

ORDINANCE NUMBER O- 20617 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 23 2016

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 24.0501, RELATING TO THE CITY EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, section 24.0501 subparagraph (d) of the San Diego Municipal Code (Municipal Code) states that a Member employed by the City as of July 1, 2000 who suffered a violent attack at work resulting in great bodily harm to the Member, is eligible for an industrial disability retirement benefit for a resulting mental or nervous disorder that renders the Member permanently incapable of performing his or her normal and customary duties; and

WHEREAS, for a Member not represented by the Police Officers' Association (POA) to receive this benefit, the attack must have occurred before July 1, 2005; and

WHEREAS, for a Member represented by the Police Officers' Association (POA) to receive this benefit, Municipal Code section 24.0501(d) states that the attack must have occurred before July 1, 2003; and

WHEREAS, the City of San Diego (City) agreed in the Memorandum of Understanding (MOU) between the City and the POA for Fiscal Year 2009 (FY 2009 MOU), to extend the benefit in Municipal Code section 24.0501(d) through June 30, 2010, after which no further applications for the benefit will be accepted; and

WHEREAS, the City never took steps to amend Municipal Code section 24.0501(d) to extend the benefit for Members represented by the POA from July 1, 2003, until the agreed-upon sunset date of June 30, 2010; and

WHEREAS, this Ordinance extends the sunset of the benefit set forth in Municipal Code section 24.0501(d) through June 30, 2010 to conform to the FY 2009 MOU; and

WHEREAS, this Ordinance also includes amendments that do not affect the benefits of any Member, but are intended to make Municipal Code section 24.0501 consistent with other provisions of the retirement plan; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 4, Division 4 of the San Diego Municipal Code is amended by amending section 24.0501 as follows:

**Article 4: City Employees' Retirement System**

**Division 5: Disability Retirements**

**§24.0501 Industrial Disability—Safety and General Members**

- (a) Any *Member* who joined the *System* on or before September 3, 1982, is eligible for an industrial disability retirement allowance, regardless of his or her age or years of *Service Credit*, if:
  - (1) the *Member* is permanently incapacitated from the performance of duty,
  - (2) the *Member's* incapacity is the result of injury or disease arising out of or in the course of his or her *City* employment, and
  - (3) the *Member's* incapacity renders his or her retirement necessary.
- (b) Any *Member* who enrolled in the *System* after September 3, 1982 will receive an industrial disability retirement allowance, regardless of his or her age or years of *Service Credit*, if:
  - (1) the *Member* is permanently incapacitated from the performance of duty,
  - (2) the *Member's* incapacity is the result of injury or disease arising out of or in the course of his or her *City* employment,


- (3) the *Member's* incapacity renders his or her retirement necessary,  
and
  - (4) the *Member's* incapacity did not arise from:
    - (A) a preexisting medical condition, or
    - (B) a nervous or mental disorder.
- (c) For purposes of section 24.0501, a preexisting medical condition is a condition that occurred or existed before the *Member* joined the *System*. Any medical condition that occurs during a mandatory waiting period before the *Member* is eligible to join the *System* is not a preexisting condition.
- (d) Despite section 24.0501(b)(4), a *Member* who is employed by the *City* as of July 1, 2000 is eligible for an industrial disability retirement if all of the following conditions are met:
- (1) the *Member* is a victim of a violent attack involving the use of deadly force,
  - (2) the attack occurs after June 30, 2000,
  - (3) the attack occurs before July 1, 2010, if the *Member* is in the Police Officers' Association bargaining unit, or before July 1, 2005, for all other *Members*,
  - (4) the attack occurs while the *Member* is performing his or her duties as a *City* employee,
  - (5) the attack causes the *Member* great bodily harm,
  - (6) the attack causes the *Member* to suffer a nervous or mental disorder, and

- (7) the *Board* determines, based upon the medical evidence, that the *Member* has become psychologically or mentally incapable of performing his or her normal and customary duties, as a result of the attack.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: Jan Goldsmith, City Attorney

By  \_\_\_\_\_  
Roxanne Story Parks  
Deputy City Attorney

RSP:ccm  
January 14, 2016  
Or.Dept: Risk Management  
Doc. No.: 1198819

I certify that this Ordinance was passed by the Council of the City of San Diego, at this meeting of MAR 08 2016.

ELIZABETH S. MALAND  
City Clerk

By 

Deputy City Clerk

Approved: 3/21/16

(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_

(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE:** ~~Struck Out~~

**NEW LANGUAGE:** Underline

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

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AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4,  
DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY  
AMENDING SECTION 24.0501, RELATING TO THE CITY  
EMPLOYEES' RETIREMENT SYSTEM.

**Article 4: City Employees' Retirement System**

**Division 5: Disability Retirements**

**§24.0501 Industrial Disability—Safety and General Members**

- (a) Any ~~Member~~ Member who joined the ~~Retirement System~~ System on or before September 3, 1982, is eligible for an industrial disability retirement allowance, regardless of his or her age or ~~Creditable Service~~ years of Service Credit, if:
- (1) the ~~Member~~ Member is permanently incapacitated from the performance of duty,
  - (2) the ~~Member's~~ Member's incapacity is the result of injury or disease arising out of or in the course of his or her ~~City~~ City employment, and
  - (3) the ~~Member's~~ Member's incapacity renders his or her retirement necessary.

- (b) Any ~~Member~~ Member who enrolled in the ~~Retirement System~~ System after September 3, 1982 will receive an industrial disability retirement allowance, regardless of his or her age or ~~Creditable Service~~ years of Service Credit, if:
- (1) the ~~Member~~ Member is permanently incapacitated from the performance of duty,
  - (2) the ~~Member's~~ Member's incapacity is the result of injury or disease arising out of or in the course of his or her City employment,
  - (3) the ~~Member's~~ Member's incapacity renders his or her retirement necessary, and
  - (4) the ~~Member's~~ Member's incapacity did not arise from:
    - (A) a preexisting medical condition, or
    - (B) a nervous or mental disorder.
- (c) For purposes of section 24.0501, a preexisting medical condition is a condition that occurred or existed before the ~~Member~~ Member joined the ~~Retirement System~~ System. Any medical condition that occurs during a mandatory waiting period before the ~~Member~~ Member is eligible to join the ~~Retirement System~~ System is not a preexisting condition.
- (d) Despite section 24.0501(b)(4), a ~~Member~~ Member who is employed by the City ~~City~~ as of July 1, 2000 is eligible for an industrial disability retirement if all of the following conditions are met:

- (1) the ~~Member~~ Member is a victim of a violent attack involving the use of deadly force,
- (2) the attack occurs ~~on or after July 1~~ June 30, 2000,
- (3) the attack occurs before July 1, ~~2003-2010~~, if the ~~Member~~ Member is in the Police Officers' Association bargaining unit, or before July 1, 2005, for all other ~~Members~~ Members,
- (4) the attack occurs while the ~~Member~~ Member is performing his or her duties as a ~~City~~ City employee,
- (5) the attack causes the ~~Member~~ Member great bodily harm,
- (6) the attack causes the ~~Member~~ Member to suffer a nervous or mental disorder, and
- (7) the ~~Board~~ Board determines, based upon the medical evidence, that the ~~Member~~ Member has become psychologically or mentally incapable of performing his or her normal and customary duties, as a result of the attack.

RSP:ccm  
January 14, 2016  
Or.Dept: Risk Management  
Doc. No.: 1198783



Passed by the Council of The City of San Diego on MAR 08 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 23 2016

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

FEB 23 2016

, and on MAR 23 2016

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20617