

ORDINANCE NO. 2019-03

AN ORDINANCE OF THE CITY OF GULFPORT, FLORIDA, AMENDING CHAPTER 15, PENSIONS, ARTICLE IV, FIREFIGHTERS' RETIREMENT PENSION FUND, OF THE CODE OF ORDINANCES OF THE CITY OF GULFPORT; AMENDING SECTION 15-31, DEFINITIONS; AMENDING SECTION 15-33, BOARD OF TRUSTEES, AMENDING SECTION 15-38, DISABILITY; AMENDING SECTION 15-40, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 15-47, MISCELLANEOUS PROVISIONS; AMENDING SECTION 15-50.7, REEMPLOYMENT AFTER RETIREMENT; AMENDING SECTION 15-50.8, SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS; CHAPTER 175 SHARE ACCOUNTS; ADDING SECTION 15-50.9, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

THE CITY COUNCIL OF THE CITY OF GULFPORT, FLORIDA HEREBY ORDAINS:

Section 1: That Chapter 15, Pensions, Article IV, Firefighters' Retirement Pension Fund, of the Code of Ordinances of the City of Gulfport, is hereby amended by amending Section 15-31, Definitions, subsection (a), to amend the definition of "*Retirement*", to read as follows:

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Retirement means a member's separation from city employment with eligibility for immediate receipt of benefits under the system or entry into the deferred retirement option plan.

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Section 2: That Chapter 15, Pensions, Article IV, Firefighters' Retirement Pension Fund, of the Code of Ordinances of the City of Gulfport, is hereby amended by amending Section 15-33, Board of Trustees, subsection (a), to read as follows:

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(a) The sole and exclusive administration of and responsibility for the proper operation of the system and for making effective the provisions of this article is hereby vested in a board of trustees. The board is hereby designated as the plan administrator. The board shall consist of five (5) trustees, two (2) of whom, unless otherwise prohibited by law, shall be legal residents of the city, who shall be appointed by the city council, and two (2) of whom shall be members of the system, who shall be elected by a majority of the firefighters who are members of the system. The fifth trustee shall be chosen by a majority of the previous four (4) trustees as provided for herein, and such person's name shall be submitted to the city council. Upon receipt of the fifth person's name, the Gulfport city council shall, as a ministerial duty, appoint such person to the board of trustees as its fifth trustee. The fifth trustee shall have the same rights as each of the other four (4) trustees appointed or elected as herein provided and shall serve a four-year term unless he sooner vacates the office. Each resident trustee shall serve as trustee for a period of four (4) years, unless he sooner vacates the office or is sooner replaced by the city council at whose pleasure he shall serve. Each member trustee shall serve as trustee for a period of four (4) years, unless he sooner leaves the employment of the city as a firefighter or otherwise vacates his office as trustee, whereupon a successor shall be chosen in the same manner as the departing trustee. Each trustee may succeed

himself in office. DROP participants can be elected as but not vote for elected trustees. The board shall establish and administer the nominating and election procedures for each election. The board shall meet at least quarterly each year. All meetings shall be public meetings in compliance with applicable state law. The board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

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Section 3: That Chapter 15, Pensions, Article IV, Firefighters' Retirement Pension Fund, of the Code of Ordinances of the City of Gulfport, is hereby amended by amending Section 15-38, Disability, subsection (a), *Disability Benefits*, subsection (c), *Disability Benefits Not-in-line of Duty*, and adding subsection (h), Eligibility for Disability Benefits, to read as follows:

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(a) *Disability benefits in-line of duty.* 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 firefighter, which disability was directly caused by the performance of his duties as a firefighter shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to the greater of:

- (1) Three and thirty-seven one hundredths percent (3.37%) of his average final compensation multiplied by the total years of credited service, but in any event, the minimum amount paid to the member shall be forty-two percent (42%) of average final compensation. (This benefit shall be adjusted in the same manner and as part of the adjustment provided for in section 15-36 (b)); or
- (2) Fifty (50) percent of the member's average final compensation.

~~Terminated persons, either vested or nonvested, are not eligible for disability benefits. 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. Eligibility requirements for disability benefits are set forth in subsection (h), below.~~

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(c) *Disability benefits not-in-line of duty.* Any full-time firefighter member with ten (10) years or more credited service as a full-time firefighter 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 firefighter, which disability is not directly caused by the performance of his duties as a firefighter shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to three and thirty-seven one hundredths percent (3.37%) of his average final compensation multiplied by the total years of credited service. (This benefit shall be adjusted in the same manner and as part of the adjustment provided for in section 15-36 (b)). ~~Terminated persons, either vested or nonvested, are not eligible for disability benefits. 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. Eligibility requirements for disability benefits are set forth in subsection (h), below.~~

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(h) Eligibility for Disability Benefits. Subject to (h)(4) below, only active members of the system on the date the board determines entitlement to a disability benefit are eligible for disability benefits.

- (1) Terminated persons, either vested or non-vested, are not eligible for disability benefits.
- (2) If a member voluntarily terminates his employment, either before or after filing an application for disability benefits, he is not eligible for disability benefits.
- (3) If a member is terminated by the City for any reason other than for medical reasons, either before or after he files an application for disability benefits, he is not eligible for disability benefits.
- (4) The only exception to (1) above is:
 - a. If the member is terminated by the City for medical reasons and he has already applied for disability benefits before the medical termination, or;
 - b. If the member is terminated by the City for medical reasons and he applies within 30 days after the medical termination date.

If either (4)a., or (4)b. above applies, the member's application will be processed and fully considered by the board.

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Section 4: That Chapter 15, Pensions, Article IV, Firefighters' Retirement Pension Fund, of the Code of Ordinances of the City of Gulfport, is hereby amended by amending Section 15-40, Optional Forms of Benefits, subsection (a)(4), to read as follows:

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- (a)(4) For members who do not participate in the DROP pursuant to Section 15-50.9, the member may elect a percentage of benefit in a lump sum as follows:
- a. Ten percent (10%) of the total actuarial equivalent value of the benefit paid as a lump sum with the remaining ninety percent (90%) paid under the normal form or as per (1), (2) or (3) above.
 - b. Fifteen percent (15%) of the total actuarial equivalent value of the benefit paid as a lump sum with the remaining eighty-five percent (85%) paid under the normal form or as per (1), (2) or (3) above.
 - c. Twenty percent (20%) of the total actuarial equivalent value of the benefit paid as a lump sum with the remaining eighty percent (80%) paid under the normal form or as per (1), (2) or (3) above.
 - d. Twenty-five percent (25%) of the total actuarial equivalent value of the benefit paid as a lump sum with the remaining seventy-five percent (75%) paid under the normal form or as per (1), (2) or (3) above.

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Section 5: That Chapter 15, Pensions, Article IV, Firefighters' Retirement Pension Fund, of the Code of Ordinances of the City of Gulfport, is hereby amended by amending Section 15-47, Miscellaneous Provisions, to add subsection (j), *Missing Benefit Recipients*, to read as follows:

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(j) *Missing Benefit Recipients.* The System shall follow the procedures outlined in the IRS Employee Plans Compliance Resolution System (EPCRS) Program and other applicable IRS guidance to locate any missing individuals to whom a full unreduced benefit payment is due and if, at the conclusion of such efforts, the individual cannot be located, the existing procedure of cancelling payments otherwise due (provided that, if the individual is later located, the benefits due shall be paid) will apply.

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Section 6: That Chapter 15, Pensions, Article IV, Firefighters' Retirement Pension Fund, of the Code of Ordinances of the City of Gulfport, is hereby amended by amending Section 15-50.7, Reemployment After Retirement, to read as follows:

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(a) Any retiree under this system, ~~except for disability retirement as previously provided for,~~ may be reemployed by any public or private employer, ~~except the City,~~ and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this System. Notwithstanding the previous sentence, reemployment by the City shall be subject to the limitations set forth in this Section.

(b) *After Normal Retirement.* Any Retiree who is retired under normal (or early) retirement pursuant to this System and who is reemployed as a Firefighter and, by virtue of that reemployment, is eligible to participate in this System, shall upon being reemployed, discontinue receipt of benefits. Upon reemployment, the Member shall be deemed to be fully vested and the additional Credited Service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to the benefit determined upon the initial retirement to determine the total benefit payable upon final Retirement. Calculations of benefits upon Retirement shall be based upon the benefit accrual rate, Average Final Compensation, and Credited Service (and early retirement reduction factor, if applicable) as of that date and the retirement benefit amount for any subsequent employment period shall be based upon the benefit accrual rate, Average Final Compensation (based only on the subsequent employment period), and Credited Service (and early retirement reduction factor, if applicable) as of the date of subsequent retirement. The amount of any death or disability benefit received during a subsequent period of employment shall be reduced by the amount of accrued benefit eligible to be paid for a prior period of employment. The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but the retiree may select a different optional form and joint pensioner applicable only to the subsequent retirement benefit.

(c) Any Retiree who is retired under normal retirement pursuant to this System who is reemployed by the City in a position other than as a Firefighter, shall upon being reemployed, continue receipt of benefits for the period of any subsequent employment.

(d) *After Early Retirement.* ~~Any Retiree who is retired under early retirement pursuant to this System and who subsequently becomes an employee of the City in any capacity, shall discontinue receipt of benefits from the System. If the reemployed person, by virtue of his reemployment, is eligible to participate in this System, that person shall accrue a second benefit as~~

provided for in subsection 2. above and benefit payments shall remain suspended during any such subsequent employment period. If the reemployed person is not eligible to participate in this System, that person's pension benefit payments shall be suspended until the earlier of termination of employment or such time as the reemployed retiree reaches the date that he would have been eligible for normal retirement under this system had he continued employment and not elected early retirement. "Normal retirement" as used in this subsection shall be the current normal retirement date provided for under this system. Any retiree who is retired under early retirement pursuant to this system and who subsequently becomes an employee of the city in any capacity shall discontinue receipt of benefits from the system. If by virtue of that reemployment, the retiree is eligible to participate in this system, the retiree shall be deemed to be fully vested and the additional credited service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to the benefit determined upon the initial retirement to determine the total benefit payable upon final retirement. Calculations of benefits upon retirement shall be based upon the benefit accrual rate, average final compensation, credited service and early retirement reduction factor as of that date and the retirement benefit amount for any subsequent employment period shall be based upon the benefit accrual rate, average final compensation (based only on the subsequent employment period), and credited service as of the date of subsequent retirement. The amount of any death or disability benefit received as a result of a subsequent period of employment shall be reduced by the amount of accrued benefit eligible to be paid for a prior period of employment. The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but the member may select a different optional form and joint pensioner applicable to the subsequent retirement benefit. Retirement pursuant to an early retirement incentive program shall be deemed early retirement for purposes of this section if the member was permitted to retire prior to the customary retirement date provided for in the system at the time of retirement.

(e) After disability retirement.

- (1) Subject to paragraph (2) below, any retiree who is retired under Section 15-38, Disability ("disability retiree"), may, subject to subsection (e), physical examination requirement, of that section, be reemployed by any public or private employer, and may receive compensation from that employment without limiting or restricting in any way, the retirement benefits payable under this system.
- (2) Any disability retiree who subsequently becomes an employee of the City in any capacity, except as a firefighter, shall discontinue receipt of disability benefits from the system for the period of any such employment.
- (3) If a disability retiree is reemployed as a firefighter for the City, his disability benefit shall cease and Section 15-38(e) shall apply.

(e f) Reemployment of Terminated Vested Persons. Reemployed terminated vested persons shall not be subject to the provisions of this section until such time as they begin to actually receive benefits. Upon receipt of benefits, terminated vested persons shall be treated as normal or early retirees for purposes of applying the provisions of this section and their status as an early or normal retiree shall be determined by the date they elect to begin to receive their benefit.

(g) DROP participants. Members or retirees who are or were in the deferred retirement option plan shall, following termination of employment after DROP participation, have the options provided for in this section for reemployment.

Section 7: That Chapter 15, Pensions, Article IV, Firefighters' Retirement Pension Fund, of the Code of Ordinances of the City of Gulfport, is hereby amended by amending Section 15-50.8, Supplemental Benefit Component for Special Benefits; Chapter 175 Share Accounts, to read as follows:

Sec. 15-50.8. Supplemental benefit component for special benefits; Chapter 175 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 175, premium tax monies for each plan year which are allocated to this supplemental component as provided for in F.S. §175.351. Amounts allocated to this supplemental component ("Share Plan"), if any, shall be further allocated to the members and DROP participants as follows:

(a) *Individual Member Share Accounts.* The board shall create individual "member share accounts" for all actively employed plan members and DROP participants and maintain appropriate books and records showing the respective interest of each member or DROP participant hereunder. Each member or DROP participant shall have a member share account for his share of the F.S. Chapter 175 tax revenues described above, forfeitures and income and expense adjustments relating thereto. The board shall maintain separate member share accounts, however, the maintenance of separate accounts is for accounting purposes only and a segregation of the assets of the trust fund to each account shall not be required or permitted.

(b) *Share Account Funding.*

- (1) Individual member share accounts shall be established as of September 30, 2015 for all members who were actively employed as of October 1, 2014. Individual member share accounts shall be credited with an allocation as provided for in the following subsection (c) of any premium tax monies which have been allocated to the share plan for that plan year, beginning with the plan year ending September 30, 2015.
- (2) Any forfeitures as provided in subsection (d), shall be used as part of future allocations to the individual member share accounts in accordance with the formula set forth in subsection (c)(1).

(c) *Allocation of Monies to Share Accounts.*

(1) *Allocation of Chapter 175 Contributions.*

- a. Effective as of September 30, 2015, the amount of any premium tax monies allocated to the share plan shall be allocated to individual member share accounts as provided for in this subsection. Members retiring on or after October 1, 2014 and prior to September 30, 2015 shall receive an allocation. In addition, all premium tax monies allocated to the share plan in any subsequent plan year shall also be allocated as provided for in this subsection. Available premium tax monies shall be allocated to individual member share accounts at the end of each plan year on September 30 (a "valuation date").
- b. On each valuation date, each current actively employed member of the plan not participating in the DROP, each DROP participant, and each retiree who retires or DROP participant who has terminated DROP participation in the plan year ending on the valuation date (including each disability retiree), or

beneficiary of a deceased member (not including terminated vested persons) who is otherwise eligible for an allocation as of the valuation date shall receive a share allocation as follows:

- c. The total funds subject to allocation on each valuation date shall be allocated to each member share account of those eligible for an allocation in an amount equal to a fraction of the total amount, the numerator of which shall be the individual's total years and fractional parts of years of credited service as of the valuation date, and the denominator of which shall be the sum of the total years and fractional parts of years of credited service as of the valuation date of all individuals to whom allocations are being made. Beneficiaries shall receive an allocation based on the years of credited service of the deceased member or DROP participant.
 - d. Re-employed retirees shall be deemed new employees and shall receive an allocation based solely on the credited service in the reemployment period.
- (2) *Allocation of Investment Gains and Losses.* On each valuation date, each individual member share account shall be adjusted to reflect the net earnings or losses resulting from investments during the year. The net earnings or losses allocated to the individual member share accounts shall be the same percentage which is earned or lost by the total plan investments, including realized and unrealized gains or losses, net of brokerage commissions, transaction costs and management fees.
- Net earnings or losses are determined as of the last business day of the fiscal year, which is the valuation date, and are debited or credited as of such date.
- For purposes of calculating net earnings or losses on a member's share account pursuant to this subsection, brokerage commissions, transaction costs, and management fees for the immediately preceding fiscal year shall be determined for each year by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these annual contractual fees to the board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total plan assets.
- (3) *Allocation of Costs, Fees and Expenses.* On each valuation date, each individual member share account shall be adjusted to allocate its pro rata share of the costs, fees and expenses of administration of the share plan. These fees shall be allocated to each individual member share account on a proportionate basis taking the costs, fees and expenses of administration of the share plan as a whole multiplied by a fraction, the numerator of which is the total assets in each individual member share account (after adding the annual investment gain or loss) and the denominator of which is the total assets of the fund as a whole as of the same date.
 - (4) *No Right to Allocation.* The fact of allocation or credit of an allocation to a member's share account by the board shall not vest in any member, any right, title, or interest in the assets of the trust or in the Chapter 175 tax revenues except at the time or times, to the extent, and subject to the terms and conditions provided in this Section.
 - (5) Members and DROP participants shall be provided annual statements setting forth their share account balance as of the end of the plan year.

(d) *Forfeitures.* Any member who has less than ten (10) years of service credit and who is not otherwise eligible for payment of benefits after termination of employment with the city as provided for in subsection (e) shall forfeit his individual member share account. Forfeited amounts shall be included and used as part of the Chapter 175 tax revenues for future allocations to individual member share accounts on each valuation date in accordance with the formula set forth in subsection (c)(1).

(e) *Eligibility For Benefits.* Any member (or his beneficiary) or DROP participant who terminates employment as a firefighter with the City or who dies, upon application filed with the board, shall be entitled to be paid the value of his individual member share account, subject to the following criteria:

(1) *Retirement Benefit.*

- a. A member shall be entitled to one hundred percent (100%) of the value of his share account upon normal or early retirement pursuant to Section 15-36.
- b. Such payment shall be made as provided in subsection (f).

(2) *Termination Benefit.*

- a. In the event that a member's employment as a firefighter is terminated by reason other than retirement, death or disability, he shall be entitled to receive the value of his share account only if he is vested in accordance with Section 15-39.
- b. Such payment shall be made as provided in subsection (f).

(3) *Disability Benefit.*

- a. In the event that a member is determined to be eligible for either an in-line of duty disability benefit pursuant to Section 15-38, subsection (a) or a not-in-line of duty disability benefit pursuant to Section 15-38, subsection (c), he shall be entitled to one hundred percent (100%) of the value of his share account.
- b. Such payment shall be made as provided in subsection (f).

(4) *Death Benefit.*

- a. In the event that a member or DROP participant dies while actively employed as a firefighter, one hundred percent (100%) of the value of his member share account shall be paid to his designated Beneficiary as provided in Section 15-37.
- b. Such payment shall be made as provided in subsection (f).

(f) *Payment of Benefits.* If a member or DROP participant terminates employment for any reason or dies and he or his beneficiary is otherwise entitled to receive the balance in the member's share account, the member's share account shall be valued by the plan's actuary on the next valuation date as provided for in subsection (c) above, following termination of employment. Payment of the calculated share account balance shall be payable as soon as administratively practicable following the valuation date, but not later than one hundred fifty (150) days following the valuation date and shall be paid in one lump sum payment. No optional forms of payments shall be permitted.

(g) *Benefits Not Guaranteed.* All benefits payable under this Section 15-50.8 shall be paid only from the assets accounted for in individual member share accounts. Neither the City nor the board shall have any duty or liability to furnish any additional funds, securities or other assets to fund share account benefits. Neither the board nor any trustee shall be liable for the making, retention, or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the member share account balances, except due to his or its own negligence, willful misconduct or lack of good faith. All investments shall be made by the board subject to the restrictions otherwise applicable to fund investments.

(h) *Notional account.* The member share account is a notional account, used only for the purpose of calculation of the share distribution amount. It is not a separate account in the system. There is no change in the system's assets, and there is no distribution available to the member or DROP participant until the member's or DROP participant's termination from employment. The member or DROP participant has no control over the investment of the share account.

(i) *No employer discretion.* The share account benefit is determined pursuant to a specific formula which does not involve employer discretion.

(j) *Maximum Additions.* Notwithstanding any other provision of this Section, annual additions under this Section shall not exceed the limitations of Section 415(c) of the code pursuant to the provisions of Section 15-45, subsection (k).

(k) *IRC limit.* The share account distribution, along with other benefits payable from the system, is subject to limitation under Internal Revenue Code Section 415(b).

Section 8: That Chapter 15, Pensions, Article IV, Firefighters' Retirement Pension Fund, of the Code of Ordinances of the City of Gulfport, is hereby amended by adding Section 15-50.9, Deferred Retirement Option Plan, to read as follows:

Sec. 15-50.9. Deferred Retirement Option Plan.

(a) *Definitions.* As used in this section 15-50.9, the following definitions apply:

(1) "DROP" -- The City of Gulfport Firefighters' Retirement Pension Fund Deferred Retirement Option Plan.

(2) "DROP account" -- The account established for each DROP participant under subsection (c).

(3) "Total return of the assets" -- For purposes of calculating earnings on a member's DROP account pursuant to subsection (c)(2)b.2., for each fiscal year quarter, the percentage increase (or decrease) in the interest and dividends earned on investments, including realized and unrealized gains (or losses), of the total Plan assets.

(b) *Participation.*

(1) Eligibility to participate. In lieu of terminating his employment as a Firefighter, any member who is eligible for normal retirement under the system may elect to defer receipt of such service retirement pension and to participate in the DROP.

(2) Election to participate. A member's election to participate in the DROP must be made in writing in a time and manner determined by the board and shall be effective on the first day of the first calendar month which is at least fifteen (15) business days after it is received by the board.

(3) Period of participation. A member who elects to participate in the DROP under subsection (b)(2), shall participate in the DROP for a period not to exceed sixty (60) months beginning at the time his election to participate in the DROP first becomes effective. An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the city not later than the date provided for in the previous sentence. A member may participate only once.

(4) Termination of participation.

a. A member's participation in the DROP shall cease at the earlier of:

1. the end of his permissible period of participation in the DROP as determined under subsection (b)(3); or
2. termination of his employment as a Firefighter.

b. Upon the member's termination of participation in the DROP, pursuant to subsection 1 above, all amounts provided for in subsection (c)(2), including monthly benefits and investment earnings and losses or interest, shall cease to be transferred from the system to his DROP account. Any amounts remaining in his DROP account shall be paid to him in accordance with the provisions of subsection (d) when he terminates his employment as a Firefighter.

c. A member who terminates his participation in the DROP under this subsection (b)(4) shall not be permitted to again become a participant in the DROP.

(5) Effect of DROP participation on the system.

a. A member's credited service and his accrued benefit under the system shall be determined on the date his election to participate in the DROP first becomes effective. The member shall not accrue any additional credited service or any additional benefits under the system (except for any supplemental benefit payable to DROP participants or any additional benefits provided under any cost-of-living adjustment for retirees in the system) while he is a participant in the DROP. After a member commences participation, he shall not be permitted to again contribute to the system nor shall he be eligible for disability or pre-retirement death benefits, except as provided for in 15-50.7.

b. No amounts shall be paid to a member from the system while the member is a participant in the DROP. Unless otherwise specified in the system, if a member's participation in the DROP is terminated other than by terminating his employment as a Firefighter, no amounts shall be paid to him from the system until he terminates his employment as a Firefighter. Unless otherwise specified in the system, amounts transferred from the system to the member's DROP account shall be paid directly to the member only on the termination of his employment as a Firefighter.

(c) Funding.

(1) Establishment of DROP account. A DROP account shall be established for each member participating in the DROP. A member's DROP account shall consist of amounts transferred to the DROP under subsection (c)(2), and earnings or interest on those amounts.

(2) Transfers from retirement system.

a. As of the first day of each month of a member's period of participation in the DROP, the monthly retirement benefit he would have received under the system had he terminated his employment as a Firefighter and elected to receive monthly benefit payments thereunder shall be transferred to his DROP account, except as otherwise provided for in subsection (b)(4)b. A member's period of participation in the DROP shall be determined in accordance with the provisions of subsections (b)(3) and (b)(4), but in no event shall it continue past the date he terminates his employment as a Firefighter.

b. Except as otherwise provided in subsection (b)(4)b., a member's DROP account under this subsection (c)(2) shall be debited or credited with either:

1. Interest at an effective rate of three percent (3.0%) per annum compounded monthly determined on the last business day of the prior month's ending balance and credited to the member's DROP account as of such date; or

2. Earnings, to be credited or debited to the member's DROP account, determined as of the last business day of each fiscal year quarter and debited or credited as of such date, determined as follows:

The average daily balance in a member's DROP account shall be credited or debited at a rate equal to the net investment return realized by the system for that quarter. "Net investment return" for the purpose of this paragraph is the total return of the assets in which the member's DROP account is invested by the board net of brokerage commissions, transaction costs and management fees.

For purposes of calculating earnings on a member's DROP account pursuant to this subsection (c)(2)b.2., brokerage commissions, transaction costs, and management fees shall be determined for each quarter by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these quarterly contractual fees to the board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total plan assets.

Upon electing participation in the DROP, the member shall elect to receive either interest or earnings on his account to be determined as provided above. The member may, in writing, elect to change his election only once during his DROP participation. An election to change must be made prior to the end of a quarter and shall be effective beginning the following quarter.

c. A member's DROP account shall only be credited or debited with earnings or interest and monthly benefits while the member is a participant in the DROP. A member's final DROP account value for distribution to the member upon termination of participation in the DROP shall be the value of the account at

the end of the quarter immediately preceding termination of participation for participants electing the net plan return and at the end of the month immediately preceding termination of participation for participants electing the flat interest rate return, plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter or month, as applicable, and prior to distribution. If a member fails to terminate employment after participating in the DROP for the permissible period of DROP participation, then beginning with the member's first month of employment following the last month of the permissible period of DROP participation, the member's DROP account will no longer be credited or debited with earnings or interest, nor will monthly benefits be transferred to the DROP account. All such non-transferred amounts shall be forfeited and continue to be forfeited while the member is employed by the fire department, and no cost-of-living adjustments shall be applied to the member's credit during such period of continued employment. A member employed by the fire department after the permissible period of DROP participation will still not be eligible for pre-retirement death or disability benefits and will not accrue additional credited service except as provided for in section 15-50.7.

(d) *Distribution of DROP accounts on termination of employment.*

(1) *Eligibility for benefits.* A member shall receive the balance in his DROP account in accordance with the provisions of this subsection (d) upon his termination of employment as a Firefighter. Except as provided in subsection (d)(5), no amounts shall be paid to a member from the DROP prior to his termination of employment as a Firefighter.

(2) *Form of distribution.*

- a. Unless the member elects otherwise, distribution of his DROP account shall be made in a lump sum, subject to the direct rollover provisions set forth in subsection (d)(6). Elections under this paragraph shall be in writing and shall be made in such time or manner as the board shall determine.
- b. Notwithstanding the preceding, if a member dies before his benefit is paid, his DROP account shall be paid to his beneficiary in such optional form as his beneficiary may select. If no beneficiary designation is made, the DROP account shall be distributed to the member's estate.

(3) *Date of payment of distribution.* Except as otherwise provided in this subsection (d), distribution of a member's DROP account shall be made as soon as administratively practicable following the member's termination of employment. Distribution of the amount in a Member's DROP account will not be made unless the Member completes a written request for distribution and a written election, on forms designated by the Board, to either receive a cash lump sum or a rollover of the lump sum amount.

(4) *Proof of death and right of beneficiary or other person.* The board may require and rely upon such proof of death and such evidence of the right of any beneficiary or other person to receive the value of a deceased member's DROP account as the board may deem proper and its determination of the right of that beneficiary or other person to receive payment shall be conclusive.

- (5) *Distribution limitation.* Notwithstanding any other provision of subsection (d), all distributions from the DROP shall conform to the “Minimum Distribution Of Benefits” provisions as provided for herein.
- (6) *Direct rollover of certain distributions.* This subsection applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the DROP to the contrary, a distributee may elect to have any portion of an eligible rollover distribution paid in a direct rollover as otherwise provided under the system in section 15-50.4.
- (e) *Administration of DROP.*
- (1) *Board administers the DROP.* The general administration of the DROP, the responsibility for carrying out the provisions of the DROP and the responsibility of overseeing the investment of the DROP's assets shall be placed in the board. The members of the board may appoint from their number such subcommittees with such powers as they shall determine; may adopt such administrative procedures and regulations as they deem desirable for the conduct of their affairs; may authorize one or more of their number or any agent to execute or deliver any instrument or make any payment on their behalf; may retain counsel, employ agents and provide for such clerical, accounting, actuarial and consulting services as they may require in carrying out the provisions of the DROP; and may allocate among themselves or delegate to other persons all or such portion of their duties under the DROP, other than those granted to them as trustee under any trust agreement adopted for use in implementing the DROP, as they, in their sole discretion, shall decide. A trustee shall not vote on any question relating exclusively to himself.
- (2) *Individual accounts, records and reports.* The board shall maintain records showing the operation and condition of the DROP, including records showing the individual balances in each member's DROP account, and the board shall keep in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The board shall prepare and distribute to members participating in the DROP and other individuals or file with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Code and any other applicable laws.
- (3) *Establishment of rules.* Subject to the limitations of the DROP, the board from time to time shall establish rules for the administration of the DROP and the transaction of its business. The board shall have discretionary authority to construe and interpret the DROP (including but not limited to determination of an individual's eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a participant in the DROP). The determination of the board as to the interpretation of the DROP or its determination of any disputed questions shall be conclusive and final to the extent permitted by applicable law.
- (4) *Limitation of liability.*
- a. The trustees shall not incur any liability individually or on behalf of any other individuals for any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.

- b. Neither the board nor any trustee of the board shall be responsible for any reports furnished by any expert retained or employed by the board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or an actuary, and on all opinions of counsel. The board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.
- (f) General provisions.
- (1) The DROP is not a separate retirement plan. Instead, it is a program under which a member who is eligible for normal retirement under the system may elect to accrue future retirement benefits in the manner provided in this section 15-50.9 for the remainder of his employment, rather than in the normal manner provided under the plan. Upon termination of employment, a member is entitled to a lump sum distribution of his or her DROP account balance or may elect a rollover. The DROP account distribution is in addition to the member's monthly benefit.
- (2) Notional account. The DROP account established for such a member is a notional account, used only for the purpose of calculation of the DROP distribution amount. It is not a separate account in the system. There is no change in the system's assets, and there is no distribution available to the member until the member's termination from the DROP. The member has no control over the investment of the DROP account.
- (3) No employer discretion. The DROP benefit is determined pursuant to a specific formula which does not involve employer discretion.
- (4) IRC limit. The DROP account distribution, along with other benefits payable from the system, is subject to limitation under Internal Revenue Code Section 415(b).
- (5) Amendment of DROP. The DROP may be amended by an ordinance of the city at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. However, except as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of the DROP account of any member.
- (6) Facility of payment. If a member or other person entitled to a benefit under the DROP is unable to care for his affairs because of illness or accident or is a minor, the board shall direct that any benefit due him shall be made only to a duly appointed legal representative. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.
- (7) Information. Each member, beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the DROP, shall file with the board the information that it shall require to establish his rights and benefits under the DROP.
- (8) Written elections, notification.



- a. Any elections, notifications or designations made by a member pursuant to the provisions of the DROP shall be made in writing and filed with the board in a time and manner determined by the board under rules uniformly applicable to all employees similarly situated. The board reserves the right to change from time to time the manner for making notifications, elections or designations by members under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.
 - b. Each member or Retiree who has a DROP account shall be responsible for furnishing the board with his current address and any subsequent changes in his address. Any notice required to be given to a member or Retiree hereunder shall be deemed given if directed to him at the last such address given to the board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the member or Retiree notifies the board of his address.
- (9) *Benefits not guaranteed.* All benefits payable to a member from the DROP shall be paid only from the assets of the member's DROP account and neither the city nor the board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.
- (10) *Construction.*
- a. The DROP shall be construed, regulated and administered under the laws of Florida, except where other applicable law controls.
 - b. The titles and headings of the subsections in this section 15-50.9 are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.
- (11) *Forfeiture of retirement benefits.* Nothing in this section shall be construed to remove DROP participants from the application of any forfeiture provisions applicable to the system. DROP participants shall be subject to forfeiture of all retirement benefits, including DROP benefits.
- (12) *Effect of DROP participation on employment.* Participation in the DROP is not a guarantee of employment and DROP participants shall be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.

Section 9: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Gulfport.

Section 10: If any portion, part or section of this ordinance is declared invalid, the valid remainder hereof shall remain in full force and effect.

Section 11: All ordinances, or parts of ordinances in conflict herewith, are hereby repealed to the extent of such conflict.

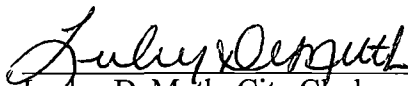
Section 12: That this Ordinance shall become effective upon its adoption.



Samuel Henderson, Mayor

FIRST READING : February 19, 2019
PUBLISHED : February 23, 2019
SECOND READING/
PUBLIC HEARING : March 5, 2019

I, Lesley DeMuth, City Clerk of the City of Gulfport, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law and the City Charter, this 5th day of March, 2019.



Lesley DeMuth, City Clerk