

ORDINANCE 2018-011

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA RELATING TO THE TOWN OF HOWEY-IN-THE-HILLS MUNICIPAL POLICE OFFICER'S RETIREMENT TRUST FUND; AMENDING CHAPTER 34, POLICE DEPARTMENT, ARTICLE II, POLICE OFFICERS' RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES OF THE TOWN OF HOWEY-IN-THE-HILLS; AMENDING SECTION 34-6.8, DISABILITY; AMENDING SECTION 34-6.17, MISCELLANEOUS PROVISIONS; AMENDING SECTION 34-6.28, REEMPLOYMENT AFTER RETIREMENT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA, that;

SECTION 1: Chapter 34, Police Department, Article II, Police Officers' Retirement System, of the Code of Ordinances of the Town of Howey-in-the-Hills, is hereby amended by amending section 34-6.8, Disability, subsection (a), Disability Benefits In-Line of Duty, subsection (c), Disability Benefits Not-in-Line of Duty, and adding subsection (g), Eligibility for Disability Benefits, to read as follows:

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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 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 (3) 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 forty-two (42) percent of the average final compensation of the member. ~~Terminated persons, either vested or non-vested, 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.~~ Eligibility requirements for disability benefits are set forth in subsection (g), below.

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(c) *Disability benefits not-in-line of duty.* Any member with ten (10) 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 (3) percent of his average final compensation multiplied by the total years of credited service. ~~Terminated persons, either vested or non-vested, 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.~~ Eligibility requirements for disability benefits are set forth in subsection (g), below.

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(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 Town 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 Town for medical reasons and he has already applied for disability benefits before the medical termination, or;
 - b. If the member is terminated by the Town 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 34, Police Department, Article II, Police Officers' Retirement System, of the Code of Ordinances of the Town of Howey-in-the-Hills, is hereby amended by amending section 34-6.17, Miscellaneous Provisions, by adding subsection (j), Missing Benefit Recipients, to read as follows:

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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.

SECTION 3: Chapter 34, Police Department, Article II, Police Officers' Retirement System, of the Code of Ordinances of the Town of Howey-in-the-Hills, is hereby amended by amending section 34-6.28, Reemployment After Retirement, to read as follows:

Sec. 34-6.28. Reemployment after retirement

(a) Any retiree who is retired 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.

(b) *After normal retirement.* Any retiree who is retired under normal retirement pursuant to this system and who is reemployed as a police officer after that retirement and, by virtue of that reemployment, is eligible to participate in this system, shall upon being reemployed, discontinue receipt of benefits. Upon reemployment, the retiree 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 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 as of the date of subsequent retirement. The amount of any death or disability benefit received as a result of 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 member may select a different optional form and joint pensioner applicable to the subsequent retirement benefit.

(c) Any retiree who is retired under normal retirement pursuant to this system and who is reemployed by the Town after that retirement and, by virtue of that reemployment is ineligible to participate in this system, shall, during the period of such reemployment, continue receipt of benefits during any subsequent employment period.

(d) *After early retirement.* Any retiree who is retired under early retirement pursuant to this plan and who subsequently becomes an employee of the Town in any capacity, shall discontinue receipt of benefits from the plan. If the reemployed person, by virtue of his reemployment, is eligible to participate in this plan, that person shall accrue a second benefit as provided for in subsection b. above of this section 34-6.28. and benefit payments shall remain suspended during any such subsequent employment period. If the reemployed person is not eligible to participate in this plan, 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 plan 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 plan.

(e) *After disability retirement.*

- (1) Subject to paragraph (2) below, any retiree who is retired under Section 34-6.8, 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 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 34-6.8(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. All ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. The provisions of this ordinance are intended to be incorporated into the Code of Ordinances of the Town of Howey-in-the-Hills, Florida and the sections of this ordinance may be renumbered, re-lettered, and the word “ordinance” may be changed to “section,” “article,” or such other word or phrase in order to accomplish such intention.

SECTION 6. If any section, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this ordinance.

SECTION 7. This ordinance shall be effective upon passage.

PASSED AND ORDAINED this _____ day of _____, 2018, by the Town Council of the Town of Howey-in-the-Hills, Florida.

Chris Sears, Mayor

Attest:

Dairian Burke, Town Clerk

First Reading held October 08, 2018
Second Reading and Adoption held October 22, 2018
Advertised October 10, 2018