

ORDINANCE NO. 528

AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA, AMENDING CHAPTER 42, ARTICLE III, MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM, DIVISION 1, GENERALLY, DIVISION 4, MEMBERSHIP AND DIVISION 6, BENEFITS AND ELIGIBILITY, OF THE CODE OF ORDINANCES OF THE TOWN OF BELLEAIR; AMENDING SECTION 42-66, DEFINITIONS, REVISING THE DEFINITION OF "SALARY"; AMENDING SECTION 42-79, REEMPLOYMENT AFTER RETIREMENT; ADDING SECTION 42-85, MISSING BENEFIT RECIPIENTS; AMENDING ARTICLE III, DIVISION 5, SECTION 42-176, MEMBER CONTRIBUTIONS; AMENDING SECTION 42-201, NORMAL RETIREMENT AGE AND DATE; AMENDING SECTION 42-202, NORMAL RETIREMENT BENEFIT; AMENDING SECTION 42-208, DISABILITY BENEFITS LINE OF DUTY; AMENDING SECTION 42-209, DISABILITY NOT IN LINE OF DUTY; AMENDING SECTION 42-215, MAXIMUM PENSION; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF BELLEAIR, FLORIDA THAT:

SECTION 1: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-66, Definitions, revising the definition of "salary," to read as follows:

Salary means the total compensation for services rendered to the town reportable on the members officers' W-2 form, plus all tax deferred, tax sheltered and tax-exempt items of income derived from elective employee payroll deductions or salary reductions. For service earned on or after October 1, 2013, salary shall not include more than 300 hours of overtime per calendar year. Provided however, in any event, payments for overtime in excess of 300 hours per year accrued as of October 1, 2013 and attributable to service earned prior to October 1, 2013, may still be included in salary for pension purposes even if the payment is not actually made until on or after October 1, 2013. Special duty work is not considered overtime. Special duty work is work performed for a separate and independent employer during a member's off-duty hours. A member's hours of work for a separate and independent employer will not be combined with his or her hours worked for the town for purposes of overtime compensation. Compensation for special duty assignments is not considered a part of a member's pensionable earnings and is excluded from calculation of annual salary for pension benefit purposes.

~~In any event, with respect to u~~Unused sick leave and unused annual leave accrued prior to October 1, 2013, salary will include the lesser of the amount of sick or annual leave time accrued on October 1, 2013 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 October 1, 2013.

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 Code Section 401(a)(17)(B). 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 hereunder as in effect on July 1, 1993. "Eligible employee" is an individual who was a member before the first plan year beginning after December 31, 1995.

SECTION 2: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-79, Reemployment after retirement, by amending subsection (a), adding subsection (e) *After Disability Retirement* and renaming the remaining subsection, to read as follows:

(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 Town, 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 town shall be subject to the limitations set forth in this section.

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(e) *After disability retirement.*

(1) Subject to paragraph (2) below, any retiree who is retired under Section 42-208, Disability benefits in line of duty or Section 42-209, Disability benefits not in line of duty ("disability retiree"), may, subject to Section 42-211, Physical examination requirement for disability benefits, 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 Town 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 Town, his disability benefit shall cease and Section 42-211 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 3: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby

amended by adding Section 42-85, Missing benefit recipients, to read as follows:

Secs. 42-85, ~~86-42-90~~.- Reserved

Sec. 42-85.- Missing benefit recipients

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 4: That the Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 5, Contributions, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-176, Member contributions to read as follows:

Sec. 42-176 Member contributions.

(a) *Amount.* Each member of the system shall be required to make regular contributions to the fund in the amount of six percent of his or her salary. Members of the system hired on or after the effective date of this Ordinance, shall be required to make regular contributions to the fund in the amount of eight percent of his or her salary. Member contributions withheld by the town 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 members' gross income for Federal Income Tax purposes. For all other purposes of the system, such contributions shall be considered to be member contributions.

(b) *Method.* Such contributions shall be made by payroll deduction.

SECTION 5: That the Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-201, Normal retirement age and date to read as follows:

Sec. 42-201 Normal retirement age and date.

A member's normal retirement age is the earlier of the attainment of age 55 and the completion of five years of credited service or the completion of 25 years of credited service, regardless of age. For members hired on or after the effective date of this Ordinance, normal retirement age is the earlier of the attainment of age 55 and the completion of 10 years of credited service or the completion of 25 years of credited service regardless of age. Each member's normal retirement date shall be the first day of the month coincident with or next following the date the member retires from the town after attaining normal retirement age.

SECTION 6: That the Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-202, Normal retirement benefit to read as follows:

Sec. 42-202 Normal retirement benefit.

A member retiring under the system 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 such 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. For members hired on or after the effective date of this Ordinance, the monthly retirement benefit shall equal three percent of average final compensation for each year of credited service.

SECTION 7: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-208, Disability in line of duty, to read as follows:

Sec. 42-208- Disability benefits in line of duty.

(a) 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 police officer, which disability was directly caused by the performance of his duty as a police officer, shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to three and one-half 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 42 percent of the average final compensation of the member. ~~Terminated vested persons are not eligible for disability benefits. Notwithstanding the previous sentence, if~~ a member is terminated by the town 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. If a member voluntarily terminates their employment before filing an application for disability benefits, they will not be eligible for disability benefits.

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SECTION 8: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-209, Disability not in line of duty, to read as follows:

Sec. 42-209- Disability benefits not in line of duty.

(c) *Disability benefits not in line of duty.* Any member with ten 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 police officer, which disability is not directly caused by the performance of his duties as a police officer shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to three percent of his average final compensation multiplied by the total years of credited service. ~~Terminated vested persons are not eligible for disability benefits. Notwithstanding the previous sentence, if~~ a member is terminated by the town 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. If a member voluntarily terminates their employment before filing an application for disability benefits, they will not be eligible for disability benefits.

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SECTION 9: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-215, Maximum pension, subsection (f) *Ten thousand dollar limit; less than ten years of service* to read as follows:

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(h) *Ten thousand dollar limit; less than ten years of service.* Notwithstanding anything in this section 42-215, the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this subsection (h) of section 42-215 if the benefits payable, with respect to such member under this system and under all other qualified defined benefit pension plans to which the town contributes, do not exceed \$10,000.00 for the applicable limitation year ~~and~~ or for any prior limitation year, and the town has not at any time maintained a qualified defined contribution plan in which the member participated; provided, however, that if the member has completed less than ten (10) years of credited service with the town, the limit under this subsection (h) of section 42-215 shall be a reduced limit equal to \$10,000.00 multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten.

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SECTION 10: 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.

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SECTION 11: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the Town of Belleair.

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SECTION 12: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

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SECTION 13: That this Ordinance shall become effective upon adoption.

PASSED ON FIRST READING, on November 19, 2019.

PASSED AND ADOPTED ON SECOND READING on January 21, 2020.

MAYOR

ATTEST:

TOWN CLERK