

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF ORDINANCES, ENTITLED "PENSIONS AND RETIREMENT PLANS" BY AMENDING SECTION 46-323 (a) OF THE CODE OF ORDINANCES TO PROVIDE UPDATED PROVISIONS OF THE INTERNAL REVENUE CODE WITH REGARD TO MILITARY SERVICE CREDIT ISSUES DEFINITION OF ELIGIBLE RETIREMENT PLAN UNDER THE INTERNAL REVENUE CODE; AMENDING SECTION 46-326 (f) (1) (b) OF THE CODE OF ORDINANCES TO PROVIDE AN UPDATED DEFINITION OF ELIGIBLE RETIREMENT PLAN UNDER THE INTERNAL REVENUE CODE; AMENDING SECTION 46-326 (f) (1) (c) OF THE CODE OF ORDINANCES TO PROVIDE AN UPDATED DEFINITION OF DISTRIBUTEES UNDER THE INTERNAL REVENUE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Board of Trustees of the Police Officers' and Firefighters' Retirement Plan has recommended these ordinance changes so that the Retirement Plan provisions are consistent with the Tax Code;

WHEREAS, the City Commission finds that this ordinance will best serve the interest of the citizens of Key West.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Section 46-323(a) of the Code of Ordinances is hereby amended as follows:*

Sec. 46-323 -- Buybacks/Reemployment.

(a) Any member of the plan who is employed by the city prior to entry into military service and who takes a leave of absence for the purpose of entering into military service in the armed forces of the United States and thereafter reenters the employ of the city, within one year from the date of his release from active service shall have up to five years of credited service added to his years of actual credited service with the city, at no cost to the member ~~except as otherwise provided herein~~. The amount of credit to be added shall coincide with the member's actual time served in the military. Effective October 1, 2017, notwithstanding any provision of this plan to the contrary, contributions, benefits and service credits with respect to qualified military service will be provided in accordance with section 414(u) of the Internal Revenue Code.

Furthermore, effective October 1, 2017, the survivors of any participant who dies on or after October 1, 2017, while performing qualified military service, are entitled to any additional benefits (other than contributions relating to the period of

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

qualified military service, but including vesting service credit for such period and any ancillary life insurance or other survivor benefits) that would have been provided under the plan had the participant resumed employment on the day preceding the participant's death and then terminated employment on account of death.

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Section 2: That Section 46-326(f)(1)(b) of the code of ordinances is hereby amended as follows:

Sec. 46-326. - **Compliance with Internal Revenue Code.**

* * * * *

(f)(1)(b) *Eligible retirement plan* means an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, an annuity plan described in section 403(a) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. ~~However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.~~

For distributions made after December 31, 2001, the definition of eligible retirement plan shall also include an eligible plan under section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan and an annuity contract described in section 403(b) of the Internal Revenue Code.

Section 3: That Section 46-326(f)(1)(c) of the code of ordinances is hereby amended as follows:

Sec. 46-326. - Compliance with Internal Revenue Code.

* * * * *

(f)(1)(c) Distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse. Effective October 1, 2017, a distributee also includes a participant's nonspouse designated beneficiary. In the case of a nonspouse beneficiary, the direct rollover may be made only to a traditional IRA or Roth IRA that is established on behalf of the designated beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Internal Revenue Code ("IRC") section 402(c)(11). Also, in this case, the determination of any required minimum distribution under IRC section 401(a)(9) that is

ineligible for rollover shall be made in accordance with Notice 2007-7, Q & A 17 and 18, 2007-5 I.R.B. 395.

Section 4: It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Key West, that the sections of the Ordinances may be renumbered or relettered to accomplish such intentions, and that the word "ordinances" shall be changed to "section" or other appropriate word where applicable.

Section 5: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 6: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 7: This Ordinance shall go into effect immediately retroactive to October 1, 2017, upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this day of _____, 2018.

Read and passed on final reading at a regular meeting held this day of _____, 2018.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2018.

Filed with the Clerk _____, 2018.

Mayor Craig Cates	_____
Vice Mayor Clayton Lopez	_____
Commissioner Sam Kaufman	_____
Commissioner Richard Payne	_____
Commissioner Margaret Romero	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK