

ORDINANCE NO. 2024-2283

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, PROVIDING FOR AMENDMENT OF ARTICLE III OF CHAPTER 17 OF THE CODE OF ORDINANCES OF THE CITY OF NEW PORT RICHEY, PERTAINING TO THE FIREFIGHTERS' RETIREMENT SYSTEM, PROVIDING FOR AMENDMENT OF SECTION 17-36, DEFINITIONS; PROVIDING FOR AMENDMENT OF SECTION 17-39, FINANCES AND FUND MANAGEMENT; PROVIDING FOR AMENDMENT OF SECTION 17-42, PRE-RETIREMENT DEATH; PROVIDING FOR AMENDMENT OF SECTION 17-50.1, MINIMUM DISTRIBUTION OF BENEFITS; PROVIDING FOR SEVERABILITY OF PROVISION; PROVIDING FOR CODIFICATION; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council deems it advisable to amend the City's Firefighters' 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: That Chapter 17, Pensions and Retirement, Article III, Firefighters' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-36, Definitions, by amending the definition of Salary, to read as follows:

* * *

Salary means total compensation for services rendered to the city as a firefighter reportable on the member's W-2 form, including paramedic compensation and overtime, but excluding lump sum unused sick leave payments, lump sum unused vacation payments and plus all tax deferred, tax sheltered or tax-exempt items of income derived from elective employee payroll deductions or salary reductions. If the state monies are less than one hundred fifty-eight thousand two hundred seventy-five dollars and seventy-three cents (\$158,275.73), then the salary definition will revert back to the definition in place prior to the adoption of this improvement. If the state monies fall between one hundred fifty-eight thousand two hundred seventy-five dollars and seventy-three cents (\$158,275.73) and one hundred sixty-three thousand eight hundred twenty-five dollars and seventy-three cents (\$163,825.73), then the salary definition will be reduced in proportion to the reduction in state monies. Any changes to the salary definition would not apply to members already receiving benefits as of the change date. In lieu of the reduced benefits, the membership may agree to an increased member contribution rate sufficient to make up the shortfall in state contributions.

Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue 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 section 401(a)(17)(B) of the code. 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 twelve (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, September 30, 2013. Under the benefit structure effective October 1, 2013, salary means total cash remuneration paid by the city for services rendered, including overtime paid up to but not exceeding one hundred fifty (150) hours per year, and excluding payments for accrued unused sick or annual leave. The definition of salary set forth above is frozen at midnight on June 18, 2018. Under the benefit structure effective June 19, 2018, 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: That Chapter 17, Pensions and Retirement, Article III, Firefighters' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-39, Finances and Fund Management, subsection (f)(10), to read as follows:

* * *

(f)(10) Any overpayments or underpayments from the fund to a member 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, retiree 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: That Chapter 17, Pensions and Retirement, Article III, Firefighters' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-42, Pre-Retirement Death, subsection (b)(2)e., to read as follows:

* * *

- (b)(2) 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. 17-50.1, ~~subsection (b)(2)a.~~

* * *

SECTION 4: That Chapter 17, Pensions and Retirement, Article III, Firefighters' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-50.1, Minimum Distribution of Benefits, subsections (b)(1) and (b)(2)a., to read as follows:

* * *

- (b) (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 (70½) 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 (70½) or (ii) the calendar year in which the member terminates employment with the City. For a member who attains age seventy and one-half (70½) 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 70½ before December 31, 2019, the applicable age is 70½.
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).

* * *

- (b) (2) 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 70½, (or age 72 for a member who would have attained age 70½ after December 31, 2019) if later, 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 5: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 6: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of New Port Richey.

SECTION 7: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 8: That this Ordinance shall become effective upon its adoption.

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 6th day of February, 2024, 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 21st day of February, 2024.

ATTEST:

Judy Meyers, CMC, City Clerk

Alfred C. 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