

INTRODUCED: May 14, 2018

AN ORDINANCE No. 2018-141

To amend City Code §§ 22-2 and 22-142, concerning eligibility for membership in the Richmond Retirement System’s defined contribution plan, to make members of the City Council eligible to participate in the defined contribution plan.

\_\_\_\_\_  
Patrons – All Members of Council

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: MAY 14 2018 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 22-2 and 22-142 of the Code of the City of Richmond (2015) be and are hereby **amended** and reordained as follows:

**Sec. 22-2. Definitions.**

As used in this chapter, the following words shall have the meanings respectively ascribed to them by this section, unless a different meaning is plainly required by the text:

*Abolished system* means the ordinance approved August 10, 1944, establishing the Richmond Retirement System and all ordinances amendatory thereof, repealed by Ordinance No. 52-189-175.

AYES:            9            NOES:            0            ABSTAIN:            \_\_\_\_\_

ADOPTED:    MAY 14 2018    REJECTED:            \_\_\_\_\_    STRICKEN:            \_\_\_\_\_

*Actuarial equivalent* shall generally be computed based on eight percent interest and the (UP84) unisex mortality table except where different factors are specifically set forth in this chapter, or are adopted by the Board and set forth in the administrative procedures manual maintained by the Board.

*Appointing authority* means the agency or department within the participating employer having the power to hire the services of a member.

*Average final compensation* means the average annual creditable compensation of a member during the member's 36 consecutive months of creditable service in which such compensation was at its greatest amount or during the entire period of the member's creditable service if less than 36 months.

*Beneficiary* means any person, other than a member, entitled to receive benefits under this chapter.

*Board* means the Board of Trustees provided for by Section 5B.01 of the Charter and Article II of this chapter.

*City* means the City of Richmond, Virginia.

*City Council* means the Council of the City of Richmond.

*Covered compensation* means the average of the Social Security taxable wage bases in effect for each calendar year during the 35-year period ending with the calendar year in which Social Security retirement age is attained.

*Creditable compensation* means the base compensation payable to an eligible employee working the full working time for such employee's position, plus shift differentials, bonuses, severance pay, and educational incentive pay, but excluding overtime pay, imputed income under Section 79 of the Internal Revenue Code, and lump sum payment for unused sick or vacation leave.

Creditable compensation shall include compensation subject to a salary reduction or deferred compensation agreement between an employee and the participating employer pursuant to Section 125, 132(f)(4) (for plan years and limitation years beginning on or after January 1, 2001), 402(g)(3) or 457(b) (both elective and non-elective) of the Internal Revenue Code (and elective deferrals or contributions under any other sections of the Internal Revenue Code covered by Section 415(c)(3)(D) of the Internal Revenue Code), which compensation is not actually or constructively received by the employee.

*Creditable service* means service as described in Article VI of this chapter.

*Disability retirement* means a retirement described in Article VIII of this chapter that is based on a member's disability and not upon a member's age and service.

*Early service retirement* means a retirement prior to normal retirement age that is based on age or service, or both, and not on a disability or death.

*Eligible employee.*

(1) The term "eligible employee" means any employee of a participating employer who is regularly employed on a full-time basis, except elected officials other than members of the City Council and members of the judicial retirement system. Persons employed on a temporary, part-time, seasonable or provisional basis shall not by reason thereof be entitled to creditable service for such period of employment except as otherwise provided herein. In case of doubt, the Board shall decide who is an eligible employee.

(2) For purposes hereof, the term "full-time basis" generally means for periods after September 1, 1991, normally scheduled to work at least 40 hours per week, provided exceptions will be based upon the provisions of the Code in effect at the time the service was rendered.

(3) An employee of a participating employer who elects to participate in the Deferred Retirement Option Program (DROP) established pursuant to Section 22-204 shall cease to be an eligible employee upon the effective date of his participation in the DROP.

(4) An employee of a participating employer who elects to participate in the defined contribution plan established pursuant to Section 22-142 shall not become, or shall cease to be, an eligible employee for purposes of the service retirement benefits provided under this chapter and any death benefits described in Section 22-299 upon the effective date of his participation in such defined contribution plan. Notwithstanding, such an employee shall be entitled to retain the right to apply for any disability benefits provided under this chapter as though the defined contribution plan had not been elected, subject to the applicable offset.

(5) Notwithstanding the foregoing, employees, other than sworn police officers or firefighters or persons employed in the senior executive group as identified in Section 22-317(k), who are hired or rehired on or after July 1, 2006, shall not become or again become eligible employees for purposes of the service or early service retirement benefits provided under this chapter and any death benefit described in Section 22-299; provided, however, if an employee would be an eligible employee but for his date of hire or rehire, he or she shall be entitled to apply for any disability benefits provided under this chapter as though he or she were an eligible employee in the system, subject to the applicable offset. Such employees shall only be eligible to participate in the defined contribution plan established pursuant to Section 22-142 upon meeting the eligibility criteria for such plan. A sworn police officer or firefighter or person employed in the senior executive group as

identified in Section 22-317(k) hired or rehired on or after July 1, 2006, may elect to participate in the defined contribution plan in lieu of becoming a member of the system.

*Employee* means any person employed in any capacity by a participating employer.

*General member* means any member who is not classified as a sworn police officer or firefighter.

*Internal Revenue Code* means the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated thereunder.

*Member* means any eligible employee or former eligible employee who is currently or shall in the future be recognized as having membership in the system.

*Medical examiner* means the medical examiner or examiners, as provided by Section 22-234.

*Normal retirement date* means the first day of the month next following:

- (1) For a general member, the 65th birthday of the member; and
- (2) For a public safety member, the 60th birthday of the member.

*Participating employer* means the City and any employer who with the consent of the City Council upon recommendation by the Board shall adopt the system, provided that the employer is a governmental employer as defined in Section 414(d) of the Internal Revenue Code. The current participating employers are the City and the Richmond Behavioral Health Authority. The Board shall keep a record of the dates participation began. Employers that no longer participate in the system shall continue to be participating employers for purposes of the contribution requirement related to grandfathered members who are employed by such employers.

*Public safety member* means any member who is classified as a sworn police officer or firefighter.

*Retirement allowance* means the retirement payments to which a member is entitled, as provided in this chapter. The retirement allowance payable for the month in which the recipient dies shall be prorated through the date of death and paid to the recipient.

*Service* means service as an employee for which compensation is paid by a participating employer. Service as an employee shall not be recognized in more than one retirement system simultaneously for the same position.

*Service retirement* means a retirement that occurs at or after the member's normal retirement date.

*Social Security retirement age* means the age used for the participant's retirement age under Section 216(l) of the Social Security Act.

*System* means the Richmond Retirement System, as initially adopted November 18, 1952, by Ordinance No. 52-189-175 and subsequently amended and restated. In addition, effective July 1, 2006, the system includes all the provisions of this chapter other than Section 22-142.

*Vested* means that the member has five or more years of creditable service at some time on or after December 20, 1973, or had 15 years or more of creditable service prior to December 20, 1973, and have not withdrawn contributions at the time of termination.

**Sec. 22-142. Participation in defined contribution plan.**

(a) *Generally.* The Board shall maintain a defined contribution plan approved by the Internal Revenue Service as a qualified plan within the meaning of Section 401(a) of the Internal Revenue Code of 1986, as amended. The plan document for the defined contribution plan shall govern the operations of the plan. Such plan shall be maintained for the benefit of:

(1) Any eligible employee, as defined in Section 22-2, who had less than 20 years of creditable service in the system as of October 1, 2003, and who made an election effective January 1, 2004, to participate in such defined contribution plan;

(2) Any eligible employee, as defined in Section 22-2, who made an election effective September 1, 2006, to participate in such defined contribution plan;

(3) Any eligible employee hired on or after January 1, 2004 (including a sworn police officer or firefighter or person employed in the senior executive group as identified in Section 22-317(k) hired or rehired on or after July 1, 2006), who made an election effective with his or her date of hire to participate in such defined contribution plan; and

(4) Any employee of a participating employer who is regularly employed on a full-time basis and who is hired or rehired on or after July 1, 2006, [~~other than~~] except an elected official (other than a member of the City Council in office on or after July 1, 2018), member of the judicial retirement system, sworn police officer or firefighter (for whom the plan is optional) or person employed in the senior executive group (for whom the plan is optional) as identified in Section 22-317(k).

(b) *Coordination with system.*

(1) Any member who elects to participate in the defined contribution plan or who otherwise becomes a member of such plan will waive any rights to accrue benefits or additional benefits in the system, with the exception of disability benefits.

(2) If a member who is participating in the defined contribution plan should become eligible for disability retirement benefits, the benefits shall be offset by the actuarial equivalent of his account in the defined contribution plan determined as of the date of disability. Such member's years of participation in the defined contribution plan

will be added to any of the member's years of service prior to participation in the defined contribution plan for the purpose of calculating the disability retirement allowance in accordance with Section 22-241.

(3) In the case of a member who makes an election to participate in the defined contribution plan effective as of a date other than his or her date of hire, the member will be entitled to a benefit in the system determined as of the effective date of such election to the extent they are vested. Such member's service while a participant in the defined contribution plan shall continue to count toward determining vesting under the system if the member was not vested as of the effective date of the election. If the member is or becomes vested in the benefit under the system, the member will be eligible for deferred retirement upon the later of his termination of employment or reaching retirement eligibility (age 50 for public safety members and age 55 for general members). The amount of the deferred retirement allowance shall be computed in accordance with the provisions of the City Code in effect at the time the member elected to participate in the defined contribution plan and shall be based on creditable service accrued up to the effective date of the election.

(4) In the case of a member who becomes a member of the defined contribution plan effective upon rehire, if the member was not vested in his retirement allowance upon his termination of employment, he shall not accrue additional creditable service toward vesting in the benefit attributable to his prior employment upon his rehire. If vested, the member shall continue to be entitled to any vested retirement allowance computed in accordance with the provisions of this Code in effect at his termination of employment when last treated as an eligible employee under the system and will be eligible for deferred



retirement upon the later of his termination of employment or reaching retirement eligibility (age 50 for public safety members and age 55 for general members).

(c) *Provisions of the plan.* The actual provisions of the defined contribution plan shall be contained in the plan document as adopted by the Board. However, the basic provisions of the plan shall be as follows:

(1) *Eligibility.* Each of the following employees shall be eligible for participation in the defined contribution plan:

a. Any eligible employee, as defined in Section 22-2, who had less than 20 years of creditable service in the system as of October 1, 2003, and who made an election within 90 days of the establishment of the plan, effective January 1, 2004, to participate in such defined contribution plan;

b. Any regular full-time employee hired or rehired on or after January 1, 2004, but before July 1, 2006, and any sworn police officer or firefighter or person employed in the senior executive group as identified in Section 22-317(k) hired or rehired on or after July 1, 2006, who makes an election within 90 days of such employee's date of employment to participate in such defined contribution plan;

c. Any employee of a participating employer who is regularly employed on a full-time basis and who is hired or rehired on or after July 1, 2006, ~~[other than]~~ except an elected official (other than a member of the City Council in office on or after July 1, 2018), member of the judicial retirement system, sworn police officer or firefighter (for whom the plan is optional) or person employed in

the senior executive group (for whom the plan is optional) as identified in Section 22-317(k); and

d. Any eligible employee, as defined in Section 22-2, who did not previously elect to participate in the defined contribution plan but who subsequently elects to do so effective September 1, 2006, during the period July 1, 2006 through August 31, 2006.

(2) *Vesting.* Any member who elects to participate in the plan must have five or more years of creditable service to obtain vested rights in the plan. Creditable service for this purpose includes all service with the participating employer as more specifically defined in the plan document and shall include service while a member of the system.

(3) *Contributions.* The City shall make contributions to the plan on behalf of the member based on the member's years of creditable service and a percentage of the member's creditable compensation as follows:

- a. Less than five years: Five percent;
- b. Five through nine years: Six percent;
- c. Ten through 14 years: Eight percent; and
- d. 15 years or more: Ten percent.

Vested members terminating employment prior to retirement eligibility will be entitled to their account balance. Contributions of nonvested members who terminate employment will be forfeited as described in the plan document. Creditable service for this purpose includes all service with the participating employer as more specifically defined in the plan document and shall include service while a member of the system.

§ 2. This ordinance shall be in force and effect on July 1, 2018.