



City of North Port

ORDINANCE NO. 2020-35

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CODE OF THE CITY OF NORTH PORT, FLORIDA, BY AMENDING CHAPTER 2, ARTICLE V, DIVISION 5 – POLICE OFFICERS’ PENSIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 2, Article V, Division 5 of the Code of the City of North Port, Florida sets forth regulations related to pensions for the City’s police officers; and

WHEREAS, Chapter 121, Florida Statutes, establishes the Florida Retirement System Act for the administration of the Florida Retirement System, of which the City is a participant; and

WHEREAS, the proposed amendments clarify the eligibility of plan participants for disability benefits and bring the regulations into compliance with Florida Statutes and the Florida Retirement System Act; and

WHEREAS, the City Commission has determined that the proposed amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 - FINDINGS

1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

SECTION 2 - ADOPTION

2.01 The City Commission hereby approves and adopts the following amendments to the Code of the City of North, Florida:

“Chapter 2 – ADMINISTRATION

...

ARTICLE V. - EMPLOYEE BENEFITS

...

DIVISION 5. - POLICE OFFICERS’ PENSIONS

...

Sec. 2-262. - Disability Payments.

(a) *Disability benefits in line of duty.* Any member who shall become totally and permanently disabled to the extent that he or she is wholly prevented, by reason of a medically determinable physical or mental impairment, from rendering useful and efficient service as a police officer, which disability was directly caused by the performance of his or her duty as a police officer, shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to two percent of his or her average final compensation multiplied by the total years of credited service, but in any event, the minimum amount paid to the member shall be 60 percent of his or her rate of pay at the time he or she became disabled. Notwithstanding the previous sentence, in the event a member is determined by the board to be disabled in line of duty and the disability resulted from the perpetration of an intentional act of violence directed toward the police officer and the board reasonably believes the perpetrator intended to cause great bodily harm or permanent disfigurement of the police officer, the minimum amount paid to the member shall be 80 percent of the average final compensation of the member. Eligibility requirements for disability benefits are set forth in subsection (g), below. ~~Terminated persons, either vested or non-vested, 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.~~

...

(c) *Disability benefits not-in-line of duty.* Any member with ten years or more of credited service who shall become totally and permanently disabled to the extent that he or she is wholly prevented, by reason of a medically determinable physical or mental impairment, from rendering useful and efficient service as a police officer, which disability is not directly caused by the performance of his or her duties as a police officer shall, upon establishing the same to the satisfaction of the board be entitled to a monthly pension equal to two percent of his or her 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 his or her rate of pay at the time he or she became disabled. Eligibility requirements for disability benefits are set forth in subsection (g), below. ~~Terminated persons, either vested or non-vested, 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.~~

...

(g) *Eligibility for disability benefits.* Subject to the following regulations, 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 or her employment, either before or after filing an application for disability benefits, the member 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 or she files an application for disability benefits, the member is not eligible for disability benefits.
- (4) The only exception to subsection (1) above is:
 - a. If the member is terminated by the City for medical reasons and he or she 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 or she applies within 30 days after the medical termination date.
 - c. If either (4)a. or (4)b. herein applies, the member's application will be processed and fully considered by the board.

Sec. 2-271. - Miscellaneous Provisions.

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- (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.

Sec. 2-283. - Deferred Retirement Option Plan.

...

- (f) *General provisions.*

...

- ~~(4) *Prevention of escheat.* If the board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the board may, no earlier than three years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the board or the city. If such person has not made written claim therefor within three months of the date of the mailing, the board may, if it so elects and upon receiving advice from counsel to the system, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the system. Upon such cancellation, the system shall have no further liability therefor except that, in the event such person or his or her beneficiary later notifies the board of his or her whereabouts and requests the payment or payments due to him or her under the DROP, the amount so applied shall be paid to him or her in accordance with the provisions of the DROP.~~

[Remainder of this section is renumbered.]

Sec. 2-285. - Reemployment after retirement.

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- (b) *After normal retirement.* Any retiree who is retired under normal (or early) retirement pursuant to this system and who is reemployed as a police officer ~~and, by virtue of that reemployment, is ineligible to participate in this system, and his or her 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 average final compensation (based only on the subsequent employment period and not including any period of DROP participation), 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 police officer, shall upon being reemployed, continue receipt of benefits for the period of any subsequent employment period. Former DROP participants shall begin receipt of benefits under these circumstances.
- (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 police officer, he or she shall become a member of the Florida Retirement System, by virtue of his or her 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 police officer eligible to participate in this system, that person's pension benefit payments shall be ended until the earlier of termination of employment or such time as the reemployed retiree reaches the date that he or she would have been eligible for normal retirement under this system had he or she 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.
- (e) *After disability retirement.*
- (1) Subject to subsection (2) below, any retiree who is retired under Section 2-262 of this Code, (a "disability retiree") may, subject to Section 2-262(e), physical examination

requirement, 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 police officer, 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 police officer for the city, his or her disability benefit shall cease, Section 2-262(e) of this code shall apply, and upon reemployment, he or she shall become a member of the Florida Retirement System.

~~(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.

~~(f)~~ (g) *DROP participants.* ~~Members or retirees~~ Retirees who ~~are or~~ were in the deferred retirement option plan shall, following termination of employment after DROP participation, have the options provided for in this section for reemployment.”

SECTION 3 – CONFLICTS

3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or portions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

SECTION 4 – SEVERABILITY

4.01 If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5 – CODIFICATION

5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any additional codification information and notations appear in *italics*. These editorial notations shall not appear in the codified text.

SECTION 6 – EFFECTIVE DATE

6.01 This ordinance shall take effect immediately after adoption by the City Commission of the City of North Port, Florida.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session the 22nd day of September 2020.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, Florida on the second and final reading in public session this 13th day of October 2020.

CITY OF NORTH PORT, FLORIDA

DEBBIE MCDOWELL
MAYOR

ATTEST

HEATHER TAYLOR, CMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON
CITY ATTORNEY