

ORDINANCE NO. O-2009-26

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING SECTION 10.01 OF THE CITY CHARTER; IMPLEMENTING PENSION PROVISIONS CONTAINED IN THE OCTOBER 1, 2008 - SEPTEMBER 30, 2011 COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY AND AFSCME, LOCAL 2432; AMENDING SECTION 10.05 OF THE CITY CHARTER, RELATING TO COORDINATION OF BENEFITS.

WHEREAS, the City of Hollywood, Florida and Hollywood, Florida, City Employees Local 2432, American Federation of State, County and Municipal Employees (AFL-CIO) have entered into collective bargaining agreements covering General, professional and supervisory bargaining units; and

WHEREAS, these agreements contain amendments to the Employees' Retirement Fund of City of Hollywood Employees' Retirement Plan in which the members of these three bargaining units participate; and

WHEREAS, the amendments to the pension plan affect all the pension benefits of all members of the Employees' Retirement Fund of the City of Hollywood; and

WHEREAS, the Retirement Plan is codified in Article X of the City Charter; and

WHEREAS, the amendments to the Retirement Plan contained in the agreements must be incorporated into Article X of the City Charter; and

WHEREAS, Section 10.07 of the City Charter provides that Article X of the City Charter, relating to the Employees' Retirement Plan of the City of Hollywood, may be amended by a "majority plus one" vote of the City Commission and 50% plus one of the voting members of the Employees' Retirement Fund;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That Article X, subsection 10.01(1) of the City Charter is hereby amended to read as follows:

Sec. 10.01. Pensions and retirement.

(1) *Establishment and Purpose.*

(Coding: Words and figures underscored are additions to existing law; words and figures ~~struck-through~~ are deletions.)

(a) An employees' retirement fund is hereby created, which shall be known as the employees' retirement fund of the City of Hollywood; and the prior creation of such fund by ordinance is hereby approved, ratified and confirmed.

(b) It is the legislative intent and purpose of this article to provide certain retirement, disability, death and withdrawal benefits to officers and employees of the city in the amounts and under the terms and conditions herein set forth.

(c) The purpose of the fund is to provide an orderly means whereby employees of the city who become superannuated or otherwise incapacitated as the result of age or disability may be retired from active service without prejudice and without inflicting a hardship upon the employees retired, and to enable such employees to accumulate reserves for themselves and their beneficiaries to provide for old age, disability, death, and termination of employment, thus effecting economy and efficiency in the administration of city government.

(d) A new contribution and benefit structure is hereby established for employees hired on or after July 15, 2009. Such employees will be members of the Employees Retirement Fund of the City of Hollywood; however, the contributions and benefits for such employees are as set forth in subsection (27) of this section 10.01.

Section 2: That Article X, subsection 10.01(2) of the City Charter is hereby amended to read as follows:

Sec. 10.01. Pensions and retirement.

* * *

(2) *Definitions.* As used in this plan, unless a different meaning is clearly indicated by the context:

* * *

(b) Average final compensation for a member hired prior to July 15, 2009, means monthly average compensation for the highest seventy-eight (78) consecutive bi-weekly pay periods of credited service. Payments for accumulated sick and annual leave received by such a member following separation from employment and included in compensation in accordance with paragraph 2(i), below, shall be deemed to have been received in the final pay period for the purpose of this definition. Average final compensation for members hired on or after July 15, 2009 is set forth in Subsection (27) of this section 10.01.

* * *

(i) *Compensation* means a member's gross wages received from the city, including overtime and payments for accumulated annual leave and accumulated sick leave, except as provided below:

1. For members who retire or enter the DROP on or after January 3, 2001 and prior to October 1, 2002, compensation shall include payments for accumulated sick and annual leave received by such member.

2. For members hired prior to October 1, 2002 and employed by the city on that date, compensation shall include payments for accumulated annual leave, but the amount of accumulated sick leave included in such member's compensation shall not exceed the amount accumulated as of October 1, 2002 (including the maximum limitation as of October 1, 1994).

3. For members most recently hired after October 1, 2002 compensation shall include payments for accumulated annual leave, but no payment for accumulated sick leave shall be included in such member's compensation.

4. For members hired prior to July 15, 2009 who retire or enter the DROP on or after August 17, 2009, compensation shall exclude all earnings and payouts for blood time and compensatory time. In addition, the payouts for accumulated annual leave that may be counted as compensation for such members shall not exceed 125 hours for employees who retire from a position covered by the General employees' bargaining unit; and shall not exceed 60 hours per year for employees who retire from a position not covered by the General employees' bargaining unit.

5. Compensation for members hired on or after July 15, 2009 is set forth in subsection (27) of this section 10.01.

6. Employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the rules of the Internal Revenue Service Code shall be included in compensation for retirement purposes. Compensation in excess of the limitations set forth in Section 401(a)(17) of the Code, adjusted in accordance with U.S. Treasury Department regulations, shall be disregarded.

(t) *Vesting period* means the period of credited service required to obtain a nonforfeitable right to receive a future benefit under the plan. The vesting period for employees hired prior to July 15, 2009, who separate from city employment on or after July 1, 1999 is five (5) years of credited service. The vesting period for employees who separated from city employment before July 1, 1999 is ten (10) years of credited service. The vesting period for employees hired on or after July 15, 2009 is set forth in subsection (27) of this section 10.01.

Section 3: That Article X, subsection 10.01(5) of the City Charter is hereby amended to read as follows:

Sec. 10.01. Pensions and retirement.

* * *

(5) *Normal Retirement Date.*

(a) A member hired prior to July 15, 2009 who separates from city employment on or after July 1, 1999 may retire with normal retirement benefits upon attaining twenty-five (25) years of credited service regardless of age, or upon reaching age fifty-five (55) with at least five (5) years of credited service.

(b) A member who separates from city employment on or after November 7, 1990 and before July 1, 1999 may retire with normal retirement benefits upon attaining twenty-five (25) years of credited service regardless of age, or upon reaching age fifty-five (55) with at least ten (10) years of credited service.

(c) A member who separates from city employment prior to November 7, 1990 may retire with normal retirement benefits upon attaining age fifty-five (55) with at least twenty-five (25) years of credited service, or upon reaching age sixty-two (62) with at least ten (10) years of credited service.

(d) The normal retirement date for members hired on or after July 15, 2009 is specified in subsection (27) of this section 10.01.

Section 4: That Article X, subsection 10.01(6) of the City Charter is hereby amended to read as follows:

Sec. 10.01. Pensions and retirement.

* * *

(6) *Normal Retirement Benefit.*

(a) The retirement benefit payable to a member hired prior to July 15, 2009 who separates from city employment on or after October 1, 1998 shall be three percent (3%) of average final compensation multiplied by years of credited service, up to a maximum of twenty-seven (27) years of credited service and a maximum pension rate of eighty-one percent (81%). Such benefit shall be payable on the member's normal retirement date and separation from city employment.

(b) The retirement benefit payable to a member who separates from city employment on or after February 1, 1974 and before October 1, 1998 with ten (10) or more years of credited service shall be two and one-half percent (2.5%) of average final compensation multiplied by years of credited service, up to a maximum of thirty (30)

years of credited service and a maximum pension rate of seventy-five percent (75%), excluding those members who retired pursuant to the Early Retirement Incentive Plan created by Ordinance No. O-94-34. Such benefit shall be payable on the member's normal retirement date and separation from city employment.

(c) The normal retirement benefit for members hired on or after July 15, 2009, is specified in subsection (27) of this section 10.01.

Section 5: That Article X, subsection 10.01(7) of the City Charter is hereby amended to read as follows:

Sec. 10.01. Pensions and retirement.

* * *

(7) *Deferred Vested Retirement.* Any member hired prior to July 15, 2009, irrespective of age, who separates from city employment on or after July 1, 1999 after having completed at least five (5) years of credited service and does not receive a refund of contributions shall have the right to receive a service retirement benefit beginning at age fifty-five (55) based on the benefit formula in effect on the date of separation from city employment and years of credited service and average final compensation on that date. Any member, irrespective of age, who separated from city employment before July 1, 1999 after having completed at least ten (10) years of credited service and did not receive a refund of contributions shall have the right to receive a service retirement benefit beginning at age sixty-two (62), based on the benefit formula in effect on the date of separation from city employment and years of credited service and average final compensation on that date. Deferred vested retirement for members hired on or after July 15, 2009 is set forth in subsection (27) of this section 10.01.

Section 6: That Subsection 10.01(8) of the City Charter is hereby amended to read as follows:

Sec. 10.01. Pensions and retirement.

* * *

(8) *Deferred Retirement Option Plan.*

(a) A deferred retirement option plan ("DROP plan") is hereby created.

(b) An employee covered by the Charter plan and hired prior to July 15, 2009 may enter into the DROP plan on the earlier of the first day of any month following the employee's fifty-fifth birthday and tenth-year anniversary of credited service, or the first

day of any month following the completion of a total of twenty-five (25) years of credited service. An employee hired on or after July 15, 2009 shall not be eligible to participate in the DROP.

Section 7: That Article X, subsection 10.01(10) of the City Charter is hereby amended to read as follows:

Sec. 10.01. Pensions and retirement.

* * *

(10) *Benefit Adjustments.*

(a) Effective January 1, 1970, a member who retired prior to January 1, 1968, shall have his or her monthly retirement adjusted so as to result in a minimum payment of one hundred dollars (\$100.00) per month, unless he or she has elected to receive his or her benefit under any of the options enumerated hereinabove, in which case a proportionate adjustment shall be made in accordance with the actuarial tables provided by the actuary.

(b) Effective January 1, 1970, a member retiring after January 1, 1968, shall have his or her monthly retirement benefit adjusted to the greater of either two and one-half percent (2½%) of his or her highest average monthly salary for any three (3) consecutive years within his or her last ten (10) years of service, multiplied by the number of years of service, or one hundred dollars (\$100.00) per month. If, however, the member has elected to receive his or her benefit under the options enumerated hereinabove, the adjustment shall be made in accordance with the actuarial tables provided by the actuary.

(c) There shall be payable to a retiree whose retirement date occurs after October 1, 1989 and before August 17, 2009, commencing three (3) years after retirement benefits begin, a two percent (2%) cost of living adjustment (COLA) in retirement benefits annually, including benefits paid into the DROP account.

(d) There shall be payable to a retiree whose retirement date occurred before October 1, 1989, commencing, October 1, 1999, a two percent (2%) cost of living adjustment (COLA) in retirement benefits annually.

(e) For members hired prior to July 15, 2009 who retire on or after August 17, 2009 without entering the DROP, a two percent (2%) COLA shall be payable annually commencing three (3) years after retirement benefits begin. For members hired prior to July 15, 2009 who enter the DROP on or after August 17, 2009, a two percent (2%) COLA shall be payable annually, commencing the later of three (3) years after retirement benefits begin or one (1) year after separation from employment following participation in the DROP.

(f) Members hired on or after July 15, 2009 shall not be eligible for a COLA.

Section 8 That Article X, subsection 10.01(12) of the City Charter is hereby amended to read as follows:

Sec. 10.01. Pensions and retirement.

* * *

(12) *Disability Retirement.*

(a) Except as set forth in paragraph (c) below, upon total and permanent disability of a member by reason of injuries sustained while in the performance of an act of duty as an active employee of the city, resulting in the inability of the member to perform the specific duties of his or her position in the service of the city, such member shall be entitled to a disability retirement benefit equal to seventy-five percent (75%) of his or her salary from the first day of disability. Based on the available medical information, the Human Resources Director shall make the final determination regarding the ability of the member to perform the specific duties of his or her position.

(b) Except as set forth in paragraph (c) below, upon total and permanent disability of a member hired prior to July 15, 2009 having at least five (5) years of credited service, from causes other than the performance of an act of duty as an employee of the city, resulting in the inability of the member to perform the specific duties of his or her position in the service of the city, such member shall be entitled to a disability retirement benefit equal in rate to that provided for service retirement, but not less than twenty percent (20%) of average salary. Based on the available medical information, the Human Resources Director shall make the final determination regarding the ability of the member to perform the specific duties of his or her position. The eligibility of members hired on or after July 15, 2009 for non-duty disability benefits is specified in subsection (27) of this section 10.01.

* * *

Section 9: That Subsection 10.01(15) of the City Charter is hereby amended to read as follows:

Sec. 10.01. Pensions and retirement.

* * *

(15) *Financing.*

(a) The fund shall be financed in accordance with actuarial requirements by the following revenues:

1. Contributions by employees hired prior to July 15, 2009 of seven percent (7%) of compensation prior to October 1, 2009, eight percent (8%) of compensation as of October 1, 2009 and nine percent (9%) of compensation as of October 1, 2010, to be deducted from members' pay at regular payroll periods. Contributions deducted from a member's pay, including contributions deducted from a member's pay to purchase credited service in accordance with subsection (4)(f) and (4)(g), shall be designated as employer contributions pursuant to section 414(h) of the code. Such designation is contingent upon the contributions being excluded from the member's gross income for federal income tax purposes in accordance with the code and applicable regulations. For all other purposes of the plan, such contributions shall be considered to be member contributions. A member's election to purchase credited service through payroll deduction in accordance with subsection (4)(f) or (4)(g) shall be irrevocable. The employee contributions for members hired on or after July 15, 2009, is specified in subsection (27) of this section 10.01.

2. Contributions by the city in an amount which, when added to the members contributions, will be sufficient to fund the plan on a sound actuarial basis, which contributions shall be made concurrently with contributions by the members according to rates established by the board upon recommendation of the actuary;

3. Interest earned on investments; and

4. Miscellaneous income accruing to the fund.

(b) The board shall certify annually to the city commission on or before April 1 of each year the amount necessary to fund the plan on a sound actuarial basis for the following fiscal year.

(c) Forfeitures may not be applied to increase the benefits any member would otherwise receive under the plan.

Section 10: That a new subsection (27) of Article X, Section 10.01 of the City Charter is created to read:

Sec. 10.01. Pensions and retirement.

* * *

(27) Benefits and employee contributions for members hired on or after July 15, 2009.

(a) Notwithstanding any other provision of the Plan, members hired on or after July 15, 2009 shall receive the same retirement benefits as members hired prior to that date, except as follows:

(1) The normal retirement dates shall be age fifty-seven (57) or older with twenty-five (25) years of credited service; age sixty (60) or older with seven (7) years of credited service; or thirty (30) years of credited service, regardless of age.

(2) The vesting period shall be seven (7) years of credited service.

(3) Upon reaching the normal retirement date, a member is entitled to a normal retirement benefit of two and one-half percent (2.5%) of average final compensation for each year of credited service, up to a maximum benefit of eighty one percent (81%) of average final compensation.

(4) Average final compensation shall be based on the member's highest one hundred four (104) consecutive bi-weekly pay periods of credited service.

(5) Compensation shall include only the member's base pay, which includes longevity pay, but no other payments shall be included.

(6) Eligibility for non-duty disability benefits shall commence upon attaining seven (7) years of credited service.

(7) A member who separates from city employment prior to his or her normal retirement date after having completed at least seven (7) years of credited service and does not receive a refund of contributions shall have the right to receive a service retirement benefit beginning at age sixty (60) based on the benefit formula in effect on the date of separation from city employment, and years of credited service and average final compensation on that date.

(b) Notwithstanding any other provision of the plan, members hired on or after July 15, 2009 shall contribute nine (9) percent of their compensation to the plan.

Section 11: That Article X, subsection 10.05 of the City Charter is hereby amended to read as follows:

Sec. 10.05. Coordination of pension benefits.

* * *

(e) The coordination of benefits provisions in this section 10.05 shall have no application to any city employee who becomes a Police Officer or Firefighter on or after July 15, 2009.

Section 12: That it is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Charter of the City of Hollywood, Florida, and the provisions of this ordinance may be renumbered to accomplish such intention.

Section 13: That 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.

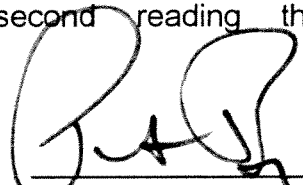
Section 14: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 15: That this ordinance shall be in full force and effect immediately upon its approval by a "majority plus one" vote of the City Commission and 50% plus one of the voting members of the Employees' Retirement Fund.

ADVERTISED on Aug 21, 2009.

PASSED on first reading this 15 day of July, 2009.

PASSED AND ADOPTED on second reading this 2 day of Sept, 2009.




PETER BOBER, MAYOR

ATTEST:



PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida only:



JEFFREY P. SHEFFEL
CITY ATTORNEY

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