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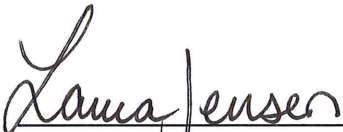


Clerk to the Board Certification of Action of the Orange County Board of Commissioners

This is to certify that at the regular meeting of the Board of Commissioners of Orange County on October 5, 2021 Commissioner Earl McKee moved to:

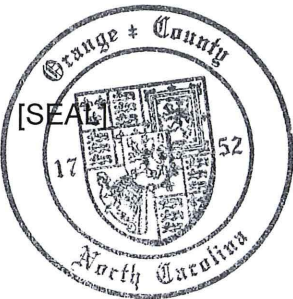
a. Amend Section 28-38(j) of the Orange County Code of Ordinances, which amendment is as shown in the attached document.

Commissioner McKee's motion was seconded by Commissioner Jamezetta Bedford and unanimously approved.


Laura Jensen

Clerk to the Board of Orange County


Date



ATTACHMENT 4**Sec. 28-38. - Retirement.**

(a) Membership in the North Carolina Local Government Retirement System is mandatory for full-time permanent and part-time permanent employees. Employees become a member of the North Carolina Local Governmental Employees' Retirement System on the date of hire if the duties require the employee work at least 1,000 hours a year and the employee is under age 62 at the date of hire.

(b) *Vested Right.* After five years of service, employees are eligible for monthly retirement benefits based on salary, age and years of service.

(c) *Service Retirement With 30 Years.* After 30 or more years of creditable service, an employee is eligible for unreduced service retirement. An employee must not work nor be paid in advance for work dating the month following retirement.

(d) *Service Retirement At Age 65.* At age 65 or thereafter an employee is eligible for unreduced service retirement, with at least five years of service. (Age 55 if the employee is a member of the Law Enforcement Officer's Retirement System)

(e) *Post Retirement Increases.* After retirement, an employee may become eligible for increases that become a permanent part of retirement benefits.

(f) *Disability.* Disability benefits are available after five years of service, should the employee become permanently disabled, mentally or physically, for the further performance of duty as certified by the Medical Board of the Retirement System, upon written application to the Board of Trustees, be retired on a disability retirement allowance. This allowance is calculated as a service retirement allowance based on the average final compensation prior to retirement and the years of service the employee would have had at age 65.

(g) *Death Benefit.* Death benefit is paid the beneficiary if death occurs in active service after one year of service. The beneficiary would be paid a death benefit equal to the compensation earned and on which contributions were made in the previous calendar year, or the compensation earned and on which contributions were made in the 12 months preceding the month of death, whichever is greater, subject to a maximum of \$20,000.00. If death occurs within 90 days after the last day of actual service, the death benefit would be payable; or, if the employee had applied for and was entitled to receive a disability retirement allowance, the death benefit would be payable provided the disability retirement allowance had not been discontinued or revoked during the one year period. In case of resignation or termination, last day of actual service is the last day actually worked; in all other cases, it is the date on which sick and annual leave expires.

(h) *Tax Sheltering of Retirement Contributions.* Effective July 1, 1982, Orange County elected a method of tax sheltering of member contributions to the North Carolina Local Government Employees' Retirement System. This change became effective January 1, 1983 for the N.C. Law Enforcement Officer Retirement System. This is funded by the same six percent retirement contribution deducted from a member's gross salary. Using this arrangement, there is no additional cost to an employer. The Retirement System will continue to credit the amount of contribution to the employee's account in the Retirement System. Also, the Retirement System would continue to recognize an employee's full salary for purposes of compensation. Should an employee terminate and request a refund, the total of contributions both before and after the election would be refunded. Upon a refund, the System will report to the Internal Revenue Service an employee's contribution made after the election of the pick up as taxable income in the year of the refund. At retirement, an employee has to pay Federal income tax on all amounts received over and above the contributions made prior to the date of election to tax shelter the contributions.

(i) *Supplemental Retirement Savings Plan Employer Contribution.*

(1) Orange County makes a Supplemental Retirement contribution to an authorized 401(k) or 457 Plan for each eligible employee as the Board of County Commissioners provides in its annual budget.

(2) For this purpose, eligible employees are County employees both full time and part time (regularly scheduled at least 20 hours each workweek) appointed to permanent positions who are members of the N. C. Local Government Employees' Retirement System and who are not sworn law enforcement officers. See Section 28-38(j) for additional retirement benefits for Law Enforcement Officers.

(3) To participate, an eligible employee completes the appropriate enrollment form.

(4) Employees are eligible for coverage effective the date of appointment to the permanent position and enrollment in the retirement system. Contributions are suspended for any pay period in which the employee is in leave without pay status for that pay period. At termination, the County's supplemental retirement contribution ends.

(j) *Additional Retirement Benefits for Law Enforcement Officers.* In accordance with N.C. Gen. Stat. § 143-166.70 additional retirement benefits are provided for Local Law Enforcement Officers.

(1) Local governments are required to provide contributions to the Special Retirement Income Program (401K Plan) for local law enforcement officers as follows:

2% of salary amount in F.Y. 1987 - 1988

5% of salary amount in F.Y. 1988 - 1989 and thereafter

(2) Special Separation Allowance. Local governments are required to pay a special separation allowance to sworn local law enforcement officers in accordance with N.C. Gen. Stat. § 143-166.42.

a. Eligibility. The local law enforcement officer must meet one of the following two criteria:

1. are at least age 55 and have five years creditable service as a law enforcement officer, or
2. have at least 30 years creditable service (regardless of age) in the Local Government Employees' Retirement System with at least 50 percent of that service being in law enforcement.

b. Termination of Benefits. If the law enforcement officer meets one of the two criteria in Subsection 28-38(j)(2) the officer is entitled to a special separation allowance from retirement until:

1. The death of the officer;
2. The last day of the month in which the officer attains 62 years of age; or
3. The first day of reemployment by a local government employer in any capacity; however, an officer may be employed in a public safety position in a capacity not requiring participation in the Local Government Employees' Retirement system, and doing so will not cause payments to cease.

c. Calculation of Benefits. The Special Separation Allowance received by the officer shall be calculated as provided by N.C. Gen. Stat. § 143-166.42.

d. Separation Buyout for Law Enforcement Officers. Upon a qualifying retirement, with the Local Government Employee Retirement System (LGERS), a local law enforcement officer may receive a buyout of the Special Separation Allowance subject to the following:

1. The officer has at least 10 years of service to Orange County in any classification and at least 5 years creditable service to Orange County as a law enforcement officer; and

2. The officer does not otherwise qualify for the Special Separation Allowance as defined within this Ordinance; and

3. Either the Officer,

a. has applied for and received disability retirement from the Local Government Employees Retirement System, or

b. upon submission of a written request by the Sheriff to the County Manager, the County Manager will make a determination based on the following:

i. the Sheriff's request is reasonable and agreeable by the officer; and

ii. there are unique circumstances for the request; and

iii. the officer is in good standing based on the officer's law enforcement record; and

iii. any other special considerations, including but not limited to the retiring officer and the County deriving a greater benefit from the retiring officer receiving the buyout than from their continued service as a law enforcement officer.

4. In the event a law enforcement officer is eligible for the Separation Buyout as described in subsections 1 - 4 of this section the officer may receive a Separation Buyout as follows:

<u>Years of Creditable Service as a Law Enforcement Officer</u>	<u>Percentage of Separation Buyout Value as Calculated by Subsection c. above</u>
<u>5 but less than 10 years</u>	<u>50%</u>
<u>10 but less than 15 years</u>	<u>60%</u>
<u>15 but less than 20 years</u>	<u>70%</u>
<u>20 but less than 25 years</u>	<u>80%</u>
<u>25 but less than 30 years</u>	<u>90%</u>

5. The lump sum separation buyout shall be paid from funds available and shall not exceed the total that would otherwise be paid had the officer been eligible for the Special Separation Allowance as described herein.

e. The benefits payable under this section are not subject to any increases in salary or retirement allowances that may be authorized by the Board of County Commissioners.

(3) Administrative rulings, opinions and procedures of the Retirement System shall be considered in the administration of retirement benefits.

(k) *Separate Benefit Fund for Law Enforcement Officers Only.*

(1) If an employee dies while an active member of the Separate Benefit Fund, a death benefit of \$5,000.00 is paid to the designated beneficiary. To qualify the employee must be an active member of six months or the employee's death is accidental, regardless of length of service. To become an active member, the employee must be under age 55, in active service and have completed and returned a written application form.

(2) Retired members of the Separate Benefit Fund beneficiaries will receive a death benefit of \$3,000.00. To be eligible for this benefit, the employee must have been an active member of the Separate Benefit Fund with at least 20 years of creditable service or retired because of total and permanent disability with at least ten years of creditable service or line-of-duty disability.

(l) *Accidental Death Benefit for Law Enforcement Officers Only.*

(1) The accidental death benefit automatically protects the employee's survivors if the employee should die in an on-the-job accident. The accident must occur while the employee is performing duties as an officer.

(2) In addition, the employee's surviving spouse, parent, or other relative will receive \$1,000.00 for burial expenses. Each of the employee's dependent children under 18 (or over, if incapable of earning a living) will receive \$200.00. The employee's surviving spouse will receive \$500.00. If the employee has no surviving spouse, the Retirement System may distribute the \$500.00 to the employee's other eligible family members. Under the accidental death benefit, the total amount of payments to the employee's survivors cannot be greater than \$2,100.00.

(m) *A Line-of-Duty Death Benefit (For Law Enforcement Officers Only).* Law Enforcement Officers may also be entitled to additional benefits to include:

(1) \$25,000.00 administered jointly by the North Carolina Industrial Commission and the State Auditor.

(2) \$50,000.00 from the Federal Law Enforcement Assistance Administration.

(n) *Lump Sum Death Benefit (For Law Enforcement Officers)* See Section 28-38(g) Death Benefit.

(Ord. of 06-07-1976, eff. 08-01-1976; Amend. of 01-21-2010, Art. IV § 7.0, eff. 01-21-2010; Amend. of 10-05-2010, eff. 01-01-2011; Amend. of 11-16-2010, eff. 01-01-2011; Amend. of 6-18-2013, eff. 7-1-2013)