

## ORDINANCE NO. 2019-08

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 50-88, DISABILITY BENEFITS; AMENDING SECTION 50-97, MISCELLANEOUS PROVISIONS; AMENDING SECTION 50-108, REEMPLOYMENT AFTER RETIREMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

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 50-88, Disability benefits, subsection (a), Disability incurred in-line of duty, and subsection (c), Disability not incurred in-line of duty, and by adding subsection (g), Eligibility for disability benefits, is hereby amended to read as follows:

### **Sec. 50-88. Disability benefits.**

(a) *Disability incurred 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 firefighter, which disability was directly caused by the performance of his duty as a firefighter, shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to two percent of his average final compensation multiplied by the total years of credited service, but in any event, the minimum amount paid to the member shall be 50 percent of such member's average final compensation. ~~Terminated persons, either vested or nonvested, are not eligible for disability benefits. Notwithstanding the previous sentence, if a member is terminated by the city for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the board otherwise determines that he is totally and permanently disabled as provided for above.~~ Eligibility requirements for disability benefits are set forth in subsection (g) below.

(b) Unchanged

(c) *Disability not incurred in line of duty.* Any member with five years or more credited service 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 firefighter, which disability is not directly caused by the performance of his duties as a firefighter, shall, upon establishing the disability to the satisfaction of the board, be entitled to a monthly pension equal to two percent of his average final compensation multiplied by the total years of credited service, but in any event, the minimum amount paid to the member shall be 50 percent of such member's average final compensation. ~~Terminated persons, either vested or nonvested, are not eligible for disability benefits. Notwithstanding the previous sentence, if a member is terminated by the city for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the board otherwise determines that he is totally and permanently disabled as provided for above.~~ Eligibility requirements for disability benefits are set forth in subsection (g) below.

(d) Unchanged

(e) Unchanged

(f) Unchanged

(g) *Eligibility for Disability Benefits.* Subject to (g)(4) below, only active members of the system on the date the board determines entitlement to a disability benefit are eligible for disability benefits.

(1) Terminated persons, either vested or non-vested, are not eligible for disability benefits.

(2) If a member voluntarily terminates his employment, either before or after filing an application for disability benefits, he is not eligible for disability benefits.

(3) If a member is terminated by the City for any reason other than for medical reasons, either before or after he files an application for disability benefits, he is not eligible for disability benefits.

(4) The only exception to (1) above is:

a. If the member is terminated by the City for medical reasons and he has already applied for disability benefits before the medical termination, or;

b. If the member is terminated by the City for medical reasons and he applies within 30 days after the medical termination date.

If either (4)a., or (4)b. above applies, the member's application will be processed and fully considered by the board.

**SECTION 2.** Chapter 50, Personnel, Article III, Pensions and Retirement, Division 2, Municipal Firefighters' Pension Trust Fund, Section 50-97, Miscellaneous Provisions, is hereby amended by adding subsection (j), to read as follows:

**Sec. 50-97. Miscellaneous Provisions.**

(j) *Missing Benefit Recipients.* The System shall follow the procedures outlined in the IRS Employee Plans Compliance Resolution System (EPCRS) Program and other applicable IRS guidance to locate any missing individuals to whom a full unreduced benefit payment is due and if, at the conclusion of such efforts, the individual cannot be located, the existing procedure of cancelling payments otherwise due (provided that, if the individual is later located, the benefits due shall be paid) will apply.

**SECTION 3.** Chapter 50, Personnel, Article III, Pensions and Retirement, Division 2, Municipal Firefighters' Pension Trust Fund, Section 50-108, Reemployment After Retirement, is hereby amended to read as follows:

**Sec. 50-108. Reemployment after retirement.**

(a) Any retiree under this system, ~~except for disability retirement as previously provided for,~~ may be reemployed by any public or private employer, ~~except the city,~~ and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this system. Notwithstanding the previous sentence, reemployment by the city shall be subject to the limitations set forth in this section.

(b) *After normal retirement.* Any retiree who is retired under normal (or early) retirement pursuant to this system and who is reemployed as a firefighter ~~and, by virtue of that reemployment, is ineligible to participate in this system, and his benefit shall upon being reemployed, be discontinued~~ discontinue receipt of benefits and benefit payments shall remain suspended during any such subsequent employment period. Rehired retirees shall become members of the Florida Retirement System. ~~Upon reemployment, the member shall be deemed to be fully vested and the additional credited service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to the benefit determined upon the initial retirement to determine the total benefit payable upon final retirement. Calculations of benefits upon retirement shall be based upon the benefit accrual rate, average final compensation, and credited service (and early retirement reduction factor, if applicable) as of that date and the retirement benefit amount for any subsequent employment period shall be based upon the benefit accrual rate, average final compensation (based only on the subsequent employment period), and credited service (and early retirement reduction factor, if applicable) as of the date of subsequent retirement. The amount of any death or disability benefit received during a subsequent period of employment shall be reduced by the amount of accrued benefit eligible to be paid for a prior period of employment. The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but the retiree may select a different optional form and joint pensioner applicable only to the subsequent retirement benefit.~~

(c) Any retiree who is retired under normal retirement pursuant to this system who is reemployed by the city in a position other than as a firefighter, shall upon being reemployed, continue receipt of benefits for the period of any subsequent employment period.

(d) *After early retirement.* Any retiree who is retired under early retirement pursuant to this system and who subsequently becomes an employee of the city in any capacity shall discontinue receipt of benefits from the system. If the reemployed person, is reemployed as a firefighter, he shall become a member of the Florida Retirement System by virtue of his reemployment, is eligible to participate in this system, that person shall accrue a second benefit as provided for in subsection (b) above and benefit payments shall remain suspended during any such subsequent employment period. If the reemployed person is not reemployed as a firefighter eligible to participate in this system, that person's pension benefit payments shall be suspended until the earlier of termination of employment or such time as the reemployed retiree reaches the date that he would have been eligible for normal retirement under this system had he continued employment and not elected early retirement. "Normal retirement" as used in this subsection shall be the current normal retirement date provided for under this system. Retirement pursuant to an early retirement incentive program shall be deemed early retirement for purposes of this section if the member was permitted to retire prior to the customary retirement date provided for in the system at the time of retirement.

(e) *After disability retirement.*

- (1) Subject to paragraph (2) below, any retiree who is retired under Section 50-88, Disability ("disability retiree"), may, subject to subsection (e), physical examination requirement, of that section, be reemployed by any public or private employer, and may receive compensation from that employment without limiting or restricting in any way, the retirement benefits payable under this system.
- (2) Any disability retiree who subsequently becomes an employee of the City in any capacity, except as a firefighter, shall discontinue receipt of disability benefits from the system for the period of any such employment.
- (3) If a disability retiree is reemployed as a firefighter for the City, his disability benefit shall cease and Section 50-88(e) shall apply.

(e f) *Reemployment of terminated vested persons.* Reemployed terminated vested persons shall not be subject to the provisions of this section until such time as they begin to actually receive benefits. Upon receipt of benefits, terminated vested persons shall be treated as normal or early retirees for purposes of applying the provisions of this section and their status as an early or normal retiree shall be determined by the date they elect to begin to receive their benefit.

**SECTION 4.** Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Venice.

**SECTION 5.** All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 6. Effective date.** This ordinance shall take effect immediately upon its approval and adoption as provided by law.

**PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 26th DAY OF FEBRUARY, 2019.**

First Reading: February 12, 2019

Final Reading: February 26, 2019

ADOPTION: February 26, 2019

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John W. Holic, Mayor

ATTEST:

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Lori Stelzer, MMC, City Clerk

I, LORI STELZER, 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 26th day of February 2019, a quorum being present.

WITNESS my hand and the official seal of said City this 26th day of February 2019.

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Lori Stelzer, MMC, City Clerk

APPROVED AS TO FORM:

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City Attorney