service with the plan, or
16 such other vesting period of the plan as may exist in the future, at the time of separation
17 from employment, or upon a determination by the board that the police officer is eligible
18 for disability benefits from the plan. Additionally, a participant who dies while employed
19 as a police officer with the City of Orlando or who dies while performing qualified
20 military service, regardless of years of service and regardless of whether or not such
21 death was in the line of duty, shall be considered vested for purposes of the Orlando

1 Police Officers' Share Program, regardless of whether or not such death qualifies for
2 benefits from the plan.

3 (b)

4 If a participant separates from employment prior to satisfying the vesting requirements,
5 the participant's accumulation shall be transferred from the participant's account to the
6 board where it shall be invested by the board in a suspense account. If the separated
7 participant is reemployed as a police officer within five (5) years, the board shall transfer
8 to the participant's account any amount of moneys previously transferred from the
9 participant's account to the suspense account, plus the actual earnings on such an
10 amount while in the suspense account, provided however, if the separated participant
11 received a refund of member contributions, the reemployed police officer shall repay
12 the member contributions to the plan, with interest as determined by the board. If the
13 reemployed police officer does not repay the member's contributions for the previous
14 credited service with interest as determined by the board within the time determined by
15 the board, the previous accumulations shall be forfeited.

16 (c)

17 Any nonvested accumulations transferred from a participant's account to the suspense
18 account shall be forfeited by the participant if the participant is not reemployed as a
19 police officer within five (5) years after separation from employment.

1 (9)

2 *Forfeitures.*

3 (a)

4 *Forfeiture for cause.* Notwithstanding anything in the share program to the contrary, if a
5 participant is convicted of a specified offense as set forth in Section 112.3173, Florida
6 Statutes, or the participant's retirement benefit is otherwise forfeited pursuant to
7 subsection 112.3173(3), Florida Statutes, as the same may be amended from time to
8 time, the provisions of Section 112.3173, Florida Statutes, as same may be amended
9 from time to time, shall apply and the participant shall forfeit all rights to receive a
10 benefit from the share program in accordance with the provisions of such Section
11 112.3173, Florida Statutes.

12 (b)

13 *Nonvesting forfeiture.* If a share participant separates from employment who is not
14 vested and who has not applied for disability benefits from the plan within the applicable
15 time period, then the participant's account shall be administered pursuant to Section
16 29(8). A police officer who has applied for disability benefits from the plan who has
17 separated from employment shall be included in the calculation of the annual allocation
18 for that period before separation. If such police officer who has separated from
19 employment is later determined not to be eligible for disability benefits from the plan,
20 then the participant's account shall be administered pursuant to Section 29(8). Any
21 police officer whose application for disability benefits is pending shall not be entitled to

1 receipt of the participant's account, unless the police officer is otherwise qualified to
2 receive pension benefits from the plan, now or in the future, based on years of service.

3 (c)

4 Any participant's account which is forfeited shall be held in an interest bearing forfeiture
5 account to be used for the payment of administrative expenses expected for the
6 following year, which expected amount shall be transferred to the administrative
7 expense account. Any monies remaining in the forfeiture account after the transfer of
8 the amount of expected administrative expenses shall be allocated among the other
9 participants based upon the amount of shares each participant is allocated for the
10 calendar year in which the forfeiture occurs. In the event IRS regulations do not allow
11 the reallocation of forfeited share account balances to other member share accounts,
12 the forfeited amount shall be allocated as required by IRS regulations.

13 (10)

14 Administration.

15 (a)

16 The board shall select a private sector company or companies to offer one or more
17 investment products or services to the participants of the share program. Such private
18 sector company or companies shall be a bundled provider that offers participants a
19 range of individually allocated or unallocated investment products and a range of
20 administrative and customer services, including accounting and administration of
21 individual participant accounts; individual participant record keeping; asset purchase,
22 control, and safekeeping; direct execution of the participant's instructions as to asset

allocation; calculation of daily net asset value; direct access to participant account information; periodic reporting to participants, at least quarterly, on account balances and transactions; guidance, advice, and allocation services directly to its own investment options or products, but only if the bundled provider complies with the standard of care of s. 404(a)(1)(A-B) of the Employee Retirement Security Act of 1974 (ERISA) and if providing such guidance, advice, or allocation of services does not constitute a prohibited transaction under s. 4975(c)(1) of the Internal Revenue Code or s. 406 of ERISA, notwithstanding that such prohibited transaction provisions do not apply to the Orlando Police Officers' Share Program; a broad array of distribution options; asset allocation; and retirement counseling and education. Private sector companies include investment management companies, insurance companies, depositories, and mutual fund companies.

(b)

The board shall have the full power and authority to adopt rules and regulations for the administration of this share program and to interpret, alter, amend or revoke any rules so adopted, which rules shall have the force of law. However, the board shall not have the authority to adopt any rules which makes a substantive change to the share program.

(c)

The board shall have the full power and authority to retain independent legal counsel, independent actuary, and such independent professional, technical, or other advisors as it deems necessary at the expense of this share program.

1 (d)

2 Except as otherwise provided in Section 29, all costs, expenses and fees of
3 administering this share program shall be paid from state premium tax revenues or the
4 assets of this share program in such fashion as the board shall determine. Any
5 allocation to a participant's account shall be net of the participant's allocable portion of
6 the share program's costs, expenses and fees of administering the share program.

7 (e)

8 The Orlando Police Officers' Share Program shall be administered by the board and
9 any approved provider and third party administrator, if any, in accordance with all
10 applicable mandatory provisions of federal and state law now existing or as they may
11 exist in the future. The board is hereby authorized to adopt written rules setting forth the
12 specifics of applicable mandatory provisions of federal and state law as they now exist
13 or may exist in the future, which rules shall have the force of law.

14 (11)

15 *Investment.*

16 (a)

17 The investment of the assets of the Orlando Police Officer's Share Program shall be
18 subject to the limitations and conditions set forth in Chapter 185, Florida Statutes, and
19 shall be pursuant to a written investment policy adopted by the board pursuant to
20 Section 112.661, Florida Statutes, as such statutes now exist or as they may exist in
21 the future.

1 (b)

2 Pursuant to Section 29(10)(a), the board shall select one or more bundled providers,
3 each of whom may offer multiple investment options and related services.

4 (c)

5 As a condition of offering any investment option or product, the approved provider must
6 agree to make the investment product or service available under the most beneficial
7 terms offered to any other customer, subject to approval by the board.

8 (12)

9 *Participant Information Requirements.*

10 (a)

11 The board shall insure that each participant is provided an annual statement of the
12 amount of state premium tax revenues, including forfeitures, less administrative
13 expenses allocated to the participant's individual share account.

14 (b)

15 The board shall insure that each participant is provided a quarterly statement that
16 accounts for the participant's interest and investment earnings thereon; any fees,
17 penalties, or the deductions that apply thereto.

18 (c)

1 The approved provider and the third-party administrator, if any, shall provide quarterly
2 and annual summary reports to the board and any other reports requested by the
3 board.

4 (13)

5 *Federal Requirements.*

6 (a)

7 Provisions of this section shall be construed and the Orlando Police Officers' Share
8 Program shall be administered, so as to comply with the applicable provisions of the
9 Internal Revenue Code, 26 U.S.C., now existing or as they may exist in the future, and
10 specifically with program qualification requirements imposed on governmental programs
11 under s. 401(a) of the Internal Revenue Code. The board shall have the power and
12 authority to adopt rules reasonably necessary to establish and maintain the qualified
13 status of the Orlando Police Officers' Share Program under the Internal Revenue Code
14 and to implement and administer the Orlando Police Officers' Share Program in
15 compliance with the Internal Revenue Code; provided, however, the board shall not
16 have the authority to adopt any rule which makes a substantive change to the Orlando
17 Police Officers' Share Program.

18 (b)

19 Any provision of this section which is susceptible to more than one construction must be
20 interpreted in favor of the construction most likely to satisfy requirements imposed by s.
21 401(a) of the Internal Revenue Code.

1 (14)

2 Investment Policy Statement. Investment products and approved providers selected for
3 the Orlando Police Officers' Share Program shall conform with the written policy
4 statement adopted by the board pursuant to Section 112.661, Florida Statutes, as such
5 statute now exists or as it may exist in the future. The statement must also include,
6 among other items, the investment objectives of the Orlando Police Officers' Share
7 Program, manager selection and monitoring guidelines, and performance measurement
8 criteria. The board's "professionally qualified independent consultant" may present
9 recommended changes in the investment policy statement to the board for approval.

10 (15)

11 Statement of Fiduciary Standards and Responsibilities.

12 (a)

13 Investment by approved providers of the Orlando Police Officers' Share Program assets
14 shall be subject to the fiduciary standards set forth in Section 112.656 and Section
15 518.11, Florida Statutes, as such statutes now exists or as it may exist in the future.

16 (b)

17 If a participant or beneficiary of the Orlando Police Officers' Share Program exercises
18 control over the assets in his or her account, as determined by reference to regulations
19 of the United States Department of Labor under s. 404(c) of the Employee Retirement
20 Income Security Act of 1974 and all applicable laws governing the operation of the
21 program, no program fiduciary shall be liable for any loss to a participant's or

beneficiary's account which results from such participant's or beneficiary's exercise or control.

(16)

Participant Records. Personal identifying information of a participant in the Orlando Police Officers' Share Program contained in records held by the board or the City of Orlando is exempt from Section 119.07(1), Florida Statutes and Section 24(a) Article I of the State Constitution.

(17)

Designation of Beneficiaries.

(a)

Each participant may, on a form provided for that purpose, signed and filed with the approved provider and third party administrator, if any, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary who shall receive the benefits, if any, which may be payable pursuant to this section in the event of the participant's death. If no beneficiary is named in this manner, or if no beneficiary designated by the participant survives the participant, the beneficiaries shall be the beneficiaries of the participant's estate. The board may determine the beneficiaries of the participant's estate pursuant to rules adopted by the board. Otherwise, a court order determining the beneficiaries of the participant's estate shall be required.

(b)

A trust may be designated as a beneficiary.

1 (c)

2 In connection with the initial allocation or any future annual allocation to which the
3 police officer is eligible, the board may honor any written designation of beneficiary of
4 the eligible police officer received by the board or city which specifically references this
5 share program, even if such written designation was received prior to the effective date.

6 (18)

7 Miscellaneous provisions.

8 (a)

9 Exclusive benefit rule. No part of the assets of this share program shall be used for, or
10 diverted to any purpose whatsoever other than for the exclusive benefit of the share
11 participants and beneficiaries thereof, and defraying reasonable expenses of
12 administering the share program. No person shall have any interest in, or right to, any
13 part of the assets of this share program, except as and to the extent expressly provided
14 in this Section 29.

15 (b)

16 Non alienation of benefits. The benefits provided by this share program shall not be
17 subject to garnishment, execution, attachment, the operation of bankruptcy or
18 insolvency law, or to any legal process whatsoever, and shall be unassignable.
19 Provided, however, the board may authorize deductions in accordance with Section
20 185.05(6), Florida Statutes, as such statute now exists or may exist in the future.

21 (c)

1 Marriage dissolution. No distribution of a participant's account shall be made because
2 of dissolution of marriage. Payouts can only be made after the participant's separation
3 from employment as a police officer. A participant's account shall not be subject to a
4 Qualified Domestic Relations Order (QDRO). The costs incurred by the board for any
5 actuarial, accounting, administrative, or legal services required to respond to any court
6 orders or any other matters involving the calculation or division of a participant's
7 account due to a dissolution of marriage shall be deducted from the participant's
8 account.

9 (d)

10 Termination and discontinuance of the program. It is the intent of the City of Orlando
11 that this share program be permanent and remain in effect for an indefinite period.
12 However, in the event this share program is discontinued or terminated, all participants
13 shall immediately become fully vested in their benefits. The discontinuance or
14 termination shall be carried out in all respects in conformance with applicable statutes,
15 rules and regulations of the federal government and the State of Florida, or any duly
16 constituted agency thereof having jurisdiction.

17 (e)

18 Applicable laws. This share program shall be construed and enforced under the
19 applicable laws of the State of Florida and any applicable federal laws, rules and
20 regulations, and all of the provisions hereof shall be administered in accordance
21 therewith.

22 (f)

1 Disclaimer with respect to investments. The City and the board of trustees make no
2 endorsement, guarantee or any other representation and shall not be liable to this
3 share program or any participant, beneficiary, or any other person with respect to the
4 financial soundness, investment performance, fitness, or suitability (for meeting a
5 participant's objectives, future obligations under the program, or any other purpose) of
6 any investment option offered by this share program or any investment vehicle in which
7 a participant's account are actually invested.

8 (g)

9 Spendthrift provision. The interests of the participant in his individual share account, or
10 the income or gains therefrom, shall not be subject to the rights of creditors of the
11 participant, and shall be exempt from execution, attachment, distress for rent, and all
12 other legal or equitable process issued by or on behalf of such creditors, and the
13 interests of the participant in his individual account or the income or gains therefrom
14 shall not be assignable.

15 (h)

16 Venue. Any litigation concerning this share program shall be conducted in the state
17 courts in the State of Florida situated in Orange County, Florida.

18 (i)

19 Reservation of right to amend share program. Subject to the provisions of Chapter 447,
20 Part II, Florida Statutes, the City reserves the right at any time to amend or modify this
21 share program, provided that no amendment shall cause any part of the share program

1 assets to be used or diverted to purposes other than the exclusive benefit of the
2 participants and their beneficiaries.

3 (i)

4 Compliance with Internal Revenue Code. If it is determined by the Internal Revenue
5 Service that any provision of this share program cannot be corrected, or that the
6 operation or administration of the share program cannot be corrected, such as to
7 disqualify the Orlando Police Officer Pension Plan from being tax exempt under the
8 applicable provisions of the Internal Revenue Code, then all assets of this share
9 program shall be used to provide "extra benefits" in such a manner to not disqualify the
10 Orlando Police Officer Pension Plan.

11
12 **SECTION SIX:** Section 30 of the Police Officer Pension Plan, as codified in
13 Chapter 12, Article I of the Charter of the City of Orlando, Florida, be, and the same is
14 hereby created to read:

15 **Sec. 30. - Military Service After Employment.**

16 (1) The years and fractional parts of years that a member has served on active
17 military service of the Armed Forces of the United States after March 12, 1999,
18 voluntarily or involuntarily, and honorably or under honorable conditions, after initial
19 employment with the City of Orlando Police Department, shall be added to his or her
20 years of creditable service provided that:

1 (a) The maximum number of years of credit for military service shall be
2 five (5) years, unless required by Uniformed Services Employment and Reemployment
3 Rights Act.

4 (b) The police officer is entitled to reemployment under the provisions of
5 the Uniformed Services Employment and Reemployment Rights Act.

6 (c) The police officer returns to his or her employment as a police officer
7 with the City of Orlando within 1 year from the date of release from such active military
8 service.

9
10 (2) The qualified military service of a member who has been reemployed under the
11 terms of IRC §414(u) shall be treated, for vesting and benefit accrual purposes, as
12 service completed under Section 6 of this retirement plan.

13
14 (3) Effective January 1, 2007, in the case of a member who dies while on a leave of
15 absence to perform qualified military service as described in IRC §414(u), the member's
16 beneficiary shall be entitled to any benefits that would have been provided (other than
17 benefit accruals relating to the period of qualified military service) under this retirement
18 plan had the member resumed and then terminated employment on account of death,
19 in accordance with IRC §401(a)(37).

20 **SECTION SEVEN: Severability.** If any section, sub-section, sentence, clause,
21 phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by
22 any court of competent jurisdiction, such portion shall be deemed a separate, distinct,
23 an independent provision and such holding shall not affect the validity of the remaining
24 portions hereto.

SECTION EIGHT: Scrivener's errors. The City Attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the City Clerk.

SECTION NINE: Effective Date. This Ordinance shall take effect upon adoption.

DONE, THE FIRST READING, by the City Council of the City of Orlando,
Florida, at a regular meeting, this _____ day of _____, 2017.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City
of 87 Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this _____
day of _____, 2017.

DONE, THE SECOND READING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, this _____ day of _____, 2017.

CITY OF ORLANDO, FLORIDA

Mayor

ATTEST:

City Clerk
(Seal)

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APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the City of Orlando
Florida, only. _____, 2017.

City Attorney
Orlando, Florida