

ORDINANCE NO. 35-2019

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 82 OF THE TOWN CODE OF ORDINANCES RELATING TO PERSONNEL, AT ARTICLE II, EMPLOYEE BENEFITS, DIVISION 2, RETIREMENT SYSTEM; AMENDING SUBDIVISION I, IN GENERAL, BY AMENDING SECTION 82-54, CREDITED SERVICE; LOSS OF CREDITED SERVICE; REINSTATEMENT OF CREDITED SERVICE; AMENDING SECTION 82-57, BOARD OF TRUSTEES; ADMINISTRATIVE DUTIES; INVESTMENT OF RETIREMENT SYSTEM ASSETS; AMENDING SUBDIVISION II, RESERVE ACCOUNTS, BY AMENDING SECTION 82-80, MEMBER CONTRIBUTIONS; AMENDING SUBDIVISION III, FIREFIGHTERS, BY AMENDING SECTION 82-94, RETIREMENT AGE AND SERVICE CONDITIONS FOR FIREFIGHTERS; SECTION 82-96, OPTIONAL FORMS OF PAYMENT OF A PENSION FOR FIREFIGHTERS; SECTION 82-99, DEFERRED RETIREMENT OPTION PROGRAM; SECTION 82-101, DUTY DISABILITY SPECIAL PROVISIONS; AND SECTION 82-106, DUTY DISABILITY SPECIAL PROVISIONS; AMENDING SUBDIVISION IV, POLICE OFFICERS, BY AMENDING SECTION 82-114, RETIREMENT AGE AND SERVICE CONDITIONS FOR POLICE OFFICERS; SECTION 82-116, OPTIONAL FORMS OF PAYMENT OF A PENSION FOR POLICE OFFICERS; SECTION 82-121, DUTY DISABILITY SPECIAL PROVISIONS; AND SECTION 82-126, DUTY DEATH SPECIAL PROVISIONS; AMENDING SUBDIVISION V, GENERAL EMPLOYEES AND LIFEGUARDS; BY AMENDING SECTION 82-136, OPTIONAL FORMS OF PAYMENT OF A PENSION FOR BENEFIT GROUP GENERAL AND BENEFIT GROUP LIFEGUARD; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision I. – In General; by amending Section 82-54 to read as follows:

Sec. 82-54. - Credited service; loss of credited service; reinstatement of credited service.

* * *

(d) Unless otherwise prohibited by law, a vested member who has not purchased service credit under section 82-64, may purchase years or fractional parts of years of service to be added to years of credited service provided that:

- (1) The member contributes to the retirement system the sum that would have been contributed, based on the applicable employee contribution rate in effect at the time that the credited service is requested for the years or fractional parts of years for which the credit is requested, plus payment of costs for all professional services rendered to the board in connection with the purchase of years of credited service, plus the amount actuarially determined so that the crediting of service does not result in any costs to the retirement system.
- (2) Payment by the member of the required amount may be made within six months of the request for credit and in one lump sum payment, or over a period equal to the length of time being purchased or five years, whichever is less, at an interest rate which is equal to the interest rate determined under section 82-65. No credit shall be given for any service until all years of service which are to be purchased, have been purchased. The required purchase amount may be paid through payroll deduction, in which case the contributions shall be designated as employer contributions pursuant to section 414(h) of the Internal Revenue Code, and excluded from the member's gross income for federal income tax purposes. For all other purposes of the plan, such contributions shall be considered to be member contributions. No member shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the city to the fund.

Section 2. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision I. – In General; by amending Section 82-57 to read as follows:

Sec. 82-57. - Board of trustees; administrative duties; investment of retirement system assets.

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- ~~(l) The board shall also provide administrative support and coordination for the town's defined contribution plan, retirement health savings plan, and 457 plan.~~
- ~~(m) The boards of trustees for the existing firefighter, police officer and general/lifeguard retirement plans shall continue to operate through March 31, 2012, for the primary purpose of facilitating the transfer of contracts, investment holdings, assets and liabilities of the existing firefighter, police officer and general/lifeguard retirement plans, as well as all documents and records of those plans, to the new board of trustees established pursuant to subsection (b) above. During the period prior to April 1, 2012, the boards of trustees for the existing firefighter, police officer and general/lifeguard retirement plans shall continue to:~~

- ~~(1) Be the trustees of the moneys and assets of the employee groups of members and retirants of the retirement system for whose benefit such boards are formed.~~
- ~~(2) Have full power and authority to invest and reinvest the moneys and assets held for the benefit of members for whose benefit such boards are formed, subject to all terms, conditions, limitations and restrictions imposed by law on the investments of public employee retirement systems and subject to investment policies and limitations adopted by resolution of the town council or the boards from time to time.~~
- ~~(3) Invest in securities of, or other interests in, any open end or closed end management type investment company or investment trust registered under the Investment Company Act of 1940, 15 USC 80A-1 et seq., as amended, and provided such investment company or investment trust takes delivery of such collateral either directly or through an authorized custodian.~~
- ~~(4) Employ outside investment counsel to advise each board in the making and disposition of investments. All moneys and assets of the retirement system shall be held for the sole purpose of meeting disbursements authorized in accordance with the provisions of the retirement system and shall be used for no other purposes.~~
- ~~(5) Exercise discretionary authority with respect to the management of the moneys and assets of the retirement system, and shall exercise the care, skill, prudence and diligence under the circumstances then prevailing, that a person of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims.~~
- ~~(6) Retain an independent consultant professionally qualified to evaluate the performance of professional money managers. The independent consultants shall make recommendations regarding the selection of money managers. These recommendations shall be considered by the boards at their meetings. The date, time, place and subject of regular board meetings shall be posted at least ten days prior to the date of such meetings.~~

Section 3. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision II. – Reserve Accounts; by amending Section 82-80 to read as follows:

Sec. 82-80. – Reserve for member contributions.

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(d) Notwithstanding the provisions of subsection (c) above:

- (1) The member contribution rate for benefit group police officer members and non-bargaining unit benefit group firefighter members who were employed but did not attain normal retirement eligibility based on credited service as of May 1, 2012, excluding credited service purchased pursuant to section 82-54, and benefit group police officer members and non-bargaining unit benefit group

firefighter members hired on or after May 1, 2012, effective the first full pay period after October 1, 2016 shall be ten percent of compensation. The member contribution rate for such members shall be subject to adjustment the first full pay period following October 1, 2017 and the first full pay period following October 1, 2018 of each year thereafter based on the investment performance of the retirement system, as set forth in subsection (e) below. Effective the first full pay period after October 1, 2019, the member contribution rate for benefit group police officer members and non-bargaining unit benefit group firefighter members shall be eight and one-half percent of compensation.

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Section 4. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision III. – Firefighters; by amending Section 82-94 to read as follows:

Sec. 82-94. – Retirement age and service conditions for firefighters.

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- (b) The age and service conditions for normal retirement are as follows:
 - (1) Members who attained normal retirement eligibility based on credited service as of May 1, 2012, excluding credited service purchased pursuant to section 82-54, and who were employed by the town and not participating in the DROP on that date, shall be eligible for normal retirement upon attaining age 50 with ten or more years of credited service; or when the member’s age to last completed month plus credited service totals 65 years or more and the member has ten or more years of credited service; or when the member has 20 or more years of credited service.
 - (2) Members who did not attain normal retirement eligibility based on credited service as of May 1, 2012, excluding credited service purchased pursuant to section 82-54, and who were employed by the town and not participating in the DROP on that date, shall be eligible for normal retirement upon attaining age 50, or when the member’s age to last completed month plus credited service totals 65 years or more, or upon completion of 20 years of credited service regardless of age, and upon such retirement shall be eligible to receive the frozen accrued benefit based on credited service and average final compensation on April 30, 2012. Such members shall be eligible to receive the accrued benefit based on credited service on and after May 1, 2012 upon attaining age 65 with ten or more years of credited service.
 - (3) Members hired on or after May 1, 2012, shall be eligible for normal retirement upon attaining age 65 with ten or more years of credited service.
 - (4) Notwithstanding the provisions of paragraphs (2) and (3) above, effective October 1, 2016, non-bargaining unit members who did not attain normal retirement eligibility based on credited service as of May 1, 2012, excluding credited service purchased pursuant to section 82-54, and who were employed

by the town and not participating in the DROP on that date, and non-bargaining unit members hired on or after May 1, 2012, shall be eligible to receive the accrued benefit based on credited service on and after May 1, 2012 upon attaining age 56 with ten or more years of credited service. The provisions of this paragraph shall apply to non-bargaining unit members who are participating in the DROP on October 1, 2016, and to non-bargaining unit members who retire or enter the DROP on or after that date, but shall not apply to non-bargaining unit members who retired or separated from employment before October 1, 2016.

- (5) Notwithstanding the provisions of paragraphs (2) and (3) above, effective August 12, 2017 bargaining unit members who did not attain normal retirement eligibility based on credited service as of May 1, 2012, excluding credited service purchased pursuant to section 82-54, and who were employed by the town and not participating in the DROP on that date, and bargaining unit members hired on or after May 1, 2012, shall be eligible to receive the accrued benefit based on credited service on and after May 1, 2012 upon attaining age 56 with ten or more years of credited service.
- (6) Notwithstanding the provisions of paragraphs (2), (3) and (4) above, effective October 1, 2019, non-bargaining unit members who did not attain normal retirement eligibility based on credited service as of May 1, 2012, excluding credited service purchased pursuant to section 82-54, and who were employed by the town and not participating in the DROP on that date, and non-bargaining unit members hired on or after May 1, 2012, shall be eligible to receive the accrued benefit based on credited service on and after May 1, 2012 upon attaining age 55 with ten or more years of credited service, or age 52 with 25 years of service. The preceding sentence shall apply to non-bargaining unit members who are participating in the DROP on October 1, 2019, and to non-bargaining unit members who retire or enter the DROP on or after that date, but shall not apply to members who retired or separated from employment before October 1, 2019.

Section 5. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision III. – Firefighters; by amending Section 82-96 to read as follows:

Sec. 82-96. - Optional forms of payment of a pension for firefighters.

* * *

- (c) A firefighter may elect to receive the accrued benefit based on credited service on and after May 1, 2012 as follows: The member may elect to receive a reduced pension for life, and upon the retiree's death 100 percent, 75 percent, 66 2/3 percent or 50 percent of the reduced pension is paid to the beneficiary, if living, designated in writing and filed with the board at the time of election of the optional form of payment. Payment to the designated beneficiary shall terminate upon the death of the designated beneficiary. The amount of the reduced pension payable to the retiree

shall reflect an actuarial reduction in the standard form of payment based on the age of the member and the age of the beneficiary, such that the total value of the benefit payable to the retirant and beneficiary is actuarially equivalent to the standard form of payment to the retirant. The election of an optional form of payment under this subsection (c) must be in writing and filed with the board upon separation from employment and in no event later than~~prior to~~ the date retirement is effective. Payment will be made under the standard form of payment if a timely election of an optional form of payment is not made.

Section 6. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision III. – Firefighters; by amending Section 82-99 to read as follows:

Sec. 82-99. – Deferred retirement option program for firefighters.

* * *

(d) Compensation for work performed while participating in the DROP. Starting pay shall be at the base pay rate in effect on the employee's last working day of employment, prior to participation in the DROP. Job performance will be evaluated under the town's pay for performance system, and performance pay increases will be permitted as established by town policy. General pay increases shall also be awarded, as approved by the town council and the town manager. The base pay rate for DROP participants who are authorized by the town manager to extend DROP participation for up to 36 calendar months beyond the 60-month period shall be the rate of pay in effect at the end of 60-month DROP period; and that rate shall not be eligible for performance pay increase, general pay increases approved by the town council, or future Longevity Pay or Longevity Bonuses. Performance pay increases and general pay increases awarded to DROP participants will be reflected in their salary but will not be reflected in pension payments made to DROP accounts or made after DROP participation.

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(7) DROP participants shall not be eligible for disability retirement benefits as provided in sections 82-100 or 82-101, except as provided in this paragraph below. In the event a DROP participant becomes incapacitated for employment by the town as defined under sections 82-100 or 82-101, the DROP participation will terminate, and the former DROP participant will elect one of the alternatives under subsection (d)(5)b. of this section. Notwithstanding any other provision of this paragraph, a DROP participant who is initially diagnosed with cancer, as defined in section 112.1816(1), Florida Statutes, during DROP participation and on or after July 1, 2019, and is determined to be wholly prevented from rendering useful and efficient service as a firefighter, and likely to remain so disabled continuously and permanently in accordance with section 82-100(a) by reason of such cancer or the treatment thereof, shall be eligible for duty disability benefits pursuant to section 82-101. If a DROP participant elects to receive duty disability benefits as the result of an initial diagnosis of cancer,

DROP participation will terminate, and the former DROP participant shall receive payment of his or her accumulated DROP benefits in accordance with subsection (d)(5)b. Thereafter, the former DROP participant's retirement benefit shall be the greater of sixty percent of monthly average final compensation, or his/her monthly benefit at the time of disability.

* * *

(e) Death benefits under the DROP.

- (1) Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided under subsection (d)(5)b. of this section.
- (2) The pension benefit paid to the DROP during the month of a DROP participant's death shall be the final pension benefit accrued for such DROP participant.
- (3) Eligibility to participate in the DROP terminates upon the death of a DROP participant. If the DROP participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, retirement system benefits shall be paid in accordance with section 82-103.
- (4) A DROP participant's survivor shall not be eligible for retirement system death benefits as provided in section 82-104.
- (5) Notwithstanding any other provision of this subsection (e), if a DROP participant is initially diagnosed with cancer, as defined in section 112.1816(1), Florida Statutes, during DROP participation and on or after July 1, 2019, and dies as the result of such cancer or the treatment thereof, his beneficiary(ies) shall be entitled to duty death benefits pursuant to section 82-106.

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Section 7. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision III. - Firefighters; by amending Section 82-101 to read as follows:

Sec. 82-101. - Duty disability special provisions.

If the disability of a member is found by the board of trustees to be the natural and proximate result, independent of all other causes, of a personal injury or disease arising out of and in the course of actual performance of duty with the town, the following provisions shall apply:

- (1) The ten-year credited service requirement shall be waived.
- (2) The member shall receive a monthly pension for the remainder of his life, equal to the greater of the following:
 - a. Sixty percent of the monthly average final compensation; or

- b. If the member retires prior to attaining the age for normal retirement, the amount of the monthly pension shall be computed as if the member has continued to accrue credited service until the date the member would have attained the age for normal retirement, provided that the member has been in receipt of the disability benefit for at least five years.
- (3) A condition or impairment of health that is caused by tuberculosis, heart disease or hypertension resulting in a member being determined to be wholly prevented from rendering useful and efficient service as a firefighter, and likely to remain so disabled continuously and permanently in accordance with section 82-100(a), shall be presumed to have been accidental and suffered in the line of duty unless the contrary is shown by competent evidence; provided that the firefighter shall have successfully passed a physical examination before entering into service as a firefighter for the town, which examination failed to reveal any evidence of such condition, and the requirements of section 112.18, Florida Statutes, are satisfied.
- (4) A condition or impairment of health that is caused by hepatitis, meningococcal meningitis, or tuberculosis, resulting in a member being determined to be wholly prevented from rendering useful and efficient service as a firefighter, and likely to remain so disabled continuously and permanently in accordance with section 82-100(a), shall be presumed to have been accidental and suffered in the line of duty, unless the contrary is shown by competent evidence; provided the requirements of section 112.181, Florida Statutes are satisfied.
- (5) Effective July 1, 2019, if a firefighter is initially diagnosed with cancer as defined in section 112.1816(1), Florida Statutes, while employed as a firefighter for the town, and as a result of the diagnosis of cancer or circumstances arising from the treatment of such cancer, he or she is determined to be wholly prevented from rendering useful and efficient service as a firefighter, and likely to remain so disabled continuously and permanently in accordance with section 82-100(a), by reason of such cancer or the treatment thereof, the board of trustees shall consider the disability to be a duty disability pursuant to section 82-101.

Section 8. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision III. - Firefighters; by amending Section 82-106 to read as follows:

Sec. 82-106. - Duty death special provisions.

- (a) Death while actually performing duty for the town. If the board of trustees finds that the death of a member occurred while actually performing duty for the town or was the natural and proximate result, independent of all other causes, of a personal injury or disease arising out of and in the course of the actual performance of duty for the town, the following provisions shall apply:
- (1) The ten-year credited service requirement specified in section 82-104 shall be waived.
- (2) The amount of a surviving child's pension is 25 percent of the deceased member's average final compensation, not to exceed an equal share of 75

percent of the deceased member's average final compensation when there are four or more surviving children being paid.

- (3) The amount of a surviving spouse's pension for a month shall be the difference, if any, between 75 percent of the deceased member's average final compensation and the aggregate amount paid to surviving children for the month.
- (b) Presumptive duty death. Death resulting from a condition or impairment of health that is caused by hepatitis, meningococcal meningitis, tuberculosis, hypertension, or heart disease, shall be presumed to have been accidental and suffered in the line of duty unless the contrary is shown by competent evidence, provided the requirements of sections 112.18 and 112.181, Florida statutes are satisfied. Effective July 1, 2019, if a firefighter dies as the result of cancer, as defined in section 112.1816(1), Florida Statutes, or circumstances arising from the treatment thereof, and the cancer was initially diagnosed during his or her employment as a firefighter for the town on or after July 1, 2019, the board of trustees shall consider such death to have occurred in the line of duty.
- (c) If the death of a member is not found by the board of trustees to satisfy subsection (a) above, but is found to be a death in line of duty by reason of an applicable presumption under subsection (b) above ~~presumptive statutes such as F.S. § 112.181 and F.S. § 175.231~~, the following provisions shall apply:
 - (1) The ten-year credited service requirement specified in section 82-104 shall be waived.
 - (2) The amount of a surviving child's pension is 25 percent of the deceased member's average final compensation, not to exceed an equal share of 50 percent of the deceased member's average final compensation when there are three or more surviving children being paid.
 - (3) The amount of a surviving spouse's pension for a month shall be the difference, if any, between 75 percent of the deceased member's average final compensation and the aggregate amount paid to surviving children for the month.
 - (4) Payment of a surviving child's and/or spouse's pension shall begin the first day of the month following the death of the member.
- (d)(e) Termination. Any additional amount of pension paid a surviving spouse pursuant to this section shall, unless prohibited by F.S. ch. 175 or F.S. section 112.1816, terminate upon remarriage of the surviving spouse. Pensions for a surviving child under this section shall terminate upon attainment of age 18 years, marriage, adoption or death of such child.

Section 9. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision IV. – Police Officers; by amending Section 82-114 to read as follows:

Sec. 82-114. - Retirement age and service conditions for police officers.

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- (b) The age and service conditions for normal retirement are as follows:
- (1) Members who attained normal retirement eligibility based on credited service as of May 1, 2012, excluding credited service purchased pursuant to section 82-54, and who were employed by the town and not participating in the DROP on that date, shall be eligible for normal retirement upon attaining age 50 with ten or more years of credited service; or when the member's age to last completed month plus credited service totals 65 years or more and the member has ten or more years of credited service; or when the member has 20 or more years of credited service.
 - (2) Members who did not attain normal retirement eligibility based on credited service as of May 1, 2012, excluding credited service purchased pursuant to section 82-54, and who were employed by the town and not participating in the DROP on that date, shall be eligible for normal retirement upon attaining age 50, or when the member's age to last completed month plus credited service totals 65 years or more, or upon completion of 20 years of credited service regardless of age, and upon such retirement shall be eligible to receive the frozen accrued benefit based on credited service and average final compensation on April 30, 2012. Effective October 1, 2016, such members shall be eligible to receive the accrued benefit based on credited service on and after May 1, 2012 upon attaining age 56 with ten or more years of credited service. The preceding sentence shall apply to members who are participating in the DROP on October 1, 2016, and to members who retire or enter the DROP on or after that date, but shall not apply to members who retired or separated from employment before October 1, 2016.
 - (3) Members hired on or after May 1, 2012, shall be eligible for normal retirement upon attaining age 56 with ten or more years of credited service.
 - (4) Notwithstanding the provisions of paragraphs (1), (2) and (3) above, effective October 1, 2019, members who did not attain normal retirement eligibility based on credited service as of May 1, 2012, excluding credited service purchased pursuant to section 82-54, and who were employed by the town and not participating in the DROP on that date, and members hired on or after May 1, 2012, shall be eligible to receive the accrued benefit based on credited service on and after May 1, 2012 upon attaining age 55 with ten or more years of credited service, or age 52 with 25 years of service. The preceding sentence shall apply to members who are participating in the DROP on October 1, 2019, and to members who retire or enter the DROP on or after that date, but shall not apply to members who retired or separated from employment before October 1, 2019.

Section 10. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision IV. – Police Officers; by amending Section 82-116 to read as follows:

Sec. 82-116. - Optional forms of payment of a pension for police officers.

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- (c) A police officer may elect to receive the accrued benefit based on credited service on and after May 1, 2012 as follows: The member may elect to receive a reduced pension for life, and upon the retirant's death 100 percent, 75 percent, 66 2/3 percent or 50 percent of the reduced pension is paid to the beneficiary, if living, designated in writing and filed with the board at the time of election of the optional form of payment. Payment to the designated beneficiary shall terminate upon the death of the designated beneficiary. The amount of the reduced pension payable to the retirant shall reflect an actuarial reduction in the standard form of payment based on the age of the member and the age of the beneficiary, such that the total value of the benefit payable to the retirant and beneficiary is actuarially equivalent to the standard form of payment to the retirant. The election of an optional form of payment under this subsection (b) shall be in writing and filed with the board upon separation from employment but in no event later than~~prior to~~ the date retirement is effective. Payment will be made under the standard form of payment if a timely election of an optional form of payment is not made.

Section 11. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision IV. – Police Officers; by amending Section 82-121 to read as follows

Sec. 82-121. - Duty disability special provisions.

If the disability of a member is found by the board of trustees to be the natural and proximate result, independent of all other causes, of a personal injury or disease arising out of and in the course of actual performance of duty with the town, the following provisions shall apply:

- (1) The ten-year credited service requirement shall be waived.
- (2) The member shall receive a monthly pension for the remainder of his life, equal to the greater of the following:
 - a. Sixty percent of the monthly average final compensation; or
 - b. If the member retires prior to attaining the age for normal retirement, the amount of the monthly pension shall be computed as if the member has continued to accrue credited service until the date the member would have attained the age for normal retirement, provided that the member has been in receipt of the disability benefit for at least five years.
- (3) A condition or impairment of health that is caused by tuberculosis, heart disease or hypertension resulting in a member being determined to be wholly prevented from rendering useful and efficient service as a police officer, and likely to remain so disabled continuously and permanently in accordance with section 82-120(a), shall be presumed to have been accidental and suffered in the line of duty unless the contrary is shown by competent evidence; provided that the police officer shall have successfully passed a physical examination before

entering into service as a police officer for the town, which examination failed to reveal any evidence of such condition, and the requirements of section 112.18, Florida Statutes, are satisfied.

- (4) A condition or impairment of health that is caused by hepatitis, meningococcal meningitis, or tuberculosis, resulting in a member being determined to be wholly prevented from rendering useful and efficient service as a police officer, and likely to remain so disabled continuously and permanently in accordance with section 82-100(a), shall be presumed to have been accidental and suffered in the line of duty, unless the contrary is shown by competent evidence; provided the requirements of section 112.181, Florida Statutes are satisfied.

Section 12. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision IV. – Police Officers; by amending Section 82-126 to read as follows
Sec. 82-126. - Duty death special provisions.

- (a) *Death while actually performing duty for the town.* If the board of trustees finds that the death of a member occurred while actually performing duty for the town or was the natural and proximate result, independent of all other causes, of a personal injury or disease arising out of and in the course of the actual performance of duty for the town, the following provisions shall apply:
- (1) The ten-year credited service requirement specified in section 82-124 shall be waived.
 - (2) The amount of a surviving child's pension is 25 percent of the deceased member's average final compensation, not to exceed an equal share of 75 percent of the deceased member's average final compensation when there are four or more surviving children being paid.
 - (3) The amount of a surviving spouse's pension for a month shall be the difference, if any, between 75 percent of the deceased member's average final compensation and the aggregate amount paid to surviving children for the month.
- (b) *Presumptive duty death.* Presumptive duty death. Death resulting from a condition or impairment of health that is caused by hepatitis, meningococcal meningitis, or tuberculosis shall be presumed to have been accidental and suffered in the line of duty unless the contrary is shown by competent evidence, provided that the member shall have successfully passed a physical examination before entering into service as a police officer for the town, which examination failed to reveal any evidence of such condition.
- (c) If the death of a member is not found by the board of trustees to satisfy subsection (a) above, but is found to be a death in line of duty by reason of an applicable presumption under subsection (b) above ~~presumptive statutes such as F.S. § 112.181,~~ the following provisions shall apply:
- (1) The ten-year credited service requirement specified in section 82-124 shall be waived.

- (2) The amount of a surviving child's pension is 25 percent of the deceased member's average final compensation, not to exceed an equal share of 50 percent of the deceased member's average final compensation when there are three or more surviving children being paid.
- (3) The amount of a surviving spouse's pension for a month shall be the difference, if any, between 75 percent of the deceased member's average final compensation and the aggregate amount paid to surviving children for the month.
- (4) Payment of a surviving child's and/or spouse's pension shall begin the first day of the month following the death of the member.

~~(d)(e)~~ *Termination.* Any additional amount of pension paid a surviving spouse pursuant to this section shall, unless prohibited by F.S. ch. 185, terminate upon remarriage of the surviving spouse. Pensions for a surviving child under this section shall terminate upon attainment of age 18 years, marriage, adoption or death of such child.

Section 13. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 82, Personnel; Article II, Employee Benefits; Division 2, Retirement System; Subdivision V. – General Employees and Lifeguards; by amending Section 82-136 to read as follows:

Sec. 82-136. - Optional forms of payment of a pension for benefit group general and benefit group lifeguard.

* * *

(c) Members of benefit group general and benefit group lifeguard may elect to receive the accrued benefit based on credited service on and after May 1, 2012 as follows: the member may elect to receive a reduced pension for life, and upon the retirant's death 100 percent, 75 percent, 66 2/3 percent or 50 percent of the reduced pension is paid to the beneficiary, if living, designated in writing and filed with the board at the time of election of the optional form of payment. Payment to the designated beneficiary shall terminate upon the death of the designated beneficiary. The amount of the reduced pension payable to the retirant shall reflect an actuarial reduction in the standard form of payment based on the age of the member and the age of the beneficiary, such that the total value of the benefit payable to the retirant and beneficiary is actuarially equivalent to the standard form of payment to the retirant. The election of an optional form of payment under this subsection (c) shall be in writing and filed with the board upon separation from employment but in no event later than prior to the date retirement is effective. Payment will be made under the standard form of payment if a timely election of an optional form of payment is not made.

Section 14. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 15. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 16. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 17. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this ____ day of _____, 2019, and for second and final reading on this ____ day of _____, 2019

Gail L. Coniglio, Mayor

Danielle H. Moore, Town Council President

Margaret A. Zeidman, Council President Pro Tem

Julie Araskog, Town Council Member

Lewis S.W. Crampton, Town Council Member

ATTEST:

Kathleen Dominguez, Town Clerk

Bobbie Lindsay, Town Council Member