CITY OF ST. PETE BEACH, FLORIDA
Ordinance No. 2013-23

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA, AMENDING CHAPTER 66, PENSIONS AND RETIREMENT, ARTICLE II GENERAL EMPLOYEES' RETIREMENT SYSTEM, DIVISION 1, GENERALLY AND DIVISION 3, BENEFITS, OF THE CODE OF ORDINANCES OF THE CITY OF ST. PETE BEACH; AMENDING SECTION 66-26 DEFINITIONS, BY AMENDING THE DEFINITIONS OF "ACTUARIAL EQUIVALENT" AND "CREDITED SERVICE"; DIVISION 3, BENEFITS, SECTION 66-108 MAXIMUM PENSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH, TO THE EXTENT OF SUCH CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA:

SECTION 1. That Chapter 66, Article II General Employees' Retirement System, Division 1 Generally, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-26 Definitions, by amending the definitions of *Actuarial Equivalent* and *Credited Service*, to read as follows:

* * *

Actuarial equivalent means a benefit or amount of equal value, based upon the RP 2000 Combined Healthy ~~(no projection)~~ Mortality Table and an interest rate of ~~eight~~ seven and three quarters percent per annum. This definition may only be amended by the city pursuant to the recommendation of the board using the assumptions adopted by the board with the advice of the plan's actuary, such that actuarial assumptions are not subject to city discretion.

* * *

Credited service means the total number of years and fractional parts of years of service as a general employee and member contributions to the plan from the date when contributions were first required, omitting intervening years or completed months when such member was not employed by the city as a general employee. A member may voluntarily leave his accumulated contributions in the fund for a period of five years after leaving the employ of the city pending the possibility of being reemployed as a general employee, without losing credit for the time that he was a member of the system. If a non-vested member is not reemployed as a general employee with the City of St. Pete Beach within five years, his accumulated contributions, if $1,000.00 or less, will be returned. If a member who is not vested is not reemployed within five years, his accumulated contributions, if more than $1,000.00, will be returned only upon the written request of the member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the board. If a vested member does not remain employed for a period of three years after reemployment within five years, his accumulated contributions will be returned only upon his written request. However, the credited service shall not be deemed to be interrupted by and a member shall receive credited service for periods during which the member is on an authorized leave of absence for a period not to exceed one year, but only if the member deposits into the fund, within 90 days after his return, the same sum that he would have contributed if he had been a general employee during his absence, plus an amount of interest equal to the actuarial valuation interest rate assumption in effect on the date

of redeposit, plus payment of costs for all professional services rendered to the board in connection with the purchase of the periods of credited service for authorized leave time.

Beginning January 1, 2009, to the extent required by section 414(u)(12) of the code, an individual receiving differential wage payments (as defined under section 3401(h)(2) of the code) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

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SECTION 2. . That Chapter 66, Article II General Employees' Retirement System, Division 3 Benefits, of the Code of Ordinances of the City of St. Pete Beach, is hereby amended by amending Section 66-108 Maximum Pension, to read as follows:

Sec. 66-108. Maximum pension.

(a) *Basic limitation.* Notwithstanding any other provisions of this system to the contrary, the member contributions paid to, and retirement benefits paid from, the system shall be limited to such extent as may be necessary to conform to the requirements of Code Section 415 for a qualified retirement plan. Before January 1, 1995, a plan member may not receive an annual benefit that exceeds the limits specified in Code Section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a plan member may not receive an annual benefit that exceeds the dollar amount specified in Code Section 415(b)(1)(A) ($160,000), subject to the applicable adjustments in Code Section 415(b) and subject to any additional limits that may be specified in this System. For purposes of this section, "limitation year" shall be the calendar year.

For purposes of Code Section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to Code Section 415(n) and to rollover contributions (as defined in Code Section 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(b) *Adjustments to Basic Limitation for Form of Benefit.* ~~If the form of benefit without regard to any benefit increase feature is not a straight life annuity, then the Code Section 415(b) limit applicable at the annuity starting date is reduced to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)) that takes into account the death benefits under the form of benefit.~~ If the benefit under the plan is other than the annual benefit described in subsection (a), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations. If the form of the benefit without regard to any automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Code Section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)) that takes into account the additional benefits under the form of benefit as follows:

(1) For a benefit paid in a form to which section 417(e)(3) of the code does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:

a. The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member, or

b. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the code); or

(2) For a benefit paid in a form to which section 417(e)(3) of the code applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:

a. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

b. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the code); or

c. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the code), divided by 1.05.

(3) The actuary may adjust the 415(b) limit at the annuity starting date in accordance with subsections (1) and (2) above.

(c) *Benefits Not Taken into Account.* For purposes of this Section, the following benefits shall not be taken into account in applying these limits:

(1) Any ancillary benefit which is not directly related to retirement income benefits;

(2) Any other benefit not required under §415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of Code Section 415(b)(1); and

(3) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity.

(d) *COLA Effect.* Effective on and after January 1, 2003, for purposes of applying the limits under Code Section 415(b) (the "Limit"), the following will apply:

(1) A member's applicable limit will be applied to the member's annual benefit in the member's first ~~calendar~~ limitation year of benefit payments without regard to any automatic cost of living adjustments;

(2) thereafter, in any subsequent ~~calendar~~ limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable benefit limit including any adjustment to the Code Section 415(b)(1)(A) dollar limit under Code Section 415(d), and the regulations thereunder; but

(3) in no event shall a member's benefit payable under the system in any ~~calendar~~ limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Code Section 415(d) and the regulations thereunder.

Unless otherwise specified in the system, for purposes of applying the limits under Code Section 415(b), a Member's applicable limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Code and applicable Treasury Regulations.

(e) *Other Adjustments in Limitations.*

(1) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of Code Section 415(b) of the Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar ($160,000) annual benefit beginning at age sixty-two (62).

(2) In the event the member's benefit is based on at least fifteen (15) years of credited service as a full-time employee of the fire or police department of the City, the adjustments provided for in (e)(1) above shall not apply.

(3) The reductions provided for in (e)(1) above shall not be applicable to disability benefits pursuant to Sec. 66-103, or pre-retirement death benefits paid pursuant to Sec. 66-102.

(4) In the event the member's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the limit set forth in subsection (a) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age sixty-five (65). This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

(f) *Less than Ten (10) Years of Participation or Service*. The maximum retirement benefits payable under this section to any member who has completed less than ten (10) years of credited service with the City shall be the amount determined under subsection (a) of this section multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits paid pursuant to Sec. 66-103 or pre-retirement death benefits paid pursuant to Sec. 66-102.

(g) *Participation in Other Defined Benefit Plans*. The limit of this section with respect to any member who at any time has been a member in any other defined benefit plan as defined in Code Section 414(j) maintained by the City shall apply as if the total benefits payable under all City defined benefit plans in which the member has been a member were payable from one plan.

(h) *Ten Thousand Dollar ($10,000) Limit; Less Than Ten Years of Service*. Notwithstanding ~~the foregoing~~ anything in this section 66-108, the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this subsection (h) of section 66-108 if the benefits payable, with respect to such member under this system and under all other qualified defined benefit pension plans to which the City contributes, do not exceed ten thousand dollars ($10,000) for the applicable ~~plan~~ limitation year and for any prior ~~plan~~ limitation year and the City has not any time maintained a qualified defined contribution plan in which the member participated; provided, however, that if the member has completed less than ten (10) years of credited service with the City, the limit under this subsection (h) of section 66-108 shall be a reduced limit equal to ten thousand dollars ($10,000) multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten (10).

(i) *Reduction of Benefits*. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such member.

(j) *Service Credit Purchase Limits*.

(1) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the system, as allowed in 66-114 and 66-115, then the requirements of this section will be treated as met only if:

a. the requirements of Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Code Section 415(b), or

b. the requirements of Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).

~~e.~~ For purposes of applying subparagraph (j)(1)a., the System will not fail to meet the reduced limit under Code Section 415(b)(2)(C) solely by reason of this subparagraph ~~e.~~, and for purposes of applying subparagraph (j)(1)b. the System will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Code solely by reason of this subparagraph ~~e~~.

(2) For purposes of this subsection the term "permissive service credit" means service credit—

a. recognized by the system for purposes of calculating a member's benefit under the plan,

b. which such member has not received under the plan, and

c. which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may, if otherwise provided by the system, include service credit for periods for which there is no performance of service, and, notwithstanding clause (j)(2)b., may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.

(k) *Contribution Limits.*

(~~3~~ 1) For purposes of applying the Code Section 415(c) limits ~~in this subsection (j).~~ which are incorporated by reference and for purposes of this subsection (k), only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a ~~calendar~~ limitation year, except as noted below and as permitted by Treasury Regulations Section 1.415(c)-2, or successor regulations. Unless another definition of compensation that is permitted by Treasury Regulations Section 1.415(c)-2, or successor regulation, is specified by the system, compensation will be defined as wages within the meaning of Code Section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2).

a. However, for ~~calendar~~ limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Code Sections 125(a),

402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For ~~calendar~~ limitation years beginning after December 31, 2000, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of Code Section 132(f)(4).

b. For limitation years beginning on and after January 1, 2007, compensation for the ~~calendar~~ limitation year will also include compensation paid by the later of 2½ months after an employee's severance from employment or the end of the ~~calendar~~ limitation year that includes the date of the employee's severance from employment if:

1. the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or

2. the payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.

c. Back pay, within the meaning of Treasury Regulations Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(4 2) Notwithstanding any other provision of law to the contrary, the board may modify a request by a member to make a contribution to the system if the amount of the contribution would exceed the limits provided in Code Section 415 by using the following methods:

a. If the law requires a lump sum payment for the purchase of service credit, the board may establish a periodic payment deduction plan for the member to avoid a contribution in excess of the limits under Code Sections 415(c) or 415(n).

b. If payment pursuant to subparagraph ~~(j)(4)a.~~ (k)(2)a. will not avoid a contribution in excess of the limits imposed by Code Section 415(c), the board may either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution.

(3) If the annual additions for any member for a limitation year exceed the limitation under section 415(c) of the code, the excess annual addition will be corrected as permitted under the Employee Plans Compliance Resolution System (or similar IRS correction program).

(4) For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of this subsection (k) shall not exceed the annual limit under section 401(a)(17) of the code.

(~~k~~ l) *Additional Limitation on Pension Benefits.* Notwithstanding anything herein to the contrary:

(1) The normal retirement benefit or pension payable to a retiree who becomes a member of the system and who has not previously participated in such system, on or after January 1, 1980, shall not exceed one hundred percent (100%) of his average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.

(2) No member of the system shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.

SECTION 3: Codification.

This Ordinance shall be codified in the Code of Ordinances of the City of St. Pete Beach.

SECTION 4: Severability.

If any portion, part or section of this ordinance is declared invalid, the valid remainder hereof shall remain in full force and effect.

SECTION 5: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6: Effective Date.

This ordinance shall become effective immediately upon final passage as provided by law.

Steve McFarlin, Mayor

FIRST READING : 9/18/2013

PUBLISHED : 9/25/2013

SECOND READING : 10/8/2013

PUBLIC HEARING : 10/8/2013

I, Rebecca Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this 8th day of October, 2013.

Rebecca Haynes, City Clerk

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