



ORDINANCE

UPDATING THE ORDINANCES REGARDING THE BOARD OF PUBLIC WORKS RETIREMENT SYSTEM

CITY OF NASHUA

In the Year Two Thousand and Nineteen

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

“ARTICLE IV Board of Public Works Retirement System

§ 45-9. Definitions.

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EMPLOYEE – Any regular full-time employee of the Board of Public Works

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FULL-TIME – 40-hour work week

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§ 45-11. Appointment, term and compensation of Board of Trustees.

- A. The administration of this system is vested in a board of ~~five~~ seven Trustees, one representing the Commissioners of the Board of Public Works, ~~two~~ one representing the AFSCME employees of the ~~Department~~ Division of Public Works, one representing the UAW employees of the Division of Public Works, one representing the unaffiliated employees of the Division of Public Works, one representing the Board of Aldermen, and one to be selected from the financial and investment community of the

City, and the City Treasurer or his designee. The Trustee representing the Commissioners of the Board of Public Works shall be selected by the Board at a meeting duly called for such purpose. The employee representatives shall be members of the retirement system chosen by elections among the respective affiliations (AFSCME, UAW, Unaffiliated) of Board of Public Works employees ~~at a meeting called for that purpose by the Board of Public Works~~. The Trustee representing the Board of Aldermen shall be nominated by the president and confirmed by the Board. The Trustee selected from the financial and investment community of the City shall be nominated by the Mayor and confirmed by the Board of Aldermen.

- B. Except as otherwise provided, the Trustees shall be appointed for a term of three years and shall serve until their successors are appointed and qualified. For the first appointments of the original or any additional Trustees, the Trustees representing the employees shall be appointed for the term of one year, the Trustee representing the Board of Aldermen shall be appointed for two years, the Trustee representing the Board of Public Works shall be appointed for a term of three years, and the Trustee selected from the financial and investment community shall be appointed for a term of one year. Their successors shall be appointed for a term of three years.
- C. The Trustees shall serve in an honorary capacity and shall receive no compensation for their services except reimbursement for expenses incurred in connection with their duties.
- D. The City Treasurer is authorized to act on behalf of the Board of Trustees to execute their approved actions.

§ 45-12. Quorum and votes.

Each Trustee shall be entitled to one vote on the Board of Trustees. ~~Three~~ Four Trustees shall constitute a quorum in the transaction of any business. ~~Three~~ Four votes shall be necessary for any resolution or action by the Board of Trustees at any meeting.

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§ 45-15. ~~Clerical~~ Administrative work.

The ~~clerical~~ administrative work in connection with this article shall be executed by some person or persons designated by the ~~Commissioners of the Board~~ Director of Public Works.

§ 45-16. ~~Time~~ Timing of payments.

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

§ 45-17. Contributions to system.

A. The rates of contribution to the retirement system by employee members of the system are as follows:

- (1) The rate of contribution for all employees will be 9.15% of regular salary or wages.
- (2) In any pay period for which an employee is paid for less than 40 hours, the deduction for that pay period will be based on the normal weekly salary or wages for 40 hours and each employee will be deemed to consent to the deductions as a condition of membership.
- (3) In any pay period for which an employee has no earnings, the employee may make his or her contribution by utilizing sick time, personal time, vacation time, or earned time, whichever is appropriate, from which his or her deduction shall be taken.

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E. Accrued vacation time and earned time are considered part of an employee's annual salary and are paid through payroll at retirement. When an employee terminates employment, his or her accrued vacation time or earned time payment shall have specific deductions withdrawn in accordance with this section of the ordinance. Examples of this type of deduction include, but are not limited to, federal withholding, Medicare, and pension.

~~E.~~ F. 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 their membership.

§ 45-18. Membership.

- A. Any person who becomes ~~an~~ full-time employee of the Board of Public Works must become a member of the retirement system.
- B. The Board shall obtain, from the ~~Department~~ Division of Public Works, such information relative to name, title, compensation, date of birth and length of service of each of its employees as the Board may deem necessary.
- C. A member shall cease to be a member if:
- (1) Absent from service for more than one year, unless such absence was or is due to an injury arising out of and in the course of employment, or is due to deployment with the Armed Forces of the United States, or is otherwise due to the member's disability;

(2) They withdraw their accumulated contributions;

(3) They become a beneficiary.

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§ 45-20. Military service.

Any member who terminated their employment in order to enter directly into the armed forces of the United States or is caused to be deployed at the request of the armed forces of the United States shall be entitled to prior service credit for their service rendered prior to the termination or separation of their employment, together with the time spent in the armed forces of the United States, provided they again become an employee within one year after the termination of such armed service without intervening employment elsewhere, ~~and elect to become a member of the retirement system within one year after they again become an employee.~~ Neither the City nor member shall make contributions to the retirement system for the time spent in the armed forces.

§ 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~~ benefits by filing with his or her department manager and the City's Human Resources department a dated written statement setting forth at what date the member desires to be retired provided there is at least forty-five calendar days of notice from the date of filing. Retirement forms will be available in each department. An oral statement of intent to retire shall not constitute notice of intent to retire. Once received by the City, ~~the~~ application shall be submitted to the Board of Trustees for approval, and shall set forth the date the applicant wishes to be retired. No person shall be retired on service retirement benefit unless at the time specified for their retirement they shall either have attained 60 years of age with a minimum of 10 years' creditable service or have 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. Additionally, each applicant shall apply for retirement with the retirement system's Pension Administration firm either online or over the telephone, provided there are at least forty-five calendar days prior to the member's desired retirement date.
- C. No person shall be retired on service retirement benefit unless at the time specified for their retirement they shall either have attained 60 years of age with a minimum of 10 years' creditable service or have 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.
- D. When a request is made from a member for a service retirement benefit as described herein, no accrued time available to the member will be used to attain or calculate the required minimum amount of service time needed for a retirement benefit unless the time is two weeks (80 hours) or less. The Board of Trustees reserves the right to allow for exception to this policy only for extreme and unusual circumstances as decided by the Board of Trustees.

E. The payment of retirement benefits to any member who is eligible to receive retirement benefits under this article, and who has filed all election forms with the retirement system, shall become effective the first day of the month following his or her retirement date pending approval by the Board of Trustees. No changes to benefit elections are permitted after the commencement of the payment benefits.

~~B.~~ F. Upon service retirement, the member shall receive a service retirement benefit which shall consist of:

- (1) A sum no greater than 65% of the regular salary or wages earned by the member during the last full year of service.
- (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.~~ G. 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, and creditable service not earned, during such absence by ~~lump sum payment~~ additional payroll deductions, plus regular interest, as the Trustees may determine and allow.

~~D.~~ H. 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 benefit setting forth the date the applicant wishes to be retired. Upon such early retirement the member shall receive an early service retirement 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.

~~E.~~ I. In addition to all other benefits, retired members shall receive a \$3,000 death benefit payable to the retiree's beneficiary upon death after retirement.

§ 45-22. Disability retirement benefits.

A. Disability retirement.

- (1) Ordinary disability retirement. Any member in service who has 10 or more years of credible service may apply for ordinary disability retirement to the Board of Trustees within six months from the date of disability. The Board will act on the application ~~no sooner than 30 days,~~ no more than 90 days, after the application is

filed. The Board may retire such member after a medical examination shall establish, and the Board shall find, that they are mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that they should be retired.

(2) Accidental disability retirement.-----

~~a. Generally.~~ Any member in service may apply for accidental disability retirement to the Board of Trustees within six months from the date of disability. 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 their duties, at some definite time and place, without willful negligence or actions on their part, may be retired by the Board of Trustees on an accidental disability service retirement benefit after a medical examination shall establish, and the Board shall find, that they are mentally or physically incapacitated for the further performance of duty and that such incapacity is likely to be permanent.

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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, 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,~~ they shall receive a service retirement 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.

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§ 45-26. Payment of retirement benefits.

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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 them during their lifetime after retirement and for the continuance of such payments, or a part of them $66 \frac{2}{3}\%$, 50% specified by the member, to such contingent annuitant for their life after the death of a retired member. Such election may be made by a member at any time prior to this retirement date. A member who has elected this option may revoke or modify such option prior to actual retirement; provided, however, that the death of the contingent annuitant at any time prior to the member's retirement date shall automatically revoke such election; and further provided, that if the contingent annuitant is the spouse of the member, a divorce granted to either spouse at any time prior to the member's retirement date shall automatically revoke such election.
 - (a) If a member who has elected this option dies before their actual retirement date, no benefits under this option shall be payable to the contingent annuitant.
 - (b) If the member dies after 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.

- (c) If the contingent annuitant dies before the member's retirement date, the monthly retirement benefit normally provided under this plan shall be payable to the retired member as if the option had not been elected.
- (d) If the contingent annuitant dies after the member's retirement date, the amount of the payments which the retired member is then receiving or is entitled to receive will at the time (with no provision for retroactive payments) revert to ~~what it would have been at the member's retirement date~~ the life annuity option and will cease upon the retired member's death.

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§ 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 their contributions together with regular interest thereon to date of 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 their member's contribution together with regular interest, will be entitled to receive, commencing on the normal retirement date, an annual pension equal to their accrued normal pension computed in accordance with the provisions of § 45-21 of this article based on their service to date of 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 their member contributions together with regular interest thereon to the date of their termination of employment.
- D. Refunds of contribution as described in this section can be rolled over into an Internal Revenue Service qualified plan or refunded directly to the employee. Direct refund are subject to federal tax withholding and any applicable Internal Revenue Service penalties.
- E. If an employee elects to receive a rollover of refund of their contributions in accordance with this section, said employee must make his or her election within sixty (60) days from the date his or her employment was terminated. If no decision is made, the Board reserves the right to directly refund said employee's contributions, which will be subject to federal tax withholding and any applicable Internal Revenue Service penalties.

§ 45-28. Repayment of refund.

- A. A reemployed member who received a refund of their accumulated contributions with regular interest as provided in § 45-27 may repay to the Board ~~at any time prior to their normal retirement date~~ an amount equal to the cash refund 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 their accrued benefit as determined on their termination of employment. This payment must be received ~~prior to~~ within sixty (60) days of the member's reemployment date.
- B. If a reemployed member has a yearly retirement pension restored to them as provided above, and 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. Reemployment of retiree.

- A. A retired member who is receiving his or her pension benefit may apply for reemployment within the Division of Public Works. If a retired member is again employed by the Board of Public Works, his or her retirement benefits hereunder shall be suspended during the period of such reemployment, and shall recommence on the date he or she again retires. The retirement benefit to which he or she is entitled to when he or she again retires hereunder shall be recalculated based on his or her Creditable Service and Final Annual Salary as of the termination of his or her period of full-time reemployment. This recalculated benefit shall then be reduced by the Actuarial Equivalent of any benefit payments previously received by the member. In no event, however, may this reduction result in a benefit that is less than his or her original retirement benefit.
- B. Upon re-retirement, if the recalculated benefit is less than the original benefit, the member's contributions made during reemployment shall be returned to the member. If the recalculated benefit is higher than the original benefit, the contributions made during reemployment shall not be refunded to the member."

§ 45-2930. Protection against fraud.

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§ 45-3031. Exemption from legal process.

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

This legislation shall take effect upon passage.

PASSED BY THE BOARD OF ALDERMEN – MAY 14, 2019

APPROVED BY THE MAYOR – MAY 16, 2019
ATTEST: PATRICIA D. PIECUCH, CITY CLERK