

ORDINANCE NO. 9690-23

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA; AMENDING CHAPTER 2, ARTICLE V, DIVISION 3, EMPLOYEES' PENSION PLAN, AMENDING SECTION 2.414 "PARTICIPATION"; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Clearwater Employees' Pension Plan (the "Plan") governs the payment of retirement benefits for City employees;

WHEREAS, the City is desirous of attracting and retaining employees to be the Police Chief and Fire Chief;

WHEREAS, the Police Chief and the Fire Chief may opt out of the Pension Plan;

WHEREAS, the City wants to clarify that a Police Chief or Fire Chief who is rehired after normal retirement and who opts out of the System is entitled to an in-service distribution of their retirement benefits after their rehire;

WHEREAS, the Plan's actuary has studied the cost of this amendment;

WHEREAS, the Board of Trustees of the City of Clearwater Employees' Pension Plan has prepared this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER, FLORIDA, THAT:

Section 1: Section 2.414 of the Code of Ordinances of the City of Clearwater is hereby amended to read as follows:

Section 2.414. Participation

(a) Participation.

(1) Unless otherwise provided herein, all employees of the employer shall be required to make the contributions specified in [section 2.415](#) and shall be required to participate in the plan, except that the Police Chief and Fire Chief may opt out of participation in the Pension Plan as provided for in Florida Statutes §185.02(16) and 175.032(11).

(2) Any employee who is a participant and who has been or may be appointed to a regular full-time position exempt from the civil service classified service system of the employer shall be eligible to continue participation in the plan in the same manner as any other employee.

(b) *Reemployment.*

(1) If a participant terminates employment with the employer and receives a return of employee contributions and is subsequently reemployed within the five-year period following his termination of employment, the former participant shall again be eligible to participate in the plan and his credited service shall be based on all periods of employment, provided he

- a. Again satisfies the definition of "employee" set forth in [section 2.412](#), and
- b. Reimburses the plan in accordance with subparagraph (4) of [section 2.419](#).

(2) Notwithstanding the foregoing, an employee who is reemployed in a regular full-time position other than that of a firefighter or police officer after his benefits have commenced under the plan (other than disability benefits pursuant to [section 2.418](#)) shall not be eligible to participate in the plan upon his subsequent reemployment. Reemployment may not commence until at least 30 days after the initial separation from employment with the city. Upon reemployment, the employee will be required to participate in the federal social security program.

(3) In the event that a retiree is reemployed as a full time police officer or firefighter, he shall be required to become a member in the fund. Receipt of benefits shall be suspended for the period of reemployment. Upon ending the period of reemployment, benefits shall be recalculated, taking into account any additional credited service or change in final monthly compensation. Notwithstanding the foregoing, if a hazardous duty employee is rehired after normal retirement as the police chief or fire chief, they may opt out of participation in the Pension Plan and be entitled to receive or continue receiving an in-service distribution of the normal retirement pension benefit. If the police chief or fire chief is rehired after early retirement, no in-service distribution can be made until the Chief reaches the age required in Section 401(a)(36) of the Internal Revenue Code, as it may be amended. Any rehire of a member as Police Chief or Fire Chief is subject to a 30 day period from the date of the initial separation of employment with the City to the rehire date.

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Section 2: It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City Clearwater, that the sections of the Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 3: If any clause, section, or other part or application of this Ordinance shall be held in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and shall not affect the validity of the remaining portions or applications which shall remain in full

force and effect.

Section 4: All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 5: This Ordinance shall become effective immediately upon adoption, unless otherwise provided.

PASSED ON FIRST READING

PASSED ON SECOND AND FINAL
READING AND ADOPTED

Brian J. Aungst, Sr.
Mayor

Approved as to form:

Attest:

David Margolis
City Attorney

Rosemarie Call
City Clerk

Coding: Words in strikeout type are deletions from existing text.
Words in underline type are additions.