

Ordinance 2023-12

ORDINANCE AMENDING CHAPTER 50 ENTITLED “RETIREMENT”

BE IT ORDAINED by the Mayor and City Council of Winston-Salem as follows:

SECTION 1. Chapter 50 of the Winston-Salem City Code is hereby amended by creating a Division 10. Entitled “The Winston-Salem Defined Contribution Retirement Plan Committee” to read as follows:

“DIVISION 10. The Winston-Salem Defined Contribution Retirement Plan Committee.

Sec. 50-208. The Winston-Salem Defined Contribution Retirement Plan Committee.

- (a) Purpose. The Winston-Salem Defined Contribution Retirement Plan Committee (“WSDCRPC”) shall be a standing internal staff committee of the City of Winston-Salem to carry out oversight and administrative functions for the City’s Supplemental Retirement Plans including the 401(a) and 457(b) Plans (“Plans”) that are not under the jurisdiction of the Winston-Salem Police Officer’s Retirement Commission as defined and set forth in Division 2 of Chapter 50. The members of the WSDCRPC are considered fiduciaries of the Plans with respect to all responsibilities allocated to them. The WSDCRPC reports to the City Manager. The City Manager, after reviewing the recommendations of the WSDCRPC, has the authority to amend the Plans, except in cases where an amendment affects the City Manager and/or the City Attorney, at which time, action of the City of Winston-Salem City Council will be required. The City Council retains the authority to establish, modify, and terminate the Plans, and to set or revise employer contributions. In addition, the City Council retains authority to define eligible classes, set vesting schedules, and approve other plan provisions such as the inclusion of provisions surrounding loans and hardship withdrawals, rollovers, and cash out provisions.
- (b) ERISA. The WSDCRPC shall have oversight responsibilities for the Plans. The Plans are not required to be in compliance with the Employee Retirement Income Security Act of 1974 (“ERISA”), but it is the intent of the City to generally follow ERISA requirements as appropriate and follow the ERISA guiding principles:
1. Maintain the Plans for the exclusive benefit of the participants and their beneficiaries,
 2. Exercise prudence in all aspects while executing fiduciary responsibilities,
 3. Diversify available investment options, and
 4. Ensure conformity of the Plans’ operations to the plan documents and applicable laws.

(c) Duties. The WSDCRPC shall carry out the following duties:

1. Advise the City Manager and oversee the management of operational aspects of the Plans.
2. Meet with the selected investment advisor to assess the investments of the Plans, best practices, and regulatory requirements.
3. Work with the plan record keeper to maintain plan documents in accordance with IRS requirements.
4. Make administrative changes to the Plans as required to comply with IRS requirements.
5. Make investment decisions (as covered in the Defined Contribution Retirement Plan Committee Investment Policy Statement).
6. Amend the investment policy statement as needed with majority written approval of the members of the WSDCRPC.

In addition to the above, the WSDCRPC is hereby directed to carry out the following additional duties:

1. Work with the record keeper for the Plans to utilize the IRS-approved plan documents to simplify administration and IRS compliance. The WSDCRPC is authorized to make administrative plan changes to comply with IRS regulations.
2. Amend the 457 (b) Plan for General, Fire, and Police to allow for Roth after-tax deductions.
3. Amend the 457(b) Plan for Sworn Police Officers not eligible for WSPORS to allow for employees to make both pre-tax and Roth after-tax deductions simultaneously.
4. Amend all city-administered defined contribution plans to increase the automatic distribution of small balances from \$1,000 to \$5,000 for terminated participants and select an Individual Retirement Account provider to receive these distributions, as required by the IRS.
5. Amend the General and Fire 401 (a) Plan to allow vested participants to take loans and hardship distributions.
6. Amend the General and Fire 401 (a) Plan to create an executive employee class to consist of the City Manager and City Attorney and establish a 10% city contribution to the executive class effective October 1, 2023, provided City Council approves a written employment contract with an employee in said executive class that provides for said benefit.

Sec. 50-209. Membership and terms. The WSDCRPC shall consists of the following members:

- (a) Assistant City Manager (Appointed by the City Manager)
- (b) City Attorney
- (c) Assistant City Attorney for Human Resources
- (d) Human Resources Director (Plan Administrator)
- (e) Deputy Human Resources Director
- (f) Human Resources Benefits Analyst
- (g) Chief Financial Officer
- (h) Deputy Financial Officer

The members of the WSDCRPC shall select a chairman, vice-chairman, and recording secretary. Members shall not be subject to the term limitations set forth in City Code Section 2-62. Any vacancy resulting from cessation of employment shall be filled by the next person hired in the position where the vacancy has been created. Since the WSDCRPC consists of administrative staff only, the WSDCRPC shall not be subject to the open meetings law unless it is subsequently determined that said law applies to committees consisting only of professional city staff. City Council has the right to review the membership and change the categories set forth above as it deems appropriate. Members shall serve without compensation beyond that provided by reason of their position.

Sec. 50-210. Removal of members. Members serve at the pleasure of City Council and may be removed by the City Council.

Sec. 50-211. Meetings; quorum. WSDCRPC shall hold regular meetings not less than once a quarter. Special meetings may be called by a majority of the membership of the WSDCRPC. Five members shall constitute a quorum for conducting business and the affirmative vote of a majority, a quorum being present, shall be required on any matter considered.

Sec. 50-212. Rules of Procedure. The WSDCRPC shall adopt rules and regulations, or a charter as may be necessary for the proper discharge of its duties and shall file the same with the city clerk.”

SECTION 2. This ordinance shall become effective upon adoption.