

ORDINANCE NO. ORD-11-17

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EMPLOYEES RETIREMENT SYSTEM
(IMPLEMENT AN INCREASE IN THE VESTING PERIOD AND
THE FINAL AVERAGE COMPENSATION PERIOD FOR
NON-UNION EMPLOYEES HIRED ON OR AFTER JULY 1, 2011)

An Ordinance to Amend Sections 1:552.1, Section 1:561, Section 1:562, Section 1:565, Section 1:567, Section 1:568, and Section 1:592 of Chapter 18, Employees Retirement System, Title I of the Code of the City of Ann Arbor to Implement an Increase in the Vesting Period and the Final Average Compensation Period for Non-Union Employees Hired on or after July 1, 2011.

The City of Ann Arbor Ordains:

Section 1. That Section 1:552.1 of Chapter 18 of Title 1 of the Code of the City of Ann Arbor be amended to read as follows:

1:552.1 Definitions A-F.

The following words and phrases used in this chapter shall have the following meanings, unless a different meaning is clearly required by the context:

(1) *Accumulated Contribution.* The sum of all amounts deducted from the Compensation of a Member and credited to the Member's individual account to the Annuity Savings Fund under section 1:572, together with applicable interest thereon, at the Accumulated Contribution Interest Rate set forth in section 1:552(2). Prior to January 1, 2010, such contributions were deducted from non-union Members' Compensation and made on an after-tax basis. Beginning with the first pay period which begins in January 2010, non-union Member contributions are made on a pre-tax basis pursuant to the "Pick-Up" Feature (as provided at Code Section 414(h)) of section 1:572(b). Prior to August 1, 2010, such contributions were deducted from the compensation of members of the Teamsters Police Deputy Chiefs bargaining unit, Local 214 Teamsters Civilian Supervisors bargaining unit and Teamsters Police Professional Assistants bargaining unit on an after tax basis. Beginning with the first pay period which begins in August 2010, the member contributions of the employees of the Teamsters Police Deputy Chiefs bargaining unit, Local 214 Teamsters Civilian Supervisors bargaining unit and Teamsters Police Professional Assistants bargaining unit are made on a pre-tax basis, pursuant to the "pick-up" feature of section 1.572(b). Prior to August 14, 2011, such contributions were deducted from the compensation of Members of the Police Service Specialists bargaining unit on an after tax basis. Beginning with the pay period beginning August 14, 2011, the member contributions of the employees of the Police Service Specialists bargaining unit are made on a pre-tax basis, pursuant to the "pick-up" feature of Section 1:572(b).

(2) *Accumulated Contribution Interest Rate.* Effective as of February 1, 2011, the interest rate used for the growth of Accumulated Contributions credited to a Member's individual account in the Annuity Savings Fund which rate shall be set by the Board annually. Such interest credited under this section 1:552(2) shall be compounded quarterly.

(3) "*Actuarial Equivalency*" or "*Actuarially Equivalent*" means a benefit of equivalent value to the benefit it replaces, as further provided in section 1:585.

(4) *Actuarial Equivalency Interest Rate.* Effective as of February 1, 2011, the interest rate used for Actuarial Equivalency purposes, including (without limitation) calculating the effect of an annuity withdrawal under section 1:566(2) on a Member's Retirement Allowance, which is currently 7% per annum. This rate shall be subject to change by Ordinance amendment, and pursuant to collective bargaining where applicable.

(5) *Annuity.* An annual amount derived from the Accumulated Contributions of a Member, payable in equal monthly installments throughout the future life of a person.

(6) *Annuity Reserve.* The present value of all payments to be made on account of any annuity. The Annuity Reserve shall be computed upon the basis of the RP 2000 combined mortality table projected to 2007 set forward two years for males, set back three years for females and 7% interest rate, per annum.

(7) *Annuity Savings Fund.* The accounting fund established within the Retirement System as described in section 1:572.

(8) *Beneficiary.* Any person or persons designated as such by the Member on a form supplied by the Board and filed with the Retirement System to receive benefits payable upon the Member's death under the provisions of section 1:566, 1:567, 1:568, 1:570 and 1:571.

(a) If no such designation is in effect at the time of the death of the Member, or if no person so designated shall survive the Member, the Beneficiary shall be the Spouse of the Member, if then living; otherwise his children in equal shares with the then living children of a Member's deceased child taking their parent's share equally; or if the deceased Member has no surviving Spouse, children, or grandchildren, the legal representative of such deceased Member; or if there shall be no such legal representative duly appointed and qualified within six months of the date of death of such deceased Member, then such persons as, at the date of his death, would be entitled to share in the distribution of such deceased Member's estate under the provisions of the statute governing intestate succession, then in force and effect in the State of Michigan.

(b) In the event a Beneficiary designated by the Member or determined under (a) above survives the death of the Member but subsequently dies before receiving the benefits to which he/she was entitled, the successor Beneficiary shall be any successor Beneficiary who was designated by the Member, or, if none, the Member's benefits shall be paid to the legal representative of the deceased Beneficiary; or if there shall be no such legal representative duly appointed and qualified within six months of the date of death of such deceased Beneficiary, then to such persons as, at the date of his death, would be entitled to share in the

distribution of such deceased Beneficiary's personal estate under the provisions of the statute governing the descent of intestate property, then in force and effect in the State of Michigan.

(c) A Member's designation of the Member's Spouse as the Beneficiary shall be automatically revoked as of the date of such Member's divorce from such Spouse unless otherwise provided in qualified domestic relations order or domestic relations order described in section 1.576; provided that a Member may, after the divorce, file a new written designation of his or her former spouse as the Beneficiary.

The determination by the Board of the identity of such person or persons shall be final, conclusive and binding on all persons, and the Board shall be fully protected and shall incur no liability regardless of any error that it may make in such determination.

(9) *Board.* Board of Trustees or Board of the Retirement System provided for in this chapter.

(10) *Break in Service.* A period during which the Member is not contributing to the Retirement System, except that a period of payment under workers' compensation shall not constitute a Break in Service nor shall a period of temporary employment preceding permanent status for which the employee elects to purchase service credit, in accordance with section 1:561. For an employee who does not return from a leave of absence, the break starts with the last day of pay status.

(11) *City.* The City of Ann Arbor, Michigan.

(12) *City Council.* City Council or Council means the City Council of Ann Arbor, Michigan.

(13) *Code.* The Internal Revenue Code ("IRC") of 1986, as amended from time to time, including applicable regulations thereunder. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provision of any legislation which amends or replaces such section or subsection.

(14) *Compensation.* The taxable W-2 salary or wages paid a Member by the City for personal services rendered while in the employ of the City as reported in Box 1 of IRS Form W-2.

(a) Compensation shall be increased by:

(i) amounts deferred by a Member under a deferred compensation plan under Code Section 457(b),

(ii) amounts deferred in accordance with the City's 125 flexible spending plan and/or voluntary employees beneficiary association (VEBA),

(iii) any pre-tax employee contributions to the Retirement System, and

(iv) worker's compensation benefits paid to a Member for a period of 52 weeks after the injury giving rise to the worker's compensation benefits.

(b) Compensation shall not include:

(i) car allowance payments,

(ii) cell phone stipends,

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- (iii) allowances for clothing and equipment,
- (iv) amounts contributed by the City for a Member under a deferred compensation plan,
- (v) fire meals pay,
- (vi) severance pay,
- (vii) taxable life insurance premiums paid by the City on behalf of a Member,
- (viii) taxable City vehicle use,
- (ix) worker's compensation benefits paid to a Member after 52 weeks for the injury giving rise to the worker's compensation benefits, and
- (x) differential wage payments as described in Code Section 3401(h)(2).

(c) In case a Member's remuneration is not all paid in money, the City Administrator shall fix the value of that part of the remuneration which is not paid in money.

(d) Lump sum payments paid upon retirement for accumulated time banks to Members of the following employee groups shall be includable or excludable in the calculation of Final Average Compensation as follows:

(i) Non-Union – For Members hired prior to January 1, 1980, Final Average Compensation shall include lump sum payments for up to 960 hours sick time, up to 2 years vacation time, accumulated comp time and up to 32 hours personal leave time. For Members hired on or after January 1, 1980, but prior to January 25, 1982, Final Average Compensation shall include lump sum payments for up to 480 hours sick time, up to 2 years vacation time, accumulated comp time and up to 32 hours personal leave time. For Members hired on or after January 25, 1982, Final Average Compensation shall include lump sum payments for up to 2 years vacation time, accumulated comp time and up to 32 hours personal leave time but shall not include any payment for accumulated sick time.

(ii) AFSCME – For Members hired prior to January 1, 1982, Final Average Compensation shall include lump sum payments for up to 60 days sick time, up to 2 years vacation time, accumulated comp time and up to 32 hours of personal leave time. For Members hired on or after January 1, 1982, Final Average Compensation shall include up to 2 years vacation time, accumulated comp time and up to 32 hours personal leave time but shall not include any payment for accumulated sick time.

(iii) Ann Arbor Police Officer Association – For Members hired into the department after January 1, 1982, Final Average Compensation shall include lump sum payments for accumulated personal leave time up to the annual maximum but shall not include any payments for accumulated sick, vacation and/or compensatory time banks.

(iv) Command Officers Association of Michigan – For Members hired into the department after January 1, 1982, Final Average Compensation shall include lump sum payments for accumulated personal leave time up to the annual maximum but

shall not include any payments for accumulated sick, vacation and/or compensatory time banks.

(v) Police Deputy Chiefs – For Members hired into the department after January 1, 1982, Final Average Compensation shall not include any lump sum payments for accumulated sick, personal leave, vacation and/or comp time banks.

(vi) Firefighters – For Members hired into the department after July 1, 1982, Final Average Compensation shall not include any lump sum payments for accumulated sick, vacation and/or comp time banks.

(vii) Safety Service Dispatcher and former Communications Operators – For members hired into the department after June 30, 1982, Final Average Compensation shall include lump sum payments for up to 32 hours of personal leave time but shall not include any payments for accumulated sick, vacation and/or comp time banks.

(viii) Police Service Specialists – For Members hired prior to January 1, 1982, Final Average Compensation shall include lump sum payments for up to 960 hours sick time, up to 2 years vacation time, accumulated comp time and up to 32 hours of personal leave time. For Members hired into the department on or after January 1, 1982, but on or before June 30, 1982, Final Average Compensation shall include lump sum payments for up to 2 years vacation time, accumulated comp time and up to 32 hours of personal leave time but shall not include payment for accumulated sick time. For Members hired into the department after June 30, 1982, Final Average Compensation shall include lump sum payment for up to 32 hours personal leave time but shall not include any payments for accumulated sick, vacation time banks.

(ix) Police Professional Assistants – For Members hired on or after June 30, 1981, Final Average Compensation shall include lump sum payment for accumulated comp time and for up to 32 hours of personal leave time but shall not include any payments for accumulated sick, or vacation time banks.

(x) Teamsters (Supervisors) Civilian – For Members hired on or after July 1, 1980, Final Average Compensation shall include lump sum payments for up to 2 years vacation time, accumulated comp time and up to 32 hours personal leave time but shall not include any payment for accumulated sick time bank (unless the Member entering the this bargaining unit transferred from another City position in which case said Member shall continue to have the same amount of sick leave included in Final Average Compensation as said Member had before.)

(e) In the event a Retirant is paid Compensation for personal services rendered to the City as a Member prior to retirement (including, without limitation, payments for retroactive collectively bargained pay increases relating to periods of employment prior to retirement), such Compensation, for Final Average Compensation purposes only, shall be considered as received by the Retirant on the day prior to his/her effective retirement date. Member contributions, if otherwise applicable, shall be deducted from such Compensation. The amount of the Retirant's pension provided in section 1:564(1) shall be recomputed to the Retirant's date of retirement if the payment of such Compensation results in an increase in the Retirant's Final Average Compensation. No

interest shall be payable to a Retirant or Beneficiary for increased benefits paid after commencement of a pension pursuant to this provision.

(f) Annual Compensation in excess of the following amounts shall not be taken into account for any purpose of the Retirement Ordinance:

(i) For plan years beginning on or after January 1, 1989 and before July 1, 1996, the annual Compensation of each Member taken into account for determining all benefits provided under the Retirement Ordinance for any determination period shall not include any amounts in excess of the annual compensation limit (originally \$200,000) provided for in IRC § 401(a)(17) prior to the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93") and adjusted for inflation in the manner provided by IRC § 401(a)(17); and

(ii) For plan years beginning on or after July 1, 1996, the annual compensation of each Member taken into account for determining all benefits under the Retirement Ordinance shall not exceed the annual compensation limit provided for in IRC § 401(a)(17), as amended by the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93") (\$200,000 in 2002). This limit may be adjusted as required by federal law for qualified government plans (as defined at Code Section 414(d)) and shall be further adjusted for inflation in the manner provided by IRC § 401(a)(17).

For purposes of Code Section 401(a)(17), Annual Compensation means compensation recognized under the Retirement Ordinance during the Retirement System's Fiscal Year or such other consecutive 12-month period over which Compensation is otherwise determined under the Retirement Ordinance. The cost-of-living adjustment in effect for a calendar year under Code Section 401(a)(17) applies to annual Compensation for the determination period that begins with or within such calendar year.

(15) *Credited Service.* The sum of a Member's prior Service and membership Service to the extent credited the Member by the Board of Trustees determined pursuant to section 1:561.

(16) *Custodian.* Any person or corporate entity designated as the Custodian pursuant to section 1:556(3).

(17) *Deferred Vested Retirement Allowance.* The Retirement Allowance as provided at section 1:565.

(18) *Early Retirement Allowance.* The Retirement Allowance as provided at section 1:564(2).

(19) *Final Average Compensation.*

(a) For non-union Members hired or rehired before July 1, 2011, and for all bargaining unit Members, The—the average annual Compensation amount determined which is one-third of (i) or (ii) below, whichever is greater:

(i) A Member's total Compensation paid during the Member's last 36 consecutive months of Credited Service (whether or not calendar months)(excluding any Breaks in Service) within the last 10 years of the Member's employment with the City;

(ii) A Member's total Compensation paid during any three consecutive calendar years within the last 10 years of the Member's employment with the City. For the avoidance of doubt, such calendar years shall begin on January 1.

(b) For non-union Members hired or rehired on or after July 1, 2011, the average annual Compensation amount determined which is one-fifth of (i) or (ii) below, whichever is greater:

(i) A Member's total Compensation paid during the Member's last 60 consecutive months of Credited Service (whether or not calendar months)(excluding any Breaks in Service) within the last 10 years of the Member's employment with the City;

(ii) A Member's total Compensation paid during any five consecutive calendar years within the last 10 years of the Member's employment with the City. For the avoidance of doubt, such calendar years shall begin on January 1.

(c) If a non-union Member hired or rehired before July 1, 2011, or a bargaining unit Member has fewer than 36 months of Credited Service, the Final Average Compensation shall be the average of the annual Compensation paid to a Member for the total period of Credited Service. If a non-union Member hired or rehired on or after July 1, 2011 has fewer than 60 months of Credited Service, the Final Average Compensation shall be the average of the annual Compensation paid to the Member for the total period of Credited Service.

(ed) If less than 12 months of Service was credited in 12 month period (being a 12-consecutive month period if 1:552(19)(a)(i) or 1:552(19)(b)(i) applies to the calculation, or a calendar year if 1:552(19)(a)(ii) or 1:552(19)(b)(ii) applies to the calculation), the Compensation utilized for such 12 months shall be annualized by dividing the Compensation earned by the Service credited;

(20) *Firefighter.* Any employee of the fire services unit holding the rank of firefighter, including probationary firefighter, or higher rank, but shall not include:

- (a) Any person temporarily employed by the City as a firefighter; or
- (b) Any civilian employee of the fire services unit.

(21) *Funding Interest Rate.* Effective as of February 1, 2011, the interest rate used by the System for actuarial funding purposes as set by the Board, subject to review not less frequently than every six years, which rate is currently 7% per annum.

Section 2. That Section 1:561 of Chapter 18 of Title 1 of the Code of the City of Ann Arbor be amended to read as follows:

1:561. Service Credit for Retirement.

(a) General Requirements. The Board shall fix and determine, by appropriate rules and regulations, the amount of Credited Service to be credited any Member. Members shall receive Service credit as follows:

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(i) Firefighting platoon personnel: A month of service credit shall be credited for each calendar month during which 100.8 or more regular (non-overtime) hours of Compensation is paid to a full-time Member. In no case shall less than 100.8 hours of service rendered in any calendar month be credited as a month of service to a full-time Member.

(ii) All other Members: A month of service credit shall be credited for each calendar month during which 80 or more regular (non-overtime) hours of Compensation is paid to a full-time Member. In no event shall less than 80 hours of Service rendered in any month be credited as a month of service to a full-time Member.

At the time of Early or Normal Retirement, a Member's Credited Service shall be determined based on the Member's date of hire and termination date (excluding any breaks in services.) A partial month's credit shall be credited to the nearest half month as Credited Service as follows:

- (1) 0-8 calendar days – Member receives no additional service credit;
- (2) 9-23 calendar days – Member receives .50 month (1/2 month) service credit; or
- (3) 24 calendar days and over – Member receives 1 complete month of service credit.

A Member must satisfy the Credited Service requirements for retirement eligibility purposes without regard to the crediting of additional service to the nearest half month. In no case shall less than 8 months of Service rendered in a fiscal year be credited as a year of Credited Service, nor shall more than 1 year of Credited Service be credited any Member for all Service rendered in any Fiscal Year.

The Board shall maintain a Service account for each Member. At the end of each fiscal year the Board shall enter into the account on behalf of each Member the Credited Service earned in such Retirement System Fiscal Year. The City shall provide the Board, or its designee, on an as needed basis earned Credited Service account data for a Member.

(b) Service--Intervening Military Service. Should any Member who while employed by the City be called or enlist, or was called or enlisted, in the military, naval, marine, air, or other armed service of the United States Government during time of war, or other national emergency recognized by the Council, and should said Member be re-employed by the City within 90 days following the date of termination of required service, then such "war service" shall be recognized as City Service by the Board, provided that the employee returns to the Annuity Savings Fund all amounts the employee may have withdrawn therefrom at the time of entrance into, or while in, such armed service, together with interest thereon, at the Accumulated Contribution Interest Rate set forth in section 1:552(2), from the date of withdrawal to the date of repayment, as provided in section 1:572(c). In cases of doubt as to the period to be credited any Member, the Board shall have final power to determine such period. During the period of such war service, and until return to City service, the said Member's contributions to the Annuity Savings Fund shall be suspended and the balance therein shall be accumulated with interest thereon, at the Accumulated Contribution Interest Rate set forth in section 1:552(2).

(c) Service--Non-Intervening Military Service. A Member, who prior to becoming an employee of the City, has served in any armed service of the United States (whether inducted or enlisted) shall have periods of active duty lasting 30 or more days, included in the Member's Service account if all of the following conditions are satisfied:

(1) The non-union Member who was hired or rehired prior to July 1, 2011, or bargaining unit Member has at least 5 years of credited Service, excluding any credited Service acquired for intervening military service under the provisions of subsection (b) above. Service time which has been purchased shall not be credited towards the satisfaction of a Member's 5-year vesting requirement. The non-union Members hired or rehired on or after July 1, 2011, has at least 10 years of credited Service, excluding any credited Service acquired for intervening military service under the provisions of subsection (b) above. Service time which has been purchased shall not be credited toward the satisfaction of such Member's 10-year vesting requirement;

(2) The Member submits a written application and supporting documentation to the Board of Trustees of the Retirement System;

(3) A Member purchasing military service credit shall pay into the Annuity Savings Fund described under section 1:572 five percent (5%) of the Member's annual Compensation multiplied by the period of credited Service being purchased in accordance with the applicable rules and regulations as adopted by the Board of Trustees of the Retirement System. The Member shall purchase the military service by either a lump-sum payment or fixed payments through payroll deduction at any time prior to retirement. Payments made to the Annuity Savings Fund for the purchase of military service shall not be refunded to a Member under any annuity withdrawal option at section 1:566(2) or in the event of termination of employment.

(A) In the event of termination of membership in the Retirement System for reasons other than retirement, a former Member who had elected to purchase military service credit by way of payroll deduction (or his Beneficiary), shall complete the purchase and pay all amounts due by means of a lump-sum payment within 60 days of termination. If payment in full is not completed within said 60-day period, the Board of Trustees' actuary shall calculate the amount of Service to be credited based upon the amount of contributions paid into the Annuity Savings Fund at the time of the Member's termination;

(B) A Beneficiary may elect to purchase military service credit based on a deceased Member's period of military service by lump-sum payment within 60 calendar days after the death of a Member. An application for military service credit by a Beneficiary must be filed with the Retirement System in compliance with all terms and conditions stated in this section as if the military service credit had been purchased by the Member.

(4) Military service can be purchased in increments of no less than one month not to exceed 4 years of military service.

(5) Credited Service shall not be granted for periods of military service which are or could be used for obtaining or increasing a benefit from another federal, state or

local publicly supported retirement system, except for Service that is or would be credited under the federal government for service in the reserves; and

(6) Only military service of Members who spent time in the armed services of the United States as indicated as active service on the Member's military service separation papers (DD-214 or equivalent form) shall qualify for purchase. Active service for active duty training for the reserves or national guard program shall be eligible for purchase as military service credit provided the Member shall have been discharged or released from active military service under honorable conditions.

(d) Notwithstanding any provision of the Retirement Ordinance to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with IRC § 414(u) and regulations thereunder.

(e) Effective with respect to deaths occurring on or after January 1, 2007, the survivors of a Member who dies while performing qualified military service (as defined in Code Section 414(u)) are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Ordinance as if the Member had resumed and then terminated employment with the City on account of his/her death. For these purposes, the Member shall be credited with Service under section 1:561 during the period of qualified military service.

(f) Effective on and after July 1, 2009, if the City makes "differential wage payments" as defined in Code Section 3401(h)(2) to individuals performing qualified military service, then (1) the individual receiving a differential wage payment shall be treated as an employee of the City; and (2) the differential wage payment shall be treated as Compensation for purposes of Code Section 415(c)(3) under section 1:587.

(g) Reciprocal Retirement Act Service Credit. The City has elected to become a reciprocal retirement system within the meaning of the Michigan Reciprocal Retirement Act, hereinafter RRA (MCLA Section 38.1101 *et seq.*) but has not adopted section 38.1106 (Section 6) of the RRA. The City recognizes service under the RRA only for eligibility and for purposes of determining the early retirement reduction factors. The provisions of the RRA are incorporated into this Retirement Ordinance by reference as though fully set forth herein.

(h) Service--Temporary Employment. A Member may elect to receive Service for periods of temporary employment leading directly to permanent employment with the City by agreeing to pay into Annuity Savings Fund an amount equal to the Accumulated Contributions that would have been required and accrued as if such person had been a Member of the Retirement System during the period of temporary employment. The election must be made within 60 days after (a) obtaining permanent status and (b) being notified by the Board of the right to make such election. Temporary service in a student training or student intern program or on a contractual basis is not eligible for Service credit under this section. This provision shall be effective for periods of temporary employment beginning after July 1, 1979.

Section 3. That Section 1:562 of Chapter 18 of Title 1 of the Code of the City of Ann Arbor be amended to read as follows:

1:562. Normal or Early Retirement.

A Member may retire upon satisfaction of the applicable age and service requirements as follows:

(1) Early Retirement

- (a) General City Members – Age 50 with 20 or more years of Service.
- (b) Firefighter or Police Officer Members – Age 50 with 20 or more years of Service.

(2) Normal Retirement

- (a) General City Members [hired or rehired prior to July 1, 2011](#) – Age 60 with 5 or more years of Service, or age 50 with 25 or more years of Service.

[\(b\) Non-Union General City Members hired or rehired on or after July 1, 2011 – Age 60 with 10 or more years of Service , or age 50 with 25 or more years of Service.](#)

- ~~(b)~~ (c) Firefighter or Police Officer Members – Age 55 with 5 or more years of Service, or 25 years of Service regardless of age.

The Member files written application with the Board setting forth the date, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, upon which retirement is to be effective.

(3) Upon retirement, a General City Member shall be paid a Retirement Allowance provided for in section 1:564(1)(a), a Firefighter or Police Officer Member shall be paid a Retirement Allowance provided for in section 1:564(1)(b).

(4) Once a Member satisfies the requirements for voluntary retirement, the Member's right to a Retirement Allowance is nonforfeitable.

Section 4. That Section 1:565 of Chapter 18 of Title 1 of the Code of the City of Ann Arbor be amended to read as follows:

1:565. Deferred Vested Retirement Allowance.

A [non-union Member hired or rehired prior to July 1, 2011 or a bargaining unit member](#) with 5 or more years of Service who terminates employment for any reason other than retirement (as provided in section 1:562), disability (as provided in section 1:568), or death shall be a Terminated Vested Member entitled to a Deferred Vested Retirement Allowance upon reaching the age of 60 years. [A non-union Member hired or rehired on or after July 1, 2011 with 10 or more years of Service who terminates employment for any reason other than retirement \(as provided in section 1:562\), disability \(as provided in section 1:568\), or death shall be a Terminated Vested Member entitled to a Deferred Vested Retirement Allowance upon reaching the age of 60 years.](#)

The Deferred Vested Retirement Allowance shall be calculated pursuant to the provisions of section 1:564(1) in effect at the time of termination of employment. The Deferred Vested Retirement Allowance shall be subject to recomputation in accordance with section 1:552(14)(e) with respect to Compensation received after termination of employment for personal services rendered prior to the date of termination. The

Deferred Vested Retirement Allowance shall begin, and the terminated vested membership shall end, following the month the Member reaches the age of 60 years and applies for a Deferred Vested Retirement Allowance.

A Terminated Vested Member whose age and Service total at least 50 at the time of termination of employment may elect at the time of (i) termination of employment; (ii) benefit commencement; or (iii) on a date in between the Member's termination of employment and benefit commencement, to withdraw his Accumulated Contributions in the percentages specified in section 1:566(2) and shall have the Deferred Vested Retirement Allowance reduced by the actuarial equivalent of the amount of withdrawn Accumulated Contributions. A Terminated Vested Member returning to the employ of the City may not receive the Deferred Vested Retirement Allowance until again terminating employment and applying for a Deferred Vested Retirement Allowance.

Section 5. That Section 1:567 of Chapter 18 of Title 1 of the Code of the City of Ann Arbor be amended to read as follows:

1:567. Ordinary Death Benefits Prior to Retirement.

If a non-union Member hired or rehired prior to July 1, 2011, or a bargaining unit Member with at least 5 years of Service dies prior to retirement, the applicable ordinary death benefits provided under paragraphs (1) through (3) shall be paid, provided that no benefits shall be paid under this section if any benefits are paid under section 1:566 or 1:570. If a non-union Member hired or rehired on or after July 1, 2011 with at least 10 years of Service dies prior to retirement, the applicable ordinary death benefits provided under paragraphs (1) through (3) shall be paid, provided that no benefits shall be paid under this section if any benefits are paid under section 1:566 or 1:570.

(1) If the Member has in force an Option II election under section 1:566 and as further provided below in this section 1:567(1), the designated Beneficiary shall immediately receive the same Retirement Allowance which would have been payable if the Member had retired the day preceding the Member's death, whether or not the Member had attained Normal Retirement under section 1:562. The Board shall provide to all non-union Members hired or rehired prior to July 1, 2011, and bargaining unit members with at least 5 years of Service and who have not yet retired, written notice of the right to elect Option II as a preretirement death benefit, and shall provide rules and forms pursuant to which such Option II preretirement death benefit may be elected, de-selected, and re-selected, as the case may be. The Board shall provide to all non-union Members hired or rehired on or after July 1, 2011, with at least 10 years of Service and who have not yet retired, written notice of the right to elect Option II as a preretirement death benefit, and shall provide rules and forms pursuant to which such Option II preretirement death benefit may be elected, de-selected, and re-selected, as the case may be.

(2) If the Member does not have an Option II election in force as provided in 1:567(1) but is survived by a current Spouse, the surviving Spouse shall immediately receive the same Retirement Allowance which would have been payable if the Member had retired

the day preceding the Member's death and elected the Option II, whether or not the Member had attained Normal Retirement under section 1:562.

(3) If the Member does not have an Option II election in force as provided in 1:567(1) and is not survived by a current Spouse, or upon a Member's election, a lump sum equal to 80% of the actuarial present value of the deceased Member's accrued Normal Retirement Allowance under section 1:564(1) shall be paid to the Member's legal representative. Such actuarial present value shall be calculated as if the Member had retired the day preceding the Member's death, whether or not the Member had attained Normal Retirement under section 1:562 and shall not be less than the Member's Accumulated Contributions.

Section 6. That Section 1:568 of Chapter 18 of Title 1 of the Code of the City of Ann Arbor be amended to read as follows:

1:568. Disability Retirement.

(1) Disability with Five Years or More of Service. Upon the application of a [non union Member who was hired or rehired prior to July 1, 2011 or bargaining unit Member](#), or his Services Area Administrator, a Member who:

- (a) Is in the service of the City;
- (b) Has 5 or more years of Service; and
- (c) Has become or becomes totally and permanently incapacitated from performing the customary duties of the Member's City employment by reason of a personal injury or disease.

may be retired by the Board, if:

- (i) After a medical examination of the Member made by or under the direction of a physician designated by the Board, the physician certifies to the Board (A) that the Member is mentally or physically totally incapacitated from performing the customary duties of the Member's City employment; (B) that such incapacity will probably be permanent; and
- (ii) The report of the physician is concurred in by the Board.

[\(2\) Disability with Ten Years or More of Service. Upon the application of a non union Member who was hired on or after July 1, 2011, or his Services Area Administrator, a Member who:](#)

- [\(a\) Is in the service of the City;](#)
- [\(b\) Has 10 or more years of Service; and](#)
- [\(c\) Has become or becomes totally and permanently incapacitated from performing the customary duties of the Member's City employment by reason of a personal injury or disease.](#)

[may be retired by the Board, if:](#)

(i) After a medical examination of the Member made by or under the direction of a physician designated by the Board, the physician certifies to the Board (A) that the Member is mentally or physically totally incapacitated from performing the customary duties of the Member's City employment; (B) that such incapacity will probably be permanent; and

(ii) The report of the physician is concurred in by the Board.

~~(23)~~ Disability with Less than Five Years of Service Under 1:568(1) or Less than Ten Years of Service under 1:568(2). Any Member with less than 5 years of Service under 1:568(1) or less than 10 years of Service under 1:568(2) shall have the service requirement provided in paragraph (1)(b) or (2)(b) of this section waived if:

(a) The Board finds the Member is totally and permanently incapacitated from performing the customary duties of the Member's City employment, as the natural and proximate result of a personal injury or disease arising out of and in the course of the Member's actual performance of duty in the employ of the City, and

(b) The Member is in receipt of worker's compensation on account of the Member's total and permanent incapacity occurring as the result of City employment.

~~(34)~~ Upon the Member's retirement on account of disability, as provided in subsections (1) ~~and~~ (2) ~~and~~ (3), a Member shall receive a disability retirement allowance computed according to subsections (1) and (2) of section 1:564. If the Retirant was a General City Member, the disability Retirement Allowance payable to Normal Retirement under section 1:562 shall not be less than 18% of the Member's Final Average Compensation, nor shall the Member's disability Retirement Allowance payable after attainment of the Member's Normal Retirement under section 1:562 be less than the sum of 12% of the portion of the Member's Final Average Compensation which is not in excess of the Member's Social Security Salary and 18% of the portion of the Member's Final Average Compensation which is in excess of the Member's Social Security Salary. If the Retirant was a Police Officer or Firefighter, the Member's disability Retirement Allowance shall not be less than 25% of the Member's Final Average Compensation. Disability Retirement Allowances payable as provided in this chapter shall be subject to subsection (45) and the re-examination provisions of section 1:569. The foregoing percentage minimums of this section 1:568~~(34)~~ shall pertain to the straight life benefit payable to the Member, prior to actuarial adjustment for any optional form of payment selected pursuant to section 1:568~~(67)~~.

(45) Any benefits which are paid or payable under the provisions of any workers' compensation law shall be offset against and payable in lieu of any disability Retirement Allowance provided by this section until attainment of (i) age 60 years if a General City Member and is a member of the (a) AFSCME; or (b) Police Service Specialists employee groups; or (ii) age 55 years if the Member was a Police Officer or Firefighter and is a member of the (a) Ann Arbor Police Officers Association; (b) Command Officers Association of Michigan; or (c) Police Deputy Chiefs employee groups. Workers' compensation benefits shall include redemptions and settlements in lieu of periodic benefits, but shall not include payments or allocations for past, present and future medical expenses, rehabilitation and/or retraining expenses, statutory fees, or

attorney fees. A disability Retirement Allowance shall not be reduced by workers' compensation where the Member is a non-union employee or a member of the (a) Teamsters (Supervisors) Civilians; (b) Police Clerical; or (c) Fire Fighter employee groups.

(56) Upon termination of the period for payment of the Retirant's worker's compensation benefits, if any, arising on account of City employment, a disability Retirant shall be given membership Service credit for the statutory period the Retirant was in receipt of worker's compensation benefits. The Member's disability Retirement Allowance shall be recomputed to include such additional Service credit. In no case shall such additional Service credit include any period beyond attainment of age 60 years if the individual was a General City Member or age 55 years if the Member was a Police Officer or Firefighter. If a disability Retirant is in receipt of a workers' compensation redemption lump sum settlement amount, the membership Service credit shall include the period arrived at by dividing the said single sum by the Retirant's weekly worker's compensation award. The redemption settlement amount for purposes of calculating additional Service credit shall be the total settlement amount which is subject to offset as provided herein.

(67) Upon disability retirement, a Member shall have the right to elect an option provided for in section 1:566, subject to the condition that, if any benefits are paid under section 1:570 on account of the death of a disability Retirant, (a) no benefits shall be paid to a survivor Beneficiary under an Option II or III election, and (b) if the disability Retirant dies before he/she has received in Retirement Allowance payments an aggregate amount equal to, but not exceeding the Member's Accumulated Contributions standing to the Member's credit in the Annuity Savings Fund at the time of the Member's retirement, the difference between the Member's Accumulated Contributions and the aggregate amount of Retirement Allowance payments received shall be paid to the Member's designated Beneficiary, if living.

Section 6. That Section 1:592 of Chapter 18 of Title 1 of the Code of the City of Ann Arbor be amended to read as follows:

1:592. Post Retirement Adjustments.

(1) Minimum Benefit. Effective July 1, 2000, and each July 1 thereafter, the Board shall increase the amount of each pension benefit payable to a retiree (or beneficiary of a retiree) ~~who provided the retiree~~ had five or more years of credited service at the time of retirement by a pension adjustment amount which shall be the difference between \$9,800 and the current annual retirement benefit paid to the retiree or beneficiary. For non-union Members who were hired or rehired on or after July 1, 2011, a retiree must have had 10 or more years of credited service at the time of retirement to be eligible for such a pension adjustment amount. Said \$9,800 amount, however, shall be reduced by five percent (5%) for each year of credited service less than 20 years. For Members of the Retirement System who commence to receive a Retirement Allowance on or after July 1, 2011, said \$9,800 amount is to be further reduced by the corresponding percentage reduction in the retiree's straight life retirement allowance based upon the retiree's election of an early retirement in accordance with section 1:564(2) and/or a

Retirement Allowance Option provided in section 1:566, and/or for the amount of a withdrawal of Accumulated Contributions under section 1:566(2). Said \$9,800 amount shall be indexed based upon the National Consumer Price Index, each July 1, beginning July 1, 2001, prior to any applicable credited service reduction.

(2) Pension Adjustments and Supplemental Benefits. Annually, the Board, in consultation with its actuary and upon receipt of the actuarial report for each fiscal year, shall determine whether to grant a permanent pension benefit adjustment or pay a one-time supplemental benefit based upon the amount, if any, of funds from the pension adjustment account which may be distributed to eligible retirees and beneficiaries. The aggregate cost of such benefit adjustment or supplemental benefit distribution shall be funded by a transfer from the pension adjustment account to the pension reserve. There shall be no pension benefit adjustment or supplemental benefit paid unless the amount available in the pension adjustment account is equal to or greater than one percent (1%) of the total pension payroll. The term "total pension payroll" as used herein shall mean the total amount of pension benefits paid to retirees and beneficiaries in the prior fiscal year as reflected in the annual actuarial report. Eligibility for participation under this subsection shall be determined in accordance with subparagraph (a) and paid in accordance with either subparagraph (b) or (c) of this subsection.

(a) Eligibility. Eligibility for participation in a pension benefit adjustment or a supplemental benefit distribution shall be determined in accordance with the following:

(i) A retiree who retires under section 1:562(1) shall be eligible to participate beginning the first day of the fiscal year following the fiscal year containing the fifth anniversary of his/her effective date of retirement. A beneficiary of a deceased retiree shall be eligible to participate beginning the first day of the fiscal year following the fiscal year containing the date the retiree would have otherwise satisfied the eligibility condition herein.

(ii) A disability retiree or disability retiree's surviving beneficiary shall be eligible to participate beginning the first day of the fiscal year following the fiscal year containing the first anniversary of the effective date of disability retirement.

(iii) In the case of a survivor beneficiary who is receiving a duty death or non-duty death pension benefit, said beneficiary shall be eligible to participate beginning the first day of the fiscal year following the fiscal year containing the first anniversary of the effective date of the duty death or non-duty death pension benefit payable to said beneficiary.

(b) Benefit Adjustments. Effective July 1, 2011 and each July 1 thereafter, the Board may increase the amount of each pension payable to all eligible retirees as defined in section 1:592(2)(a) in accordance with sub item (i) or (ii) below.

(i) Each Pension that is to be adjusted may be increased by a uniform percentage of the current retirement allowance, but in no case less than \$10.00 a month. No increase shall be granted on any July 1 if the percentage amount of increase is less than 1.0%.

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(ii) Each Pension that is to be adjusted may be increased by an amount determined in accordance with the point system as provided in section 1:592(3)(c).

(c) Supplemental Benefit Distributions. Effective July 1, 2011 and each July 1 thereafter, the Board may authorize a one-time supplemental benefit distribution to eligible retirees. The annual total supplemental distribution amount shall not exceed an amount equal to 1/12 of total pension payroll. Distributions shall be paid in a lump sum and paid in such manner and method as approved by the Board. The distribution of benefits hereunder from the pension adjustment account shall not be considered a permanent increase in the rate of Retirement Allowance to be paid and shall not create a liability for its continuance. Supplemental benefit distributions shall be based upon a point system and paid in the following manner:

(i) Each retiree receives one (1) point for each full year of retirement as of the first day of the fiscal year for the year in which the distribution is to occur;

(ii) Each retiree receives one (1) point for each full year of service credit for actual service rendered in the employ of the City;

(iii) Points are summed for all eligible retirees as of the first day of the fiscal year for the year in which the distribution is to occur; and

(iv) The total annual benefit distribution amount as determined by the Board is multiplied by the ratio of a retiree's points to the total points of all retirees (i.e., the sum of (i) and (ii) divided by (iii) multiplied by the total annual distribution amount).

(v) Notwithstanding the foregoing, no individual distribution to a retiree shall be made if the amount of the distribution is less than twenty-five dollars (\$25.00).

Section 7: In the event any court of competent jurisdiction shall hold any provision of this Ordinance invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision thereof.

Section 8: This Ordinance shall take effect ten days after passage and publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of September 19, 2011.

Jacqueline Beaudry, City Clerk

Date

John Hieftje, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's webpage on September 22, 2011.

Jacqueline Beaudry, City Clerk