

10/12/2006

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ARTICLES II THROUGH V OF CHAPTER 82, PERSONNEL, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO CLARIFY EMPLOYEE APPEAL PROCEDURE AND QUALIFICATIONS FOR THE EMPLOYEE PENSION AND GROUP INSURANCE PLANS, REPEAL CONFLICTING ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Articles II through V of Chapter 82 of the Code of Ordinances of the City of Rochester Hills shall be amended, as follows:

ARTICLE II. ~~ADMINISTRATIVE AND MANAGERIAL~~ EMPLOYEE APPEAL PROCEDURE

Sec. 82-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Employee means all persons who are regular, full-time employees ~~employed in a managerial or an administrative position~~, except those specifically excluded in section 82-29 or otherwise indicated by the context of the use of the word.

Day means a week day--Monday through Friday--except holidays.

Sec. 82-27. Purpose.

An ~~administrative and managerial~~ employee appeal procedure is available to all regular, full-time employees ~~in administrative and managerial capacities~~ to provide recourse to them if their city employment is adversely affected as described in this article. The purpose of this procedure is to assist the city in attracting and maintaining employees of ability and character, and thus increase the efficiency of city government by granting to these ~~administrative and managerial~~ employees the right to obtain a hearing and present their position to a personnel board, as defined in this article, which is authorized to make a final decision regarding their city employment.

Sec. 82-28. Right to repeal or amend.

The eCity of Rochester Hills specifically reserves the right to amend this article in whole or in part, at one or more times hereafter, or to repeal this article; provided,

however, that the rights of an employee who has initiated an appeal in accordance with the provisions below this article shall not be abrogated by such amendment or repeal.

Sec. 82-29. Employees excluded.

The following employees are specifically excluded from this article:

- (1) *Elected officials.* The mayor, members of the city council and other elected officials.
- (2) *Appointed officials.* The city clerk, deputy city clerk, city treasurer, deputy city treasurer, assistant to the mayor/city administrator, city attorney, city planning consultant, city auditor, city assessor, and members of boards and commissions.
- (3) *Members of collective bargaining units.* Employees who are members of any organization that has been certified or legally recognized as a collective bargaining agent for any group of employees, and which that that negotiates wages, hours and conditions of employment with the city; pursuant to Public Act No. 336 of 1947 (MCL 423.201 et seq.).
- (4) *Temporary and part-time employees.* Employees who are hired to work a specifie~~limited~~ length of time (temporary employees) and employees who are regularly scheduled to work fewer than 40 hours per week (part-time employees).
- (5) *Paid-on-call firefighters.* Individuals employed by the city to provide emergency service on a non-scheduled an intermittent, as-needed basis, under the direction of the fire department.

Sec. 82-30. Personnel board.

(a) *Composition.* The personnel board shall consist of three members, appointed as follows:

- (1) *Employees' appointment.* The regular, full-time employees of the city shall appoint one member of the personnel board to serve a term ending December 31 of the second year following the appointment; provided, however, should a majority of these ~~managerial and administrative~~ employees be unable to agree on an appointee, a secret ballot election shall be held under the control of the city clerk, who shall be solely responsible for the conduct and certification of such election. If the employees' appointee is employed in the same city department as the employee appealing under this article, an alternate must be chosen by the employees to hear the matter. No employee assigned to the city's human resources department may be a member of the personnel board.

(2) *City council appointment.* The city council shall appoint one member of the personnel board to serve a term ending as of December 31 of the second year following the appointment.

(3) *Third member appointment.*

- a. By two board members. The two members so appointed shall mutually appoint a third member of the personnel board when there is a matter to be heard as is provided for by this article. Upon mutual agreement by the two members, the same third member may be appointed to hear more than one matter.
- b. By American Arbitration Association. If the two members are unable to agree upon the selection of a third member within five days of an appeal from an employee, a third member shall be selected according to the rules for expedited hearing promulgated by the American Arbitration Association.
- c. Compensation. The third member shall be compensated a reasonable fee, and such cost may be assessed against the city and/or the employee, in the discretion of the personnel board.

(b) *Vacancy appointment.* Any appointment to the personnel board to fill a vacancy due to a member's death, discharge, resignation or retirement shall be made only for the remainder of the unexpired term for which the former member had been appointed.

(c) *Authority of employees' appointee.* The personnel board member appointed by the employees shall sit on the board and hear matters presented pursuant to this article. Such member shall not have any authority to represent the employees, other than is specifically provided for in this article.

Sec. 82-31. Employee coverage status.

All regular, full-time ~~managerial and administrative~~ employees employed by the city shall be excluded from the coverage and sections of this article until these employees have successfully completed a probationary period of six consecutive months of employment in a covered ~~administrative or managerial~~ position, or such longer probationary period as extended by the city.

Sec. 82-32. Dismissal, suspension or demotion.

(a) *Actions affecting employment.* An employee covered by this article may be dismissed, suspended, or demoted by the city for good and sufficient cause.

(b) *Appeal to personnel board.* Such employee may, within ten days after presentation to him of written confirmation of such action affecting his employment, appeal the action to the personnel board.

(c) *Hearing by personnel board.* The board shall, within two weeks from the date of filing such appeal, commence hearings thereon and shall thereupon hear and determine the matter and either affirm, modify or revoke the action affecting the employee's employment. The employee shall be entitled to appear personally, produce evidence, have counsel and have a public hearing, if the employee so desires. The findings and decisions of the personnel board shall be final and shall be promptly delivered to the employee and to the city.

(d) *Benefits continued.* Benefits such as health, dental, life insurance and disability benefits shall be continued for the employee by the city during an appeal from a suspension or dismissal until such time as a decision is rendered by the personnel board.

(e) *Compensation.* If a dismissed employee is reinstated or a suspension without pay is reversed or reduced, the personnel board shall decide, in its discretion, whether the employee shall receive full, partial or no compensation for such time as the suspension or dismissal was in effect.

Sec. 82-33. Suspensions.

(a) *Without pay.* An employee covered by this article may be suspended without pay for reasons relating to the employee's performance of job duties. An employee suspended without pay may request a hearing before the personnel board if the suspension is for more than ten ~~working-working~~ days or, if indefinite, after the tenth ~~working-working~~ day of the suspension.

(b) *With pay.* An employee may be suspended with pay indefinitely immediately upon the occurrence of an event for the purpose of investigation or when the best interests of the city require. An employee who is suspended with pay may appeal any such suspension after the 30th calendar day of the suspension.

Sec. 82-34. Nondiscrimination.

A person entitled to the benefits of a hearing by the personnel board under this article shall not be in any way favored or discriminated against because of race, sex, age, religion, or other reasons proscribed by law or because of political opinions or affiliations.

ARTICLE III. EMPLOYEE PENSION PLAN

Sec. 82-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Full-time employee means an employee subject to completion of a probationary period of at least six months, or as may be extended by the city, who is regularly employed for 40 hours or more per week, or as otherwise designated in the plan document and who receives city-recognized fringe benefits available to full-time employees.

Sec. 82-62. Purpose.

A pension plan for the mayor, city council, and eligible employees of the city, as originally adopted and established by Ordinance No. 65, effective November 1, 1974, shall be continued.

Sec. 82-63. Continuation.

(a) *Plan continued.* The city continues its pension plan for the exclusive purpose of providing benefits for its mayor, city council, and eligible employees.

(b) *Contracts authorized.* The city also authorizes the mayor and the city clerk to undertake all steps necessary for the continuation of the pension plan, including the following:

- (1) *Enter contracts.* Entering into a contract, in the name of the city and/or the pension plan, with the approval of the city council, with any company or persons authorized to transact such business within the state; or
- (2) *Establish trust fund.* Establishing an independent trust fund to be administered by an investment fiduciary, as defined by Public Act No. 314 of 1965 (MCL 38.1132 et seq., ~~MSA 3.981(112) et seq.~~), who may be either an employee of the city or an independent contractor.

Sec. 82-64. Coverage, vesting and contributions.

(a) *Plan controls.* The requirements set forth in the pension plan documents shall control the coverage, vesting, contributions and other aspects of the pension plan.

(b) *Plan amendment.* The pension plan may, from time to time, be modified or changed by a resolution duly adopted by the city council or by collective bargaining agreement. Any changes to the pension plan must comply with the conditions of public

act 728 of 2001, as amended. Unless otherwise specifically provided, any amendment of the pension plan will apply to individuals employed by the city on and after the effective date of the amendment. The pension rights of an individual whose city employment terminated before the effective date of the amendment will be governed by the provisions of the pension plan in effect on the date the individual last terminated employment.

(c) *Trustee administration.* The pension plan is intended and has been administered to be a qualified pension plan under §401(a) of the internal revenue code. The trustee of the pension plan may adopt such additional provisions of the pension plan as are necessary to fulfill this intent.

~~(a) *Participant classes.* The pension plans created, established, and contracted for under this article shall cover each person within the following classes, who shall be referred to as "participants":~~

- ~~(1) All members of the city council;~~
- ~~(2) The mayor;~~
- ~~(3) All full-time city employees who are employed for 40 hours or more per week on a regular basis;~~
- ~~(4) All paid on-call firefighters; and~~
- ~~(5) All members of those collective bargaining units which elect to participate in the pension plan.~~

~~(b) *Eligibility and participation dates.* Eligibility and participation dates shall be as follows:~~

- ~~(1) *Eligibility date for new employees.* Each employee shall be eligible to participate in the pension plan as follows:
 - ~~a. Paid-on-call firefighters shall be eligible to participate on their date of hire.~~
 - ~~b. All other employees shall become eligible to participate after they have completed six months of service.~~~~

~~(2) *Participation date for new employees.*~~

- ~~a. An employee who satisfies the eligibility requirements as set forth in this section shall commence participation as of the first day of the month coinciding with or next following the date on which such eligibility requirement was met, provided the employee is still employed as of that date.~~

~~b. — If an employee who is not a member of an eligible class of employees becomes a member of an eligible class, such employee shall participate immediately if such employee has otherwise satisfied the eligibility requirements.~~

~~(c) — Retirement dates. Retirement dates shall be as follows:~~

~~(1) — Normal retirement date. A participant's normal retirement date shall be the first day of the month coinciding with or next following the participant's 65th birthday or the participant's fifth anniversary of joining the plan, whichever is later.~~

~~(2) — Early retirement date. A participant's early retirement date shall be the first day of the month coinciding with or next following the date on which the participant has attained age 55 and has completed at least five years of service.~~

~~Sec. 82-65. Premium contributions.~~

~~(a) — City portion. The city shall annually contribute for the behalf of each eligible participant an amount consistent with the provisions of the pension plan. Such contributions shall be secured from the general fund, fire fund, water and sewer department fund, and other funds, as the case may be, of the city.~~

~~(b) — Employee portion. Each participant may contribute voluntary after tax contributions through payroll withholding of amounts ranging from one percent to ten percent of compensation.~~

~~Sec. 82-66. Vested rights.~~

~~(a) — Employer contributions. Each participant's interest in the employer contribution portion of the participant's pension plan account shall become vested upon satisfying the following length of service requirements:~~

~~(1) — Twenty months of service for all regular, full-time employees, the mayor, and city councilpersons who were hired or elected prior to April 1, 1992;~~

~~(2) — Sixty months of service for all regular, full-time employees, the mayor, and city council persons hired or elected after April 1, 1992;~~

~~(3) — Sixty months of service for paid-on-call firefighters who were hired prior to July 1, 1991; and~~

~~(4) — Immediate and full vesting for paid-on-call firefighters hired after July 1, 1991.~~

~~(b) — Voluntary contributions. The balance in a participant's voluntary contribution account shall be 100 percent vested at all times.~~

Sec. 82-675. Ratification of existing plan.

The city ratifies and confirms the validity of any pension plan in existence on the effective date of the ordinance from which this article derives and ratifies and confirms all official actions previously taken in connection with such plans.

ARTICLE IV. EMPLOYEE GROUP INSURANCE PLANS

Sec. 82-96. Purpose.

Group insurance plans covering life, health, hospitalization, medical and surgical service and expense and disability insurance for certain classes of city officers and employees and their dependents shall be created and established as provided in this article.

Sec. 82-97. Established.

(a) *Plans created.* The city creates and establishes group insurance plans covering life, health, hospitalization, medical and surgical service and expense, and disability insurance for its officers and employees enumerated in this article and their dependents.

(b) *Contracts authorized.* For the purposes described in subsection (a) of this section, the city also authorizes the mayor and the city clerk to contract, in the name of the city subject to approval of the city council, with any company authorized to transact such business within the state for such group insurance policies.

Sec. 82-98. Coverage.

(a) ~~Life, HhH~~ *Life, health, hospitalization, and medical, and surgical.* The group insurance plan or plans for health and hospitalization, and medical ~~and surgical~~ services and life insurance and expense created, established and contracted for under this article shall cover employees-persons ~~each person~~ within the following classes of officers and employees and shall also cover the dependents of such persons, as the policies of insurance allow and provide:

- (1) Mayor, city clerk and city treasurer.
- (2) All city employees who are employed 30 hours or more ~~for more than 30 hours~~ per week on a regular basis.
- ~~(3) All city library employees who are employed for more than 30 hours per week on a regular basis.~~
- (3) Retired city employees who qualify under city policies and/or collective bargaining agreements.

(4) As otherwise determined by the city.

(b) *Life insurance.* The group life insurance plan created, established and contracted for under this article shall cover each person within the following classes of officers and employees:

- (1) Mayor, city clerk and city treasurer.
- (2) All city employees who are employed for more than 30 hours per week on a regular basis.

~~(3) All city library employees who are employed for more than 30 hours per week on a regular basis.~~

(3) As otherwise determined by the city.

(c) *Disability insurance.* The group disability insurance plan created, established and contracted for under this article shall cover each person within the following classes of officers and employees:

- (1) Mayor, city clerk and city treasurer.
- (2) All city employees who are employed for more than 30 hours per week on a regular basis.

~~(3) All city library employees who are employed for more than 30 hours per week on a regular basis.~~

(3) As otherwise determined by the city.

Sec. 82-99. Premium contributions.

The city shall annually contribute and pay ~~all of the~~ premiums or charges arising under the insurance plans provided for in this article for each person within the classes of persons enumerated in section 82-98 as required by city policies and/or collective bargaining agreements. Such city contribution shall be secured from the appropriate general fund and the water and sewer department fund (in proportion to the percent of salary earned from the fund), as the case may be, of the city, ~~except the contributions for the city library employees shall be secured from funds under the control of the city library board.~~

Sec. 82-100. Ratification of existing insurance plans.

The city ratifies and confirms the validity of any life, health, hospitalization, medical and surgical, and disability insurance or any one or more of such forms of insurance in existence on the effective date of the ordinance from which this article

derives and ratifies and confirms all official actions previously taken in connection with such plans and/or policies.

ARTICLE V. EMPLOYEE DEFERRED COMPENSATION PLAN AND TRUST

Sec. 82-126. Purpose.

A deferred compensation plan and trust for the benefit of employees of the city shall be continued for the purpose of attracting and retaining competent employees and assisting them to provide for their retirement security.

Sec. 82-127. Deferred compensation plan.

(a) *Plan continued.* The city hereby continues its deferred compensation plan for the exclusive purpose of providing benefits for its eligible employees.

~~(b) *Administration.*~~

~~(1) *Rules.* The plan shall be administered in accordance with the ICMA Retirement Corporation Deferred Compensation and Trust Plan document, adopted by this article.~~

~~(2) *Administrator.* The city financial administrator shall administer the plan, in accordance with the plan and rules.~~

~~(b) *Authorization of contracts.* The city authorizes the mayor and city clerk, subject to city council approval, to enter a contract or contracts to provide deferred compensation benefits for eligible city employees. Contracts shall only be entered with a company licensed and/or authorized to provide deferred compensation plans in the State of Michigan.~~

Sec. 82-128. Coverage.

(a) *Eligibility.* All full-time ~~or~~and part-time city employees shall be eligible to participate in the plan established by this article upon their commencement of employment with the city.

(b) *Participants.* City employees may elect to participate in the plan by entering into an individual agreement conforming to the plan. Any employee so electing shall be designated as a participant. ~~Sec. 82-129. ICMA Retirement Corporation Deferred Compensation and Trust Plan document.~~

~~(a) *Adoption.* The ICMA Retirement Corporation Deferred Compensation and Trust Plan document, dated April 1998, is hereby adopted by reference.~~

~~(b) — Article and section references. References in the ICMA Retirement Corporation Deferred Compensation and Trust Plan document to the term "employer" shall mean the City of Rochester Hills.~~

~~(c) — Copy for inspection by public. The city clerk shall maintain for inspection by employees and the public in the office of the city clerk a copy of the ICMA Retirement Corporation Deferred Compensation and Trust Plan document and the modifications included in this article.~~

Sec. 82-12930. Loan program implementation.

The city may offer a loan program as part of any deferred compensation plan it offers to its eligible employees. If a loan plan is offered, it shall be governed by the conditions and requirements set forth in the plan documents.~~hereby adopts a loan program as more fully described in article VIII of the ICMA Retirement Corporation Deferred Compensation and Trust Plan document.~~

Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 3. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other city ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on _____, following its publication in the Rochester Eccentric on _____.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on Wednesday, _____.

Bryan K. Barnett, Mayor
City of Rochester Hills