

ORDINANCE NO. 19-2020

AN ORDINANCE OF THE CITY OF COCOA, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE VI, GENERAL EMPLOYEES' RETIREMENT PLAN, OF THE CITY OF COCOA CODE OF ORDINANCES; AMENDING SECTION 2-107, BOARD OF TRUSTEES; AMENDING SECTION 2-110, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 2-111, PRE-RETIREMENT DEATH; AMENDING SECTION 2-120, MISCELLANEOUS PROVISIONS; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA;

SECTION 1: That Chapter 2, Administration, Article VI, General Employees' Retirement Plan of the Code of Ordinances of the City of Cocoa is hereby amended by amending Section 2-107, subsection (a), to read as follows (Underlined type are additions and ~~strikeout~~ type are deletions to the City Code):

- (a) The sole and exclusive administration of and responsibility for the proper operation of the system and for making effective the provisions of this article are hereby vested in a board of trustees. The board is hereby designated as the plan administrator. The board shall consist of five (5) trustees, three (3) of whom shall be appointed by the city council, ~~and one (1) of whom shall be a full-time general employee who is a member of the system,~~ and two (2) of whom shall be chosen by a majority of the other three (3) trustees. ~~shall be elected by a majority of the general employees who are members of the system. The fifth trustee shall be chosen by a majority of the previous four (4) trustees and shall have the same rights as each of the other four (4) trustees appointed or elected as herein provided.~~ The city council may appoint the city manager to serve as one of the three (3) city appointees, and such appointment shall constitute ex officio duties of the city manager. The city manager may designate another city employee to serve as trustee in place of the city manager. At least one (1) of the three (3) city council appointees shall be a retiree of the system. Each trustee shall serve as a trustee for a period of three (3) years, unless he/she sooner vacates the office or unless a member trustee's employment with the city is terminated, whereupon a successor shall be chosen in the same manner as the departing trustee to serve the remainder of the term. Each trustee may succeed himself/herself in office. Drop participants can be elected as and vote for elected trustees. The board shall establish and administer the nominating and election procedures for each election. The board shall meet at least quarterly each year. The board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature and description.

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SECTION 2: That Chapter 2, Administration, Article VI, General Employees' Retirement Plan of the Code of Ordinances of the City of Cocoa is hereby amended by amending Section 2-110, subsection (g), *Required distribution date*, to read as follows:

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- (g) *Required distribution date.* The member's benefit under this section must begin to be distributed to the member no later than April 1 of the calendar year following the later of the calendar year in which the member attains age seventy and one-half (70½), for members who attain age seventy and one-half (70½) before January 1, 2020, and age seventy-two (72) for members who attain age seventy and one-half (70½) on or after January 1, 2020; or the calendar year in which the member terminates employment with the city.

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SECTION 3: That Chapter 2, Administration, Article VI, General Employees' Retirement Plan of the Code of Ordinances of the City of Cocoa is hereby amended by amending Section 2-111, Preretirement death, subsection (b), *Deceased members vested or eligible for retirement with spouse as beneficiary*, to read as follows:

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- (b) *Deceased members vested or eligible for retirement with spouse as beneficiary.* This subsection (b) applies only when the member's spouse is the sole designated beneficiary. The spouse beneficiary of any member who dies while actively employed and who, at the date of his death was vested or eligible for early or normal retirement, shall be entitled to a benefit as follows:
- (1) If the member was vested, but not eligible for normal or early retirement, the spouse beneficiary shall receive a benefit payable for ten (10) years, beginning on the date that the deceased member would have been eligible for early or normal retirement, at the option of the spouse beneficiary. The benefit shall be calculated as for normal retirement based on the deceased member's credited service and average final compensation as of the date of his death and reduced as for early retirement, if applicable. The spouse beneficiary may also elect to receive an immediate benefit, payable for ten (10) years, which is actuarially reduced to reflect the commencement of benefits prior to the early retirement date.
 - (2) If the deceased member was eligible for normal or early retirement, the spouse beneficiary shall receive a benefit payable for ten (10) years, beginning on the first day of the month following the member's death or at the deceased member's otherwise early or normal retirement date, at the option of the spouse beneficiary. The benefit shall be calculated as for normal retirement based on the deceased member's credited service and average final compensation as of the date of his death and reduced as for early retirement, if applicable.

- (3) A spouse beneficiary may not elect an optional form of benefit; however, the board may elect to make a lump sum payment pursuant to section 2-114, subsection (g).
- (4) A spouse beneficiary may, in lieu of any benefit provided for in subsection (b)(1) above elect to receive a refund of the deceased member's accumulated contributions.
- (5) Notwithstanding anything contained in this section to the contrary, in any event, distributions to the spouse beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by a date selected pursuant to the above provisions in this section that must be on or before December 31 of the calendar year in which the member would have attained age seventy and one-half (70 ½) for members who attain age seventy and one-half (70½) before January 1, 2020, and age seventy-two (72) for members who would have attained age seventy and one-half (70½) on or after January 1, 2020;.

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SECTION 4: That Chapter 2, Administration, Article VI, General Employees' Retirement Plan of the Code of Ordinances of the City of Cocoa is hereby amended by amending Section 2-120, Miscellaneous provisions, subsection (c), *Qualification of system*, to read as follows:

- (a) *Interest of members in system.* All assets of the fund are held in trust, and at no time prior to the satisfaction of all liabilities under the system with respect to retirees and members and their spouses or beneficiaries, shall any part of the corpus or income of the fund be used for or diverted to any purpose other than for their exclusive benefit.
- (b) *No reduction in accrued benefits.* No amendment or ordinance shall be adopted by the city council of the City of Cocoa which shall have the effect of reducing the then vested accrued benefits of members or a member's beneficiaries.
- (c) *Qualification of system.* It is intended that the system will constitute a qualified public pension plan under the applicable provisions of the code for a qualified plan under code Section 401(a) and a governmental plan under code Section 414(d), as well as the corresponding Treasury Regulations applicable to a governmental defined benefit retirement plan, as now in effect or hereafter amended. Any modification or amendment of the system may be made retroactively, if necessary or appropriate, to qualify or maintain the system as a plan meeting the requirements of the applicable provisions of the code as now in effect or hereafter amended, or any other applicable provisions of the U.S. federal tax laws, as now in effect or hereafter amended or adopted, and the regulations issued thereunder.

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SECTION 5: Incorporation Into Code. This ordinance shall be incorporated into the Cocoa City Code and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 6: Severability. If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 7: Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances or resolutions adopted by the City Council, or parts of ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

SECTION 8: Effective Date. This ordinance shall become effective upon adoption.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, IN
A REGULAR MEETING ASSEMBLED ON THE ____ DAY OF _____, 2020.**

Mayor

ATTEST:

Carie Shealy, City Clerk

1ST READING: October 27, 2020

2ND READING AND ADOPTION: _____