



ORDINANCE

AMENDING THE BOARD OF PUBLIC WORKS RETIREMENT SYSTEM

CITY OF NASHUA

In the Year Two Thousand and Ten

The City of Nashua ordains that Part I “Administrative Legislation”, Chapter 45 “Pension and Retirement Systems”, Article IV “Board of Public Works Retirement System”, of the Nashua Revised Ordinances, as amended, be hereby further amended by deleting the struck-through language and adding the new underlined language as follows:

“ARTICLE IV Board of Public Works Retirement System

§ 45-9. Definitions.

Unless a different meaning is required by the context, the following words and phrases shall have the following meaning within this article:

...

BENEFICIARY – Any person receiving a service retirement allowance benefit or other benefit.

...

NORMAL RETIREMENT DATE – The first day of the month coinciding with or next following a member reaching the earlier of age 60 and 10 years of creditable service or the completion of 25 years of continuous service, or 30 years of continuous service if hired on or after July 1, 2010, for the Board of Public Works.

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LEGISLATIVE YEAR 2010

ORDINANCE: O-10-16

PURPOSE: Amending the Board of Public Works Retirement System

ENDORSER(S): Mayor Donnalee Lozeau
Alderman Richard P. Flynn

**COMMITTEE
ASSIGNMENT:**

FISCAL NOTE: An actuarial analysis of the changes has not been done so the fiscal impact cannot be determined, however, the overall benefits liability to the City will be reduced by this legislation.

ANALYSIS

This legislation makes changes to the ordinances governing the Board of Public Works Retirement System, as requested by the Board of Trustees of the Public Works Retirement System. The changes include the following: requiring 30 years of continuous service to retire if hired on or after July 1, 2010 (increased from 25 years), and making the related changes to the calculation of the disability retirement amount; deleting the early retirement option for members hired on or after July 1, 2010; requiring some repayments to the system to be made in a timely and lump sum manner; utilizing consistent terms throughout the article; and making the article gender-neutral.

Approved as to form: Office of Corporation Counsel

By: Dowling Clarke

Date: April 1, 2010

RETIREMENT – Withdrawal from active service with a service retirement-allowance-benefit granted under the provisions hereof.

~~RETIREMENT ALLOWANCE—The sum of employee contributions and City contributions.~~

...

§ 45-16. Time of payments.

All service retirement-allowance-benefits shall be payable in equal weekly installments which shall cease with the last weekly payment prior to death.

§ 45-17. Contributions to system.

...

E. The deductions provided herein shall be made notwithstanding the amount of wage or salary earned by the employee during any one week and every member shall be deemed to consent to the deduction herein provided as a condition of ~~his~~their membership.

§ 45-18. Membership.

...

C. A member shall cease to be a member if:

...

(2) ~~He~~They withdraws ~~his~~their accumulated contributions;

(3) ~~He~~They becomes a beneficiary.

...

§ 45-19. Prior service credit.

With respect to service rendered prior to August 1, 1947, the date of establishment of the retirement system, each employee in service on the date of establishment who becomes a member within one year thereafter shall file with the Board of Trustees, on a form approved by the Board, a detailed statement of all service rendered by ~~him~~them prior to the date of establishment for which ~~he~~they claims credit.... Upon verification of the statements of service, the Board shall certify to each member the length of service with which ~~he is~~they are credited on the basis of ~~his~~their statement of service.... Should the employee again become a member, ~~he~~they shall enter the retirement system as a new member not entitled to prior service credit.

§ 45-20. Military service.

Any member who terminated ~~his~~-their employment in order to enter directly into the armed forces of the United States shall be entitled to prior service credit for ~~his~~-their service rendered prior to the termination of ~~his~~-their employment, together with the time spent in the armed forces of the United States, provided ~~he~~-they again becomes an employee within one year after the termination of such armed service without intervening employment elsewhere, and elects to become a member of the retirement system within one year after ~~he~~-they again becomes an employee.

§ 45-21. Service retirement benefits.

- A. Any member in the employ of the Board of Public Works may apply, in writing, for retirement on service retirement ~~allowance~~-benefit. The application shall be submitted to the Board of Trustees and shall set forth the date the applicant wishes to be retired. No person shall be retired on service retirement ~~allowance~~-benefit unless at the time specified for ~~his~~-their retirement ~~he~~-they shall either have attained 60 years of age with a minimum of 10 years' creditable service or has had 25 years of continuous service, or 30 years of continuous service if hired on or after July 1, 2010 for the Board of Public Works upon such date.
- B. Upon service retirement, the member shall receive a service retirement benefit which shall consist of:
- ...
- (2) If the employee has less than 25 years of creditable service, or 30 years of credible service if hired on or after July 1, 2010, but has reached the age of 60 with a minimum of 10 years of creditable service, the employee shall receive a benefit equal to such portion of 65% of the regular salary or wages earned during the last full year of service as the number of years of creditable service bears to 25 years, or 30 years if hired on or after July 1, 2010.
- C. A member disabled by sickness or injury for an extended period, and who has not made weekly contributions to the system during that period, may voluntarily make up the contributions not paid during such absence by lump sum ~~or payroll deductions~~-payment, plus regular interest, as the Trustees may determine and allow.
- D. Any member in the employ of the Board of Public Works who has attained the age of 50 with a minimum of 10 years of creditable service, and was hired prior to July 1, 2010, may apply in writing to the Board of Trustees for retirement on an early service retirement-~~allowance~~ benefit setting forth the date the applicant wishes to be retired. Upon such early retirement the member shall receive an early service retirement allowance-~~benefit~~ equal to 65% of the regular salary or wages earned by the member during the last full year of creditable service as the number of creditable years of service

bears to 25 years, reduced by 0.555% for each full month between the member's normal retirement date and the member's early retirement date.

...

§ 45-22. Disability retirement benefits.

A. Disability retirement.

(1) Ordinary disability retirement.... The Board may retire such member after a medical examination shall establish, and the Board shall find, that ~~he or she is~~ they are mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and ~~he or she~~ that they should be retired.

(2) Accidental disability retirement.

(a) Generally.... A member in service who has been totally and permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of ~~his/her~~ their duties, at some definite time and place, without willful negligence or actions on ~~his or her~~ their part, may be retired by the Board of Trustees on an accidental disability service retirement ~~allowance~~ benefit after a medical examination shall establish, and the Board shall find, that ~~he or she is~~ they are mentally or physically incapacitated for the further performance of duty and that such incapacity is likely to be permanent.

B. Limitations. Any amounts which may be paid or payable to or on account of any member or retired member on account of any disability to which the City of Nashua has made contributions under the provisions of any workers' compensation or similar law or plan shall, in such manner as the Board of Trustees shall determine, be offset against and payable in lieu of any disability service retirement ~~allowance~~ benefit on account of the same disability....

(1) If the member receiving disability retirement benefits becomes 60 years of age while receiving said retirement benefits, ~~he or she~~ they shall receive, in place of the disability retirement benefit, the amount ~~he or she~~ they would have received upon a service retirement....

(2) If the Board of Trustees finds that any disability beneficiary is engaged in or is able to engage in a gainful occupation no further benefits shall be paid to ~~him~~ them under this section.

C. Amount of benefit.

(1) Ordinary disability retirement.

- (a) If the member is age 60 years old or older, with a minimum of 10 years of service, ~~he or she~~ they shall receive a service retirement ~~allowance~~ benefit.
- (b) If the employee has at least 10 years of creditable service and is at least 50 years of age, but has not attained the age of 60, then the employee shall receive a benefit equal to such portion of 60% of the employee's regular salary or wages earned during the last full year of creditable service, as the years of creditable service bears to 25 years, or 30 years if hired on or after July 1, 2010.
- (c) If the employee has at least 10 years of creditable service, but has not attained the age of 50, then the employee shall receive a benefit equal to such portion of 50% of the employee's regular salary or wages earned during the last full year of creditable service, as the years of creditable service bears to 25 years, or 30 years if hired on or after July 1, 2010.

(2) Accidental disability retirement.

- (a) If the member is age 60 years old or older, with a minimum of 10 years of service, ~~he or she~~ they shall receive a service retirement ~~allowance~~ benefit.
- (b) If the employee has at least 10 years of creditable service, and is at least 50 years of age, but has not attained the age of 60, then the employee shall receive a benefit equal to such portion of 60% of the employee's regular salary or wages earned during the last full year of creditable service, as the years of creditable service bears to 25 years, or 30 years if hired on or after July 1, 2010.
- (c) If the employee has at least 10 years of creditable service, but has not attained the age of 50, then the employee shall receive a benefit equal to such portion of 50% of the employee's regular salary or wages earned during the last full year of creditable service, as the years of creditable service bears to 25 years, or 30 years if hired on or after July 1, 2010.

D. Cessation of benefits.

- (1) At least once each year following the retirement of a member on ordinary or accidental disability service retirement ~~allowance~~ benefit, the Board of Trustees may, and upon ~~his or her~~ the member's application shall, require a member who has not attained the age of 60 years to undergo a medical examination, by a physician or physicians designated by the Board. Should the member refuse such examination, then ~~his or her~~ their disability retirement benefits may be

discontinued by the Board until ~~his or her~~ their withdrawal of such refusal. If ~~his or her~~ their refusal continues for more than one year, then all ~~his or her~~ their rights in and to ~~his/her~~ their retirement may be revoked by the Board....

...

§ 45-23. Restoration of disabled beneficiary to service.

If a disabled beneficiary is restored to service, ~~his~~ their ~~service~~ retirement ~~allowance~~ benefit shall cease. Such beneficiary shall again become a member of the retirement system, and shall contribute thereafter at the then-existing rate. Anything in this article to the contrary notwithstanding, any credit for membership service and any prior service on the basis of which ~~his~~ their creditable service was computed at the time of ~~his~~ their former retirement shall be restored to full force and effect. Upon subsequent retirement, ~~he~~ they shall receive a service retirement ~~allowance~~ benefit based on ~~his~~ their service as a member since ~~his~~ their last restoration to membership, ~~plus a retirement allowance based on his service as a member since his last restoration to membership,~~ plus a service retirement ~~allowance~~ benefit equal to the service retirement ~~allowance~~ benefit on which ~~he was~~ they were retired at the time of ~~his~~ their last retirement.

§ 45-24. Accidental death benefits.

- A. Should the Board of Trustees determine that the death of a member occurred as the natural and proximate result of an accident occurring at a definite time and place while the member was engaged in the performance of ~~his~~ their ~~duty~~ ies as an employee, and was not caused by willful negligence on the part of the employee, the following survivorship benefits shall be payable:

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§ 45-25. Death benefits prior to retirement.

- A. In the event of the death of a member, including members who have terminated with a vested deferred benefit and not elected a cash refund, prior to actual retirement and at a time when accidental death benefits in accordance with § 45-24 are not payable, the spouse will be eligible to receive benefits for life. The benefit payable to the spouse will be 50% of the service retirement or early service retirement ~~allowance~~ benefit the member would have been entitled to have had the member retired on the date of death.

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§ 45-26. Payment of retirement benefits.

- A. Unless the member elects an optional form of benefit as outlined below, the service allowance to the member will be paid during ~~his~~ their lifetime....

B. Optional forms of payment shall be as outlined below:

- (1) Contingent annuitant option. Instead of the normal monthly retirement benefit provided above, a member may elect a contingent annuitant option providing for actuarially reduced monthly retirement benefits payable to ~~him~~ them during his their lifetime after retirement and for the continuance of such payments, or a part of them 66 2/3%, 50% specified by the member, to such contingent annuitant for ~~his~~ their life after the death of a retired member....
 - (a) If a member who has elected this option dies before ~~his~~ their actual retirement date, no benefits under this option shall be payable to the contingent annuitant.
 - (b) If the member dies after ~~his~~ their actual retirement date, the contingent annuitant shall receive for life, commencing on the first day of the calendar month coinciding with or next following the retired member's death, the benefits specified by the retired member for the contingent annuitant....
- (2) Ten-year certain option. Each member shall have the option, which shall be exercised by a written direction to the Board, to elect to have actuarially reduced monthly retirement benefits payable for 10 years certain and for life thereafter. Such election may be made by a member at any time prior to ~~his~~ their eligible retirement date. Upon the death of a retired member after ~~his~~ their eligible retirement date, but before 120 monthly payments have been paid to the retiree, payments shall be made to such beneficiary (for the balance of the 120 months) as ~~he~~ they shall have most recently designated in a written instrument signed by ~~him~~ them in the presence of one subscribing witness and filed with the Board either before or after ~~his~~ their retirement.... If the member dies before ~~his~~ their retirement date, no benefits shall be payable under this option.

§ 45-27. Termination of employment benefits.

- A. Nonvested termination. Any member whose employment is terminated prior to the completion of 10 years of service and who is not entitled to a disability retirement pension shall receive a refund of ~~his~~ their contributions together with regular interest thereon to date of ~~his~~ their termination of employment, and such refund shall be in lieu of all other rights and benefits of the member under this plan.
- B. Vested deferred benefits. Any member whose employment is terminated prior to the normal retirement date and after the completion of at least 10 years of service, and who is not entitled to an early retirement pension or a disability retirement pension, and who does not elect to receive a cash refund or ~~his~~ their member's contribution together with regular interest, will be entitled to receive, commencing on the normal retirement date, an annual pension equal to ~~his~~ their accrued normal pension computed in accordance with

the provisions of § 45-21 of this article based on ~~his~~their service to date of ~~his~~their termination of employment.

- C. Cash refund in lieu of deferred vested pension. A member who is entitled to a deferred vested pension in accordance with the provisions of Subsection B above may, in lieu of all other rights and benefits under this plan, elect to receive a cash refund of ~~his~~their member contributions together with regular interest thereon to the date of ~~his~~their termination of employment.

§ 45-28. Repayment of refund.

- A. A reemployed member who received a refund of ~~his~~their accumulated contributions with regular interest as provided in § 45-27 may repay to the Board at any time prior to ~~his~~their normal retirement date an amount equal to the cash refund ~~he~~they received in accordance with such section plus regular interest thereon from the date of election of refund to the date repayment is made. Upon payment of this amount, there shall be restored to the member a yearly retirement pension equal to ~~his~~their accrued benefit as determined on ~~his~~their termination of employment. This payment must be received prior to the member's reemployment date.
- B. If a reemployed member has a yearly retirement pension restored to ~~him~~them as provided above, and ~~his~~their prior service is counted for vesting purposes, then, upon the participant's subsequent termination of employment or retirement, the yearly retirement income shall be determined on the basis of all the participant's service prior to such date.

§ 45-29. Protection against fraud.

Any person who knowingly makes false statements or shall falsify, or permit to be falsified, any record or records of the retirement system in any attempt to defraud the system shall, in the discretion of the Trustees, lose all ~~his~~their rights thereunder.”

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This ordinance shall become effective at the time of passage.