

ORDINANCE NO. 2017-2121

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY AMENDING CHAPTER 17, PENSIONS AND RETIREMENT, ARTICLE IV, POLICE OFFICERS' RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES OF THE CITY OF NEW PORT RICHEY; AMENDING SECTION 17-51, DEFINITIONS, BY AMENDING THE DEFINITIONS OF "AVERAGE FINAL COMPENSATION" AND "SALARY"; ADDING SECTION 17- 51.1, BENEFIT FREEZE; NEW BENEFIT STRUCTURE; AMENDING SECTION 17-55, CONTRIBUTIONS; AMENDING SECTION 17-56, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 17-58, DISABILITY; AMENDING SECTION 17-65.13, DEFERRED RETIREMENT OPTION PLAN; ADDING SECTION 17-65.15, SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS; CHAPTER 185 SHARE ACCOUNTS; PROVIDING FOR SEVERABILITY OF PROVISION; PROVIDING FOR CODIFICATION; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

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

**SECTION 1:** That Chapter 17, Pensions and Retirement, Article IV, Police Officers' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-51, Definitions, by amending the definitions of "Average Final Compensation," and "Salary", to read as follows:

*Average final compensation* means one-twelfth (1/12) of the salary of the best year of the last three (3) years of credited service prior to retirement, termination, or death, or the career average as a full-time police officer, whichever is greater, but not less than the average of salary over the five (5) best years of the last ten (10) years. A year shall be twelve (12) consecutive months. The definition of average final compensation set forth above is frozen at midnight on [insert date of ordinance amendment]. Under the benefit structure effective [insert date after ordinance amendment], average final compensation means one-twelfth ( 1/12 ) of the average annual salary of the three (3) best of the last five (5) years of credited service immediately prior to retirement, termination, or death.

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*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. 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, 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). 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 [insert date of ordinance amendment]. Under the benefit structure effective [insert date after ordinance amendment], 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 IV, Police Officers' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by adding Sec. 17-51.1, Plan Freeze; New Benefit Structure, to read as follows:

Sec. 17-51.1. - Plan freeze; New benefit structure.

The benefit structure in effect on [insert date of ordinance amendment] is frozen at midnight on that date. All members will be vested in benefits accrued to that date and payable under the terms and conditions of the benefit structure then in effect. No additional benefits of any kind will accrue; provided, however, that for any member who is eligible to retire with normal benefits prior to midnight on [insert date of ordinance amendment] the benefit structure in effect as of midnight on [insert date of ordinance amendment] shall remain in effect beyond [insert date of ordinance amendment], and shall not be frozen.

**SECTION 3:** That Chapter 17, Pensions and Retirement, Article IV, Police Officers' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-55(a)(1) and (c), to read as follows:

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(a) *Member contributions.*

(1) *Amount.* Each member of the system shall be required to make regular contributions to the fund in the amount of six and one-half (6½) ~~four and one-half (4½)~~ percent of his salary. However, the member's contribution shall be reduced to an amount equal to the city contribution in years where the annual actuarial valuation indicates that the city-required contribution is less than six and one-half (6½) ~~four and one-half (4½)~~ as stated. Member contributions withheld by the city on behalf of the member shall be deposited with the board immediately after each pay period. The contributions made by each member to the fund shall be designated as employer contributions pursuant to the section 414(h) of the code. Such designation is contingent upon the contributions being excluded from the member's gross income for Federal Income Tax purposes. For all other purposes of the system, such contributions shall be considered to be member contributions.

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(c) *City contributions.* So long as this system is in effect, the city shall make at least monthly contributions to the fund in an amount equal to the difference in each year, between the total aggregate member contributions for the year, plus state contributions for such year, and the total cost for the year, as shown by the most recent actuarial valuation of the system. However, in any years in which the most recent actuarial valuation states that the required city contribution is less than six and one-half (6½) ~~four and one-half (4½)~~ of covered payroll, then the city contribution plus member contribution shall be shared equally. The total cost for any year shall be defined as the total normal cost plus the additional amount sufficient to amortize the unfunded past service liability as provided in F.S. pt. VII chapter 112.

**SECTION 4:** That Chapter 17, Pensions and Retirement, Article IV, Police Officers' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-56(a) through (d), to read as follows:

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(a) *Normal retirement date.* A member's normal retirement date shall be the first day of the month coincident with, or the next following the earlier of the attainment of age fifty-two and the completion of ten (10) years of credited service, or the completion of twenty-three (23) years of credited service; provided, however, that any member who has completed at least ten (10) years of credited service earned prior to midnight on [insert date of ordinance amendment] shall be eligible for normal retirement upon the attainment of age fifty (50) and the completion of ten (10) years of credited service. A member may retire on his normal retirement date or on the first day of any month thereafter, and each member shall become one hundred (100) percent vested in his accrued benefit on the member's normal retirement date. Normal retirement under the system is retirement from employment with the city on or after the normal retirement date.

(b) *Normal retirement benefit.*

(1) A member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on his retirement date and be continued thereafter during member's lifetime, ceasing upon death, but with one hundred twenty (120) monthly payments guaranteed in any event. The monthly retirement benefit shall equal three and one-half (3½) percent of average final compensation, for each year of credited service earned prior to midnight on [insert date of ordinance amendment] and three and one-quarter (3.25) percent of average final compensation, for each year of credited service earned after midnight on [insert date of ordinance amendment] however, the monthly retirement benefit for any member shall not exceed seventy-five (75) percent of average final compensation provided, however, that in any event the benefit shall equal at least two (2) percent of average final compensation for each year of credited service averaged over the entire period of credited service of the member. An optional form of benefit may be elected by a member as provided in section 17-60.

(2) For those who became members prior to October 20, 1994, an additional supplemental benefit of four hundred dollars (\$400.00) per month, payable for life only, shall be paid to normal retirees, except that if the member selects an optional form of benefit in the form of a joint and survivor benefit and the surviving spouse of the member or the member's child is the joint pensioner, the entire additional benefit shall be paid for the life of the surviving spouse or until the child reaches the age of eighteen (18) or age twenty-two (22) if enrolled as a full-time student in an accredited college or university. For those who became members on or after October 20, 1994, an additional supplemental benefit of two hundred dollars (\$200.00) per month, payable for life only, shall be paid to normal retirees, except that if the member selects an optional form of benefit in the form of a joint and survivor benefit and the surviving spouse of the member or the member's child is the joint pensioner, the entire additional benefit shall be paid for the life of the surviving spouse or until the child reaches the age of eighteen (18) or age twenty-two (22) if enrolled as a full-time student in an accredited college or university.

(c) *Early retirement date.* A member may retire on his early retirement date which shall be the first day of any month coincident with or next following the ~~completion of twenty (20)~~ attainment of age fifty (50) and the completion of ten (10) years of credited service. Early retirement under the system is retirement from employment with the city on or after the early retirement date and prior to the normal retirement date.

(d) *Early retirement benefit.* A member retiring hereunder on his early retirement date may receive an immediate monthly retirement benefit determined in the same manner and payable in the same form as for normal retirement. The immediate monthly retirement benefit shall commence on his early retirement date and shall be continued on the first day of each month thereafter. Credited service and average final compensation shall be determined as of the early retirement date ~~with no reduction for commencement of benefits prior to the normal retirement date~~ but actuarially reduced to take into account the

member's younger age and the earlier commencement of retirement income payments not to exceed three (3) percent for each year by which the member's age at retirement preceded the member's normal retirement age.

**SECTION 5:** That Chapter 17, Pensions and Retirement, Article IV, Police Officers' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-58(a) and (c) to read as follows:

(a) *Disability benefits in-line of duty.* Any member who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a police officer, which disability was directly caused by the performance of his duty as a police officer, shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to sixty (60) percent of his regular base salary in effect as of the date of disability. An additional benefit of dollars (\$400.00) per month for those who became members prior to October 20, 1994 and two hundred dollars (\$200.00) per month for those who became members on or after October 20, 1994 shall be paid to disabled retirees. Notwithstanding the foregoing, in no event shall the disability pension benefits be reduced below the greater of forty-two (42) percent of average final compensation, two (2) percent of average final compensation times years of credited service, or three and one-half (3½) percent of regular base salary for each year of credited service earned prior to midnight on [insert date of ordinance amendment], and three and one-quarter (3.25) percent of regular base salary for each year of credited service earned after midnight on [insert date of ordinance amendment], not to exceed seventy-five (75) percent of regular base salary. The benefits shall be paid from the date the board determines disability until recovery, as determined by the board, or for the life of the retiree and continued in the manner provided for preretirement death, service incurred, upon death of the retiree, but provided further that the benefit, except for the additional benefit, shall be payable for a minimum of one-hundred twenty (120) monthly payments. This benefit is applicable to all current and future disability retirees and their eligible spouses and children. Terminated persons, either vested or nonvested, are not eligible for disability benefits, except that those terminated by the city for medical reasons may apply for a disability within thirty (30) days after termination.

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(c) *Disability benefits not in-line of duty.* Any member with one (1) year or more credited service and who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a police officer, which disability is not directly caused by the performance of his duties as a police officer shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension as follows:

(1) For a member who became a member before October 20, 1994, an amount equal to thirty (30) percent of his regular base salary in effect as of the date of disability plus an additional benefit of four hundred dollars (\$400.00) per month.

(2) For a member who become a member on or after October 20, 1994, an amount equal to five (5) percent of his regular base salary in effect as of the date of disability for each year of credited service, not to exceed thirty (30) percent. Members with at least two (2) years of credited service as of the date of disability shall receive an additional twenty-eight dollars (\$28.00) for each year of credited service with the total additional benefit not exceeding two hundred dollars (\$200.00).

Notwithstanding the foregoing, in no event shall the disability pension benefit be reduced below the greater of twenty-five (25) percent of average final compensation and two (2) percent of average final compensation times years of credited service or three and one-half (3½) percent of regular base salary for each year of credited service earned prior to midnight on [insert date of ordinance amendment], and three and one-quarter (3.25) percent of regular base salary for each year of credited service earned after midnight on [insert date of ordinance amendment], not to exceed seventy-five (75) percent of regular base salary for members with ten (10) years or more of credited service. The benefits shall be paid from the date the board determines disability until recovery, as determined by the board, or until the death of the retiree, whichever first occurs, but upon the retiree's death, a total of one-hundred twenty (120) payments of the basic benefit, but not including the additional benefit, shall be guaranteed in any event, and any remaining payments shall be made to the member's beneficiary. Terminated persons, either vested or nonvested, are not eligible for disability benefits, except that those terminated by the city for medical reasons may apply for a disability within thirty (30) days after termination.

**SECTION 6:** That Chapter 17, Pensions and Retirement, Article IV, Police Officers' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by amending Sec. 17-65.13(c)(2) to read as follows:

(2) *Transfers from retirement system.*

a. As of the first day of each month of a member's period of participation in the DROP, the monthly retirement benefit he would have received under the system had he terminated his employment as a police officer and elected to receive monthly benefit payments thereunder shall be transferred to his DROP account, except as otherwise provided for in subsection (b)(4)b. A member's period of participation in the DROP shall be determined in accordance with the provisions of subsections (b)(3) and (b)(4), but in no event shall it continue past the date he terminates his employment as a police officer.

b. Except as otherwise provided in subsection (b)(4)b., a member's DROP account under this subsection (c)(2) shall be debited or credited after each fiscal year quarter with either:

1. For members entering DROP prior to midnight on [insert date of ordinance amendment], interest at an effective rate of six and five-tenths (6.5) percent per annum compounded monthly on the prior month's ending balance, and for members entering DROP on or after midnight on [insert date of ordinance amendment], interest at an effective rate of one and five-tenths (1.5) percent per annum compounded monthly on the prior month's ending balance; or
2. Earnings, determined as follows:

The average daily balance in a member's DROP account shall be credited or debited at a rate equal to the net investment return realized by the system for that quarter, but not less than zero percent (0%). "Net investment return" for the purpose of this paragraph is the total return of the assets in which the member's DROP account is invested by the board net of brokerage commissions, transaction costs and management fees.

For members entering DROP prior to midnight on [insert date of ordinance amendment] upon electing participation in the DROP, the member shall elect to receive either interest or earnings on his account to be determined as provided above. The member may, in writing, elect to change his election twice during his DROP participation. An election to change must be made prior to the end of a quarter and shall be effective beginning the following quarter.

For members entering DROP on or after midnight on [insert date of ordinance amendment], 2017, upon electing participation in the DROP, the member shall have a one-time irrevocable option of being credited with interest as provided in the applicable portions of either subsections (c)(2).b.1 or(c)(2).b.2 above.

c. A member's DROP account shall only be credited or debited with earnings or interest and monthly benefits while the member is a participant in the DROP. A member's final DROP account value for distribution to the member upon termination of participation in the DROP shall be the value of the account at the end of the quarter immediately preceding termination of participation plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter and prior to distribution. If a member is employed by the city police department after participating in the DROP for the permissible period of DROP participation, then beginning with the member's first month of employment following the last month of the permissible period of DROP participation, the member's DROP account will no longer be credited or debited with earnings or interest, nor will monthly benefits be transferred to the DROP account. All such non-transferred amounts shall be forfeited and continue to be forfeited while the member is employed by the city police department. A member employed by the city police department after the permissible period of DROP participation will still not be eligible for pre-retirement death or disability benefits, nor will he accrue additional credited service.

**SECTION 7:** That Chapter 17, Pensions and Retirement, Article IV, Police Officers' Retirement System, of the Code of Ordinances of the City of New Port Richey, is amended by

adding Sec. 17-65.15, Supplemental benefit component for special benefits; Chapter 185 Share Accounts, to read as follows:

Sec. 17-65.15. - Supplemental benefit component for special benefits; Chapter 185 Share Accounts.

There is hereby established an additional plan component to provide special benefits in the form of a supplemental retirement, termination, death and disability benefits to be in addition to the benefits provided for in the previous Sections of this Plan, such benefit to be funded solely and entirely by Chapter 185, Florida Statutes, premium tax monies for each plan year which, in accordance with Section 185.35, Florida Statutes, shall be allocated to this supplemental component as provided by and in accordance with the mutual consent contained in the Collective Bargaining Agreement between the City and the West Central Florida Police Benevolent Association.

**SECTION 8:** 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 9:** 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 10:** All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 11:** That this Ordinance shall become effective upon its adoption.

The above and foregoing Ordinance was read and adopted on second and final reading by the City Council of the City of New Port Richey, at a duly convened meeting thereof, at the Municipal Building, New Port Richey which was held on the 7<sup>th</sup> day of November, 2017.

ATTEST:

By: \_\_\_\_\_  
Judy Meyers  
City Clerk

By: \_\_\_\_\_  
Rob Marlowe  
Mayor-Council Member

(Seal)

APPROVED AS TO FORM  
for the sole reliance of the City of New Port Richey

By: \_\_\_\_\_  
Timothy P. Driscoll, City Attorney