



City of North Port

ORDINANCE NO. 2023-15

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, RELATED TO THE MAXIMUM AGE AT WHICH POLICE OFFICER PENSION PLAN MEMBERS MUST BEGIN TO RECEIVE DISTRIBUTIONS PURSUANT TO RECENT CHANGES TO THE INTERNAL REVENUE CODE AND OTHER REVISIONS; AMENDING THE CODE OF THE CITY OF NORTH PORT, FLORIDA, BY AMENDING PROVISIONS OF CHAPTER 2, ARTICLE V, DIVISION 5 – POLICE OFFICERS’ PENSIONS; PROVIDING FOR FINDINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, recent amendments to the Internal Revenue Code affect the maximum age that the City’s police officer pension plan members must begin to receive distributions; and

WHEREAS, Chapter 2, Article V, Division 5 of the Code of the City of North Port, Florida sets forth the regulations related to pensions for the City’s police officer pension plan members; and

WHEREAS, the City Commission finds that these amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 – FINDINGS

- 1.01 The above recitals are true and correct and are incorporated in this ordinance by reference.
- 1.02 Pursuant to Florida Statutes Section 166.041(4)(c), a business impact estimate was not required because this ordinance is required for compliance with federal or state law or regulation.

SECTION 2 – ADOPTION

- 2.01 Chapter 2 of the Code of the City of North Port, Florida is hereby amended as follows:

“Chapter 2 – ADMINISTRATION

...

ARTICLE V. – EMPLOYEE BENEFITS

...

DIVISION 5. – POLICE OFFICERS’ PENSIONS

...

Sec. 2-255. – Definitions.

...

Salary. 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 or tax-exempt items of income derived from elective employee payroll deductions or salary reductions. For service earned after the effective date of Ordinance 2014-21, salary shall not include more than 300 hours of overtime per calendar year and shall also not include payments for accrued unused sick or annual leave. Provided however, in any event, payments for overtime in excess of 300 hours per year or accrued unused sick or annual leave accrued as of the effective date and attributable to service earned prior to the effective date, may still be included in salary for pension purposes even if the payment is not actually made until on or after the effective date. In any event, with respect to unused sick leave and unused annual leave accrued prior to the effective date, salary will include the lesser of the amount of sick or annual leave time accrued on the effective date or the actual amount of sick or annual leave time for which the retiree receives payment at the time of retirement, regardless of whether the amount of sick or annual leave was, at some time prior to retirement, reduced below the amount on the effective date.

Compensation in excess of the 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 \$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 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.

...

Sec. 2-258. – Finances and fund management.

...

(f) Investment powers and authority.

(1) The board shall have the following investment powers and authority:

...

(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, 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.

...

Sec. 2-260. – Benefit amounts and eligibility.

...

(e) *Required distribution date.* The member’s benefit under this section must begin to be distributed to the member no later than the member’s required beginning date, as provided under section 2-270 of this Code. ~~April 1 of the calendar year following the later of the calendar year in which the member attains age 70½ or the calendar year in which the member terminates employment with the city.~~

...

Sec. 2-264. – Optional forms of benefits.

...

(e) Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

...

(5) The member’s benefit under this section must begin to be distributed to the member no later than the member’s required beginning date, as provided under sec. 2-270 of this Code. ~~April 1 of the calendar year following the later of the calendar year in which the member attains age 70½ or the calendar year in which the member terminates employment with the city.~~

...

Sec. 2-270. – Minimum distribution of benefits.

...

(b) *Time and manner of distribution.*

(1) *Required beginning date.* 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, ~~which shall not be later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70½ or the calendar year in which the member terminates employment with the city.~~

a. For a member who attains age 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 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 on or after January 1, 2020 and 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 section 401(a)(9)(C)(v) of the internal revenue code, as amended.

(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 ~~the applicable age age 70½, if later,~~ 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 section 401(a)(9)(B)(iv) of the internal revenue code, as amended.

...

Sec. 2-277. – Military service prior to employment.

...

- (3) Payment by the member of the required amount shall be made within six months of his or her request for credit, but not later than the retirement date, and shall be made in one 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.

...

- (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 must notify the board, in writing, of their 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 and shall be reamortized annually to reflect changes in the interest rate provided for in subparagraph c. below.

- 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 fully vested 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.

Sec. 2-283. – Deferred retirement option plan.

...

(f) *General provisions.*

- (1) Not a separate retirement plan. The DROP is a program under which a member who is eligible for normal retirement under the system may elect to accrue future retirement benefits in the manner provided in this section for the remainder of the member's employment, rather than in the normal manner provided under the plan. Upon termination of employment, a member is entitled to a lump sum distribution of the member's DROP account balance or may elect a rollover. The DROP account distribution is in addition to the member's monthly benefit.
- (2) Notional account. A member's DROP account is a notional account, used only for the purpose of calculating the DROP distribution amount. It is not a separate account in the system. There is no change in the system's assets, and there is no distribution available to the member until the member's termination from the DROP. A member has no control over the investment of their DROP account.
- (3) No employer discretion. The DROP benefit is determined pursuant to a specific formula that does not involve employer discretion.
- (4) Internal Revenue Code limit. The DROP account distribution, along with other benefits payable from the system, is subject to limitation under Internal Revenue Code Section 415(b).

[The remainder of this subsection to be renumbered.]

...

Sec. 2-284. – Prior police service.

...

(3) Payment by the member of the required amount shall be made within six months of his or her request for credit, but not later than the retirement date, and shall be made in one 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.

...

(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 must notify the board, in writing, of their 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 and shall be reamortized annually to reflect changes in the interest rate provided for in subparagraph c below.
- 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 fully vested member dies, retires (including entry into any deferred retirement option plan (DROP)) or otherwise terminates their 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 their death or termination of employment.
- f. In the event that the member's employment is terminated for any reason and they are not entitled to any benefit from the system other than the return of the amounts they have had deducted from their paycheck as their 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 the member including all interest paid, however, no interest shall accrue on amounts paid to purchase service.

Sec. 2-286. – Supplemental share plan retirement benefit.

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- (b) Members' share accounts shall be credited with premium tax revenues and investment earnings or losses, and interest, and distributed as follows:

(1) *Annual crediting to member share accounts.*

- ...
b. Beginning with the allocation for the plan year ending September 30, 2017 and all subsequent plan years, all premium tax revenues received during the preceding plan year in excess of \$280,000.00 shall be allocated to the eligible members' share accounts. Beginning with the September 30, 2017 allocation, "eligible members" shall include not only all active police officer members (including DROP participants), but shall also include any retired member (normal or early retirement and not terminated vested persons) who received an initial share allocation on October 1, 2015. ~~Retired members shall receive a share allocation based on their years of credited service on the date of their retirement and no~~ No share allocation shall be made after the retiree's death. Distribution of the share allocation to retirees shall be made each year following the allocation on April 30 and shall be subject to the maximum pension limitations set forth in section 2-269 of this Code."

SECTION 3 – CONFLICTS

- 3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance, in whole or in part, the provisions of this ordinance will prevail to the extent of the conflict.

SECTION 4 – SEVERABILITY

- 4.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason invalid or unconstitutional, that provision will be deemed a separate, distinct, and independent provision and will not affect the validity of the remaining portions of the ordinance.

SECTION 5 – CODIFICATION

- 5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any additional codification information and notations appear in *italics*. These editorial notations are not intended to appear in the codified text.

SECTION 6 – EFFECTIVE DATE

- 6.01 This ordinance takes effect immediately upon adoption.


READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public session on October 10, 2023.

ADOPTED by the City Commission of the City of North Port, Florida, on the second and final reading in public session on October 24, 2023.

CITY OF NORTH PORT, FLORIDA


BARBARA LANGDON
MAYOR

ATTEST


HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS


AMBER L. SLAYTON, B.C.S.
CITY ATTORNEY