

## **Sec. 2-801 RETIREMENT SYSTEM CONTINUED**

(a) *Continuation and Purpose.* The City of Harper Woods Employees Retirement System established as of January 1, 1961 and from time to time amended is continued for the purpose of providing retirement income to eligible employees of the City of Harper Woods and survivor benefits to their eligible beneficiaries.

(b) *Effective Date.* The effective date of the retirement system is January 1, 1961. This restatement of the retirement system is effective 7/25/1991.

(c) *Short Title.* This ordinance shall be known and may be cited as the retirement ordinance.

## **Sec. 2-802 DEFINITIONS**

For the purposes of the retirement ordinance, the words and phrases defined in this section shall have the meanings ascribed to them in this section.

(a) *Accumulated Member Contributions.* The sum of all amounts credited to the member's individual account in the reserve for employee contributions, including interest credited to such accounts.

(b) *Actuarial Equivalent.* A payment or a series of payments which have the same actuarial present value, as of a given date, as another payment or series of payments. The actuarial present value shall be determined using the appropriate rate or rates of experience and rate or rates of interest adopted by the board.

(c) *Base Compensation.* The hourly rate of salary or wages multiplied by the number of regular hours of personal services rendered the City excluding overtime.

(d) *Beneficiary.* An individual, except a retirant, who is entitled to a pension or other benefit payable from the funds of the retirement system.

(e) *Board.* The Board of Trustees provided for in Sec. 2-828.

(f) *City.* The City of Harper Woods, Michigan, including its officers, boards, departments and instrumentalities.

(g) *Compensation.*

*Benefit Group DPW.* The salary or wages paid for personal services rendered the City, including regular pay, overtime pay, longevity pay, cost-of-living payments and pay deferred under a qualified deferred compensation plan maintained by the City. For the period a member is paid a worker's compensation benefit on account of a non-permanent injury or illness under state statute, compensation shall be the base wage which would have been paid to the member during the period. Compensation shall exclude any remuneration or reimbursement not specifically stated as included such as, but not limited to, lump sum payments for accumulated unused sick and vacation days.

*Benefit Group Clerical.* The salary or wages paid for personal services rendered the City, including regular pay, overtime pay, longevity pay, cost-of-living payments and pay deferred under a qualified

deferred compensation plan maintained by the City. For the period a member is paid a worker's compensation benefit on account of a non-permanent injury or illness under state statute, compensation shall be the base wage which would have been paid to the member during the period. Compensation shall exclude any remuneration or reimbursement not specifically stated as included such as, but not limited to, and lump sum payments for accumulated unused sick and vacation days.

*Benefit Group Administrative.* The salary or wages paid for personal services rendered the City, including regular pay, overtime pay, longevity pay, cost-of-living payments and pay deferred under a qualified deferred compensation plan maintained by the City. For the period a member is paid a worker's compensation benefit on account of a non-permanent injury or illness under state statute, compensation shall be the base wage which would have been paid to the member during the period. Compensation shall exclude any remuneration or reimbursement not specifically stated as included such as, but not limited to, lump sum payments for accumulated unused sick and vacation days.

*Benefit Group Police Command.* The salary or wages paid for personal services rendered the City, including regular pay, overtime pay, longevity pay, cost-of-living payments, shift premium, accumulated vacation day payments and pay deferred under any qualified deferred compensation plan maintained by the City. For the period a member is paid a worker's compensation benefit 'on account of a non-permanent injury or illness under state statute, compensation shall be the base wage which would have been paid to the member during the period. Compensation shall exclude any remuneration or reimbursement not specifically stated as included such as, but not limited to, allowances, bonuses, and lump sum payments for accumulated unused sick days.

*Benefit Group Police Patrol.* The salary or wages paid for personal services rendered the City, including regular pay, overtime pay, longevity pay, cost-of-living payments, shift premium, accumulated vacation day payments and pay deferred under any qualified deferred compensation plan maintained by the City. For the period a member is paid a worker's compensation benefit on account of a non-permanent injury or illness under state statute, compensation shall be the base wage which would have been paid to the member during the period. Compensation shall exclude any remuneration or reimbursement not specifically stated as includes such as, but not limited to, allowances, bonuses, and lump sum payments for accumulated unused sick days.

*Benefit Group Fire.* The salary or wages paid for personal services rendered the City, including regular pay, overtime pay, longevity pay, cost-of-living payments and pay deferred under any qualified deferred compensation plan maintained by the City. For the period a member is paid a worker's compensation benefit on account of a non-permanent injury or illness under state statute, compensation shall be the base wage which would have been paid to the member during the period. Compensation shall exclude any remuneration or reimbursement 'not specifically stated as included such as, but not limited to, allowances, bonuses, and lump sum payments for accumulated unused

sick days.

(h) Council. The City Council of Harper Woods, Michigan.

(i) Credited Service. The amount of service credited a member by the board in accordance with Sec. 2-804.

(j) Employee. An individual who is employed by the city for personal services.

(k) Final Average Compensation. The average of the compensation paid a member calculated according to Section 2-808.

(l) Member. An individual who is a member of the retirement system.

(m) Pension. An annual amount payable by the retirement system in equal monthly installments throughout the future lifetime of a member, or for a temporary period, as provided in the retirement ordinance.

(n) Retirant. An individual who retires with a pension payable from the funds of the retirement system.

(o) Retirement System. The City of Harper Woods Employees Retirement System.

(p) Vested Former Member. An individual who ceases to be a member for a reason other than retirement or death and who satisfies the requirements of Sec. 2-807.

### **Sec. 2-803 MEMBERSHIP**

(a) Requirement of Membership. Each employee of the city shall be a member of the retirement system unless excluded from membership under subsection (b) of this section.

(b) Exclusions from Membership. The following employees are not a member of the retirement system:

(1) an employee who holds a position normally requiring less than 1,000 hours of work in a year;

(2) an individual who is compensated on a contractual or fee basis not subject to the mandatory withholding of income tax;

(3) a city manager who has exercised the option to decline membership by a written notice filed with the administrative secretary of the board.

(c) **Termination of Membership**. The membership of a member shall terminate upon ceasing to be an employee or upon becoming employed in a position or manner excluded from membership under subsection (b) of this section. A member who ceases to be a member for a reason other than retirement or death and who satisfies the requirements of Sec. 2-807 shall be a vested former member.

### **Sec. 2-804 CREDITED SERVICE**

(a) Personal Service Credit. Personal service rendered by a member shall be credited to the member's individual service account in accordance with the provisions of this section and board rule. Service

shall be credited in years and fractions of a year. Not more than 1 year of credited service shall be credited a member on account of all personal service rendered during any period of twelve consecutive months. Not more than one-twelfth of a year of credited service shall be credited a member on account of all personal service rendered during a calendar month. Service shall not be credited for a month if the member rendered less than ten days of personal service during the month. The board may credit a member with a year of credited service for any calendar year during which the member acquires nine or more months of credited service under the other provisions of this subsection. The board may credit a member with service credit for periods the member was in receipt of workers' compensation arising as a result of city employment.

(b) Military Service Credit - Intervening. A member who leaves or left the employ of the City to enter an armed service of the United States during time of war, period of compulsory military service or period of national emergency recognized by resolution of the City council shall be granted credited service for periods of active duty subject to the following conditions:

- (1) The member is re-employed by the City within six months from the date of termination of the minimum period of required active duty;
- (2) The member pays the retirement system the total amount of accumulated member contributions withdrawn at the time of, or subsequent to, leaving the employment of the City to enter armed service, plus interest from the date of withdrawal to the date of repayment at interest rates established by the board;
- (3) Not more than six years of credited service shall be granted a member under the provisions of the subsection.
- (4) Credited service shall not be granted for periods of armed service which are used to obtain or increase a benefit from another retirement system.

(c) Credited Service Forfeited. Credited service shall be forfeited and no longer in force if an individual's accumulated member contributions are paid to the individual or a beneficiary (including an estate), except as provided under Section 2-810(b)(1).

(d) Reinstatement of Credited Service. If a former member is re-employed by the city and again becomes a member of the retirement system, the member may have forfeited credited service restored, if the following conditions are satisfied:

- (1) membership is reacquired within five (5) years after the date of termination of membership;
- (2) The member pays the retirement system the amount of accumulated member contributions withdrawn at the time of or subsequent to termination of membership plus interest, at rates determined by the board, from the date of withdrawal to the date of repayment. Repayment shall be made in accordance with board rule.

## **Sec. 2-805 BENEFIT GROUPS**

The following benefit groups are designated for the purpose of determining benefit eligibility conditions, benefit amounts and contribution amounts applicable to a member.

- (1) *Benefit group DPW* shall consist of all members employed by the Department of Public Works, Community Center and Recreation Department who are members of the collective bargaining unit.
- (2) *Benefit group clerical* shall consist of all members of the clerical union, full time library and district court 32A employees excluding the judge, and those not in benefit group administrative.
- (3) *Benefit group administrative* shall consist of all members employed as administrators, including the district court administrator, library director and other library employees as designated by the library board.
- (4) *Benefit group police command* shall consist of all members who are sworn employees of the police department who hold the rank sergeant or higher rank.
- (5) *Benefit group police patrol* shall consist of all members who are sworn employees of the police department who hold the rank below sergeant and who are members of the collective bargaining unit.
- (6) *Benefit group fire* shall consist of all members employed in the fire department who hold the rank of probationary firefighter or higher rank.

## **Sec. 2-806 NORMAL RETIREMENT ELIGIBILITY CONDITIONS**

- (a) A member or vested former member may normally retire upon satisfaction of each of the following requirements:
  - (1) all city employment terminates prior to the date retirement is to be effective; and
  - (2) a written application for normal retirement is filed with the board setting forth the date, not less than 30 days nor more than 90 days prior to the execution and filing of the application, the retirement is to be effective.
  - (3) the member or vested former member has met an applicable age and service eligibility condition for normal retirement.
- (b) The age and service eligibility conditions for normal retirement are as follows:
  - (1) *Benefit Group DPW*. The member or vested former member has attained age 60 years or older and has 10 or more years of credited service.
  - (2) *Benefit Group Clerical*. The member or vested former member has attained age 60 years or older and has 10 or more years of credited service.
  - (3) *Benefit Group Administrative*. The member or vested former member has attained age

55 years or older and has 25 or more years of credited service; or, has attained age 60 years or older and has 10 or more years of credited service.

(4) *Benefit Group Police Command*. The member or vested former member has attained age 50 years or older and has 25 or more years of credited service; or, has attained age 55 years or older and has 10 or more years of credited service.

(5) *Benefit Group Police Patrol*. The member or vested former member has attained age 50 years or older and has 25 or more years of credited service; or, has attained age 55 years or older and has 10 or more years of credited service.

(6) *Benefit Group Fire*. The member or vested former member has attained age 50 years or older and has 25 or more years of credited service; or, has attained age 55 years or older and has 10 or more years of credited service.

(c) Upon normal retirement as provided in this section a member or vested former member shall be paid a pension computed according to Section 2-809.

#### **Sec. 2-807 VESTED TERMINATION OF MEMBERSHIP**

(a) A member who ceases to be a member for a reason other than retirement or death shall be a vested former member if the following requirements are met:

- (1) the former member has the period of credited service specified in subsection (b) for the member's benefit group;
- (2) the former member's accumulated member contributions are left on deposit in the retirement system.

(b) The service requirements for vested former member status are:

- (1) *Benefit Group DPW*. Ten years of credited service.
- (2) *Benefit Group Clerical*. Ten years of credited service.
- (3) *Benefit Group Administrative*. Ten years of credited service.
- (4) *Benefit Group Police Command*. Ten years of credited service.
- (5) *Benefit Group Police Patrol*. Ten years of credited service.
- (6) *Benefit Group Fire*. Ten years of credited service.

(c) A vested former member may normally retire upon meeting the requirements of Section 2-806.

(d) The amount of normal retirement pension applicable to a vested former member shall be a percentage of the amount of accrued normal pension determined according to Section 2-808, as the section provided at the time of termination of membership for the member's benefit group. The percentage to be applied to the amount of normal pension shall be:

- (1) *Benefit Group DPW*. One hundred percent.

- (2) Benefit Group Clerical. One hundred percent.
- (3) Benefit Group Administrative. One hundred percent.
- (4) Benefit Group Police Command. One hundred percent if the vested former member has fifteen or more years of credited service otherwise fifty percent.
- (5) Benefit Group Police Patrol. One hundred percent if the vested former member has fifteen or more years of credited service, otherwise fifty percent.
- (6) Benefit Group Fire. One hundred percent.

(e) The death of a vested former member prior to retirement or an election to be paid the accumulated member contributions on deposit in the retirement system shall cause forfeiture of credited service and all rights to retirement and a pension.

### **Sec. 2-808 FINAL AVERAGE COMPENSATION**

(a) Benefit Group DPW. Final average compensation is one-fifth of the greatest aggregate amount of compensation paid a member or vested former member for five consecutive years of credited service during the member's or vested former member's last ten years of credited service. If a member or vested former member does not have five consecutive years of credited service, final average compensation is the annual average of the member's or vested former member's compensation for the total period of credited service.

(b) Benefit Group Clerical. Final average compensation is one-fifth of the greatest aggregate amount of compensation paid a member or vested former member for five consecutive years of credited service during the member's or vested former member's last ten years of credited service. If a member or vested former member does not have five consecutive years of credited service, final average compensation is the annual average of the member's or vested former member's compensation for the total period of credited service.

(c) Benefit Group Administrative. Final average compensation is one-fifth of the greatest aggregate amount of compensation paid a member or vested former member for five consecutive years of credited service during the member's or vested former member's last ten years of credited service. If a member or vested former member does not have five consecutive years of credited service, final average compensation is the annual average of the member's or vested former member's compensation for the total period of credited service.

(d) Benefit Group Police Command. Final average compensation is one-third of the greatest aggregate amount of compensation paid a member or vested former member for three consecutive years of credited service during the member's or vested former member's last ten years of credited service: If the member or vested former member does not have three consecutive years of credited service,

final average compensation is the annual average of the member's or vested former member's compensation for the total period of credited service.

(e) Benefit Group Police Patrol. Final average compensation is one-third of the greatest aggregate amount of compensation paid a member or vested former member for three consecutive years of credited service during the member's or vested former member's last five years of credited service. If a member or vested former member does not have three consecutive years of credited service, final average compensation is the annual average of the member's or vested former member's compensation for the total period of credited service.

(f) Benefit Group Fire. Final average compensation is one-fifth of the greatest aggregate amount of compensation paid a member or vested former member for five consecutive years of credited service during the member's or vested former member's last ten years of credited service. If a member or vested former member does not have five consecutive years of credited service, final average compensation is the annual average of the member's or vested former member's compensation for the total period of credited service.

## **Sec. 2-809 AMOUNT OF NORMAL RETIREMENT PENSION**

(a) Benefit Group DPW. The amount of pension under form of payment Option SL is equal to two percent of final average compensation multiplied by credited service.

(b) Benefit Group Clerical. The amount of pension under form of payment Option SL is equal to two percent of final average compensation multiplied by credited service.

(c) Benefit Group Administrative. The amount of pension under form of payment Option SL is equal to two percent of final average compensation multiplied by credited service.

(d) Benefit Group Police Command. The amount of pension under form of payment SL is equal to two and one-half percent of final average compensation multiplied by credited service.

(e) Benefit Group Police Patrol. The amount of pension under form of payment SL is equal to two and one-half percent of final average compensation multiplied by credited service.

(f) Benefit Group Fire. The amount of pension under form of payment Option SL is equal to two and one-half percent of final average compensation multiplied by credited service.

(g) This subsection applies only to benefit groups police, police command and fire. A member or vested former member who is retiring under the normal retirement provisions of the retirement ordinance may file an election with the retirement system, at any time following application for normal retirement and prior to the date of first payment of the pension to be paid all of the member's accumulated member contributions at time of normal retirement. The election shall be made on a

form furnished by the retirement system. The amount of pension otherwise payable shall be reduced, if the retiring member elects to be paid accumulated member contributions as provided in this subsection. The amount of reduction in the pension shall be the amount which has the same actuarial present value as the amount of accumulated member contributions paid the retiring member. The actuarial present value shall be calculated using the interest rate published by the Pension Benefit Guaranty Corporation for converting a series of immediate monthly annuity payments to a lump sum value together with the 1971 Group Annuity Mortality Table.

### **Sec. 2-810 DUTY DEATH SURVIVOR PENSIONS**

(a) *Eligibility.* The applicable benefits provided in subsection (b), if any, shall be paid if each of the following conditions are satisfied.

- (1) the deceased member's death is found by the board to be a result of a personal injury or disease arising solely out of the course of the member's employment with the city; and
- (2) workers' compensation is paid on account of the death of the member.

(b) *Duty Death Benefits.* The duty death benefits are as follows:

- (1) The member's accumulated member contributions shall be paid to the individual or individuals named by the member in writing and filed with the board. If no such individual survives the member, the member's accumulated member contributions shall be paid to the member's legal representative.
- (2) The eligible surviving spouse of the deceased member shall be paid a pension equal to the annual amount of the spouse's worker's compensation benefit paid to the spouse on account of the member's death. The spouse's pension shall begin upon termination of payment of the spouse's worker's compensation benefit and shall continue until the remarriage or death of the spouse. To be eligible, the spouse shall have been married to the deceased member at the time of the member's death.
- (3) Each eligible child of the deceased member shall be paid a pension equal to the annual amount of the worker's compensation benefit paid to the child on account of the member's death. A child's pension shall begin upon termination of the child's worker's compensation benefit if the child is an eligible child at that time. A child's pension shall terminate upon the child ceasing to be an eligible child. An eligible child is one who is unmarried, has not been adopted subsequent to the death of the member, and is under the age of 18 years. If no pension is paid a surviving spouse, or if the pension to a surviving spouse is terminated, each eligible child's pension shall

be increased by an equal share of the surviving spouse pension.

(4) Each eligible parent of the deceased member shall be paid a pension equal to the annual amount of the worker's compensation benefit paid to the parent on account of the member's death. The parent's pension shall begin upon termination of the parent's worker's compensation benefit and shall continue until the death or remarriage of the parent.

(5) If the board determines that the death was duty related, benefits shall only be payable under Section 2-810 even though a beneficiary might otherwise qualify for a pension under Section 2-811. However, if the eligible surviving spouse or if there is no eligible surviving spouse, an eligible child or, if there is no eligible spouse or eligible child, an eligible parent would also be the named beneficiary under Section 2-811, such beneficiary may waive the worker's compensation benefits and elect to receive a pension under Section 2-811.

(6) If there is no eligible surviving spouse, no eligible child, and no eligible parent, but there is a beneficiary who would meet all of the eligibility requirements for a non-duty death pension under Section 2-811, including being "named" as required by Section 2-811(a), except for the fact that the death was the result of a personal injury or disease arising solely out of the course of the member's employment with the city, then a pension shall be paid under Section 2-811. However, if workers' compensation benefits are paid to any person as a result of the death, no pension shall be payable unless all eligible parties waive the worker's compensation benefits, even if the person eligible for worker's compensation benefits is different than the person who is named as the pension beneficiary.

(7) If a worker's compensation claim is redeemed or settled, no pension shall be payable under subsections (b)(2), (b)(3) or (b)(4) until 500 weeks after the date of death. At that time, the pension benefit shall be equal to the annual amount of the worker's compensation benefit that would have been payable had the beneficiary elected to receive periodic payments.

(c) No payment of the deceased member's accumulated member contributions or a pension shall be made under the provisions of this section if a pension is paid under the provisions of Section 2-811.

### **Sec. 2-811 NON-DUTY DEATH SURVIVOR PENSION**

(a) *Eligibility.* A non-duty death survivor pension shall be paid to the named beneficiary of a deceased member who has elected form of payment Option A and named a beneficiary in accordance with

the provisions of the retirement ordinance if each of the following conditions are satisfied. If the deceased member leaves a surviving spouse to whom married at the time of death and does not have a valid election of form of payment Option A and named beneficiary in effect, the board shall make the election on the deceased member's behalf and name the surviving spouse as beneficiary.

The conditions which shall be satisfied for payment of a survivor pension are:

- (1) the deceased member had ten or more years of credited service;
- (2) the named beneficiary, if other than the deceased member's spouse at time of death, must be found by the board to have been dependent upon the deceased member for at least fifty percent of their financial support;
- (3) the member dies while in the employ of the City and prior to the first payment of a retirement pension.

(b) An election of form of payment Option A and naming of beneficiary may be changed or rescinded, in writing to the board, at any time prior to the retirement of the member.

(c) Non-Duty Survivor Pension Amount. The amount of pension shall be equal to the form of payment Option A pension amount equivalent to the deceased member's accrued normal retirement pension at the time of death calculated under the provisions of Section 2-809, notwithstanding the fact that the deceased member may not have been eligible for normal retirement. The survivor pension shall terminate upon the death of the named beneficiary.

(d) Except as provided in Sections 2-810(b)(5) and (b)(6), no pension shall be paid under this section if the death is found by the board to be a result of a personal injury or disease arising solely out of the member's employment with the City.

## **Sec. 2-812 DISABILITY RETIREMENT**

(a) Eligibility for Disability Retirement. A member who retires as a result of total and permanent disability approved by the board shall be paid either:

- (1) a non-duty disability pension if the member has ten or more years of credited service; or
- (2) a duty disability pension if the member's disability is found by the board to be the natural and proximate result of a personal injury or disease arising out of and in the course of the member's duties as an employee of the city and the member is paid workers' compensation on account of the same personal injury or disease.

Application for disability retirement may be made by the member or the City Manager. The board may approve disability retirement only if after a medical examination of the member, made by or under the direction of a medical advisor

selected by the board, the medical advisor certifies to the board in writing that the member is mentally or physically totally incapacitated for duty in the employ of the city, and the incapacity will probably be permanent.

(b) *Amount of Non-duty Disability Pension.* A member who retires on account of a non-duty disability shall be paid a disability pension subject to the limitations of Section 2-815, equal to the member's accrued normal retirement pension calculated according to Section 2-809, notwithstanding the fact the member may not be eligible for normal retirement. The pension shall terminate upon death or as provided by Section 2-873.

(c) *Amount of Duty Disability Pension.* A member who retires on account of a duty disability shall be paid a disability pension subject to the limitations of Section 2-815, equal to the member's accrued normal retirement pension calculated according to Section 2-809, notwithstanding that the member may not be eligible for normal retirement. The amount of duty disability pension under form of payment Option SL shall not be less than 15% of the member's final average compensation. Upon termination of the period for payment of the member's worker's compensation benefit, a disability retiree shall be given service credit for the period for payment of the member's worker's compensation benefit and the duty disability pension shall be recomputed. The period for payment of a worker's compensation benefit shall be equal to the period periodic payments are made plus the period obtained by dividing any settlement or redemption by the applicable periodic payment. The duty disability pension shall terminate upon the death of the retiree or as required by Section 2-813. The amount of the duty disability pension shall be reduced by the worker's compensation periodic payments received.

If the worker's compensation claim is redeemed or settled, the period during which the pension shall be reduced shall be calculated by dividing any settlement or redemption by the applicable periodic payment. If the worker's compensation payments are less than the benefits provided under this section, the retirement system shall pay the difference between the worker's compensation payments and the pension payable under this section.

### **Sec. 2-813 RE-EXAMINATION OF DISABILITY RETIREE**

(a) The board may require a disability retiree who has not satisfied an age and service eligibility condition for normal retirement to undergo a medical examination, to be made by or under the direction of a physician designated by the board, not more often than once each year during the first five years of disability retirement and not more often than at least once in each three-year period thereafter. If the retiree refuses to submit to a medical examination, the board may suspend payment of the retiree's disability pension until the retiree submits to the examination.

(b) If the retirant's refusal continues for one year, the board may terminate the disability pension. If the physician certifies to the board, in writing, that, based upon examination of the retirant, the retirant is physically and mentally able and capable of resuming employment with the city as an employee and the board concurs, the retirant shall be returned to city employment as an employee and payment of the disability pension shall terminate. In returning the retirant to city employment, reasonable latitude shall be allowed the city in placing the retirant in a position commensurate with the position held at the time of disability retirement.

**Sec. 2-814 RE-EMPLOYMENT OF DISABILITY RETIRANT.**

The membership of a disability retirant who is re-employed by the city shall be governed by the provisions of Section 2-803. If the retirant becomes a member and was being paid a non-duty disability pension, credited service at the time of reentry into membership will equal the amount of credited service at the time of disability retirement. If the retirant becomes a member and was being paid a duty disability pension, credited service at the time of reentry into membership will equal the amount of credited service at the time of disability retirement plus the period for which the member was paid workers' compensation.

**Sec. 2-815 LIMITATION ON DISABILITY PENSION**

If a disability retirant, who has not satisfied an age and service eligibility requirement for normal retirement, becomes engaged in a gainful occupation, business or employment paying more than the difference between the annual rate of the member's compensation at the time of disability retirement and the disability pension, the disability pension shall be reduced to an amount which together with the amount earned shall equal the annual rate of compensation at the time of disability retirement.

**Sec. 2-816 ELECTION OF FORM OF PAYMENT**

(a) A member or vested former member may elect to have pension payments made under any one of the forms of payment provided in Section 2-817 of the retirement ordinance and name a beneficiary.

The election and naming of beneficiary shall be filed with the retirement system, in writing, on forms provided by the retirement system. A member or vested former member may make, change or revoke an election: of an optional form of payment and naming of beneficiary at any time prior to the date the first pension payment is made. The change or revocation shall be in writing, on forms provided by and filed with the retirement system.

Payment of a pension shall be made under form of payment Option SL if a valid election and

naming of beneficiary has not been received by the retirement system or board by the date the first pension payment is made.

(b) The amount of pension under form of payment Option A and Option B shall be the actuarial equivalent of the amount of pension under form of payment Option SL.

### **Sec. 2-817 FORM OF PAYMENT OPTIONS**

(a) Option SL - Straight life Pension. The retired member is paid the pension for life under form of payment Option SL. All payments stop upon the death of the retirant, except as provided in subsection (e) of this section.

(b) Option A - 100% Survivor Pension. The retired member is paid a reduced pension for life under form of payment Option A. Upon the death of the retirant, the named beneficiary, if living, shall be paid 100% of the reduced pension for life.

(c) Option B - 50% Survivor Pension. The retired member is paid a reduced pension for life under form of payment Option B. Upon the death of the retirant, the named beneficiary, if living, shall be paid 50% of the reduced pension for life.

Option AP and Option BP may be elected only by a retirant who was covered by benefit group police command at time of termination of membership after December 1, 1984 or who was covered by benefit group police patrol at time of termination of membership after December 31, 1987 or who was covered by benefit group fire at time of termination of membership after December 31, 1988.

(d) Option AP - 100% Survivor Pension With Pop-Up. The retired member is paid a reduced pension for life under form of payment AP. Upon the death of the retirant, the named beneficiary, if living, shall be paid 100% of the reduced pension for life. Upon the death of the named beneficiary during the lifetime of the retired member, the amount of pension shall be increased to the amount which would have been payable had the retired member elected form of payment SL.

(e) Option BP - 50% Survivor Pension With Pop-Up. The retired member is paid a reduced pension for life under form of payment BP. Upon the death of the retirant, the named beneficiary, if living, shall be paid 50% of the reduced pension for life. Upon the death of the named beneficiary during the lifetime of the retired member, the amount of pension shall be increased to the amount which would have been payable had the retired member elected for of payment SL.

(f) If all pension payments permanently terminate before there is paid an aggregate benefit amount equal to the former member's accumulated member contributions at the time of retirement or death resulting in payment of survivor benefits, the difference between the amount of accumulated member contributions and the aggregate benefit amount paid shall be paid to the individual named in writing and filed with the retirement system. If no named individual survives the former member, the

difference shall be paid to the former member's legal representative.

**Sec. 2-818 COMMENCEMENT, CHANGE AND TERMINATION OF A PENSION**

Pensions payable for a fractional part of a month shall be pro-rated based on the number of days in the month that the pension was effective divided by 'the number of days in the month.

**Sec. 2-819 DENIAL OF BENEFIT CLAIM, APPEAL**

A benefit claimant shall be notified in writing, within thirty days, of denial of a claim for benefits. The notification shall give the reason for the denial. A claimant may appeal the denial and request a hearing. The appeal shall be in writing filed with the retirement system within ninety days of the denial. The appeal shall contain a statement of the claimant's reason for claiming the denial to be improper. The board shall schedule a hearing of the appeal before the board or, at the discretion of the board, a committee of the board, within sixty days of receipt of the appeal. A final decision on the matter being appealed shall be made by the board.

**Sec. 2-820 MEMBER CONTRIBUTIONS**

- (a) Benefit Group DPW. A member covered by benefit group DPW shall contribute 3% of base compensation.
- (b) Benefit Group Clerical. A member covered by benefit group clerical shall contribute 3% of compensation.
- (c) Benefit Group Administrative. A member covered by benefit group administrative shall contribute 5% of compensation.
- (d) Benefit Group Police Command. A member who is covered by benefit group police command shall contribute 6.35% of compensation.
- (e) Benefit Group Police Patrol. A member who is covered by benefit group police patrol shall contribute 6.35% of compensation.
- (f) Benefit Group Fire. A member who is covered by benefit group fire shall contribute 6% of compensation.
- (g) The individual responsible for preparing the city's payroll shall deduct the contributions, required by this section from the compensation of each employee who is a member, on each and every payroll, for each and every payroll period, so long as the employee remains a member. The amounts deducted shall be paid to the retirement system and credited to the reserve for accumulated member contributions.
- (h) Each member shall be deemed to consent and agree to the deductions made and provided for by this section. Payment of compensation less this deduction shall be a full and complete discharge and

acquittance of all claims and demands for the service rendered, except as to benefits provided by the retirement system.

**Sec. 2-821 RESERVE FUNDS OF RETIREMENT SYSTEM**

The accounting funds of the retirement system are the “reserve for member contributions,” “reserve for employer contributions,” “reserve for retired member benefit payments” and “reserve for undistributed investment income.” The maintenance of separate accounting reserves shall not be interpreted as requiring the actual segregation of assets of the retirement system among the reserves.

**Sec. 2-822 RESERVE FOR MEMBER CONTRIBUTIONS**

(a) The reserve for member contributions is the accounting fund in which shall be reflected:

- (1) contributions deducted from the compensation of members;
- (2) interest credited to the individual accounts maintained;
- (3) contributions deposited in a single sum or at an increased rate of contribution to repay accumulated member contributions previously withdrawn including interest paid on the repayment;
- (4) transfers to the reserve for retired member benefit payments or reserve for undistributed investment income;
- (5) payments of accumulated member contributions to a former member or beneficiary.

(b) An individual account shall be maintained for each member and former member.

(c) Repayments of previously withdrawn accumulated member contributions will be credited to a member's individual account as the amounts are received by the retirement system.

(d) If the retirement or death of a member prior to, retirement results in a pension payable by the retirement system the accumulated member contributions of the retired or deceased member shall be transferred from the reserve for member contributions to the reserve for retired member benefit payments. If a member ceases to be a member and the former member or a designated beneficiary cannot qualify for an immediate or deferred pension, any unclaimed accumulated member contributions shall be transferred to the reserve for undistributed investment income at the expiration of three years from the date of termination of membership.

(e) The accumulated member contributions of a former member who has not retired or died shall be paid to the former member upon written request to the retirement system.

(f) If a member or former member who has not retired dies and no pension will become payable on

account of the death, the accumulated member contributions shall be paid to the designated beneficiary on file with the retirement system. If there is not a living designated beneficiary on file with the retirement system, the accumulated member contributions shall be paid to the legal representative of the deceased member or former member.

**Sec. 2-823 RESERVE FOR EMPLOYER CONTRIBUTIONS**

(a) The reserve for employer contributions is the accounting fund in which shall be reflected:

- (1) contributions paid to the retirement system by the city;
- (2) interest credited to the reserve; less
- (3) transfers authorized under subsections (b) of this section.

(b) Each year following receipt of the report of the annual actuarial valuation, the excess, if any, of the reported actuarial present value of pensions being paid to retired member and beneficiaries and residual refunds likely to be paid beneficiaries over the balance in the reserve for retired member benefit payments shall be transferred to the reserve for retired member benefit payments.

**Sec. 2-824 RESERVE FOR RETIRED MEMBER BENEFIT PAYMENTS**

The reserve for retired member benefit payments is the accounting fund from which shall be paid all pensions and refunds of residual accumulated member contributions. Should a disability retirement allowance be terminated and the retirant become a member a transfer shall be made from the reserve for retired member benefit payments to the member's account in the reserve for accumulated member contributions. The amount of transfer shall be equal to the member's accumulated contributions at time of disability retirement reduced by the aggregate amount of pension payments which were not taxable income under the Internal Revenue Code.

**Sec. 2-825 RESERVE FOR UNDISTRIBUTED INVESTMENT INCOME**

(a) The reserve for undistributed investment income shall be the accounting fund in which shall be reflected:

- (1) all interest, dividends and other income derived from the investments of the retirement system;
- (2) all gifts and bequests received by the retirement system;
- (3) all unclaimed accumulated member contributions transferred from the reserve for accumulated member contributions;
- (4) all other moneys received by the retirement system, the disposition of which is not specifically provided for by the retirement ordinance;

- (5) payments for investment advice and other expenses;
- (6) expenses for interest credited to the reserve for accumulated member contributions, reserve for employer contributions and the reserve for retired member benefit payments; less
- (7) accumulated member contributions which were previously transferred to the reserve for undistributed investment income and are subsequently paid to claimant.

**Sec. 2-826 DISTRIBUTION OF RESERVE FOR UNDISTRIBUTED INVESTMENT INCOME**

The retirement system shall at least annually distribute as interest all or a portion of the balance in the reserve for undistributed investment income to the reserve for accumulated member contributions, the reserve for employer contributions and the reserve for retired member pension payments. Distribution rates shall be determined by the board. The board may use a portion of the reserve for undistributed investment income to provide contingency reserves.

**Sec. 2-827 EMPLOYER CONTRIBUTIONS**

- (a) The funding objective of the retirement system is to establish and receive city contributions during each fiscal year which are sufficient to fully cover the actuarial cost of benefits likely to be paid on account of service rendered by members during the fiscal year, the normal cost requirements of the retirement system and finance the unfunded actuarial costs of benefits likely to be paid on account of service rendered prior to the fiscal year, the unfunded actuarial accrued liability of the retirement system. Benefits include only those specifically provided by this retirement ordinance.
- (b) Contribution requirements shall be actuarially determined using experience assumptions and level percent of payroll actuarial cost methods adopted by the retirement board.

**Sec. 2-828 BOARD OF TRUSTEES; AUTHORITY AND MEMBERSHIP**

- (a) The authority and responsibility for the administration, management and operation of the retirement system; for construing and making effective the provisions of the retirement system contained in the retirement ordinance; and for the investment of the assets acquired by the retirement system are vested in the board of trustees, who are the trustees of the retirement system.
- (b) The board of trustees shall consist of:
  - (1) Two members of the city council, who are selected by the council, and serve at the pleasure of the council;
  - (2) The mayor of the city;

(3) A member covered by benefit group fire to be elected by the members of benefit group fire;

(4) A member covered by benefit group police command or benefit group police patrol to be elected by the members of benefit group police command and benefit group police patrol;

(5) A member covered by benefit group DPW, benefit group clerical or benefit group administrative to be elected by the members covered by benefit group general, benefit group DPW, benefit group clerical or benefit group administrative;

(6) A citizen who is an elector of the city, holding no other city position to be selected and appointed by the other trustees.

(c) The elections of members elected trustees shall be held under rules and regulations the board shall from time to time adopt.

### **Sec. 2-829 BOARD OF TRUSTEES; TERM OF OFFICE, VACANCIES**

(a) The term of office of a member trustee and a citizen trustee shall be four years, with at least one term of office expiring annually.

(b) A vacancy shall occur on the board of trustees if a:

(1) a member elected trustee ceases to be a member;

(2) the mayor or the city council member ceases to be mayor or city council member;

(3) a citizen trustee ceases to be an elector of the city;

(4) a trustee resigns or is removed from office.

(c) If a trustee vacancy occurs the vacancy shall be filled within thirty days, for the unexpired term using the procedure prescribed for the position.

### **2-830 BOARD OF TRUSTEES; MEETINGS, OFFICERS**

(a) The board shall hold meetings at least once each calendar quarter, and shall designate the time and place of each meeting. Four trustees shall constitute a quorum at any meeting of the board. Each trustee attending a meeting shall be entitled to one vote on each question before the board and at least four concurring votes shall be necessary for a decision by the board. The board shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the board shall be public.

(b) The board of trustees shall have the following officers.

(1) Chairperson - The board shall annually at its January meeting elect a chairperson and a vice chairperson from its own members.

(2) Secretary - The city clerk shall be the secretary to the board and shall serve as executive administrative officer of the retirement system.

(3) Treasurer - The city treasurer shall be treasurer of the retirement system and custodian of its assets except as to such assets as the board may from time to time otherwise hold, as authorized by state law. This shall not prevent the board from appointing a bank or other agent as custodian of any securities.

(4) Legal Advisor - The city attorney shall be legal advisor to the board. In the event of a conflict of interest, the board shall have the right to hire an independent legal advisor to the city.

**Sec. 2-831 BOARD OF TRUSTEES; EMPLOYMENT OF SERVICES, REPORTS**

(a) The board shall have the authority to employ medical actuarial, investment and other professional services as are necessary and convenient to carry out the provisions of the retirement ordinance. Compensation for employed services shall be fixed by the board.

(b) The board shall annually submit to the city council a report showing the fiscal transactions of the retirement system for the preceding fiscal year. The board shall furnish the council with such additional information regarding the operation of the retirement system as the council may request from time to time.

**Sec. 2-832 INVESTMENT OF RETIREMENT SYSTEM ASSETS**

(a) The board is the trustee of the monies and assets of the retirement system.

The board shall have full power and authority to invest and reinvest the monies and assets subject to all terms, conditions, limitations and restrictions imposed by the State of Michigan, on the investments of public employee retirement systems (currently Act 55, Public Acts of 1982).

(b) The board may employ outside investment counsel to advise the board in the making and disposition of investments. All monies and assets of the retirement system shall be held for the sole purpose of meeting disbursements authorized in accordance with the provisions of the retirement ordinance and shall be used for no other purposes.

(c) In exercising its discretionary authority and respect to the management of the monies and assets of the retirement system, the board shall exercise the care, skill, prudence and diligence under the circumstances then prevailing, that a person of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims.

**Sec. 2-833 PAYMENTS FROM RETIREMENT SYSTEM**

All payments from the retirement system shall be made by the city treasurer only on the authority

of city vouchers signed by two persons designated by the board. A copy of the resolution designating the persons and containing specimen signatures of the persons shall be filed with the city treasurer and shall serve as authorization to make payments upon the vouchers. No voucher for the retirement system shall be drawn unless it has been previously authorized by a general or specific resolution of the board.

### **Sec. 2-834 ASSIGNMENTS PROHIBITED; RIGHT OF SETOFF; INSURANCE**

(a) The right of an individual to a pension, to the return of accumulated member contributions, the pension itself, any other right accrued or accruing to any individual under the provisions of the retirement system, and any money belonging to the retirement system shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable, except as it otherwise specifically provided in the retirement ordinance.

(b) The right of an individual to a pension, to the return of accumulated member contributions, the pension itself, or any other benefit under the provisions of the retirement ordinance shall be subject to award by a court pursuant to section 18 of chapter 84 of the Revised Statutes of 1846, being section 552.18 of the Michigan Compiled Laws, and to any other order of a court pertaining to child support.

(c) If an award or order described in subsection (b) requires the retirement system to withhold payment of a pension, deferred pension, accumulated member contributions, or other benefit from the person to whom it is due or requires the retirement system to make payment or requires the person to request that the retirement system make payment of a pension, deferred pension, accumulated member contributions, or other benefit, for the purpose of meeting the person's obligations to a spouse, former spouse or child, as provided in subsection (b), the withholding or payment provisions of the award or order shall be effective only against such amounts as they become payable to the individual receiving a pension. The limitation contained in this subsection shall not apply to the accumulated member contributions of an individual who has terminated employment prior to acquiring a vested former member status.

### **Sec. 2-835 CORRECTION OF ERRORS**

The retirement system shall correct errors in the records of the retirement system. The retirement system shall seek to recover any overpayments, and shall make up any under payments, which have been made. The recovery of overpayments may be accomplished by reducing the amount of future

payments so that the actuarial present value of actual payments to the recipient is equal to the actuarial present value of the payments to which the recipient was correctly entitled.

**Sec. 2-836 SUBROGATION**

If an individual becomes entitled to a pension payable by the retirement system as the result of an accident or injury caused by the act of a third party, the city shall be subrogated to the rights of the individual against the third party to the extent of benefits' which the city pays or becomes liable to pay.

**Sec. 2-837 ACCRUED RIGHTS NOT IMPAIRED**

In no case shall the accrued rights of any member, retirant, or beneficiary, under chapter 8 of the City Charter, as amended be impaired or diminished by the provisions of the retirement ordinance.

**Sec. 2-838 DIVISION OF BENEFITS AS MARITAL PROPERTY**

The right of an individual to a pension, to the return of accumulated member contributions, the pension itself, or any other benefit under the provisions of the retirement ordinance shall be subject to award by a court of competent jurisdiction pursuant to section 18 of chapter 84, Revised Statutes of 1946, being section 552.18 of the Michigan Compiled laws, and to any other order of a court of competent jurisdiction pertaining to child support. If an award or order requires the retirement system to withhold payment of a pension, accumulated member contributions or other benefit from the individual to whom it is due, or requires the retirement system to make payment to a spouse, former spouse or child, the withholding or payment provisions of the award shall be effective only against the amounts as they become payable to the individual being paid the pension or other benefit. These limitations shall not apply to accumulated member contributions of an individual who is neither a member nor vested former member.