

ORDINANCE NO. 2024-2284

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 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.* ~~(4)~~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):

\* \* \*

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

\* \* \*

**Section 7. 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 8. 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 9. Effective Date.** This ordinance shall take effect immediately upon its adoption as provided by law.

**Section 10. 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 6<sup>th</sup> 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 21<sup>st</sup> day of February, 2024.

ATTEST:

\_\_\_\_\_  
Judy Meyers, CMC, City Clerk

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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:

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Timothy P. Driscoll, City Attorney