

ORDINANCE NO. 00- 12

**AN EMERGENCY ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, AMENDING THE CITY OF MARCO ISLAND FIREFIGHTERS' PENSION PLAN TO COMPLY WITH APPLICABLE PROVISIONS OF STATE LAW; PROVIDING THAT THE DISABILITY PENSION OFFSET FOR WORKERS' COMPENSATION BENEFITS SHALL NOT RESULT IN A PENSION THAT IS LESS THAN THE STATUTORY MINIMUM; PROVIDING THAT OPTIONAL FORMS OF BENEFITS SHALL BE AVAILABLE TO MEMBERS WHO RECEIVE A DISABILITY PENSION; DECLARING AN EMERGENCY AND WAIVING THE ADVERTISING AND PROCEDURAL REQUIREMENTS OF SECTION 166.041(3)(A), FLORIDA STATUTES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the City of Marco Island has established a pension plan for its firefighter pursuant to Chapter 175, Florida Statutes; and

WHEREAS, the Florida Legislature amended Chapter 175, Florida Statutes in 1999; and

WHEREAS, certain changes to the Firefighters' Pension Plan are necessary to comply with changes in state law, to ensure that the City will continue to be eligible to receive state premium tax revenues pursuant to Chapter 175; and

WHEREAS, the plan actuary has determined that the required changes can be made with no additional cost;

WHEREAS, it is necessary that this Ordinance be adopted during the 1999-2000 fiscal year ending on September 30, 2000, and it is therefore necessary that the City Council waive the normal advertising and procedural requirements for ordinance adoption and adopt this ordinance as an emergency ordinance;

Section 11. 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 ~~resolution~~pension plan, a member, upon written request to the board, 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 monthly amount payable to the member for his lifetime only.
  2. A retirement income of a modified monthly amount payable to the member during the lifetime of the member and, following the death of the member, one hundred percent (100%), sixty-six and two thirds percent (66 and 2/3%), seventy five percent (75%) or fifty percent (50%) of such monthly amount payable to a joint pensioner for his lifetime.
  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 pension plan, based upon the social security law in effect at the time of the member's retirement.

**Section 3.** The City Council has, by a two-thirds or greater vote, declared an emergency and hereby adopts this Ordinance as an emergency ordinance and waives the requirements of Section 166.041(3)(a), Florida Statutes, relating to the procedures and advertisements for regular ordinance adoption.

**Section 4.** 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.

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

**Section 1.** Section 9, paragraph I. of the City of Marco Island Firefighters' Pension Plan, is amended to read:

**Section 9.** Disability Benefits.

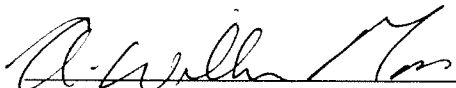
- I. Workers' Compensation. When a member is receiving a disability pension and workers' compensation benefits pursuant to Chapter 440, Florida Statutes, for the same disability, and the total monthly benefit received from both exceed one hundred percent (100%) of the member's final monthly salary, excluding overtime, the disability pension benefit shall be reduced so that the total monthly amount received by the member does not exceed one hundred percent (100%) of such salary-; provided that in no event shall the resulting disability retirement income payable from the pension plan be less than the member's accrued benefit or forty-two percent (42%) of average monthly salary, which ever is greater. In the case of a lump sum workers' compensation settlement, the disability retirement income payable from the pension plan shall be adjusted as follows:
1. The amount of the lump sum settlement shall be divided by the participant's remaining life expectancy (in months) as determined using standard actuarial tables approved by the actuary for the pension plan.
  2. If the number obtained in paragraph 1 above, when added to the participant's monthly disability retirement income from the pension plan, exceeds the participant's final monthly compensation on the date of disability, the amount of the excess shall be deducted from the participant's monthly disability retirement income from the pension plan, for the duration of the participant's remaining life expectancy as determined ion paragraph 1 above.
  3. If the number obtained in paragraph 1 above, when added to the participant's monthly disability retirement income from the pension plan, does not exceed the participant's final monthly compensation on the date of disability, there shall; be no reduction of the participant's retirement income from the pension plan.

**Section 2.** Section 11 paragraph A. of the City of Marco Island Firefighters' Pension Plan, is amended to read:

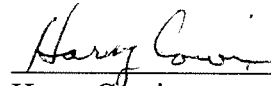
**Section 5.** That all sections or parts of sections of all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**Section 6.** This ordinance shall take effect retroactively to December 31, 1999.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND THIS  
25th DAY OF September, 2000.

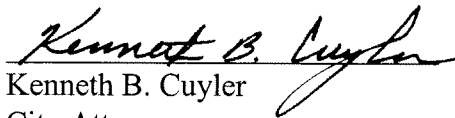


A. William Moss  
City Manager/City Clerk



Harry Cowin  
Chairman

Reviewed for legal sufficiency:



Kenneth B. Cuyler  
City Attorney