



## **Ordinance 630**

### **An Ordinance Amending the Elsmere Police Pension Plan (the “PLAN”)**

**First and Second Reading:** June 08, 2017 Council Meeting

**Results:** \_\_\_\_\_

**Third and Final Reading:** July 13, 2017 Council Meeting

**Results:** \_\_\_\_\_

# Ordinance 630

## **An Ordinance Amending the Elsmere Police Pension Plan (the "PLAN")**

**WHEREAS**, the Town of Elsmere Pension Committee has been working with the Internal Revenue Service (IRS) to ensure that the Elsmere Police Pension Plan (the "Plan") is in compliance with the IRS Code; and

**WHEREAS**, the Pension Committee and the IRS have agreed that changes are needed in order to bring the "Plan" into compliance.

### **NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ELSMERE, AS FOLLOWS:**

That the Elsmere Police Pension Plan (the "Plan") is hereby amended as follows.

#### **FIRST:**

The following language shall be added to the end of paragraph 5.8(d)(2):

"For Limitation Years beginning on or after July 1, 2007, Compensation for a Limitation Year shall also include compensation paid by the later of 2 Vi months after an Employee's severance from employment with the Employer maintaining the Plan or the end of the Limitation Year that includes the date of the Employee's severance from employment with the Employer maintaining the Plan, if: (a) the payment is regular compensation for services during the Employee's regular working hours, or compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments and, absent a severance from employment, the payments would have been paid to the Employee had the Employee continued in the employment with the Employer; (b) the payment is for unused bona fide sick, vacation, or other leave that the Employee would have been able to use if employment had continued; or (c) the payment is received by the Employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includable in gross income. A Participant's Compensation for a Limitation Year shall not include compensation in excess of the limitation under Code Section 401(a) (17) that is in effect for the calendar year in which such Limitation Year begins."

SECOND:

Section 7.1 of the Plan is shall be deleted in its entirety and replaced with the following new Section 7.1:

"The Employer shall have the right to terminate the Plan by delivering to the Investment Advisor, the Treasurer and Mayor of the Town of Elsmere, the Committee, and Participants written notice of such termination. Upon full termination, the right of all participants to benefits accrued to the date of such full termination, to the extent then funded, shall become non-forfeitable. Upon any full termination, the Employer shall make adequate provisions for satisfying contractual obligations hereunder to pay Vested Accrued Pension Benefits as of the day prior to the date of termination."

THIRD:

Section 5.11 (a) of the Plan is hereby amended to remove the phrase "and Temporary" from the first sentence of the paragraph.

FOURTH:

Section 5.1 l(a)(6)(i) is hereby be and hereby is modified by deleting the reference to "1.401(a)(9)-6T" and replacing it with "1.401(a)(9)-6".

FIFTH:

Section 5.1 l(a)(9) be and hereby is modified by deleting the word "Temporary" from the first sentence of the paragraph.

First and Second Reading  
June 08, 2017

Third and Final Reading  
July 13, 2017

\_\_\_\_\_  
Eric Thompson, Mayor

\_\_\_\_\_  
Brian Hurst, Secretary

Approved as to form:

\_\_\_\_\_  
Town Solicitor

## **SYNOPSIS**

This ordinance brings the Elsmere Police Pension Plan into compliance the Internal Revenue's Rules and Regulations.

### **Fiscal Impact**

None