

ORDINANCE NO. 2014-23

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF VENICE, FLORIDA, CHAPTER 50, PERSONNEL; ARTICLE III, PENSIONS AND RETIREMENT; DIVISION 3, MUNICIPAL POLICE OFFICERS' PENSION TRUST FUND; SECTION 50-131, DEFINITIONS; SECTION 50-132, MEMBERSHIP; SECTION 50-135, CONTRIBUTIONS; SECTION 50-136, BENEFIT AMOUNTS AND ELIGIBILITY; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Venice and the Fraternal Order of Police recently entered into two collective bargaining agreements; and

WHEREAS, the collective bargaining agreements contains certain changes to the Police Officers' Pension Trust Fund; and

WHEREAS, to implement the collective bargaining agreements it is necessary to amend the Police Officers' Pension Trust Fund Ordinance.

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

SECTION 1. The Whereas clauses above are ratified and confirmed as true and correct.

SECTION 2. Chapter 50, Personnel, Article III, Pensions and Retirement, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-131, Definition for Salary is amended as follows:

Sec. 50-131. Definitions.

- (a) The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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 for members who are employed, have not reached normal retirement eligibility on that date and elect to continue participating in this system, salary shall mean base pay, excluding overtime and all other compensation.

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. 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 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 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.

- (b) *Masculine gender.* The masculine gender, where used herein, unless the context specifically requires otherwise, shall include both the feminine and masculine genders.

SECTION 3. Chapter 50, Personnel, Article III, Pensions and Retirement, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-132, Membership, is amended as follows:

Sec. 50-132. Membership.

- (a) *Conditions of eligibility.* ~~(1)~~ All police officers as of March 10, 1992, and all ~~future new~~ police officers hired on or after March 10, 1992 and before October 1, 2014, shall become members of this system as a condition of employment. This system shall be closed to new

members on October 1, 2014. Police officers hired on or after October 1, 2014 shall become compulsory members of the Florida Retirement System (FRS) and shall not be eligible for membership in this system. Police officers hired before October 1, 2014 who are members of this system on September 30, 2014 may elect to participate in FRS or continue participating in this system. Eligibility for participation in the FRS, as well as FRS benefits and contributions, will be determined in accordance with Chapter 121, Florida Statutes, as that statute now exists and as it may be amended in the future.

- (b) *Designation of beneficiary.* Each police officer shall complete a form prescribed by the board designating a beneficiary or beneficiaries.

SECTION 4. Chapter 50, Personnel, Article III, Pensions and Retirement, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-135, Contributions, is amended as follows:

Sec. 50-135. Contributions.

- (a) *Member contributions.*
- (1) *Amount.* Each member of the system shall be required to make regular contributions to the fund in the amount of seven and one-quarter percent of the member's salary through September 30, 2014, and seven percent of the member's salary effective October 1, 2014. 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 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.
- (2) *Method.* Such contributions shall be made by payroll deduction.
- (b) *State contributions.* Any monies received or receivable by reason of laws of the state for the express purpose of funding and paying for retirement benefits for police officers of the city shall be deposited in the fund comprising part of this system immediately, and under no circumstances more than five days after receipt by the city. All monies received pursuant to Chapter 185, Florida Statutes shall be used to reduce the city's contributions to the system.

(c) and (d) no change

SECTION 5. Chapter 50, Personnel, Article III, Pensions and Retirement, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-161, Benefit amounts and eligibility, is amended as follows:

Sec. 50-136. Benefit amounts and eligibility.

- (a) *Normal retirement date.* A member's normal retirement date shall be the first day of the month coincident with or next following the earlier of the attainment of age 50 and the completion of ten years of credited service, or the completion of 25 years of credited service, regardless of age. Notwithstanding the preceding sentence, effective October 1, 2014 for members who are employed, have not reached normal retirement eligibility on that date and elect to continue participating in this system, the normal retirement date shall be the first day of the month coincident with or next following the earlier of the attainment of age 52 and the completion of ten years of credited service, or the completion of 25 years of credited service, regardless of age. A member may retire on his normal retirement date or on the first day of any month thereafter, and each member shall become 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.* A member retiring under this division on or after his normal retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his retirement and be continued thereafter during the member's lifetime, ceasing upon death, but with 120 monthly payments guaranteed in any event. The monthly retirement benefit shall equal three and one-half percent of average final compensation, for each year of credited service, plus \$175.00. Notwithstanding the preceding sentence, effective October 1, 2014 the monthly retirement benefit for members who are employed, have not reached normal retirement eligibility on that date and elect to continue participating in this system, shall equal three and one-half percent of average final compensation for each year of credited service earned or credited before October 1, 2014, and two and three-fourths percent of average final compensation for each year of credited service earned or credited on or after that date, plus \$175.00.
- (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 20 years of credited service, regardless of age. 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. Notwithstanding the foregoing, effective October 1, 2014 members with less than ten years of credited service on that date shall not be eligible for early retirement.
- (d), (e), (f), (g) and (h) no change
- (i) *Participation in the Florida Retirement System.* Effective October 1, 2014, the city will join the Florida Retirement System (FRS), and this system will be closed to new members. Police officers hired on or after October 1, 2014 shall become compulsory members of the Florida Retirement System and shall not be eligible for membership in this system. Police officers hired before October 1, 2014 who are members of this system on

September 30, 2014 may elect to participate in FRS or continue participating in this system. The accrued benefits earned under this system prior to October 1, 2014 by members who are employed on September 30, 2014 and elect to join the Florida Retirement System will be frozen on that date, based on the member's average final compensation and credited service on September 30, 2014. Such members shall be 100% vested in their frozen accrued benefit under this system. The frozen accrued benefit shall be payable when the member reaches the early retirement date, if applicable, or normal retirement date, and separates from city employment. Eligibility for participation in the FRS, as well as FRS benefits and contributions, will be determined in accordance with Chapter 121, Florida Statutes, as that statute now exists and as it may be amended in the future.

SECTION 6. To the extent of any conflict between the provisions of this Ordinance, and any other Ordinance, Resolution, or Agreement of the City of Venice, Florida, the provisions of this Ordinance shall prevail.

SECTION 7. Severability. If for any reason a provision of this Ordinance or the application thereof to any person, group of persons, or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of the Ordinance are severable.

SECTION 8. Effective Date. This Ordinance shall take effect immediately upon its adoption, as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 26TH DAY OF AUGUST 2014.

First Reading: August 12, 2014

Final Reading: August 26, 2014

Adoption: August 26, 2014

John W. Holic, Mayor

Attest:

Lori Stelzer, MMC, City Clerk

Approved as to form:

City Attorney