

ORDINANCE NO. 2024-09

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING CHAPTER 50, PERSONNEL, ARTICLE III, PENSIONS AND RETIREMENT, DIVISION 2, MUNICIPAL FIREFIGHTERS' PENSION TRUST FUND; AMENDING SECTION 50-81, DEFINITIONS; AMENDING SECTION 50-84, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 50-96, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 50-104, CREDIT FOR MILITARY SERVICE PRIOR TO EMPLOYMENT; AMENDING SECTION 50-107, PRIOR FIRE SERVICE; AMENDING SECTION 50-109, SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS, CHAPTER 175 SHARE ACCOUNTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

WHEREAS, amendments to the pension plan are proposed to provide for change in connection with recently adopted Secure Act 2.0, and to provide for a payment option for the purchase of prior fire or military service;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA:

SECTION 1: Chapter 50, Personnel, Article III, Pensions and Retirement, Division 2, Municipal Firefighters' Pension Trust Fund, Section 50-81, Definitions, the definition of *Salary*, is hereby amended to read as follows:

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Salary means the total monthly compensation for services rendered to the city as a firefighter, reportable on the firefighter'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 as well as any employer final pay contribution and employer accrued leave contribution made to the City of Venice Non-Bargaining Retirement Plan for the member's benefit.

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 \$200,000.00, as adjusted for cost-of-living increases in accordance with Internal Revenue 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 under this paragraph as in effect on July 1, 1993. For purposes of this paragraph, the term "eligible employee" means an individual who was a member before the first plan year beginning after December 31, 1995. Notwithstanding the foregoing, effective October 1, 2014 for members who are employed and have not reached normal retirement eligibility on that date, and elect to continue participating in this system, salary for service after October 1, 2014 shall mean base

pay, excluding overtime and all other compensation. Sick or vacation time which is accrued, but for which a member has not been paid prior to October 1, 2014, shall not be considered in determining the value of any future retirement benefit, including the calculation of any frozen benefit provided for in section 50-86, subsections (h) and (i).

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SECTION 2: Chapter 50, Personnel, Article III, Pensions and Retirement, Division 2, Municipal Firefighters' Pension Trust Fund, Section 50-84, Finances and Fund Management, subsection (6)j., is hereby amended to read as follows:

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- (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, 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.

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SECTION 3: Chapter 50, Personnel, Article III, Pensions and Retirement, Division 2, Municipal Firefighters' Pension Trust Fund, Section 50-96, Minimum Distribution of Benefits, subsections (b)(1) and (b)(2)a., are hereby amended to read as follows:

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(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 (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).

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- (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).

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SECTION 4: Chapter 50, Personnel, Article III, Pensions and Retirement, Division 2, Municipal Firefighters' Pension Trust Fund, Section 50-104, Credit for Military Service Prior to Employment, is hereby amended to read as follows:

Sec. 50-104. - Credit for military service prior to employment.

The years or fractional parts of years that a member 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, honorably or under honorable conditions, prior to first and initial employment with the city fire 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 purchase credited service pursuant to this section may be made at any time prior to retirement.

- (3) Payment by the member of the required amount shall be made within six months of his 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.
- (4) The maximum credit under this section shall be four years.
- (5) Credited service purchased pursuant to this section shall not count toward vesting or 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 5: Chapter 50, Personnel, Article III, Pensions and Retirement, Division 2, Municipal Firefighters' Pension Trust Fund, Section 50-107, Prior Fire Service, is hereby amended to read as follows:

Sec. 50-107. - Prior fire service.

Unless otherwise prohibited by law, and except as provided for in section 50-81, the years or fractional parts of years that a member previously served as a firefighter 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 full-time firefighter for any other municipal, county or special district fire department in the state 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. Payment of costs for all professional services rendered to the board in connection with the purchase of years of credited service shall be paid by the member regardless of whether or not credited service is purchased.
- (2) Multiple requests to purchase credited service pursuant to this section may be made at any time prior to retirement.
- (3) Payment by the member of the required amount shall be made within six months of his 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.
- (4) The maximum credit under this section for service other than with the city shall be five 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 district fire department, if such prior service forms or will form the basis of a retirement benefit or pension from a different employer's retirement system or plan as set forth in subsection 50-95(l)(2).
- (6) For purposes of determining credit for prior service as a firefighter as provided for in this section, in addition to service as a firefighter 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 division of state fire marshal, as provided under F.S. ch. 633, or the firefighter provides proof to the board that such service is equivalent to the service required to meet the definition of a firefighter under section 50-81.

(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 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 6: Chapter 50, Personnel, Article III, Pensions and Retirement, Division 2, Municipal Firefighters' Pension Trust Fund, Section 50-109, Supplemental Benefit Component for Special Benefits; Chapter 175 Share Accounts, subsection (e)(2) and subsection (f), are hereby amended to read as follows:

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(e)(2) *Termination benefit.*

- a. In the event that a member's employment as a firefighter is terminated by reason other than retirement, death or disability, he shall be entitled to receive the value of his share account only if he is vested in accordance with section 50-89. If the member receives payment of the value of his share account balance in accordance with subsection (f), below, that member is no longer entitled to receive a refund of his accumulated contributions. If the member receives a refund of his accumulated contributions, he shall forfeit his share account balance.

b. Such payment shall be made as provided in subsection (f).

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- (f) *Payment of benefits.* If a member terminates employment for any reason or dies and he or his beneficiary is otherwise entitled to receive the balance in the member's share account, the member's share account shall be valued by the plan's actuary on the next valuation date as provided for in subsection (c) above, following termination of employment. Payment of the calculated share account balance shall be payable as soon as administratively practicable following the valuation date, but not later than 150 days following the valuation date and shall be paid in one lump sum payment. If the member receives payment of the value of his share account balance in accordance with this subsection, the member is no longer entitled to receive a refund of his accumulated contributions. If the member receives a refund of his accumulated contributions, he shall forfeit his share account balance. No optional forms of payments shall be permitted.

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SECTION 7: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Venice.

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

SECTION 9: Severability. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

SECTION 10: Effective date. This Ordinance shall take effect immediately upon its adoption.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 28th DAY OF MAY 2024.

First Reading: May 14, 2024

Second Reading: May 28, 2024

Adoption: May 28, 2024

Nick Pachota, Mayor

ATTEST:

Kelly Michaels, MMC, City Clerk

I, Kelly Michaels, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the City of Venice Council, a meeting thereof duly convened and held on the 28th day of May 2024, a quorum being present.

WITNESS my hand and the official seal of said City this 28th day of May 2024.

Kelly Michaels, MMC, City Clerk

Approved as to form:

Kelly Fernandez, City Attorney