



Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: November 19, 2012

FROM: CITY ATTORNEY

SUBJECT: AN ORDINANCE AMENDING TITLE 2, ARTICLE VI OF THE MUNICIPAL CODE TO ADD TECHNICAL PROVISIONS TO THE RETIREMENT SYSTEM TO COMPLY WITH IRS REQUIREMENTS

TITLE OF PROPOSED ORDINANCE

AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 2, ARTICLE VI, CHAPTER 2.250 (THE RETIREMENT SYSTEM) TO COMPLY WITH THE INTERNAL REVENUE CODE

PURPOSE OF ORDINANCE

This ordinance adds certain technical provisions to the Retirement System to comply with the United States Internal Revenue Code.

REASON WHY LEGISLATION IS NEEDED

The Retirement System ("System") applied for and received a Favorable Determination Letter and Compliance Statement from the United States Internal Revenue Service ("IRS"). The Favorable Determination Letter indicates that, in the opinion of the IRS, the System's rules, as set forth in the Pasadena City Charter and the Pasadena Municipal Code, conform to the tax qualification requirements of Section 401(a) of the Internal Revenue Code. The Compliance Statement was issued as a result of the System's submission under the IRS's Voluntary Compliance Program to correct identified past document failures. As a condition of the Favorable Determination Letter and Compliance Statement, the IRS is requiring that certain provisions be added to the rules governing the System, which must be done by ordinance. The City Council directed preparation of this ordinance at its meeting on October 29, 2012.

MEETING OF 11/19/2012

AGENDA ITEM NO. 13

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED

The Retirement Board is responsible for the administration of the System. The changes implemented by the proposed ordinance should not have any impact on the operation of the System.


FISCAL IMPACT

This amendment to the Retirement System will not have a fiscal impact.

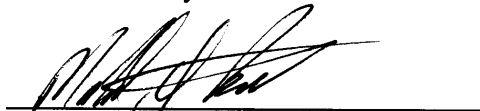
Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


Lesley Cheung
Deputy City Attorney

Concurred by:


Michael J. Beck
City Manager

Introduced by: _____

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 2,
ARTICLE VI, CHAPTER 2.250 (THE RETIREMENT SYSTEM) TO COMPLY
WITH THE INTERNAL REVENUE CODE**

The People of the City of Pasadena ordain as follows:

SECTION 1. Pasadena Municipal Code, Title 2, Article VI, Chapter 2.250, Section 2.250.020 is amended by adding a new Subsection 7 and the existing Subsection 7 and the subsequent subsections are renumbered accordingly. The new Subsection 7 will read as follows:

7. "Limitation Year" means, for purposes of Section 415 of the Internal Revenue Code of 1986, as amended ("Code"), each twelve-month period ending on every June 30.

SECTION 2. Pasadena Municipal Code, Title 2, Article VI, Chapter 2.250, Section 2.250.070, is amended by adding new Subsections D and E to read as follows:

D. For any member who died on or after January 1, 2007 while performing qualified military service, the member's period of qualified military service shall be credited as service for purposes of the retirement system.

E. For any member who died on or after January 1, 2007 resulting from military service, if the deceased member left employment for qualified military service and died while serving in qualified military service, then for purposes of the death benefit provided by the retirement system the deceased member shall be treated as having returned to employment and then terminated employment on account of death.

SECTION 3. Pasadena Municipal Code, Title 2, Article VI, Chapter 2.250, Section 2.250.100, is amended by adding a new Subsection G to read as follows:

G. It shall be impossible at any time prior to the satisfaction of the retirement system's liabilities, for any part of the retirement system's funds to be diverted for any purpose other than for the exclusive purpose of providing benefits to members and their beneficiaries, including payment of the reasonable administrative expenses of the retirement system.

SECTION 4. Pasadena Municipal Code, Title 2, Article VI, Chapter 2.250, Section 2.250.150 is amended by adding a new paragraph at the end thereof, to read as follows:

The amount and level of any optional settlement for a member with an effective retirement date on or after January 1, 1991, shall be actuarially equivalent to the normal retirement benefit payable under the plan, calculated using a 7.00% interest rate and the 1971 Group Annuity and 1973 Disability mortality tables.

SECTION 5. Pasadena Municipal Code, Title 2, Article VI, Chapter 2.250, is amended by adding a new Section 2.250.210 to read as follows:

2.250.210 - Compensation Limitation. The amount of compensation taken into account for purposes of determining a member's retirement allowance shall not exceed the limit referenced in Code Section 401(a)(17), as amended annually for cost-of-living increases. Annual compensation for this purpose means compensation during the retirement system's plan year or such other consecutive 12-month period over which compensation is otherwise determined under the retirement system (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

SECTION 6. Pasadena Municipal Code, Title 2, Article VI, Chapter 2.250, is amended by adding a new Section 2.250.220 to read as follows:

2.250.220 - Termination. Notwithstanding any other provision of this Plan to the contrary, on the date of termination of the Plan, an affected member's right to his or her accrued benefit, to the extent funded as of such date, shall be 100% nonforfeitable.

SECTION 7. Pasadena Municipal Code, Title 2, Article VI, Chapter 2.250, is amended by adding a new Section 2.250.230 to read as follows:

2.250.230-Minimum Required Distribution. All benefits payable under the retirement system shall comply with the limits of Code Section 401(a)(9) and the regulations prescribed thereunder.

SECTION 8. Pasadena Municipal Code, Title 2, Article VI, Chapter 2.250, is amended by adding a new Section 2.250.240 to read as follows:

2.250.240-Direct Rollover Requirements. A Distributee may elect, at the time and in the manner prescribed by the administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

A. **Eligible Rollover Distribution:** An Eligible Rollover Distribution as defined in Code Section 402(c)(4) is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); any hardship distribution described in Code Section 401(k)(2)(B)(i)(IV) received after December 31, 1998 and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

B. **Eligible Retirement Plan:** An Eligible Retirement Plan is a qualified trust described in Code Section 401(a), an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), a tax-sheltered annuity arrangement described in Code Section 403(b) and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision which agrees to separately account for amounts transferred into such plan from this plan. The definition of Eligible Retirement Plan shall also apply in the case of a Distribution to a surviving spouse, surviving non-spouse beneficiary, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p). Effective June 1, 2008, an Eligible Retirement Plan is also a Roth IRA.

C. **Distributee:** A Distributee includes a member or former member. In addition, the member's or former member's surviving spouse or non-spouse beneficiary and the member's or former member's spouse or former spouse who is the alternate payee under a qualified domestic relations order, are Distributees with regard to the interest of the spouse or former spouse.

D. **Direct Rollover:** A Direct Rollover is a payment by the retirement system to the Eligible Retirement Plan specified by the Distributee.

SECTION 9. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published in full text.

SECTION 10. This ordinance shall take effect upon its publication.

Signed and approved this _____ day of _____, 2012.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held _____ day of _____, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Date Published:

MARK JOMSKY
CITY CLERK

APPROVED AS TO FORM:


Lesley Cheung
Deputy City Attorney