

## ORDINANCE 25-05

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, AMENDING THE CITY OF MARCO ISLAND POLICE OFFICERS' PENSION PLAN TO PROVIDE FOR COMPLIANCE WITH THE SECURE 2.0 ACT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Setting Every Community Up for Retirement Enhancement ("SECURE") 2.0 Act, signed into law on December 29, 2022, as part of the Consolidated Appropriations Act, 2023, amended the definition of "Required Beginning Date" under Section 401(a)(9) of the Internal Revenue Code; and

**WHEREAS**, amendments to the Plan are necessary to conform the Pension Plan to the requirements of the SECURE 2.0 Act; and

**WHEREAS**, the trustees of the City of Marco Island Police Officers' Pension Plan have requested and approved such amendments as being in the best interests of the participants and beneficiaries as well as improving the administration of the plan, and

**WHEREAS**, the City Council has received, reviewed and considered an actuarial impact statement describing the actual impact of the amendments provided for herein;

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA THAT:**

**SECTION 1.** That section 32-48, Compliance with the Internal Revenue Code; subsection (b), Required Beginning Date, of the Code of Ordinances is hereby amended as follows:

### **Sec. 32-48. – Compliance with the Internal Revenue Code**

(2) Required beginning date. Notwithstanding any other provision of the plan, payment of a participant's retirement benefits under the plan shall commence not later than the participant's required beginning date, which effective January 1, 2023, is defined as the later of (a) and (b) below:

- a. With respect to a participant who reached age 70 ½ prior to January 1, 2020, April 1 of the calendar that next follows the calendar year in which the participant ~~attaineds or will attain~~ the age of 70 ½ years; ~~or~~

with respect to a participant who attained age 70 ½ on or after January 1, 2020, and age 72 prior to January 1, 2023, April 1 of the calendar year that next follows the calendar year in which the participant ~~retires~~ attained the age of 72 years; or

with respect to a participant who attains age 72 on or after January 1, 2023, in accordance with the SECURE 2.0 Act and any technical corrections thereto; or

- b. April 1 of the calendar year that next follows the calendar year in which the participant retires.

(3) *Required minimum distributions.*

- a. *Required beginning date.* The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date as defined in subsection (2) of this section 32-48.

b. *Death of participant before distributions begin.*

- 1. If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- (i) If the participant's surviving spouse is the participant'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 participant died, or by December 31 of the calendar year in which the participant would have attained ~~age 70½~~his or her required beginning date, if later.

**SECTION 2.** If any word, phrase, clause, subsection, or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

<sup>1</sup> Additions to the text are shown in underline. Deletions to the text are shown in ~~strike through~~. Additions added between first and second reading are shown in double underline.

**SECTION 3.** That all sections or parts of sections of all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**SECTION 4. Severability/Interpretation.**

(a) If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases portions of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) In interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks ( \* \* \* ) indicate a deletion from the Ordinance of text, which continues to exist in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

**SECTION 5. Effective Date.** This Ordinance shall be effective immediately upon adoption by the City Council on second reading.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this \_\_\_\_ day of \_\_\_\_ 2025.

**ATTEST:**

**CITY OF MARCO ISLAND, FLORIDA**

\_\_\_\_\_  
Joan Taylor, City Clerk

By: \_\_\_\_\_  
Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Alan L. Gabriel, City Attorney

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