



June 29, 2023

Mr. T. Scott Baker
New Port Richey Police Officers'
Retirement System
6739 Adams Street
New Port Richey, Florida 34652

Re: Proposed Ordinance No. XXX

Dear Scott:

As requested by Scott Christiansen, Esq., we have performed an actuarial review of the attached proposed Ordinance under the New Port Richey Police Officers' Retirement System.

Based upon our review, the proposed Ordinance:

1. Amends the definition of salary in Section 17-51 to clarify the determination period for maximum annual compensation.
2. Amends Section 17-54 to provide Board discretion on seeking recovery of inadvertent overpayments in compliance with the SECURE Act 2.0.
3. Amends Sections 17-57 and 17-65.1 to provide for changes in the required beginning date in compliance with the SECURE Act 2.0.
4. Amends Section 17-58 to provide for the statutory minimum for police officer benefits under the worker's compensation offset.
5. Amends Section 17-65.2 to provide for allowable in-service distributions from the plan.
6. Amends Sections 17-65.11 and 17-65.14 to provide an option to pay for purchased service over a period of time not to exceed 5 years at no cost to the plan and removes the restriction of a one-time request to purchase service.
7. Amends Section 17-65.13 to extend the maximum DROP participation period to 8 years.
8. Provides for severability.
9. Provides for codification.
10. Repeals all Ordinances or parts of Ordinances in conflict herewith.
11. Provides for an effective date.

In our opinion, based upon the actuarial assumptions and methods employed in the October 1, 2022 Actuarial Valuation, the proposed Ordinance is a *no cost* Ordinance under State minimum funding requirements.

Please forward a copy of the Ordinance upon passage at second reading to update our records.

Mr. T. Scott Baker
June 29, 2023
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We are available to respond to any questions concerning the above.

Sincerest regards,
Gabriel, Roeder, Smith & Company

Michelle Jones

Shelly L. Jones, A.S.A., M.A.A.A., E.A., F.C.A.
Consultant and Actuary

Enclosure

cc: Scott Christiansen, Esq.



ORDINANCE NO. 2023-_____

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA; PROVIDING FOR AMENDMENT OF ARTICLE IV OF CHAPTER 17 OF THE CODE OF ORDINANCES OF THE CITY OF NEW PORT RICHEY, PERTAINING TO THE POLICE OFFICERS' RETIREMENT SYSTEM; PROVIDING FOR AMENDMENT OF SUBSECTION (a) OF SECTION 17-51, DEFINITIONS, TO AMEND THE DEFINITION OF SALARY; PROVIDING FOR AMENDMENT OF SUBSECTION (6) OF SECTION 17-54, FINANCES AND FUND MANAGEMENT, PERTAINING TO OVERPAYMENTS AND UNDERPAYMENTS; PROVIDING FOR AMENDMENT OF SUBSECTION (c) OF SECTION 17-57, PRE-RETIREMENT DEATH, PERTAINING TO THE REQUIRED DISTRIBUTION DATE; PROVIDING FOR AMENDMENT OF SUBSECTION (g) OF SECTION 17-58, PERTAINING TO MINIMUM BENEFIT UNDER WORKER'S COMPENSATION OFFSET; PROVIDING FOR AMENDMENT TO SUBSECTION (b) OF SECTION 17-65.1, MINIMUM DISTRIBUTION OF BENEFITS, PERTAINING TO THE REQUIRED DISTRIBUTION DATE; PROVIDING FOR THE ADDITION OF SUBSECTION (j) TO SECTION 17-65.2, MISCELLANEOUS PROVISIONS, PERTAINING TO IN-SERVICE DISTRIBUTIONS; PROVIDING FOR AMENDMENT OF SECTION 17-65.11, PRIOR POLICE SERVICE, PERTAINING TO A PAYMENT PLAN TO PURCHASE PRIOR POLICE SERVICE; PROVIDING FOR AMENDMENT TO SUBSECTION (b) OF SECTION 17-65.13, DEFERRED RETIREMENT OPTION PLAN, PERTAINING TO MAXIMUM PARTICIPATION PERIOD; PROVIDING FOR AMENDMENT TO SECTION 17-65.14, MILITARY SERVICE PRIOR TO EMPLOYMENT, PERTAINING TO A PAYMENT PLAN TO PURCHASE PRIOR MILITARY SERVICE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council deems it advisable to amend the City's Police Officers' Retirement System; and

WHEREAS, it is declared as a matter of legislative determination and public policy that the provisions and prohibitions herein are necessary in the public interest; and it is further declared that the provisions and prohibitions herein are in pursuance of and for the purpose of securing and promoting the public health, safety, welfare and quality of life in the City in accordance with the City's police powers.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA;

Section 1. Chapter 17, Article IV, Section 17-51, Definitions, subsection (a), of the Code of Ordinances, pertaining to the definition of Salary, is hereby amended as follows (strikeout text is deleted and underlined text is added):

* * *

Salary means the total compensation for services rendered to the city as a police officer reportable on the member's W-2 form plus all tax deferred, tax sheltered or tax exempt items of income derived from elective employee payroll deductions or salary reductions, but excluding any payments for extra duty or special detail work performed on behalf of a second party employer.

Compensation in excess of limitations set forth in section 401(a)(17) of the code as of the first day of the plan year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions for any plan year beginning on or after January 1, 2002, may not exceed two hundred thousand dollars (\$200,000.00), as adjusted for cost-of-living increases in accordance with code section 401(a)(17)(B). Compensation means compensation during the fiscal year, and the fiscal year is considered the determination period. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than 12 months for all members, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is twelve (12), as provided for in Treas. Reg. Section 1.401(a)(17)-1(b)(3)(iii)(B). If the compensation for any prior determination period is taken into account in determining a member's contributions or benefits for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. The limitation on compensation for an "eligible employee" shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. "Eligible employee" is an individual who was a member before the first plan year beginning after December 31, 1995. The definition of salary set forth above is frozen at midnight on November 7, 2017. Under the benefit structure effective November 8, 2017, salary means total cash remuneration paid by the city for services rendered, including overtime paid up to but not exceeding three hundred (300) hours per year, and excluding payments for accrued unused sick or annual leave. Salary includes all tax deferred, tax sheltered or tax exempt items of income derived from elective employee payroll deductions or salary reductions. Salary excludes any compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code.

* * *

Section 2. Chapter 17, Article IV, Section 17-54, Finances and Fund Management, subsection (6)j., of the Code of Ordinances, pertaining to overpayments and underpayment from the fund, is hereby amended as follows (strikeout text is deleted and underlined text is added):

* * *

- (6) j. Any overpayments or underpayments from the fund to a member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the board in such a manner that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Notwithstanding the foregoing, the board shall have the discretion to not seek recovery of inadvertent overpayments from benefit recipients or other parties, including the City based on the circumstances of the overpayment, on a

case-by-case basis, provided that any such actions are consistent with the provisions of the Secure Act 2.0 applicable to governmental plans with regard to inadvertent benefit overpayments and any applicable guidance subsequently issued by the Treasury and the Internal Revenue Service. Underpayments shall be made up from the fund in a prudent manner.

* * *

Section 3. Chapter 17, Article IV, Section 17-57, Pre-Retirement Death, subsection (c)(1)e., of the Code of Ordinances, pertaining to the required distribution date, is hereby amended as follows (strikeout text is deleted and underlined text is added):

* * *

- (c)(1) e. Notwithstanding anything contained in this section to the contrary, in any event, distributions to the spouse beneficiary will begin no later than the beginning date provided under Sec. 17-65.1, ~~subsection (b)(2)a.~~

* * *

Section 4. Chapter 17, Article IV, Section 17-58, Disability, subsection (g), of the Code of Ordinances, pertaining to the worker's compensation offset, is hereby amended as follows (strikeout text is deleted and underlined text is added):

* * *

- (g) *Worker's compensation.* ~~(1)~~ When a retiree is receiving a disability pension and workers' compensation benefits pursuant to F.S. ch. 440, for the same disability, and the total monthly benefits received from both exceed one hundred (100) percent of the member's average monthly wage, as defined in F.S. ch. 440, the disability pension benefit shall be reduced so that the total monthly amount received by the retiree does not exceed one hundred (100) percent of such average monthly wage. The amount of any lump sum workers' compensation payment shall be converted to an equivalent monthly benefit payable for ten (10) years certain by dividing the lump sum amount by 83.9692. Notwithstanding the foregoing, in no event shall the disability pension benefit be reduced below the greater of forty-two (42) percent of average final compensation and two and three-quarters (2.75) percent of average final compensation times years of credited service.

- ~~(2) When a member is receiving a disability pension and disability benefits attributable to employment with another employer for the same disability, and the total monthly benefits received from both exceed thirty (30) percent of the member's regular base salary, the disability pension benefit shall be reduced so that the total monthly amount received by the member does not exceed thirty (30) percent of regular base salary. Notwithstanding the foregoing, in no event shall the disability pension benefit be reduced below the greater of forty-two (42) percent of average final compensation and two (2) percent of average final compensation times years of credited service.~~

* * *

Section 5. Chapter 17, Article IV, Section 17-65.1, Minimum Distribution of Benefits, subsections (b)(1) and (b)(2)a., of the Code of Ordinances, pertaining to the required distribution date, is hereby amended as follows (strikeout text is deleted and underlined text is added):

* * *

(b) *Time and manner of distribution.*

(1) *Required beginning date.*

a. The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date. ~~For a member who attains age seventy and one-half (70 ½) prior to January 1, 2020, the member's required beginning date is April 1 of the calendar year following the later of (i) the calendar year in which the member attains age seventy and one-half (70 ½) or (ii) the calendar year in which the member terminates employment with the City. For a member who attains age seventy and one-half (70 ½) on or after January 1, 2020, the~~ The member's required beginning date is April 1 of the calendar year following the later of (i) the calendar year in which the member attains age seventy-two (72) the applicable age or (ii) the calendar year in which the member terminates employment with the City.

b. *Applicable age.*

1. For a member who attained age 70 ½ before December 31, 2019, the applicable age is 70 ½.

2. For a member who attained age 72 before January 1, 2023, the applicable age is 72.

3. For a member who attains age 72 after December 31, 2022, the applicable age as defined in Code Section 401(a)(9)(C)(v).

(2) *Death of member before distributions begin.* If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed no later than as follows:

a. If the member's surviving spouse is the member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by a date on or before December 31 of the calendar year in which the member would have attained age ~~seventy and one-half (70 ½), (or age 72 for a member who would have attained age 70½ after December 31, 2019)~~ the applicable age, as the surviving spouse elects. Effective for calendar years beginning after December 31, 2023, a surviving spouse who is the member's sole designated beneficiary may elect to be treated as if the surviving spouse were the employee as provided under Code Section 401(a)(9)(B)(iv).

* * *

Section 6. Chapter 17, Article IV, Section 17-65.2, Miscellaneous Provisions, of the Code of Ordinances, subsection (j), pertaining to the in-service distributions, is hereby added as follows (strikeout text is deleted and underlined text is added):

* * *

- (i) *In-Service Distributions.* The plan may make in-service distributions if otherwise permitted under applicable law.

* * *

Section 7. Chapter 17, Article IV, Section 17-65.11, Prior Police Service, of the Code of Ordinances, pertaining to a payment plan for the purchase of credited service, is hereby amended as follows (strikeout text is deleted and underlined text is added):

Sec. 17-65.11. - Prior police service.

Unless otherwise prohibited by law, and except as provided for in subsection (1), the years or fractional parts of years that a member previously served as a police officer with the city during a period of previous employment and for which period accumulated contributions were withdrawn from the fund, or the years and fractional parts of years that a member served as a police officer for any other municipal, county or special law enforcement department in the United States, shall be added to his years of credited service provided that:

- (1) The member contributes to the fund the sum that he would have contributed, based on his salary and the member contribution rate in effect at the time that the credited service is requested, had he been a member of the system for the years or fractional parts of years for which he is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the fund plus payment of costs for all professional services rendered to the board in connection with the purchase of years of credited service.
- (2) Multiple requests to buy Credited Service may be made at any time prior to retirement. ~~The request shall be made only once and made by the member on or before twelve (12) months from August 20, 2002, or six (6) months from the date of his employment with the city police department, whichever is later.~~
- (3) Payment by the police officer of the required amount shall be made within six (6) months of his request for credit, and shall be made in one (1) lump sum payment upon receipt of which credited service shall be given or the member may elect to make payment for the requested credited service over a period of time as provided for in paragraph (7) below.
- (4) The maximum credit under this section for service other than with the city, when combined with credited service purchased pursuant to prior military service section, shall be five (5) years of credited service and shall count for all purposes, except vesting and eligibility for not-in-line of duty disability benefits. There shall be no maximum purchase of credit for prior service with the city and such credit shall count for all purposes, including vesting.
- (5) In no event, however, may credited service be purchased pursuant to this section for prior service with any other municipal, county or special law enforcement department, if such prior service forms or will form the basis of a retirement benefit or pension from another retirement system or plan as set forth in subsection 17-65(1)(2).

- (6) For purposes of determining credit for prior service as a police officer as provided for in this section, in addition to service as a police officer in this state, credit may be purchased by the member in the same manner as provided above for federal, other state, county or municipal service if the prior service is recognized by the Criminal Justice Standards and Training Commission within the Department of Law Enforcement, as provided under Chapter 943, Florida Statutes, or the police officer provides proof to the board that such service is equivalent to the service required to meet the definition of a police officer under Sec. 17-51, above.
- (7) In lieu of the lump sum payment provided for in paragraph (3) above, a member may elect to make payments over a period of time in order to fully pay the amount provided for in paragraph (1). The member shall be required to notify the board, in writing, of his election to make payments in the manner provided for in this paragraph. The payment plan provided for in this paragraph shall be subject to the following terms:
- a. The principal amount to be paid shall be determined as set forth in paragraph (1) above.
 - b. The original principal amount shall be amortized over the period beginning with the first payment and ending no later than sixty (60) months from the date of the first payment.
 - c. Payments shall consist of principal and interest at a rate equal to the actuarially assumed rate of return on plan investments.
 - d. Payments shall be made by payroll deduction from each paycheck on an after-tax basis.
 - e. In the event that a member dies, retires (including entry into any Deferred Retirement Option Plan (DROP)) or otherwise terminates his employment, without having made full payment of the principal amount necessary to receive all credited service requested, the member shall receive so much of the credited service requested, determined using procedures established by the actuary, which could be purchased with the amount of principal paid by the member to the date of his death or termination of employment.
 - f. In the event that the member's employment is terminated for any reason and he is not entitled to any benefit from the system other than the return of the amounts he has had deducted from his paycheck as his normal contribution to the system, the amounts which the member has paid pursuant to this subsection to purchase additional credited service, shall be returned to him including all interest paid, however, no interest shall accrue on amounts paid to purchase service.

Section 8. Chapter 17, Article IV, Section 17-65.13, Deferred Retirement Option Plan, subsection (b)(3), of the Code of Ordinances, pertaining to the maximum DROP participation period, is hereby amended as follows (strikeout text is deleted and underlined text is added):

* * *

- (b) (3) *Period of Participation.* A member who elects to participate in the DROP under subsection (b)(2), shall participate in the DROP for a period not to exceed ~~sixty (60)~~ ninety-six (96) months beginning at the time his election to participate in the DROP first becomes effective. An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the city not later than the date provided for in the previous sentence. DROP participants as of the effective date of the ordinance adopting this provision shall be permitted to extend their DROP participation up to the full ninety-six (96) months. A member may participate only once.

* * *

Section 9. Chapter 17, Article IV, Section 17-65.14, Military Service Prior to Employment, of the Code of Ordinances, pertaining to a payment plan for the purchase of credited service, is hereby amended as follows (strikeout text is deleted and underlined text is added):

Sec. 17-65.14. - Military service prior to employment.

The years or fractional parts of years that a police officer serves or has served on active duty in the military service of the Armed Forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily and honorably or under honorable conditions, prior to first and initial employment with the city police department shall be added to his years of credited service provided that:

- (1) The member contributes to the fund the sum that he would have contributed, based on his salary and the member contribution rate in effect at the time that the credited service is requested, had he been a member of the system for the years or fractional parts of years for which he is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the fund plus payment of costs for all professional services rendered to the board in connection with the purchase of years of credited service.
- (2) Multiple requests to buy Credited Service may be made at any time prior to retirement. ~~The request shall be made only once and made by the member on or before twelve (12) months from August 20, 2002, or six (6) months from the date of his employment with the city police department, whichever is later.~~
- (3) Payment by the member of the required amount shall be made within six (6) months of his request for credit and shall be made in one (1) lump sum payment upon receipt of which credited service shall be given or the member may elect to make payment for the requested credited service over a period of time as provided for in paragraph (6) below.
- (4) The maximum credit under this section when combined with credited service purchased pursuant to prior police service section, for service with an employer other than the City of New Port Richey, shall be five (5) years.
- (5) Credited service purchased pursuant to this section shall count for all purposes, except vesting and eligibility for not-in-line of duty disability benefits.

- (6) In lieu of the lump sum payment provided for in paragraph (3) above, a member may elect to make payments over a period of time in order to fully pay the amount provided for in paragraph (1). The member shall be required to notify the board, in writing, of his election to make payments in the manner provided for in this paragraph. The payment plan provided for in this paragraph shall be subject to the following terms:
- a. The principal amount to be paid shall be determined as set forth in paragraph (1) above.
 - b. The original principal amount shall be amortized over the period beginning with the first payment and ending no later than sixty (60) months from the date of the first payment.
 - c. Payments shall consist of principal and interest at a rate equal to the actuarially assumed rate of return on plan investments.
 - d. Payments shall be made by payroll deduction from each paycheck on an after-tax basis.
 - e. In the event that a member dies, retires (including entry into any Deferred Retirement Option Plan (DROP)) or otherwise terminates his employment, without having made full payment of the principal amount necessary to receive all credited service requested, the member shall receive so much of the credited service requested, determined using procedures established by the actuary, which could be purchased with the amount of principal paid by the member to the date of his death or termination of employment.
 - f. In the event that the member's employment is terminated for any reason and he is not entitled to any benefit from the system other than the return of the amounts he has had deducted from his paycheck as his normal contribution to the system, the amounts which the member has paid pursuant to this subsection to purchase additional credited service, shall be returned to him including all interest paid, however, no interest shall accrue on amounts paid to purchase service.

Section 10. Conflict with Other Ordinances and Codes. All Ordinances or parts of Ordinances of the City of New Port Richey, Florida, in conflict with the provisions of this ordinance, are hereby repealed to the extent of such conflict

Section 11. Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

Section 12. Effective Date. This ordinance shall take effect immediately upon its adoption as provided by law.

Section 13. Codification. Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of New Port Richey.

The foregoing Ordinance was duly read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this ____ day of _____, 2021, and read and adopted on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this ____ day of _____, 2023.

ATTEST:

Judy Meyers, City Clerk

Chopper Davis, Mayor-Council Member

(Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE SOLE
USE AND RELIANCE OF THE CITY OF NEW PORT RICHEY,
FLORIDA:

Timothy P. Driscoll, City Attorney

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