

CITY OF SIOUX FALLS

DRAFT ORDINANCE ANALYSIS CHART

The following chart outlines the proposed changes to Chapter 39 of the Code of Ordinances of Sioux Falls for the City of Sioux Falls Employee's Retirement System and the Firefighters' Pension Fund. The chart outlines the Ordinance section modified, what the proposed language modification does, and Ice Miller comments on the effect of the proposed changes.

Note: As noted throughout the chart below, the proposed changes outlined below do not change any benefits available under the plan.

General Provisions

Ordinance Section	What Proposed Language Does	Ice Miller Comments
§ 39.006 – Irrevocable 115 Trust Established	Adds new section to the Ordinance to provide for the establishment of the City of Sioux Falls Other Post-Employment Benefits (OPEB) 115 Trust Fund.	<u>See</u> Appendix A for a summary of the establishment of the 115 Trust Fund.

Employee's Retirement System

Ordinance Section	What Proposed Language Does	Ice Miller Comments
§ 39.220 – Definitions	Adds the clarifying terms "accumulated contributions" and "accumulated contribution account" throughout Chapter 39 ordinance. Eliminates separate annuity reserve accounts terminology. Clarifies that the "retirement system" holds all assets of the employee retirement system.	The proposed language does not change any benefits available under the plan. The language simplifies the accounting structure within the plan and follows Generally Accepted Accounting Principles (GAAP).
§ 39.225(c)-(f) – Military Service Credit	Adds required language for the Heroes Earnings Assistance and Relief Tax Act (HEART Act) with respect to death benefits payable to a participant who dies while	The IRS qualification of the plan is contingent upon adding this required language.

	performing qualified military service. Also provides for service credit for military time up to time of death or disability suffered while on military service. Adds credit for any differential wages paid while in military service.	The addition of the proposed language conforms to federal law granting certain veteran pension benefits.
§ 39.227(c) – Voluntary Retirement	Adds a statement regarding vesting at Normal Retirement Age.	The Internal Revenue Service's ("IRS") issuance of normal retirement age regulations requires a concise statement that members are 100% vested at normal retirement age (as defined in the plan). The proposed language does not change any benefits available under the plan.
§ 39.230 – Retirement Allowance; General Member	Adds extensive language regarding benefit limitations pursuant to Internal Revenue Code Section 415.	The proposed changes are required provisions necessary for compliance as required by the IRS. In addition, the favorable determination letter and qualification of the plan requires the addition of this IRS language. The proposed language does not change any benefits available under the plan, except if the members exceeds the IRS limits – which are currently \$215,000 per year (for a "standard" benefit).
§ 39.231 – Retirement Allowance: Police Member	Adds reference to detailed limitations added in § 39.230.	The proposed change applies the same IRS limitations to police members, as noted in § 39.230 for the general member. Does not change any benefits available under the plan.

§ 39.236 – Retirement Allowance Options	Adds reference to federal requirement that the retirement system shall pay all benefits in accordance with a good faith interpretation of the minimum required distribution rules.	Does not change any benefits available under the plan.
§ 39.247 – Refund of Accumulated Contributions	Expands language for the definition of "distributee" for purposes of allowing rollovers of lump sum refunds. Adds clarifying language related to the definition of "eligible retirement plan."	<p>The proposed changes are required provisions necessary for compliance as required by the IRS. In addition, the favorable determination letter and qualification of the plan requires the addition of this IRS language.</p> <p>The proposed language does not change any benefits available under the plan, except for allowing rollovers in accordance with federal law.</p>
§ 39.249 and § 39.250 – Retirement System Payments and Contributions	Eliminates unnecessary reserve fund terminology.	The proposed language simplifies accounting to follow GAAP standards.
§ 39.255(f)-(i) – Investment of Assets	Adds provisions related to the option for the plan to participate in a group trust for investment purposes.	The proposed changes provide the plan with the option to participate in a group trust for investment purposes at a later date.
§ 39.258 – Group Insurance Deduction	Adds required language related to the terminating 401(h) group health insurance fund.	<p>The proposed changes are required provisions necessary for compliance as required by the IRS for terminating a 401(h) account. In addition, the favorable determination letter and qualification of the plan requires the addition of IRS language.</p> <p>Needed to reflect the change from funding retiree medical from the 401(h) account to the 115 trust.</p>
§ 39.280 – Administration of Retirement System	Adds clarifying language stating that the Employee’s Retirement System is a qualified governmental defined benefit plan.	Does not change any benefits available under the plan.

Firefighters' Pension Fund

Ordinance Section	What Proposed Language Does	Ice Miller Comments
§ 39.305 – Definitions	Adds the clarifying term "accumulated contributions" and "accumulated contribution account" – throughout Chapter 39 ordinance. Clarifies that "pension fund" holds all assets of the Firefighters Pension Fund. Eliminates annuity reserves account terminology.	The proposed language does not change any benefits available under the plan. Simplifies the accounting structure within the plan and follows Generally Accepted Accounting Principles (GAAP).
§ 39.310 – Military Service Credit	Adds required language for the Heroes Earnings Assistance and Relief Tax Act (HEART Act) with respect to death benefits payable to a participant who dies while performing qualified military service.	<p>This provision parallels the proposed changes as described in § 39.225 above.</p> <p>The IRS qualification of the plan is contingent upon adding this required language.</p> <p>The proposed language does not change any benefits, except it grants certain veterans pension benefits.</p>
§ 39.312 – Voluntary Retirement	Adds a statement regarding vesting at Normal Retirement Age.	<p>This provision parallels the proposed changes as described in § 39.227(c) above.</p> <p>The Internal Revenue Service's ("IRS") issuance of normal retirement age regulations requires a concise statement that members are 100% vested at normal retirement age (as defined in the plan).</p> <p>The proposed language does not change any benefits available under the plan.</p>

<p>§ 39.315 – Superannuation Pension Generally and Benefit Limits</p>	<p>Adds extensive language regarding benefit limitations pursuant to Internal Revenue Code Section 415.</p>	<p>This provision parallels the proposed changes as described in § 39.230.</p> <p>The proposed changes are required provisions necessary for compliance as required by the IRS. In addition, the favorable determination letter and qualification of the plan requires the addition of this IRS language.</p> <p>The proposed language does not change any benefits available under the plan, except if the member exceeds the IRS limit – which are currently \$215,000 per year (for a "standard" benefit).</p>
<p>§ 39.317 – Retirement Pension Options</p>	<p>Adds reference to federal requirement that the pension fund shall pay all benefits in accordance with good faith interpretation of the minimum required distribution rules.</p>	<p>Does not change any benefits available under the plan.</p>
<p>§ 39.324 – Refund of Accumulated Contributions</p>	<p>Expands language for the definition of "distributee" for purposes of allowing rollovers of lump sum refunds." Adds clarifying language related to the definition of "eligible retirement plan."</p>	<p>This provision parallels the proposed changes as described in § 39.247 above.</p> <p>The proposed changes are required provisions necessary for compliance as required by the IRS. In addition, the favorable determination letter and qualification of the plan requires the addition of IRS language.</p> <p>The proposed language does not change any benefits available under the plan.</p>
<p>§ 39.325 & 39.326 – Retirement System Payments and Contributions</p>	<p>Eliminates unnecessary savings and reserve funds terminology.</p>	<p>The proposed language simplifies accounting to follow GAAP standards.</p>

§ 39.332 – Investment of Funds	Adds provisions related to the option for the plan to participate in a group trust for investment purposes.	<p>This provision parallels the proposed changes as described in § 39.255 above.</p> <p>The proposed changes are required IRS language to provide the plan with the option to participate in a group trust for investment purposes at a later date.</p>
§ 39.342 – Group Insurance Deduction	Adds required language related to the terminating 401(h) group health insurance fund.	<p>This provision parallels the proposed changes as described in § 39.258 above.</p> <p>The proposed changes are required provisions necessary for compliance as required by the IRS for terminating a 401(h) account. In addition, the favorable determination letter and qualification of the plan requires the addition of IRS language.</p> <p>Needed to reflect the change from funding retiree medical from the 401(h) account to the 115 trust.</p>
§ 39.355 – Administration	Adds clarifying language stating that the Firefighters' Pension Fund is a qualified governmental defined benefit plan.	This provision parallels the proposed changes as described in § 39.280 above.

APPENDIX A

SUMMARY OF 401(H) ACCOUNT AND 115 TRUST

Internal Revenue Code ("Code") Section 115 trusts are trusts established by governmental entities to set aside funds to pay future employee benefits. They are intended to provide a funding vehicle for participating governmental employers that wish to pre-fund some or all of their other post-employment benefits ("OPEB") obligation under the Governmental Accounting Standards Board Statement 45 ("GASB 45"). Pre-funding provides assurances that the entity will be able to meet its obligations to provide health and welfare benefits to retirees when benefits become payable. 115 trusts must be established only for an essential government function and the income earned on the trust's investments must accrue to the benefit of the state or local government entity.

A 401(h) account is similar to a 115 trust in that it also provides a vehicle for funding retiree health care. The difference is that a 401(h) account is a separate account established within an existing qualified pension plan. The plan must comply with Code Section 401(h), which requires that medical benefits be subordinate to the retirement benefits provided by the plan and that a separate account be created within the plan for contributing assets to fund retiree medical benefits. In general, assets in the section 401(h) account must be used to provide retiree health benefits to employees eligible for retirement benefits under the retirement plan.