

0-0
1-21-04

ORDINANCE NO. C-04-5

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE AMENDING THE GENERAL EMPLOYEES' RETIREMENT SYSTEM BY AMENDING CODE SECTION 20-108 BY MODIFYING DEFINITIONS AND ADDING THE FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY AS AN AFFILIATED AGENCY UNDER THE PLAN; AMENDING CODE SECTION 20-108 REGARDING ELIGIBILITY FOR MEMBERSHIP FOR CERTAIN EMPLOYEES; AMENDING SECTION 20-109 ENTITLED "RETIREMENT DATES" BY REQUIRING A MINIMUM OF FIVE (5) YEARS OF SERVICE AS A CONDITION OF NORMAL RETIREMENT FOR CERTAIN EMPLOYEES; ESTABLISHING PROCEDURES FOR ACQUIRING PRIOR SERVICE CREDIT FOR CERTAIN PREVIOUSLY INELIGIBLE EMPLOYEES IN THE CITY'S EMPLOY; ESTABLISHING PROCEDURES FOR ACQUIRING PRIOR SERVICE CREDIT FOR CERTAIN NONCLASSIFIED EMPLOYEES IN THE CITY'S EMPLOY, INCLUDING WITHHOLDING OF VESTED NORMAL RETIREMENT BENEFITS.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Section 20-107, entitled "Definitions," of the Code of Ordinances of the City of Fort Lauderdale, Florida is amended to read as follows:

Section 20-107. Definitions.

As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meanings indicated:

. . . .

Affiliated Agency means the City of Fort Lauderdale General Employees' Retirement System, and the City of Fort Lauderdale Police and Firefighters' Retirement System, and the City of Fort Lauderdale Community Redevelopment Agency, a body politic organized and existing under the Community Redevelopment Act, Part III, Chapter 163, Florida Statutes.

Normal Retirement Date for Group I Members means

(a) the first day of the month next following a Group I Member's attainment of age fifty-five (55) years of age, and, for Employees hired on or after January 21, 2004, attainment of a minimum of five (5) years of Continuous Service, or

(b) thirty (30) years of Continuous Service service, whichever (a) or (b) shall first occur.

For a Group II Member, Normal Retirement Date means the first day of the month next following a Group II Member's attainment of sixty-five (65) years of age. Normal Retirement Date shall be adjusted for certain Members under subsection 20-110(c)(3)c.

Service, or Continuous Service, Credited Service or Service Credit means the period of an Employee's uninterrupted employment from the date he last entered employment as an Employee as defined herein up to (i) the beginning of his DROP Period, (ii) the date his employment is terminated, or (iii) or the date he ceased to be an Employee as defined herein, whichever (i), (ii) or (iii) shall first occur,

For a Previously Ineligible Employee in the employ of the City as of July 15, 2003, the term Service, Continuous Service, Credited Service or Service Credit means the period of a Previously Ineligible Employee's uninterrupted employment with the City from the date he commenced membership in the Plan, together with any prior Service Credit he purchases, up to (i) the beginning of his DROP Period, (ii) the date his employment is terminated or (iii) the date he ceases to be an Employee as defined herein, whichever (i), (ii), (iii) or (iv) shall first occur.

For a qualified Employee of an Affiliated Agency or an Employee in the nonclassified service of the City who elects membership in this Plan the term Service, Continuous Service, Credited Service or

Service Credit means the period of such Employee's uninterrupted employment with the Affiliated Agency or City from the date he commenced membership in the Plan, together with any prior Service Credit he purchases, up to (i) the beginning of his DROP Period, (ii) the date his employment is terminated, (iii) the date he ceased to be an Employee as defined herein, or (iv) the date on which he voluntarily terminates his membership in the Plan, whichever (i), (ii), (iii), or (iv) shall first occur.

Anything herein to the contrary notwithstanding; provided one maintains continuity of membership in this Plan, when changing employment from the City and simultaneously securing employment as a qualified Employee of an Affiliated Agency or vice versa, there is no break in Continuous Service.

Furthermore, only the benefits due from this Plan, including those which have accrued and been credited to this Plan from the City of Fort Lauderdale Police and Firefighters' Retirement System shall be paid by the Fund.

Periods of employment as a city police officer or firefighter shall be counted if accrued and credited as provided above for determining an employee's eligibility for benefits. For this purpose, benefits under this Plan plan shall take into account such employee's service in a capacity as a police officer or firefighter, by giving credit for years of "continuous service" (as that term is defined in section 20-127 of the City of Fort Lauderdale Police and Firefighters' Retirement System).

However, for an Employee hereunder who is a police officer or firefighter who had not received his state certification (as that term is defined in section 20-127 of the City of Fort Lauderdale Police and Firefighters' Retirement System) as of his date of hire, but who thereafter receives his state certification, then the contributions made by such police officer or firefighter to this Plan between the date of his hire and the date of state certification, but not exceeding six (6) months' of such contributions, shall be transferred from this Plan to the City of Fort Lauderdale Police and Firefighters' Retirement System and such police officer or firefighter shall receive service

credit for such period, but not to exceed six (6) months, under the City of Fort Lauderdale Police and Firefighters' Retirement System and not under this Plan. For the purposes of treatment of contributions, if the period of time between the date of hire and the date of state certification for such police officer or firefighter is in excess of six (6) months, then such excess contributions shall be treated in the manner set forth in section 20-110(f).

. . . .
SECTION 2. That Section 20-108 of the Code of Ordinances of the City of Fort Lauderdale, entitled "Eligibility," is hereby amended to read as follows:

Sec. 20-108. Eligibility.

(a) *Conditions of eligibility:*

- (1) Employees who were participants in the prior plan at the time of the adoption of this Plan shall become Members of this Plan.
- (2) Except as might be otherwise expressly provided herein, any future City employee shall become a Member, provided that:
 - a. Such Employee is actively employed at the time of enrollment.
 - b. Such Employee is not receiving a pension under any other pension plan or retirement system of the City of Fort Lauderdale.
- (3) Except as might be otherwise expressly provided herein, Membership in the Plan is mandatory for all eligible City employees and is a condition of their continued employment, except that membership (i) of those in the nonclassified service, (ii) qualified Employees of Affiliated Agency, and (iii)

Previously Ineligible Employees in the City's employ as of July 15, 2003 shall be optional. . . .

. . . .

SECTION 3. That Section 20-109 of the Code of Ordinances of the City of Fort Lauderdale, entitled "Retirement Dates" is hereby amended to read as follows:

Sec. 20-109. Retirement Dates.

- (a) *Normal retirement date.* A Group I Member shall be eligible for a normal retirement pension if his employment is terminated on or after the first day of the month next following his attainment of age fifty-five (55) years or thirty (30) years of service, whichever shall first occur, provided that, in addition to the foregoing, a Group I Member who is hired on or after January 21, 2004 shall also be required to have a minimum of five (5) years of Continuous Service to be eligible for a normal retirement pension. A Group II Member shall be eligible for a normal retirement pension if his employment is terminated on or after the first day of the month next following his attainment of age sixty-five (65).

SECTION 4. That the City of Fort Lauderdale's General Employee's Retirement System is hereby amended to provide:

(a) One who was a Previously Ineligible Employee in the City's employ as of January 21, 2004 may elect membership in the Plan and receive Service Credit prospectively from the date he elects membership in this Plan. One who was a Previously Ineligible Employee in the City's employ as of January 21, 2004 who elects membership in the Plan under this subsection (a) shall retain his City Sponsored Defined Contribution Plan.

(b) One who was a Previously Ineligible Employee in the City's employ as of January 21, 2004 may elect membership in the Plan

and receive Service Credit retroactive to (i) January 1, 1995 or (ii) if hired after January 1, 1995, the date first eligible for membership in this Plan regardless of age, by meeting the following conditions:

(1) The Employee described in subsection (b) above must make his election under subsection (b) by filing a notice of election with the City's Finance Director no later than March 15, 2004.

(2) The Employee described in subsection (b) above shall execute and deliver an Older Workers Benefit Protection Act waiver and release ("OWBPA Waiver") on forms promulgated by the City. Upon delivery of the notice of election in subsection (b)(1) above, the City's Finance Director shall provide the Employee with an Older Workers Benefit Protection Act Waiver and Release form ("OWBPA Waiver") on forms promulgated by the City. The Employee shall have at least forty-five (45) days within which to consider executing the OWBPA Waiver. Upon execution and delivery of the OWBPA Waiver to the City's Finance Director, the Employee shall have a period of seven (7) days within which the Employee may revoke the OWBPA Waiver.

(3) The Employee described in subsection (b) above shall terminate participation in the City Sponsored Defined Contribution Plan and direct a "trustee to trustee" rollover distribution of the balance in the City Sponsored Defined Contribution Plan to the Plan and the Board shall accept such direct "trustee to trustee" rollover distribution on behalf of the Plan. Termination of participation in the City Sponsored Defined Contribution Plan shall coincide with the last day of a relevant City pay period.

(4) The Employee described in subsection (b) above shall execute and deliver to the Office of the Plan forms requisite to establishing membership in the Plan as set forth in Section 20-108(b) hereof. Membership in the Plan

shall commence on the first day of the City pay period next following the termination of participation in the City Sponsored Defined Contribution Plan.

(5) The execution and delivery of forms required under subsections (b)(1), (b)(2) and (b)(4) above and termination of participation in the City Sponsored Defined Contribution Plan and direction of a "trustee to trustee" rollover as set forth in subsection (b)(3) above must be completed no later than May 9, 2004 to receive Service Credit retroactive to (i) January 1, 1995 or (ii) if hired after January 1, 1995, the date first eligible for membership in this Plan regardless of age.

(c) Anything in this Plan to the contrary notwithstanding, one who was a Previously Ineligible Employee in the City's employ as of January 6, 2004, but who was laid off by the City as part of City-wide budgetary cuts prior to the effective date of this ordinance, shall nonetheless be eligible to establish membership in this Plan with Service Credit retroactive to (i) January 1, 1995 or (ii) if hired after January 1, 1995, the date first eligible for membership in this Plan regardless of age through the date of his termination of employment with the City in accordance with the procedures set forth herein.

SECTION 5. That the City of Fort Lauderdale's General Employee's Retirement System is hereby amended to provide:

(a) An Employee in the nonclassified service who is in the employ of the City as of January 21, 2004 and who have either elected membership or who may elect membership in the Plan and receive Service Credit retroactive to their initial date of appointment as an Employee in the nonclassified service in the following manner:

(1) The Employee described in subsection (a) above must cease receiving a City contribution toward and terminate participation in the City sponsored I.R.C. § 457 deferred compensation plan and the City sponsored I.R.C. § 401(a) defined contribution plan for nonclassified employees and

direct a "trustee to trustee" rollover distribution of the balance of the above referenced plans into this Plan no later than June 30, 2004. Termination of the City's contribution and participation in the above referenced plans shall coincide with the last day of a relevant City pay period. The Board shall accept such direct "trustee to trustee" rollover distribution.

A. In the event an Employee described in subsection (a) above has a balance in the City sponsored I.R.C. § 457 defined contribution plan and City sponsored I.R.C. § 401(a) defined contribution plan for nonclassified employees which is derived in part from (i) governmental agencies or employers other than the City or (ii) from employee contributions, the Finance Director shall allocate the portion of the balance derived from (i) governmental agencies or employers or (ii) employee contributions or both, and the Employee shall not be required to direct a "trustee to trustee" rollover distribution of that portion of the balance into this Plan.

(2) The Employee described in subsection (a) above shall be given credit by the City for the difference between

(i) the amounts the City contributed to the nonclassified Employee's I.R.C. § 457 deferred compensation plan for nonclassified employees or the I.R.C. § 401(a) defined contribution plan for nonclassified employees or both for the period prior to the Employee becoming a Member of this Plan and

(ii) the amount the City would have contributed to this Plan over the same period had the nonclassified Employee been a Member of this Plan.

After imputing interest on the on the differential set forth in subsections (a)(2)(i) and (ii) at the Plan's

actuarially assumed rate of return over the relevant period, the Employee shall receive credit for the application of such differential, together with interest thereon, as against the Employer's contributions over the period for which prior Service Credit is being purchased.

(3) The amounts in subsections (a)(1) and (a)(2) shall be applied against the cumulative amount of what would have been the Employer's contributions to this Plan over the period for which prior Service Credit is being purchased by the nonclassified Employee at the corresponding Employer contribution rate which would have been in effect had the nonclassified Employee been a Member of this Plan during such period.

(4) To the extent that the amounts in subsections (a)(1) and (a)(2) exceed the cumulative amount of what would have been the Employer's contributions to this Plan over the period for which prior Service Credit is being purchased by the nonclassified Employee at the corresponding Employer contribution rate which would have been in effect had the nonclassified Employee been a Member of this Plan during such period, then such surplus shall be applied against the Employee's past contributions for prior Service Credit for the relevant period.

(5) The Employee shall pay past Employee contributions corresponding to the period of prior Service Credit being purchased. The past Employee contributions shall be payable at a rate of not less than three (3%) percent of the Employee's current Earnings. The total past Employee contributions to be paid by the Employee to the Plan shall equal the Employee contributions otherwise applicable to the period for which prior Service Credit is being purchased.

A. The prior Service Credit shall be purchased at the Employee contribution rate applicable to the relevant period being purchased at the Earnings rate in

effect for that period. Prior Service Credit shall be purchased in increments no smaller than monthly increments.

B. The past Employee contributions paid by the Employee shall be applied first to the earliest relevant periods at the Employee's Earnings rate then in effect for that period and thereafter the later past Employee contributions paid shall be applied to the later period(s) at the Employee's Earnings rate in effect for such later period(s).

C. In the event the Employee is a participant in another qualified plan for which direct "trustee to trustee" rollover distributions are permitted, to the extent permitted by law the Employee may direct such "trustee to trustee" rollover distribution to this Plan and the Board shall accept such rollover distribution. The rollover distribution under this subsection (a)(5)C. shall be used to purchase prior Service Credit.

D. The Employee may convert accrued management vacation at the rate established in the City's Pay Plan and direct application thereof to past Employee contributions for prior Service Credit. Such past Employee contributions for prior Service Credit under this subsection shall be "picked up" by the City in the manner set forth in Section 20-112 (a)(3).

E. To the extent that all past Employee contributions have not been paid for the purchase of the prior Service Credit at the time of the Employee's termination, accumulated leave balances may be applied to past Employee contributions at the rate established in the City's Pay Plan. Such past Employee contributions for prior Service Credit under this subsection shall be "picked up" by the City in the manner set forth in Section 20-112 (a)(3).

(6) Upon establishing membership in the Plan, such Employee shall be immediately vested with Service Credit retroactive to the date of his hire by the City subject to the following:

A. Upon such Member's normal retirement, to the extent the Member has not fully paid the past Employee contributions corresponding to the period of prior Service Credit being purchased, the Plan shall set-off and withhold disbursement of the monthly retirement benefit otherwise payable to the Member until such time as all prior Service Credit has been paid in full by the Member.

B. The amount set-off and withheld under subsection (a) (6)A shall be applied to the unpaid balance of past Employee contributions corresponding to the period of prior Service Credit being purchased.

C. As an alternative to subsections (a) (6)A and B above, upon termination the Member may elect to waive, in whole or in part, the prior Service Credit for which there remains an unpaid balance of past Employee contributions, in which event the Member's total accrued and paid Service Credit shall be adjusted and the Member's normal monthly retirement benefit shall likewise be accordingly adjusted.


SECTION 6. That Sections 4 and 5 of this Ordinance shall not be codified.

SECTION 7. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 8. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 9. That this Ordinance shall be in full force and effect immediately upon and after its final passage.

PASSED FIRST READING this the 6th day of January, 2004.
PASSED SECOND READING this the 21st day of January, 2004.



Mayor
JIM NAUGLE

ATTEST:



Asst City Clerk
~~LUCY KISELA~~
JEFFREY MODARELLI

L:\COMM2004\ORD\JAN21\C-04-5.WPD