

EXHIBIT “A”

AMENDMENT

TO

FIRE AND POLICE DISABILITY, RETIREMENT, AND DEATH BENEFIT PLAN

In order to comply with Section 656.802(5)(a)(A) of the Oregon Revised Statutes, Laws relating to Workers’ Compensation and Safe Employment in Oregon, the City of Portland’s Fire and Police Disability, Retirement and Death Benefit Plan, set out in Chapter 5 of the City Charter, is amended by ordinance of the City Council. The following supersedes Ordinance No. 183128 (passed by Council on August 19, 2009):

The Council of the City of Portland directs:

1. The Bureau of Fire and Police Disability and Retirement extend to eligible firefighters the expanded firefighter cancer presumptions as provided under Oregon Workers’ Compensation Law.
1. That in doing so, effective January 1, 2023, FPDR utilize the criteria for firefighter cancer presumption when processing claims for firefighters covered under Chapter 5 of Portland Charter as follows:

ORS Section 656.802

(5)(a) Death, disability or impairment of health of a nonvolunteer firefighter employed by a political division or subdivision who has completed five or more years of employment as a nonvolunteer firefighter is an occupational disease if the death, disability or impairment of health:

(A) Is caused by brain cancer, colon cancer, stomach cancer, testicular cancer, prostate cancer, multiple myeloma, non-Hodgkin’s lymphoma, cancer of the throat or mouth, rectal cancer, breast cancer, leukemia, bladder cancer or gynecologic cancer of the uterus, fallopian tubes, ovaries, cervix, vagina or vulva;

(B) Results from the firefighter’s employment as a nonvolunteer firefighter; and

(C) Is first diagnosed by a physician after July 1, 2009.

(b) Any condition or impairment of health arising under this subsection is presumed to result from the firefighter’s employment. Denial of a claim for any condition or impairment of health arising under this subsection must be on the basis of clear and convincing medical evidence that the condition or impairment was not caused or contributed to in material part by the firefighter’s employment.

(c) Notwithstanding paragraph (b) of this subsection, the presumption established under paragraph (b) of this subsection may be rebutted by clear and convincing evidence that the use of tobacco by the nonvolunteer firefighter is the major contributing cause of the cancer.

(d) The presumption established under paragraph (b) of this subsection does not apply to prostate cancer if the cancer is first diagnosed by a physician after the firefighter has reached the age of 55. However, nothing in this paragraph affects the right of a firefighter to establish the compensability of prostate cancer without benefit of the presumption.

(e) The presumption established under paragraph (b) of this subsection does not apply to claims filed more than 84 months following the termination of the nonvolunteer firefighter's employment as a nonvolunteer firefighter. However, nothing in this paragraph affects the right of a firefighter to establish the compensability of the cancer without benefit of the presumption.

(f) The presumption established under paragraph (b) of this subsection does not apply to volunteer firefighters.

(g) Nothing in this subsection affects the provisions of subsection (4) of this section.

(h) For purposes of this subsection, "nonvolunteer firefighter" means a firefighter who performs firefighting services and receives salary, hourly wages equal to or greater than the state minimum wage, or other compensation except for room, board, lodging, housing, meals, stipends, reimbursement for expenses or nominal payments for time and travel, regardless of whether any such compensation is subject to federal, state or local taxation. "Nominal payments for time and travel" includes, but is not limited to, payments for on-call time or time spent responding to a call or similar noncash benefits.