

ORDINANCE NO. 19-102

BY: Nancy Moore

Amending Section 135.06 of the Administrative Code of the Shaker Heights Codified Ordinances to authorize waivers of the compulsory retirement age.

WHEREAS, Section 135.06 was originally enacted as Section 135.07 in Ordinance No. 87-47, enacted on April 27, 1987, and was amended to be renumbered to Section 135.06 in Ordinance No. 17-91, enacted on November 13, 2017; and

WHEREAS, the City has negotiated a waiver policy for the mandatory retirement age in recent collective bargaining agreements with the City's safety forces and, therefore, this Council has determined to amend the City's ordinance requiring a mandatory retirement age for safety forces to be consistent with the negotiated agreements.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Shaker Heights, State of Ohio:

Section 1. Section 135.06 of the Administrative Code of the Codified Ordinances of the City of Shaker Heights as heretofore in effect is hereby repealed.

Section 2. Section 135.06 of the Administrative Code of the Codified Ordinances of the City of Shaker Heights is hereby enacted as amended as follows:

135.06 COMPULSORY RETIREMENT AGE.

(a) For employees other than firefighters and law enforcement officers, there shall be no mandatory retirement age.

(b) For firefighters and law enforcement officers as defined in Section 11 of the Age Discrimination and Employment Act of 1967 (29 U.S.C. 630 (j) and (k)), the mandatory retirement age is sixty (60), subject to subsections (c) and (d) of this Section.

(c) Any employee subject to the mandatory retirement age, other than administrative firefighter and law enforcement officer personnel as defined in subsection (d) of this Section, may request up to three (3) twelve (12) month waivers of the mandatory retirement age to extend employment to the age of sixty-three (63), which requests shall be governed by this subsection, or any collective bargaining agreement, which agreement shall take precedence over this sub-section.

(i) An employee must request a waiver in writing at least ninety (90) days, but no more than one hundred and twenty (120) days, prior to the employee's sixtieth (60<sup>th</sup>), sixty-first (61<sup>st</sup>), and sixty-second (62<sup>nd</sup>) birthdays, respectively.

(ii) An employee requesting a waiver must submit to a fitness for duty examination by a physician of the City's choice. The examination must determine that the employee is physically and psychologically fit to perform all essential functions of his or her job.

(iii) The City has sole discretion to approve or disapprove any

requested waiver based on the fitness for duty examination and the employee's prior performance reviews.

(d) The Mayor is authorized to grant waivers of the mandatory retirement age beyond the age of 60 for administrative firefighter and law enforcement personnel (such as the Chief, Assistant Chiefs and other officers who are not subject to a collective bargaining agreement).

(ee) Nothing in this section shall limit the power of the Mayor to take appropriate action, including but not limited to suspension or termination, in the event that any employee is inefficient in his or her duties for reasons of physical or mental incapacity, or for any other reasons as provided by law.

Section 3. This ordinance shall take effect from and after the earliest time allowed by law.

Enacted November 18, 2019.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2019.

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DAVID E. WEISS, Mayor

Attest:

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JERI E. CHAIKIN  
Clerk of Council

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