

ORDINANCE NO. 7,800-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 4.38, SUPPLEMENTARY RETIREMENT AND INCOME PLAN II, TO PERMIT PARTICIPATION OF BERKELEY FIRE FIGHTERS ASSOCIATION LOCAL 1227 I.AF.F.

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That pursuant to the Memorandum of Understanding between the City of Berkeley and Berkeley Fire Fighters Association Local 1227 I.A.F.F. of July 1, 2021 - June 30, 2023, Section 4.38.106 of the Berkeley Municipal Code is amended to read in its entirety as follows:

**“4.38.106
Employee.**

‘Employee’ shall mean any person who is:

1. Employed by the City and covered under its miscellaneous employees contract with the Administration of the State of California Public Employees Retirement System (a CalPERS miscellaneous employee); or
2. Employed by the City and represented by any of the following associations:
 - Berkeley Police Association (a police employee), effective January 1, 1989; or
 - Berkeley Fire Fighters Association Local 1227 I.A.F.F., effective March 20, 2022; or
3. Employed by any other public entity Employer that has adopted the Plan with approval of the Council.”

Section 2. That Sections 4.38.107 and 4.38.201 of the Berkeley Municipal Code are amended to make non-substantive, clerical changes to read in their entirety as follows:

**“4.38.107
Employer.**

‘Employer’ shall mean the City of Berkeley and any other public entity that has adopted the Plan with the approval of the Council. Effective as of July 1, 2007, the Berkeley Housing Authority shall be considered an Employer under the Plan with respect to its employees. An Employer who has been approved to participate in the Plan may do so as long as it fulfills its obligations as an Employer under the Plan to the satisfaction of the City of Berkeley, as determined by the City of Berkeley’s sole and absolute discretion. If

the City determines that an Employer is not fulfilling its obligations, the City shall provide written notice to that effect to the Employee and that Employer's participation under the Plan shall terminate as of the date of such notice. (Ord. 7264-NS § 2, 2012)

4.38.201

Participation date.

Any Employee who was a Participant in the Plan immediately prior to January 1, 2001 shall continue to be a Participant on January 1, 2001. Each other Employee who becomes such on or after July 22, 1988 shall become a Participant upon their date of employment, or if later, the date they become an Employee. Any Participant of the City of Berkeley Supplementary Retirement Income Plan I may elect, at any time, to cease participation in that plan and become a Participant in this Plan (i.e., the City of Berkeley Supplementary Retirement Income Plan II). Such election shall be irrevocable. Any Participant who is a police employee on January 1, 2005 shall cease being an active or inactive participant in this Plan on December 31, 2004."

At a regular meeting of the Council of the City of Berkeley held on February 22, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: Bartlett.