

Ordinance 2017-16

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA, AMENDING CHAPTER 66, PENSIONS AND RETIREMENT, ARTICLE IV FIREFIGHTERS' RETIREMENT SYSTEM, DIVISION 1, GENERALLY AND DIVISION 3, BENEFITS, OF THE CODE OF ORDINANCES OF THE CITY OF ST. PETE BEACH; AMENDING SECTION 66-251 DEFINITIONS, BY AMENDING THE DEFINITIONS OF "ACTUARIAL EQUIVALENT", "CREDITED SERVICE", "FIREFIGHTER", "SALARY" AND "SPOUSE"; AMENDING SECTION 66-252, BENEFIT FREEZE AND MAXIMUM BENEFIT; AMENDING SECTION 66-253, MEMBERSHIP; AMENDING SECTION 66-254, CONTRIBUTIONS; AMENDING SECTION 66-326, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 66-328, DISABILITY; AMENDING SECTION 66-331, MAXIMUM PENSION; AMENDING SECTION 66-335, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 66-337, PRIOR FIRE SERVICE; AMENDING SECTION 66-339, BENEFITS EFFECTIVE JANUARY 1, 2013; ADDING SECTION 66-339.1, SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS; CHAPTER 175 SHARE ACCOUNTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH, TO THE EXTENT OF SUCH CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH FLORIDA, HEREBY ORDAINS:

SECTION 1. That Chapter 66, Article IV Firefighters' Retirement System, Division 1 Generally, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-251 Definitions, by amending the definitions of *Actuarial Equivalent*, *Credited Service*, *Firefighter*, *Salary* and *Spouse*, to read as follows:

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

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Credited service means the total number of years and fractional parts of years of service as a firefighter with member contributions, when required, omitting intervening years or fractional parts of years when such member was not employed by the city as a firefighter. A

member may voluntarily leave his accumulated contributions in the fund for a period of five years after leaving the employ of the fire department pending the possibility of being reemployed as a firefighter, and without losing credit for the time that he was a member of the system. If a vested member leaves the employ of the fire department his accumulated contributions will be returned only upon his written request. If a member who is not vested is not reemployed as a firefighter with the fire department within five years, his accumulated contributions, if \$1,000.00 or less, shall be returned. If a member who is not vested is not reemployed within five years, his accumulated contributions, if more than \$1,000.00, will be returned only upon the written request of the member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the board. Upon return of a member's accumulated contributions, all of his rights and benefits under the system are forfeited and terminated. Upon any reemployment, a firefighter shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his accumulated contributions from the fund, unless the firefighter repays into the fund the contributions he has withdrawn, with interest, as determined by the board, within 90 days after his reemployment.

The years or fractional parts of a year that a member performs "Qualified Military Service" consisting of voluntary or involuntary "service in the uniformed services" as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L.103-353) after separation from employment as a firefighter with the city to perform training or service, shall be added to his years of credited service for all purposes, including vesting, provided that:

- (1) The member is entitled to reemployment under the provisions of USERRA.
- (2) The member returns to his employment as a firefighter within one year from the earlier of the date of his military discharge or his release from active service unless otherwise required by USERRA.
- (3) The maximum credit for military service pursuant to this paragraph shall be five years.
- (4) This paragraph is intended to satisfy the minimum requirements of USERRA. To the extent that this paragraph does not meet the minimum standards of USERRA, as it may be amended from time to time, the minimum standards shall apply.

In the event a member dies on or after January 1, 2007, while performing USERRA Qualified Military Service, the beneficiaries of the member are entitled to any benefits (other than benefit accruals relating to the period of qualified military service) as if the member had resumed employment and then died while employed.

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

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

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Firefighter means an actively employed full time person employed by the city, including his initial probationary employment period, who is certified as a firefighter as a condition of employment in accordance with F.S. § 633.408 and whose duty it is to extinguish fires, to protect life and to protect property. The term includes all certified, supervisory, and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time firefighters, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters.

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Salary for credited service prior to January 1, 2013 shall mean the total compensation for services rendered to the city as a firefighter reportable on the member's W-2 form, excluding single sum payments of accrued sick leave and vacation pay, plus all tax deferred, tax sheltered or tax exempt items of income derived from elective employee payroll deductions or salary reductions. Salary for credited service beginning January 1, 2013 and ending on the day prior to the effective date of this ordinance shall be defined in accordance with the provisions of section 66-339 of this chapter. Salary for credited service on or after the effective date of this ordinance shall mean the total compensation for services rendered to the city as a firefighter reportable on the member's W-2 form, excluding single sum payments of accrued sick leave and vacation pay and excluding overtime that exceeds 300 hours per fiscal year (over and above the regularly scheduled FSLA overtime), plus all tax deferred, tax sheltered or tax exempt items of income derived from elective employee payroll deductions or salary reductions.

Compensation in excess of the limitations set forth in Code Section 401(a) (17) as of the first day of the plan year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions for any plan year beginning on or after January 1, 2002, may not exceed \$200,000.00, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). Compensation means compensation during the fiscal year. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than 12 months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12. If the compensation for any prior determination period is taken into account in determining a member's contributions or benefits for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. The limitation on compensation for an "eligible employee" shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. "Eligible employee" is an individual who was a member before the first plan year beginning after December 31, 1995.

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Spouse means the member's or retiree's spouse under applicable law at the time benefits become payable.

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SECTION 2. That Chapter 66, Article IV Firefighters' Retirement System, Division 1 Generally, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-252 Benefit freeze and maximum benefit, to read as follows:

Sec. 66-252. - Benefit freeze and maximum benefit.

(a) Notwithstanding any other provision of the system, the accrued benefits of all active members shall be frozen on December 31, 2012, and such members shall accrue benefits in accordance with section 66-339 for service between January 1, 2013 and the day prior to the effective date of this ordinance. Such members shall be eligible to receive their frozen accrued benefit with no reduction upon termination of employment and attaining age 55 or upon completion of 25 years of credited service. Such members who attain age 50 with ten years of credited service, or 20 years of credited service regardless of age, shall be eligible to receive their frozen accrued benefit reduced by three percent for each year prior to the member's earliest applicable normal retirement date.

(b) The benefits of members who are employed and not participating in the DROP on December 31, 2012 shall be payable in two parts:

- (1) the frozen accrued benefit based credited service, average final compensation and the provisions of the system in effect on December 31, 2012; and
- (2) The benefit based on credited service, average final compensation and the provisions of the system in effect on and after January 1, 2013.

(C) Effective January 1, 2013 and ending on the day prior to the adoption of this ordinance, the maximum combined benefit under the system shall be 75 percent of average final compensation. Provided, if a member's accrued benefit as of January 1, 2013 is 75 percent or more of average final compensation, the benefit percentage may not be reduced. Beginning on the effective date of this ordinance, the maximum combined benefit under the system shall be 100 percent of average final compensation.

(d) Notwithstanding any other provision of the system, the benefits of members who have attained age 55 or 25 years of credited service as of December 31, 2012 shall not be frozen, and such members shall continue to accrue benefits in accordance with the provisions of the system in effect on December 31, 2012 for as long as they are employed in a position covered by the system.

SECTION 3. That Chapter 66, Article IV Firefighters' Retirement System, Division 1 Generally, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-253 Membership amending subsection (a) *Conditions of eligibility*, to read as follows:

(a) *Conditions of eligibility.* All firefighters as of July 16, 1991 and all future firefighters shall become members of the firefighters' retirement system as a condition of employment, except that if, a new employee who is hired as fire chief has entered into an agreement with the city wherein he shall be permitted to participate in a pension plan other than the one provided in this article, he shall be entitled to waive participation in this plan. Current employees of the city who are selected to become fire chief are not eligible for the opt-out provided for herein. In order to waive such participation, the fire chief shall notify the city manager and the board of trustees, in writing, of his decision to waive such participation. The waiver shall be kept by the city clerk with a duplicate original copy maintained in the personnel file of the fire chief. Thereafter, contributions to the plan in accordance with sections 66-254 or 66-339 shall not be required, he shall not be eligible to be elected as a member trustee on the board or vote for a member trustee, and he shall not be eligible for any other benefits from the plan.

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SECTION 4. That Chapter 66, Article IV Firefighters' Retirement System, Division 3 Benefits, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-254 Contributions amending subsection (a) *Member contributions*, (1) *Amount*, to read as follows:

(a) *Member contributions.* Contributions to the system shall be subject to the following:

- (1) *Amount.* Each member of the system who has attained age 55 or 25 years of credited service on December 31, 2012 shall be required to make regular contributions to the fund in the amount of 10.3 percent of his salary. Members who are employed on December 31, 2012 but have not attained age 55 or 25 years of credited service on that date, and members hired on or after January 1, 2013, shall be required to make contributions to the fund in accordance with section 66-339 of this chapter until the effective date of this ordinance. Member contributions for the period from the effective date of this ordinance through September 30, 2017, shall be 12.4 percent of his salary. Member contributions for each fiscal year after that date, shall be determined by the actuary and shall equal 4 percent of salary plus an amount that reflects the annual cost of the following benefit improvements, determined as of prior valuation date: (1) an increase in the benefit accrual rate for service after January 1, 2013 from 2.25 percent to 3.4 percent, (2) the change to the definition of salary effective with the effective date of this ordinance described in Section 66-251, Definitions, and (3) the 3 percent automatic COLA commencing seven years after retirement on benefits accrued on or after January 1, 2013.

Member contributions withheld by the city on behalf of the member shall be deposited with the board of trustees immediately after each pay period. The contributions made by each member to the fund shall be designated as employer contributions pursuant to Section 414(h) of the Code. Such designation is contingent upon the contributions being excluded from the member's gross income for federal income tax purposes. For all other purposes of the system, such contributions shall be considered to be member contributions.

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SECTION 5. That Chapter 66, Article IV Firefighters' Retirement System, Division 3 Benefits, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-326 Benefit amounts and eligibility amending subsection (a) *Normal retirement date*, to read as follows:

Sec. 66-326. - Benefit amounts and eligibility.

(a) *Normal retirement age and date.* A member's normal retirement age is the earlier of the attainment of age 55 regardless of years of credited service or the completion of 25 years of credited service regardless of age for members who retired, entered the DROP or terminated employment with the right to a deferred vested benefit prior to January 1, 2013, and members who are employed on December 31, 2012 and have attained age 55 or 25 years of credited service on that date. Each member shall become 100 percent vested in his accrued benefit at normal retirement age. A member's normal retirement date shall be the first day of the month

coincident with or next following the date the member retires from the city after attaining normal retirement age.

Normal retirement under the system is retirement from employment with the city on or after the normal retirement date. The normal retirement date for members who are employed on December 31, 2012 but have not attained age 55 or 25 years of credited service on that date, and members hired on or after January 1, 2013, shall be as provided in section 66-339 of this chapter; provided, members who are employed on December 31, 2012 but have not attained age 55 or 25 years of credited service on that date shall be eligible to receive their frozen accrued benefit through December 31, 2012 upon attaining age 55 or 25 years of credited service, and terminating city employment.

(b) *Normal retirement benefit.* A member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his retirement and which shall be continued thereafter during the member's lifetime, ceasing upon death, but with 120 monthly payments guaranteed in any event. The monthly retirement benefit for credited service earned prior to January 1, 2013 shall equal 3.4 percent of average final compensation, for each year of credited service. The normal retirement benefit for credited service on and after January 1, 2013 shall be as provided in section 66-339 of this chapter. Notwithstanding any other provision of this subsection, the normal retirement benefit of a member who is employed on December 31, 2012 and has attained age 55 or 25 years of credited service on that date shall equal 3.4 percent of average final compensation for all years of credited service.

(c) *Early retirement date.* A member may retire on his early retirement date which shall be the first day of any month coincident with or next following the attainment of age 50 and the completion of ten years of credited service or the completion of 20 years of credited service regardless of age. Early retirement under the plan is retirement from employment with the city on or after the early retirement date and prior to the normal retirement date. Members who are employed on December 31, 2012 but have not attained age 55 or 25 years of credited service on that date shall be eligible to receive their frozen accrued benefit through December 31, 2012 with the three percent reduction provided in subsection (d) (2) below, upon attaining age 50 with 10 years of credited service or 20 years of credited service regardless of age, and terminating city employment. For members terminating employment on or after the effective date of this ordinance, the early retirement date will be the later of age 50 and the completion of 10 years of credited service.

(d) *Early retirement benefit.* A member retiring hereunder on his early date may receive either a deferred or an immediate monthly retirement benefit payable for life as follows:

- (1) A deferred monthly retirement benefit which shall commence on what would have been his normal retirement date had he remained a firefighter for those members terminating employment prior to January 1, 2013, and age 55 for those members terminating employment on or after the effective date of this ordinance, and shall be continued on the first day of each month thereafter. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement as his normal retirement date except that credited service and average final compensation shall be determined as of his early retirement date; or
- (2) An immediate monthly retirement benefit which shall commence on his early retirement date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in subsection (d) (1) of this section,

reduced by three percent for each year by which the commencement of benefits precedes the date which would have been the member's normal retirement date had he continued employment as a firefighter for those members terminating employment prior to January 1, 2013, and age 55 for those members terminating employment on or after the effective date of this ordinance.

(e) *Cost-of-living adjustment.* The monthly amount payable based on credited service prior to January 1, 2013 for any member who terminated prior to the effective date of this ordinance, or the entire benefit for those retirees who terminate employment after the effective date of this ordinance to any retiree, including current retirees, and his joint pensioner or beneficiary, if applicable, who retires on or after such member's normal or early retirement date, not including terminated vested persons or disability retirees, shall be subject to an annual cost-of-living adjustment commencing on the first October 1 following seven complete years of receiving retirement income payments. The cost-of-living adjustment shall be three percent of the previous years' benefit amount. For those retirees who terminate employment between January 1, 2013 and the effective date of this ordinance, there shall be no cost of living adjustment applied to benefits based on credited service on or after January 1, 2013; provided, members who are employed on December 31, 2012 and have attained age 55 or 25 years of credited service on that date shall continue to be eligible for the cost of living adjustment provided in this subsection applied to benefits based on all periods of credited service.

(f) *Required distribution date.* The member's benefit under this section must begin to be distributed to the member no later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70½ or the calendar year in which the member terminates employment with the city.

SECTION 6. That Chapter 66, Article IV Firefighters' Retirement System, Division 3 Benefits, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-328 Disability amending subsections (a) *Disability benefits in line of duty* and (c) *Disability benefits not in line of duty*, to read as follows:

(a) *Disability benefits in line of duty.* Any member of the firefighters' retirement system who shall become totally and permanently disabled to the extent that he is unable, because 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 duty as a firefighter, shall, upon establishing the disability to the satisfaction of the board, be entitled to a monthly pension determined as for normal retirement, taking into account his average final compensation and years of credited service at the date of disability, but in any event the minimum amount paid to the member shall be 42 percent of the average final compensation of the member. Terminated persons, either vested or non-vested, 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.

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(c) *Disability benefits not in line of duty.* Any member with ten years or more credited service who shall become totally and permanently disabled to the extent that he is unable, because 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 disability to the satisfaction of the board, be entitled to a monthly pension determined as for normal retirement taking into account his average final compensation and years of credited service at the date of disability. Terminated persons, either vested or non-vested, 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.

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SECTION 7. That Chapter 66, Article IV Firefighters' Retirement System, Division 3 Benefits, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-331 Maximum Pension, to read as follows:

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(f) *Less than Ten (10) Years of Participation.* The maximum retirement benefits payable under this section to any member who has completed less than ten (10) years of participation shall be the amount determined under subsection (a) of this section multiplied by a fraction, the numerator of which is the number of the member's participation and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits paid pursuant to Sec. 66-328 or pre-retirement death benefits paid pursuant to Sec. 66-327.

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(l) *Additional Limitation on Pension Benefits.* Notwithstanding anything herein to the contrary:

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(2) No member of the system shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 1223, Title 10, U.S. Code.

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

SECTION 8. That Chapter 66, Article IV Firefighters' Retirement System, Division 3 Benefits, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-335, Deferred Retirement Option Plan, to read as follows:

Sec. 66-335. - Deferred retirement option plan.

- (a) *Definitions.* As used in this section 66-335, the following definitions apply:
- (1) *DROP* means the City of St. Pete Beach Firefighters' Deferred Retirement Option Plan.
 - (2) *DROP account* means the account established for each DROP participant under subsection (c) of this section.
 - (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 subsection 66-326(a) of this division, of the system may, prior to January 1, 2013, elect to defer receipt of such service retirement pension and to participate in the DROP. Notwithstanding any other provision of this section, the DROP shall be closed to new participants effective January 1, 2013, and no member may enter the DROP on or after that date; provided, a member who is employed on December 31, 2012 and has attained age 55 or 25 years of credited service on that date may enter and participate in the DROP on or after January 1, 2013 in accordance with the provisions of this section.
 - (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 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 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 or losses or interest,

as applicable, 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 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. For purposes of determining the accrued benefit, the member's salary for the purposes of calculating his average final compensation shall include an amount equal to any lump sum payments which would have been paid to the member and included as salary as defined herein, had the member retired under normal retirement and not elected DROP participation. Member contributions attributable to any lump sums used in the benefit calculation and not actually received by the member shall be deducted from the first payments to the member's DROP account. 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, nor shall his estate or beneficiary be eligible for pre-retirement death benefits.
- 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 seven and one-half percent 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 (to be applicable to all current and future DROP participants); 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 is employed by the city fire department 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. A member employed by the fire department after the permissible period of DROP participation will still not be eligible for disability benefits, nor will he accrue additional credited service.

(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 cash lump sum. A member may elect, in such time and manner as the board shall prescribe, to receive the optional form of benefit described below.

1. Until the value of the member's DROP account is completely depleted, payments in approximately equal quarterly or annual installments over a period, designated by the member, not to exceed the life expectancy of the last survivor of the member and his beneficiary. In the event that the member dies before all installments have been paid, the remaining balance in his DROP account shall be paid in an immediate cash lump sum to his beneficiary, or if none is designated, then to the member's estate.

2. The purchase of a nonforfeitable fixed annuity payable in such form as the member may elect. Elections under this clause 2. 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 benefits commence, 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 begin 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 this 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 66-333.
- (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, or cause to be maintained, 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, or cause to be kept, in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The board shall prepare or cause to be

prepared and distributed to members participating in the DROP and other individuals or filed 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, the applicable portions of the Act 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. The board shall also oversee the investment of the DROP'S assets.

(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 66-335 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 the board shall find that 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 may direct that any benefit due him, unless claim shall have been made for the benefit by a duly appointed legal representative, be paid to his spouse, a child, a parent or other blood relative, or to a person with whom he resides. 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) *Prevention of escheat.* If the board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the board may, no earlier than three years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the board or the city. If such person has not made written claim therefor within three months of the date of the mailing, the board may, if it so elects and upon receiving advice from counsel to the DROP, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the DROP. Upon such cancellation, the DROP shall have no further liability therefor except that, in the event such person or his beneficiary later notifies the board of his whereabouts and requests the payment or payments due to him under the DROP, the amount so applied shall be paid to him in accordance with the provisions of the DROP.
- (9) *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.
- (10) *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.
- (11) *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 66-335 are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.
- (12) *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.
- (13) *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. That Chapter 66, Article IV Firefighters' Retirement System, Division 3 Benefits, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-337 Prior fire service, to read as follows:

* * *

- (5) In no event, however, may credited service be purchased pursuant to this section for prior service with any other municipal, county fire department, if such prior

service forms or will form the basis of a retirement benefit or pension from another retirement system or plan as set forth in subsection 66-331(l)(2).

SECTION 10. That Chapter 66, Article IV Firefighters' Retirement System, Division 3 Benefits, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-339 Benefits Effective January 1, 2013, to read as follows:

Sec. 66-339. - Benefits Effective January 1, 2013.

(a) Effective January 1, 2013 all members employed on that date who have not attained age 55 or 25 years of credited service, and all members hired on or after that date, shall accrue benefits as provided in this section 66-339. The provision of this section shall not apply to members who have retired, separated from service with the city with the right to a deferred vested benefit, entered DROP or attained normal retirement eligibility prior to January 1, 2013.

(b) *Benefit amounts and eligibility.*

(1) *Normal retirement age and date.* For members who terminate employment prior to the effective date of this ordinance a member's normal retirement age is the earlier of the attainment of age fifty-five (55) and completion of ten (10) years of credited service, the attainment of age fifty-two (52) and twenty-five (25) years of credited service, or thirty (30) years of credited service regardless of age. Provided, a member with ten (10) or more years of credited service on December 31, 2012 shall be eligible for normal retirement at age fifty-five (55) or upon completion of twenty-five (25) years of credited service, regardless of age. For members who terminate employment on or after the effective date of this ordinance who had completed less than 10 years of credited service on December 31, 2012, a members normal retirement age is the earlier of the attainment of age 55 and completion of ten years of credited service, age 52 and completion of twenty-five years of credited service or the completion of 30 years of credited service, regardless of age. For members who terminate employment on or after the effective date of this ordinance with 10 or more years of credited service on December 31, 2012 shall be eligible for normal retirement at age 55 or upon completion of 25 years of credited service, regardless of age. Each member shall become 100 percent vested in his accrued benefit at normal retirement age. A member's normal retirement date shall be the first day of the month coincident with or next following the date the member retires from the city after attaining normal retirement age.

(2) *Normal retirement benefit.* A member retiring on or after the normal retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his retirement and which shall be continued thereafter during the member's lifetime, ceasing upon death, but with 120 monthly payments guaranteed in any event. For members who terminate employment prior to the effective date of this ordinance, the monthly retirement benefit shall equal 1.25 percent of average final compensation for each year of credited service earned on or after January 1, 2013, up to a maximum of 75 percent of average final compensation. Provided, if a member's accrued benefit as of January 1, 2013 is 75 percent or more of average final compensation, the benefit percentage may not be reduced. For members who terminate employment

on or after the effective date of this ordinance, the monthly retirement benefit shall equal 3.4 percent of average final compensation for each year of credited service earned on or after January 1, 2013, up to a maximum of 100 percent of average final compensation.

- (3) *No early retirement.* A member may not receive an immediate or deferred retirement benefit under this section, prior to attaining his or her normal retirement date as defined in this section, except as provided for in Section 66-326(c) and Section 66-326(d).
- (c) *COLA.* Members accruing benefits under this section shall not be entitled to a cost of living adjustment, except as provided for in Section 66-326(e).
- (d) *Vesting.* If a member terminates employment, either voluntarily or by lawful discharge, the member shall be entitled to the following:
 - (1) With less than ten years of credited service (including credited service earned prior to January 1, 2013), a member is entitled to a refund of member contributions without interest.
 - (2) With ten or more years of credited service (including credited service earned prior to January 1, 2013) a member is entitled to either:
 - a. The pension benefit accrued to the member's date of termination, based on the terms of the plan in effect on such date of termination, payable commencing at the member's otherwise normal retirement date, provided the member does not elect to withdraw his or her member contributions; or
 - b. Refund of member contributions without interest.
- (e) *DROP.* No member may enter the DROP on or after January 1, 2013. Members already participating in DROP on January 1, 2013 may complete their DROP participation. Provided, members who are employed on December 31, 2012 and have attained age 55 or 25 years of credited service on that date shall be eligible to enter and participate in the DROP on or after January 1, 2013.

SECTION 11. That Chapter 66, Article IV Firefighters' Retirement System, Division 3 Benefits, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-339.1 Supplemental benefit component for special benefits; Chapter 175 share accounts, to read as follows:

Sec. 66-339.1. 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") shall be further allocated to the members and DROP participants in a manner to be agreed upon.

SECTION 12: Codification.

This Ordinance shall be codified in the Code of Ordinances of the City of St. Pete Beach.

SECTION 13: Severability.

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

SECTION 14: Repeal of Ordinances in Conflict.

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

SECTION 15: Effective Date.

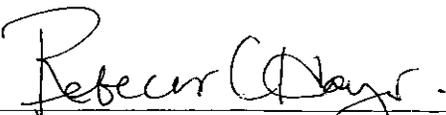
This ordinance shall become effective immediately upon adoption.

FIRST READING:	09/26/2017
PUBLISHED:	09/29/2017
SECOND READING:	10/10/2017
PUBLIC HEARING:	10/10/2017 _____



Alan Johnson, Mayor

I, Rebecca C. Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this 10th day of **October, 2017**.



Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:



Andrew Dickman, City Attorney