

ORDINANCE NO. 2021-19

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 50, PERSONNEL, ARTICLE III, PENSIONS AND RETIREMENT, DIVISION 3, MUNICIPAL POLICE OFFICERS' PENSION TRUST FUND; SECTION 50-131, DEFINITIONS; SECTION 50-136, BENEFIT AMOUNTS AND ELIGIBILITY; SECTION 50-137, PRE-RETIREMENT DEATH; SECTION 50-138, DISABILITY; SECTION 50-140, OPTIONAL FORMS OF BENEFITS; SECTION 50-146, MINIMUM DISTRIBUTION OF BENEFITS; SECTION 50-158, DEFERRED RETIREMENT OPTION PLAN; 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, 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 add the definition of "*Salary at the time of death*", to read as follows:

Sec. 50-131. Definitions.

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"Salary at the time of death" means a member's base hourly pay, plus assigned shift differential, plus incentive pay at the time of death as determined by the board.

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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 50-136, Benefit Amounts and Eligibility, subsection (i), *Required Distribution Date*, to read as follows:

Sec. 50-136. Benefit amounts and eligibility.

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- (i) *Required distribution date.* The member's benefit under this section must begin to be distributed to the member no 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~~ the member's required beginning date, as provided under section 50-146.

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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 50-137, Pre-retirement death, to read as follows:

Sec. 50-137. Pre-retirement death.

- (a) ~~On or after the effective date of this system,~~ If any active member of the police department who is a participant in the system, having five years or more of credited service, shall die and such death is not directly caused by the performance of his duty as a police officer, his surviving spouse, if any, shall be entitled to a monthly benefit equal

to 50 percent of such member's ~~earnings~~ salary at the time of death and continuing to such spouse for life or until remarriage. If there is no surviving spouse, then this pension shall be paid in equal shares to any of the member's surviving children who are under age 18, or who are under age 23 and pursuing a full-time education.

- (b) ~~On or after the effective date of this system,~~ If any active member of the police department who is a participant in the system shall die and such death is directly caused by the performance of his duties as a police officer, his surviving spouse, if any, shall be entitled to a monthly benefit equal to 62.5 percent of such member's ~~earnings~~ salary at the time of death and continuing to such spouse for life. If there is no surviving spouse, then this pension shall be paid in equal shares to any of the member's surviving children who are under age 18 or who are under age 23 and pursuing a full-time education.
- (c) If the total monthly income benefits paid under this section to the member's surviving spouse and the member's surviving children are not equal to 100 percent of the member's contributions made to his date of death, or if the member has no surviving spouse or children, then an amount equal to 100 percent of his contributions minus total monthly income benefits paid shall be paid to the member's beneficiary in accordance with section 50-141.
- (d) *Additional provisions; spouse beneficiary.* This subsection (d) applies only when the member's spouse is the sole designated beneficiary. Notwithstanding subsections (a) and (b) of this section, in the event a member or terminated vested person, with ten or more years of credited service, dies prior to retirement or prior to receipt of benefits, his spouse beneficiary shall be entitled to the accrued normal or early retirement benefit calculated with a two percent accrual rate, payable for ten years at the deceased member's early or normal retirement age less the value of any benefits paid or payable under subsections (a) or (b) above.
- (e) *Additional provisions for non-spouse beneficiary.* This subsection applies only when the member's spouse is not the beneficiary or is not the sole designated beneficiary, but there is a surviving beneficiary. If a member having at least ten years of credited service dies prior to retirement, his beneficiary is entitled to the benefits described in subsection (d) above, payable beginning by December 31 of the calendar year immediately following the calendar year in which the member died. The benefit will be calculated as for normal retirement based on the deceased members' credited service and average final compensation and actuarially reduced to reflect the commencement of benefits prior to the normal retirement date.
 - (1) If a surviving beneficiary commences receiving a benefit under subsection (e) above, but dies before all payments are made, the actuarial value of the remaining benefit will be paid to the surviving beneficiary's estate by December 31 of the calendar year of the beneficiary's death in a lump sum.
 - (2) If there is no surviving beneficiary as of the member's death, and the estate is to receive the benefits, the actuarial equivalent of the member's entire interest must be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.
 - (3) The Uniform Lifetime Table in Treasury Regulations § 1.401(a)(9)-9, shall determine the payment period for the calendar year benefits commence, if necessary to satisfy the regulations.

SECTION 4. 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 50-138, Disability, subsection (a), *Disability benefits in-line of*

duty, subsection (c), Disability benefits not-in-line of duty, and subsection (h), Minimum total payments, to read as follows:

Sec. 50-138. Disability.

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- (a) *Disability benefits 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 perform the duties the police officer was assigned at the time of the impairment and is unable to perform the duties of another position with the police department which the city makes available to him in a similar job classification and rank at no reduction in salary for which the police officer is qualified by reason of training, education or experience, which disability was directly caused by the performance of his duty as a police officer, shall, upon establishing the disability to the satisfaction of the board, be entitled to a monthly pension equal to the member's accrued benefit, but not less than 62.5 percent of his salary at the time of disability, plus \$175.00. Eligibility requirements for disability benefits are set forth in subsection (i), below.

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- (c) *Disability benefits not 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 perform the duties the police officer was assigned at the time of the impairment and unable to perform the duties of another position with the police department which the city makes available to him in a similar job classification and rank at no reduction in salary for which the police officer is qualified by reason of training, education or experience, wherein such disability is not directly caused by the performance of his duties as a police officer shall, upon establishing the disability to the satisfaction of the board, be entitled to a monthly pension equal to the member's accrued benefit, but not less than 50 percent of his salary at the time of disability, plus \$175.00. Eligibility requirements for disability benefits are set forth in subsection (i), below.

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- (h) *Minimum total payments.* If a not-in-line of duty disabled member has less than ten years of credited service, and the total monthly income benefits paid under this section to the member, his surviving spouse and his surviving children are not equal to 100 percent of the member's contributions made to his date of disability, then an amount equal to 100 percent of his contributions minus total monthly income benefits paid shall be paid to the member's beneficiary in accordance with section 50-141.

SECTION 5. 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 50-140, Optional forms of benefits, subsection (a)(4), and subsection (e)(5), to read as follows:

Sec. 140. Optional forms of benefits.

- (a) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified in this division, a member, upon written request to the board of trustees, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

- (1) A retirement income of a larger monthly amount, payable to the retiree for his lifetime only.
- (2) A retirement income of a modified monthly amount, payable to the retiree during the lifetime of the retiree and following the death of the retiree, 100 percent, 75 percent, 66-2/3 percent or 50 percent of such monthly amounts payable to the dependent joint pensioner for his lifetime. Except where the retiree's joint pensioner is his spouse, the payments to the joint pensioner as a percentage of the payments to the retiree shall not exceed the applicable percentage provided for in the applicable table in the treasury regulations (see Q & A-2 of 1.401(a)(9)-6).
- (3) If a member retires prior to the time at which Social Security benefits are payable, he may elect to receive an increased retirement benefit until such time as Social Security benefits shall be assumed to commence and a reduced benefit thereafter in order to provide, to as great an extent as possible, a more level retirement allowance during the entire period of retirement. The amounts payable shall be as recommended by the actuaries for the system, based upon the Social Security law in effect at the time of the member's retirement.
- (4) The member may elect a benefit pursuant to subsections ~~(1)~~, (2) or (3) above with 120 payments guaranteed in any event.

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- (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:

- (1) If a member dies prior to his normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under section 50-137.
- (2) If the designated beneficiary (or beneficiaries) or joint pensioner dies before the member's retirement under the system, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the member upon his retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the member prior to his retirement.
- (3) If both the retiree and the beneficiary (or beneficiaries) designated by the member or retiree die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of subsection (a) of this section, the board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with section 50-141.
- (4) If a member continues beyond his normal retirement date pursuant to the provisions of subsection 50-136(a), and dies prior to his actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary designated by the member in the amount computed as if the member had retired under the option on the date on which his death occurred.

(5) The member's benefit under this section must begin to be distributed to the member no later than ~~April 1 of the calendar year following the later of the calendar year in which the member attains age 70 1/2 or the calendar year in which the member terminates employment with the city~~ the member's required beginning date, as provided under Sec. 50-146.

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SECTION 6. 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), to read as follows:

Sec. 50-146. Minimum distribution of benefits.

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(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 70 1/2 or the calendar year in which the member terminates employment with the city.~~ 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 age 70½ or (ii) the calendar year in which the member terminates employment with the city. For a member who attains age 70½ on or after 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 72 or (ii) the calendar year in which the member terminates employment with the city.
- (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 age 70½, (or age 72 for a member who would have attained age 70½ after December 31, 2019) if later, as the surviving spouse elects.
 - b. If the member's surviving spouse is not the member's sole designated beneficiary, then, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.
 - c. If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest

will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

- d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this subsection (b)(2), other than subsection (b)(2)a., will apply as if the surviving spouse were the member.

For purposes of this subsection (b)(2), distributions are considered to begin on the member's required beginning date or, if subsection (b)(2)d. applies, the date of distributions are required to begin to the surviving spouse under subsection (b)(2)a. If annuity payments irrevocably commence to the member before the member's required beginning date (or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (b)(2)a., the date distributions are considered to begin is the date distributions actually commence.

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SECTION 7. 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 50-158, Deferred retirement option plan, subsection (c)(2)b., to read as follows:

Sec. 50-158. Deferred retirement option plan.

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(c) Funding

(1) *Establishment of DROP account.* A DROP account shall be established for each member participating in the DROP. A member's DROP account shall consist of amounts transferred to the DROP under subsection (c)(2), and earnings on those amounts.

(2) *Transfers from retirement system.*

a. As of the first day of each month of a member's period of participation in the DROP, the monthly retirement benefit he would have received under the system had he terminated his employment as a police officer and elected to receive monthly benefit payments thereunder shall be transferred to his DROP account, except as otherwise provided for in subsection (b)(4)b. A member's period of participation in the DROP shall be determined in accordance with the provisions of subsections (b)(3) and (b)(4), but in no event shall it continue past the date he terminates his employment as a police officer.

b. Except as otherwise provided in subsection (b)(4)b., a member's DROP account under this subsection (c)(2) shall be debited or credited with ~~earnings with~~ either:

1. Interest at an effective rate of 6-1/2 percent per annum compounded monthly determined on the last business day of the prior month's ending balance and credited to the member's DROP account as of such date (to be applicable to all current and future DROP participants); or
2. Earnings, to be credited or debited to the member's DROP account, determined as of the last business day of each fiscal year quarter and debited or credited as of such date, determined as follows:

The average daily balance in a member's DROP account shall be credited or debited at a rate equal to the net investment return realized by the system for that quarter. "Net investment return" for the purpose of this paragraph is the total return of the assets in which the member's DROP account is invested by the board net of brokerage commissions, transaction costs and management fees.

For purposes of calculating earnings on a member's DROP account pursuant to this subsection (c)(2)b.2., brokerage commissions, transaction costs, and management fees shall be determined for each quarter by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these quarterly contractual fees to the board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total plan assets.

Upon electing participation in the DROP, the member shall elect to receive either interest or earnings on his account to be determined as provided above. The member may, in writing, elect to change his election only once during his DROP participation. An election to change must be made prior to the end of a quarter and shall be effective beginning the following quarter.

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

SECTION 9. 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 10. Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Venice.

SECTION 11. Effective Date. This Ordinance shall take effect upon adoption.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 8TH DAY OF JUNE, 2021.

First Reading: May 25, 2021

Final Reading: June 8, 2021

ADOPTION: June 8, 2021

Ron Feinsod, Mayor

ATTEST:

Lori Stelzer, MMC, City Clerk

I, LORI STELZER, 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 8th day of June, 2021, a quorum being present.

WITNESS my hand and the official seal of said City this 8th day of June, 2021.

Lori Stelzer, MMC, City Clerk

Approved as to form:

Kelly Fernandez, City Attorney