

**AN ORDINANCE
AMENDING SECTION 149.20 OF THE CODIFIED
ORDINANCES OF THE VILLAGE OF CHAGRIN FALLS
RELATING TO OPERS PICKUP AND REPEALING SECTION
149.21 OF THE CODIFIED ORDINANCES OF THE VILLAGE
OF CHAGRIN FALLS RELATING TO OPFDPF PICKUP, AND
DECLARING AN EMERGENCY.**

WHEREAS, Section 149.20 of the Codified Ordinances requires the Village to pay employee contributions to the Ohio Public Employees Retirement System ("OPERS") as a "fringe benefit;" and

WHEREAS, Section 149.21 of the Codified Ordinances requires the Village to pay employee contributions to the Ohio Police and Fireman's Disability and Pension Fund ("OPFDPF") as a "fringe benefit;" and

WHEREAS, Senate Bill 5 prohibits an employer from paying on an employee's behalf the contributions required by OPERS and OPFDPF; and

WHEREAS, Senate Bill 5 authorizes the required OPERS and OPFDPF contributions to be treated as employer contributions for purposes of state and federal income tax deferred income provisions; and

WHEREAS, this Council desires to amend Section 149.20 of the Codified Ordinances in a manner that complies with Senate Bill 5; and

WHEREAS, such amendment requires Council to repeal existing Section 149.20 and 149.21 and enact new Section 149.20; and

WHEREAS, this Council also desires to amend Section 149.20 to reference the Ohio Police and Fire Pension Fund, the legal name of the fund established by Ohio law for the purpose of providing disability benefits and pensions to members of the fund and their surviving spouses, children, and dependent parents.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:

SECTION 1. That existing Section 149.20, OPERS Pickup, of the Codified Ordinances of the Village of Chagrin Falls be, and the same is hereby amended to read and provide, in its entirety, as follows:

"149.20 EMPLOYEE CONTRIBUTIONS TO OPERS AND OP&F.

Effective May 1, 2011, the Village hereby adopts the following policies and procedures, in accordance with Ohio law, to perform the "employer pick-up" of employee contributions to the Ohio Public Employee Retirement System ("OPERS") and the Police and the Ohio Police and Fire Pension ("OP&F"):

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INTRODUCED BY: MR. SUBEL

(a) For the categories of Village employees listed in subsection (b) hereof, the contributions required to be made by each such employee to the OPERS or OP&F, whichever is applicable, as an employee contribution under Ohio R.C. Chapters 145 and 742 shall be paid, pursuant to subsection (c) hereof, by the Village on behalf of the employee in lieu of contribution by the employees and in accordance with the provisions of this section.

(b) This section shall apply to all Village officials and/or employees in the following categories: Police Department personnel, Fire Department Personnel, Public Service Department personnel, support personnel, elected officials, appointed officials, and all other employees who are not members of the above groups. An official or employee who wishes to have contributions made on a pre-tax basis shall sign a form requesting same; this option shall be irrevocable. This section shall not apply to non Village employees who are hired temporarily in order to provide traffic control at private construction projects.

(c) The Village's method of payment of salary to employees who are participants in OPERS and OP&F shall be as follows, in order to provide for a salary reduction pick up of employee contributions to OPERS or OP&F:

(1) The total salary for each eligible employee shall be the salary otherwise payable under the Village policies. Such total salary of each employee shall be payable by the Village in two parts:

- A. Deferred salary; and
- B. Cash salary.

(2) An eligible employee's deferred salary shall be equal to that percentage of that employee's total salary which is required from time to time by OPERS or OP&F to be paid as an employee contribution by that employee, and shall be paid by the Village to OPERS or OP&F on behalf of that employee as a pick up and in lieu of OPERS or OP&F employee contribution otherwise payable by that employee. Employees shall not have the option of receiving the statutorily required contribution directly instead of it being paid by the Village to OPERS or OP&F.

(d) Such employee's cash salary shall be equal to that employee's total salary less the amount of the pick up for that employee, and shall be payable, subject to applicable payroll deductions to that employee.

(1) The Village shall compute and remit its employer contributions to OPERS or OP&F based upon an employee's total salary. The total combined expenditures of the Village for such employee's total salaries payable under applicable Village policies and the pick up provisions of this section shall not be greater than the amounts the employee would have been paid for those items had this provision not been in effect.

(2) A person electing this pick up deduction shall not have the option of choosing to receive the payroll deduction directly instead of having this deduction picked up by the Village. Members who have elected to participate in this plan cannot increase, decrease or terminate the amount of the pick up deduction.

(e) All full-time Village employees identified in subsection (b) hereof and who are contributing members of OPERS or OP&F may purchase additional service credit, tax deferred, and the Village shall withhold the required service credit deduction from the gross pay of each person who elects to do so and shall pick up (assume and pay) such deduction to OPERS or OP&F in accordance with subsection (c) hereof.

(f) The Director of Finance is hereby authorized to perform all acts necessary and

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appropriate to facilitate the implementation of the provisions of this section, including, but not limited to, making applications to the Internal Revenue Service for private letter rulings concerning Federal tax treatment of the provisions of this plan and making applications to the appropriate State retirement boards.”

SECTION 2. That existing Section 149.20, PERS Pickup, and existing Section 149.21, PFDFP Pickup, of the Codified Ordinances of the Village of Chagrin Falls, and any other ordinance in conflict herewith, be and the same are hereby repealed.

SECTION 3. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

SECTION 4. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 5. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of this Village and for the further reason that this Ordinance must be immediately effective so that the Village may timely comply with the mandates of Senate Bill 5; wherefore, provided it receives the requisite number of affirmative votes of all members elected to Council, this Ordinance shall be in full force and effect from and immediately upon its passage by this Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

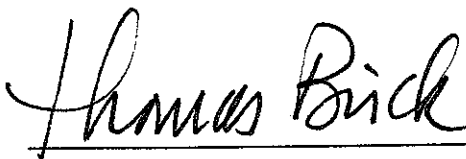
PASSED: May 23, 2011



Council President

Submitted to the Mayor for
his approval on this
24 day of May, 2011

Approved by the Mayor
May 24, 2011

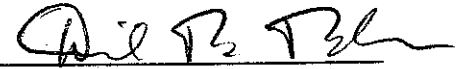


Mayor

I hereby certify that Ordinance No. 2011-26 was duly enacted on the 23 day of

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May, 2011, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.



Clerk of Council