

**ORDINANCE NO. 2023-46**

**AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, FURTHER AMENDING CHAPTER 50, PERSONNEL, ARTICLE III, PENSIONS AND RETIREMENT, DIVISION 3, MUNICIPAL POLICE OFFICERS' PENSION TRUST FUND, OF THE CODE OF ORDINANCES OF THE CITY OF VENICE, FLORIDA, AS SUBSEQUENTLY AMENDED; AMENDING SECTION 50-131, DEFINITIONS; AMENDING SECTION 50-134, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 50-146, MINIMUM DISTRIBUTION OF BENEFITS; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE**

BE IT ORDAINED BY THE CITY OF VENICE, FLORIDA;

**SECTION 1:** Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, of the Code of Ordinances of the City of Venice, as subsequently amended, is hereby further amended by amending Section 50-131, Definitions, to amend the definition of Salary, to read as follows:

\* \* \* \* \*

*Salary* means the total monthly compensation for services rendered to the city as a police officer, reported 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, including amounts picked up by the city pursuant to section 414(h) of the code, 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. For service earned after the date that a collective bargaining agreement is entered into after July 1, 2011 (the "effective date"), 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. Notwithstanding the foregoing, effective October 1, 2014 through September 30, 2018 for members who are employed, have not reached normal retirement eligibility as of October 1, 2014 and elect to continue participating in this system, salary shall mean base pay, excluding overtime and all other compensation; provided, the foregoing provisions regarding the inclusion of unused sick or annual leave time in the salary of members employed prior to the effective date shall continue to apply. Effective October 1, 2018, salary shall mean the total monthly compensation for services rendered to the city as a police officer reported on the member's W-2 form, excluding overtime, but including all tax-deferred, tax-sheltered or tax exempt items of income derived from elective employee payroll deductions or salary reductions, and amounts picked up by the city pursuant to section 414(h) of the code. Payments of accrued unused sick or annual leave accrued as of July 1, 2011 and attributable to service earned prior to that date may still be included in salary for pension purposes even if the payment is not actually made until on or after July 1, 2011.

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 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 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 subsection as in effect on July 1, 1993. For purposes of this subsection, the term "eligible employee" means an individual who was a member before the first plan year beginning after December 31, 1995.

\* \* \* \* \*

**SECTION 2:** Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, of the Code of Ordinances of the City of Venice, as subsequently amended, is hereby further amended by amending Section 50-134, Finances and Fund Management, subsection (f)(10), to read as follows:

\* \* \* \* \*

- (f) (10) 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.

\* \* \* \* \*

**SECTION 3:** Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, of the Code of Ordinances of the City of Venice, as subsequently amended, is hereby further amended by amending Section 50-146, 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 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).

\* \* \* \* \*

- (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 4:** All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

**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 Venice.

**SECTION 7:** Effective Date. This Ordinance shall take effect upon adoption.

**PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 24TH DAY OF OCTOBER 2023.**

First Reading: October 10, 2023

Final Reading: October 24, 2023

ADOPTION: October 24, 2023

\_\_\_\_\_  
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 Venice City Council, at a meeting thereof duly convened and held on the 24<sup>th</sup> day of October 2023, a quorum being present.

WITNESS my hand and the official seal of said City this 24<sup>th</sup> day of October 2023.

\_\_\_\_\_  
Kelly Michaels, MMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Kelly Fernandez, City Attorney