

## CITY OF GROSSE POINTS FARMS

### SUMMARY OF ORDINANCE NO. 386 ENTITLED “AN ORDINANCE TO AMEND AND RESTATE THE PROVISIONS OF THE CITY OF GROSSE POINTE FARMS PUBLIC SAFETY OFFICER RETIREMENT SYSTEM TO INCORPORATE ACCUMULATED CHANGES, REMOVE OBSOLETE MATERIAL, AND TO CONFORM TO APPLICABLE PROVISIONS OF STATE AND FEDERAL LAW”

On March 11, 2013, the Grosse Pointe Farms City Council enacted a Public Safety Officer Retirement Ordinance, Code No. 17 Ordinance No. 386. The following summary of the provisions of such ordinance has been issued for publication in accordance with Section 3(k) of the Michigan Home Rule Cities Act.

The Public Safety Officer Retirement Ordinance (hereinafter the “Ordinance”) is effective twenty days after its enactment.

The Ordinance provides for a system of retirement benefits covering all public safety employees in the fire division or police division, other than certain employees specifically excluded from participation under the provisions of the Ordinance. An employee’s eligibility for retirement benefits is defined in the Ordinance and is based upon specific factors, including age and length of employment. The Ordinance provides for several optional forms of retirement benefit payments, which may be selected by the employee. In addition to general retirement benefits, the Ordinance provides for disability retirement benefits for eligible employees. The Ordinance also describes the circumstances under which retirement benefits will be paid to survivor beneficiaries of a deceased participant of the retirement system.

Under the provisions of the Ordinance, the retirement system will be funded by contributions from participant employees and contributions from the City.

Under the Ordinance, the public safety officer retirement system will be administered by a board of trustees. The members of the board of trustees shall include persons appointed by the City Council as well as participants of the retirement system elected by eligible employees.

The Ordinance provides that the retirement system is intended to be a qualified pension plan under applicable provisions of the Internal Revenue Code, as amended.

The full text of the Ordinance is available for review and photocopying during regular business hours at the office of the City Clerk, 90 Kerby Road, Grosse Pointe Farms, Michigan.



CITY OF GROSSE POINTE FARMS  
WAYNE COUNTY, MICHIGAN

CODE NO. 17

PUBLIC SAFETY OFFICER ORDINANCE

ORDINANCE NO. 386

AN ORDINANCE AMENDING AND RESTATING THE PROVISIONS OF THE CITY OF GROSSE POINTE FARMS PUBLIC SAFETY OFFICER RETIREMENT SYSTEM TO INCORPORATE ACCUMULATED CHANGES, REMOVE OBSOLETE MATERIAL, AND TO CONFORM TO APPLICABLE PROVISIONS OF STATE AND FEDERAL LAW.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROSSE POINTE FARMS THAT THE CITY OF GROSSE POINTE FARMS PUBLIC SAFETY OFFICER RETIREMENT SYSTEM IS HEREBY AMENDED AND RESTATED IN ITS ENTIRETY TO READ AS FOLLOWS:

Sec. 1. NAME OF RETIREMENT SYSTEM; EFFECTIVE DATE; SHORT TITLE.

- 1.1 The City of Grosse Pointe Farms Public Safety Officer Retirement System, consisting of a defined benefit plan, heretofore created and maintained pursuant to Chapter 17, sections 17.1 through 17.39 of the Charter of the City of Grosse Pointe Farms, as amended, is hereby replaced as provided in Chapter 17, sections 17.1 through 17.5 of the Charter.
- 1.2 This ordinance shall be known and may be cited as the Public Safety Officer Retirement Ordinance.
- 1.3 This restatement will apply to individuals employed by the city on and after the effective date of the restatement. The retirement rights of an individual whose city employment terminated before the effective date of this restatement will be governed by the provisions of the retirement system in effect on the date the individual last terminated employment.

Sec. 2. DEFINITIONS.

As used in the Public Safety Officer Retirement Ordinance:

- 2.1 “Accumulated participant contributions” means the credit balance in a participant’s individual account in the defined contribution plan, including investment earnings credited to the participant contributions.
- 2.2 “Actuarial present value” means the amount of funds presently required to provide a payment or series of payments in the future calculated in accordance with the actuarial assumptions established by the board of trustees.
- 2.3 “Annuity” means a series of monthly payments to a retired participant or survivor pension beneficiary from the defined contribution plan.
- 2.4 “Board of Trustees” means the board of trustees provided for in section 18.

2.5 “City” means the City of Grosse Pointe Farms, Michigan.

2.6 “Compensation” means the base salary or wages paid a participant for personal services rendered the city. Compensation includes:

- (1) longevity pay, shift premiums, detective pay, lieutenant pay, and management pay;
- (2) overtime pay;
- (3) cost of living payments;
- (4) holiday and vacation pay;
- (5) base salary or wages while absent from work on account of vacation, holiday, illness or other city authorized paid leave;
- (6) city contributions on behalf of the participant to a deferred compensation program maintained pursuant to section 457 of the Internal Revenue Code; and
- (7) other items of remuneration which have been, as a matter of common practice, treated as compensation in the administration of the retirement system and from which participant contributions have been withheld.

Compensation does not include any salary, wage or other remuneration not specifically designated in this subsection as included in compensation

2.7 “Coverage plan” means the benefits applicable to a participant as provided in the Public Safety Officer Retirement Ordinance. For those members represented by a collective bargaining association, the coverage plan shall be amended by the provisions contained within the applicable collective bargaining agreements. For those members not represented by a collective bargaining association, the coverage plan shall be amended by the provisions contained within the administrative rules of the City of Grosse Pointe Farms (commonly referred to as the summary of benefits) or as otherwise adopted by the city in accordance with applicable law. The separate coverage plans are incorporated by reference and will be updated automatically as provided for under the applicable collective bargaining agreement or administrative rule covering such group or category of employees. The provisions of the collective bargaining agreements or administrative rules shall supersede any provisions in the retirement ordinance.

2.8 “Credited service” for a participant means the years of service, to the nearest 1/12 year, rendered by such participant to the city as an employee.

2.9 “Credited service account” for a participant means the record, maintained by the board of trustees, of such participant’s credited service.

2.10 “Employee” means an individual who is employed by the city in a position subject to withholding of federal income tax, including appointed officials.

2.11 “Participant” means an individual who is a participant in the retirement system as provided in section 3.

2.12 “Pension” means a series of monthly payments to a retired participant or survivor pension beneficiary from the defined benefit plan.

2.13 “Plan year” means the twelve consecutive month period beginning with the month of July of each calendar year.

2.14 “Retired participant” means an individual who is being paid a pension on account of participation in the retirement system.

2.15 “Retirement system” means the retirement system maintained in accordance with the provisions of the Public Safety Retirement Ordinance.

2.16 “Retirement system administrator” means the city controller, who shall administer the retirement system in accordance with this ordinance and in accordance with the direction of the board of trustees.

2.17 “Survivor pension beneficiary” means an individual who is being paid a pension or who has been designated to be paid a pension as a result of the death of a participant or retired participant.

2.18 “Vested former participant” means a former participant who retains entitlement to normal retirement as provided in section 6.

### Sec. 3. PARTICIPATION IN RETIREMENT SYSTEM.

#### Participation Mandatory

3.1 Each employee of the city who is employed as a public safety officer shall be a participant in the retirement system unless excluded from participation in accordance with subsection 3.2 of this section. The term “public safety officer” means an employee employed in the public safety department of the city who is employed as a peace officer and/or firefighter and has taken the oath of office prescribed for a peace officer and/or firefighter.

#### Exclusions From Participation

3.2 Notwithstanding subsection 3.1, the following individuals are excluded from participation in the retirement system:

- (1) an employee who is not employed in the fire division or police division; and
- (2) an employee who is employed in the fire division or police division who is not a public safety officer; and
- (3) employees designated by the city as being employed in a position normally requiring less than 1000 hours of work per year; and
- (4) an individual retained or contracted by the city in a manner not subject to

- withholding of federal income tax; and
- (5) a retired participant; and
  - (6) any individual who participates in any other pension or retirement system provided by the city. If an individual elects to participate in any other pension or retirement system provided by the city, such election shall be irrevocable and shall be binding on the individual and any beneficiary of the individual.

#### Termination of Participation

- 3.3 An individual shall no longer be a participant upon ceasing to be an employee or upon becoming excluded from participation as provided in subsection 3.2 of this section.

#### Sec. 4. CREDITED SERVICE.

##### Requirements for Credit

- 4.1 Personal service rendered the city while a participant shall be credited to each participant's credited service account each plan year in accordance with rules established by the board of trustees. In no case shall a participant be credited with more than one year of service for all service performed during a plan year. Service shall be credited to the nearest 1/12 year. Service shall not be credited a participant for a month during which the participant was compensated for less than ten (10) calendar days.

##### Intervening Military Service

- 4.2 A participant who leaves 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 the city council shall have the period of armed service, to a maximum of six years, added to the participant's credited service account if each of the following conditions is met:
- (1) the participant is re-employed by the city within the period during which the right to re-employment is guaranteed under the laws of the State of Michigan or of the United States, or, if there is no such law, within six months of the date of termination of required armed service; and
  - (2) The participant shall not be required to make participant contributions for the period of credited service, if any, granted under the provisions of this subsection.
  - (3) Contributions, benefits and service credit with respect to qualified military service will be provided in accordance with irc §414(u) and regulations.

##### Forfeiture of Credited Service

- 4.3 Credited service shall be forfeited if an individual who is not a vested former participant incurs a break in participation of more than twenty-four (24) consecutive months. Credited service forfeited under this subsection cannot reinstated.

The forfeiture of credited service required by this subsection shall not apply in the following cases:

(1) the individual is absent on account of service in an armed services of the United States and returns to city employment within the period during which the right to re-employment is guaranteed under the laws of the State of Michigan or of the United States, or, if there is no such law, within six months of the date of termination of required armed service; or

(2) the individual is absent on account of an authorized unpaid leave of absence and returns to work on or before the end of the period of authorized leave of absence.

4.4 Credited service for which an individual has made participant contributions shall be forfeited if the individual's accumulated participant contributions are paid to the individual prior to the individual's date of retirement, the individual's designated beneficiary or the individual's legal representative if there is no designated beneficiary on file with the retirement system. Credited service forfeited under this subsection shall be reinstated if both of the following conditions are met:

(1) the participant pays the retirement system all accumulated participant contributions previously refunded to the participant, plus compound interest at rates established by the board of trustees and calculated from the date of the refund of accumulated participant contributions to the date of the repayment to the retirement system; and

(2) the repayment is completed within six months of resumption of participation.

## Sec. 5. NORMAL RETIREMENT.

### Eligibility

5.1 A participant or vested former participant may retire upon fulfilling all of the following requirements:

(1) the participant or vested former participant meets the age and service requirements for normal retirement as specified in the coverage plan applicable to the participant or vested former participant; and

(2) the participant or vested former participant selects a date of retirement; and

(3) a written application for normal retirement, in the form prescribed by the retirement system administrator, is filed with the administrator prior to the selected date of retirement; and

- (4) employment by the city in any position involving participation in the retirement system is terminated prior to the selected date of retirement.

#### Amount of Annuity and Pension

5.2 Except as otherwise provided by the Public Safety Officer Retirement Ordinance and the provisions of Section 415 of the Internal Revenue Code applicable to public employee retirement plans, the amount of normal retirement annuity from the defined contribution plan and normal retirement pension from the defined benefit plan, under form of payment option SL, is determined in accordance with the coverage plan applicable to the participant or vested former participant. The pension of a participant who has credited service under each of two or more coverage plans shall be determined as follows:

- (1) determine the amount of pension under each coverage plan as if all credited service of the participant had been under the coverage plan;
- (2) for each coverage plan, multiply the amount of pension obtained in clause (1) by the ratio of credited service under the coverage plan to the participant's total credited service;
- (3) the pension is the sum of the amounts obtained for each coverage plan in clause (2).

#### Sec. 6. VESTED TERMINATION OF PARTICIPATION.

##### Eligibility for Vested Termination

6.1 A participant who ceases to be a participant for a reason other than death or retirement shall be a vested former participant if the participant meets both of the following requirements:

- (1) the participant meets the service requirement for vested termination of participation specified in the coverage plan applicable to the participant; and
- (2) the participant's accumulated participant contributions are left on deposit in the defined contribution plan.

##### Eligibility for Normal Retirement and Amount of Annuity and Pension

6.2 Eligibility for normal retirement and the amount of normal retirement annuity from the defined contribution plan and pension from the defined benefit plan shall be determined according to the provisions of section 5 (as applicable at the time of

termination of participation).

#### Forfeiture of Vested Pension

6.3 An election by a vested former participant to be paid accumulated participant contributions from the defined contribution plan shall result in forfeiture of credited service and all rights to any benefits under the retirement system other than payment of the accumulated participant contributions.

#### Re-employment after Retirement

6.4 A retired participant may continue to receive pension payments upon re-employment by the city provided the retired participant is not eligible for membership in the retirement system.

### Sec. 7. DISABILITY

### RETIREMENT.

#### Eligibility

7.1 The board of trustees shall provide retirement benefits to a participant on account of disability if each of the following requirements are met:

(1) the participant meets the service requirement for disability retirement specified in the coverage plan applicable to the participant or the board of trustees determines the disability to have been in the natural and proximate result of causes arising out of and in the course of the participant's employment by the city; and

(2) the participant seeking disability retirement was a participant at the time the disability was incurred; and

(3) a written application for disability retirement, in the form and containing the information prescribed by the board of trustees, has been filed with the retirement system administrator by the participant or the participant's department head; and

(4) the participant submits to all medical examinations and tests, and furnishes copies of all medical reports, requested by the board of trustees; and

(5) if the participant meets the applicable age and service requirements for normal retirement, the cost of all medical examinations, tests and reports shall be paid by the participant; and

(6) the medical examiner makes the certification required under subsection 7.2.

#### Medical Examination

7.2 A condition for disability retirement is a written certification by the medical examiner to the board of trustees that:

(1) the participant is mentally or physically totally incapacitated for continued employment with the city in the same or similar position the participant held at the time of the claimed disability; and

(2) the incapacity is likely to be permanent.

7.3 The medical examiner shall be one or more licensed physicians selected by the board of trustees.

Amount of Annuity and Pension

7.4 The amount of a disability retirement annuity from the defined contribution plan and disability retirement pension from the defined benefit plan shall be calculated in the same manner as a normal retirement annuity and pension. If the board of trustees finds the disability to have been the natural and proximate result of causes arising out of and in the course of the participant's employment by the city, the amount of credited service used to calculate the amount of pension shall be the actual amount of credited service increased by the period, if any, between the date of disability retirement and the date the participant would attain age fifty (50) years.

#### Sec. 8. RE-EVALUATION OF DISABILITY RETIRED PARTICIPANT; TERMINATION OF ANNUITY AND PENSION.

8.1 The board of trustees may require a disability retired participant to undergo periodic medical or other re-evaluation by a medical examiner, at the retirement system's expense, or to submit acceptable evidence of continuation of disability, if the participant has not attained age fifty (50) years. Medical or other re-evaluations not specifically required by the board of trustees shall be solely at the retired participant's expense.

#### Suspension of Benefit

8.2 The board of trustees may suspend payment of a disability annuity and pension if the disability retired participant refuses to submit to re-evaluation. If the refusal continues for one year, the board of trustees may terminate the disability retirement annuity and pension and revoke the disability retired participant's right to the

disability retirement annuity and pension.

#### Termination of Benefit

8.3 A disability annuity and pension shall be terminated if the medical examiner reports that the disability retired participant is capable of resuming employment with the city as a public safety officer. The former disability retired participant shall be returned to active service as a public safety officer in the employ of the city at a compensation level not less than the current compensation for the rank held at time of disability retirement. The former disability retired participant shall again be a participant and credited service at time of disability retirement shall be restored to the participant's credited service account. Credited service shall not be granted for the period of disability retirement unless the board of trustees has found the disability to have been in the natural and proximate result of causes arising out of and in the course of the participant's employment by the city.

#### Sec. 9. DISABILITY RETIRED PARTICIPANT: LIMITATION ON SUM OF PENSION AND EARNINGS FROM GAINFUL EMPLOYMENT STATUS.

9.1 The amount of disability pension for a disability retired participant who has not attained age fifty (50) years shall not exceed the difference between (i) one hundred percent of the retired participant's monthly rate of compensation at time of disability retirement, and (ii) the monthly amount of the retired participant's considered income. The retired participant's considered income shall mean compensation obtained from gainful occupation, business or employment. The above calculation is based on a pension under form of payment option SL. Calculations for other optional forms of payment shall be similarly adjusted under rules established by the board of trustees. Adjustments to the amount of a pension under this subsection shall be made annually in accordance with procedures established by the board of trustees.

#### Sec. 10. PUBLIC SAFETY OFFICER PERSONNEL COVERAGE PLAN.

##### Applicability

10.1 The public safety officer personnel coverage plan is applicable to all participants unless specifically amended by a different coverage plan provision.

##### Participant Contribution Rate

10.2 A participant covered by the public safety officer personnel coverage plan shall contribute seven and two one-hundredths percent (7.02%) of the annual compensation.

## Definition of Final Average Compensation

10.3 Final average compensation is the average of the three (3) calendar years of highest annual compensation received by a participant during the participant's five (5) years of service immediately preceding the participant's last termination of participation. If the participant has less than three (3) years of service, final average compensation means the annual average compensation received by the participant during the participant's total years of service.

## Age and Service Requirements For Normal Retirement

10.4 The age and service requirements for normal retirement are age fifty-five (55) years and any number of years of credited service, Or age fifty (50) years with twenty-five (25) or more years of credited service.

## Amount of Defined Benefit Plan Normal Retirement Pension Under Form of Payment Option SL

10.5 The monthly amount of a defined benefit plan normal retirement pension under form of payment option SL is equal to the lesser of (i) the sum of (A) two and sixty five hundredths percent (2.65%) of final average compensation multiplied by credited service, to a maximum of twenty-five (25) years of credited service, plus (B) one and three-quarters percent (1.75%) of final average compensation multiplied by credited service in excess of twenty-five (25) years, or (ii) seventy-five percent (75%) of final average compensation.

## Amount of Defined Contribution Plan Annuity Under Form of Payment Option SL

10.6 The total amount of a defined contribution plan annuity under form of payment option SL is equal to the actuarial equivalent of the participant's or vested former participant's accumulated participant contributions.

## Service Requirement For Vested Termination of Participation.

10.7 The service requirement for vested termination of participation is ten (10) or more years of credited service.

## Service Requirement For Disability Retirement

10.8 The service requirement for disability retirement is ten (10) or more years of credited

service. The service requirement shall be waived if worker's compensation loss of wage benefits are paid the participant on account of the same incapacity for which the participant was retired and the board of trustees determines that the incapacity was the natural and proximate result of causes arising out of and in the course of the participant's employment by the city.

## Minimum Pension

10.9 In no case shall the monthly amount of pension under form of payment option SL be less than the difference between:

(1) the lesser of (i) the sum of (A) two and one-half percent (2.5%) of final average compensation multiplied by credited service, to a maximum of twenty-five (25) years of credited services, plus (B) one percent (1.0%) of final average compensation multiplied by credited service in excess of twenty-five (25) years, or (ii) seventy percent (70%) of final average compensation, and

(2) the monthly amount of the participant's defined contribution plan annuity.

## COLA

10.10 (a) The amount of pension and annuity payable to an eligible pension recipient shall be increased in accordance with subsections (b) and (c) below.

(b) For purposes of this Section 10.10, an "eligible pension recipient" is:

(1) a retired participant who has been retired at least six (6) months as of January 1 of the year in which the pension and annuity are to be increased under subsection (c) below.

(2) a survivor pension beneficiary who has been in receipt of a survivor annuity and pension for at least six (6) months as of January 1 of the year in which the pension and annuity are to be increased under subsection (c) below.

(3) a survivor pension beneficiary of a deceased retired participant who otherwise would have been retired six (6) months as of January 1 of the year in which the pension and annuity are to be increased under subsection (c) below.

(c) The January 1 on which a retired participant or beneficiary becomes an eligible pension recipient shall be referred to as the "COLA start date". Subject to subsection (d) below, on the COLA start date and on each subsequent January 1, the pension and annuity shall be increased by two and one-half percent (2 1/2%),

compounded, of the pension and annuity which would have been paid in the absence of cost of living adjustments provided under this Section. The cost of living provision shall be considered in the calculation of optional forms of payment.

## Sec. 11. ELECTION OF FORM OF PAYMENT OF A PENSION

### Election of Form of Payment Option

11.1 Pension and annuity payments shall be made under form of payment SL unless the participant or vested former participant requests payment under another form of payment provided by this section and names a survivor pension beneficiary. The request for payment under another form of payment must be made on a form furnished by and filed with the retirement system administrator prior to the date the first pension payment is made under form of payment SL. Unless form of payment LS is selected for the annuity benefit, the form of payment for the annuity benefit shall be the same form of payment selected for the pension benefit. Form of payment LS cannot be selected for pension benefits.

### Changes Restricted

11.2 A form of payment selection may not be changed after the date the first pension and annuity payment is made. A named survivor pension beneficiary may not be changed after the date the first pension and annuity payment is made under form of payment option 100% JS or 50% JS. No benefit will be paid under the provisions of this section if any benefit is paid or will become payable under the provisions of section 13.

### Forms of Payment Have Same Actuarial Present Value

11.3 Pension and annuity payments under each optional form of payment provided by this section shall have the same actuarial present value, computed as of the effective date of retirement.

### Form of Payment Option SL

11.4 The retired participant is paid an annuity and/or a pension for life under form of payment SL. All payments to the retired participant stop upon payment for the month in which occurs the death of the retired participant.

## Form of Payment Option 100% JS

11.5 The retired participant is paid a reduced annuity and/or a reduced pension for life under form of payment option 100% JS. The last payment to the retired participant is the payment for the month in which occurs the death of the retired participant. The named survivor pension beneficiary, if living on the first day of the month following the month in which occurs the death of the retired participant, is then paid the same amount of annuity and/or pension for life. The first payment to the survivor pension beneficiary is for the month following the month in which occurs the death of the retired participant. The last payment to the survivor pension beneficiary is the payment for the month in which occurs the death of the survivor pension beneficiary. No payment is made to the survivor pension beneficiary if the death of the retired participant and the death of the survivor pension beneficiary occur in the same month. If the named survivor pension beneficiary dies prior to the retired participant the amount of the retired participant's pension shall change to the amount that would be payable had form of payment option SL been selected. The change in amount starts with the payment for the month following the month in which occurs the death of the named survivor pension beneficiary.

## Form of Payment Option 50% JS

11.6 The retired participant is paid a reduced annuity and/or pension for life under form of payment 50% JS. The last payment to the retired participant is the payment for the month in which occurs the death of the retired participant. The named survivor pension beneficiary, if living on the first day of the month following the month in which occurs the death of the retired participant, is then paid fifty percent (50%) of the reduced annuity and/or pension for life. The first payment to the survivor pension beneficiary is for the month following the month in which occurs the death of the retired participant. The last payment to the survivor pension beneficiary is the payment for the month in which occurs the death of the survivor pension beneficiary. No payment is made to the survivor pension beneficiary if the death of the retired participant and the death of the survivor pension beneficiary occur in the same month. If the named survivor pension beneficiary dies prior to the retired participant, the amount of the retired participant's pension shall change to the amount that would be payable had form of payment option SL been selected. The change in amount starts with the payment for the month following the month in which occurs the death of the named survivor pension beneficiary.

## Form of Payment Option LS

11.7 Under form of payment LS, the retired participant is paid a lump sum amount equal to the retired participant's accumulated participant contributions in lieu of monthly annuity payments.

#### Form of Payment Option G120

11.8 The retired participant is paid a reduced annuity and/or pension for life under the form of payment option G120. The last payment to the retired participant is the payment for the month in which occurs the death of the retired participant. If less than one-hundred twenty (120) monthly annuity and/or pension payments are made to the retired participant, payment shall continue to the named survivor pension beneficiary(ies) until a total of one-hundred twenty (120) monthly annuity and/or pension payments have been made. The first payment to a named survivor pension beneficiary is for the month following the month in which occurs the death of the retired participant. Payment of the annuity and/or pension shall be divided among living named survivor pension beneficiaries in the shares specified by the retired participant. If no shares are specified, payments shall be divided equally. Should the death of the retired participant and all named survivor pension beneficiaries occur before one-hundred twenty (120) monthly annuity and/or pension payments are made, the actuarial present value of the remainder of the one-hundred twenty (120) payments shall be paid to the estate of the last to survive of the retired participant and the named survivor pension beneficiaries.

#### Sec. 12. PENSION TO DESIGNATED SURVIVOR PENSION BENEFICIARY OF DECEASED PARTICIPANT; AUTOMATIC DESIGNATION OF SPOUSE; CHILDREN.

#### Eligibility

12.1 An annuity and/or pension shall be paid to the designated survivor pension beneficiary of a deceased participant who was not receiving retirement benefits under the Public Safety Officer Retirement Ordinance at the time of death and who elected form of payment option 100% JS, if both of the following requirements are met:

- (1) the participant, at the time of death, (i) had fifteen (15) or more years of credited service, or (ii) was age fifty-five (55) years or older and had ten (10) or more years of credited service; and
- (2) the designated survivor pension beneficiary files written application for the annuity and/or pension with the retirement system administrator.

#### Amount of Survivor Annuity and Pension

12.2 The annuity and pension amount under this section is the deceased

participant's accrued normal retirement annuity and pension amount at the time of death under form of payment option 100%JS.

#### Commencement and Termination of Pension

- 12.3 Payment of the annuity and/or pension the month following the month in participant. The last pension payment in which occurs the death of the named shall commence on the first day of which occurs the death of the shall be the payment for the month survivor pension beneficiary.

#### Designation and Election Presumed if Married

- 12.4 A participant who is married at time of death shall be presumed to have designated the spouse as survivor pension beneficiary and elected form of payment option 100% JS if no valid designation and election is on file with the retirement system administrator.

#### Pension for Minor Children

12.5 The unmarried children of a deceased participant shall be paid an annuity and/or pension for each month an annuity and/or pension payment is not being made to a designated survivor pension beneficiary or surviving spouse if all of the following conditions are met:

- (1) the deceased participant at the time of death had (i) fifteen (15) or more years of credited service, or (ii) was age fifty-five (55) years or older and had ten (10) or more years of credited service; and
- (2) the child is under age eighteen (18) years; and
- (3) the child has not been adopted.

The amount of a child's pension is an equal share, with each other child eligible, or seventy-five percent (75%) of the deceased participant's accrued normal retirement pension under form of payment option SL. A re-allocation shall be made each time there is a change in the number of eligible children. A child's annuity and/or pension shall terminate with the payment for the month in which the child (i) marries, or (ii) attains age eighteen (18) years, or (iii) is adopted, or (iv) dies, whichever occurs earliest.

12.6 No annuity or pension shall be paid under the provisions of this section if any benefit is paid or will become payable under section 13.

### Sec. 13. DEATH IN LINE OF DUTY.

#### Eligibility

13.1 The benefits provided in this section shall be paid in the event of the death of a participant if both of the following requirements are met:

- (1) the board of trustees finds the death to have been the result of personal injury or disease arising out of and in the course of performance of duty by the deceased in the employ of the city; and
- (2) the beneficiary makes written application for the pension.

#### Payment of Accumulated Participant Contributions

13.2 The deceased participant's accumulated participant contributions shall be paid from the defined contribution plan as provided in section 14.

#### Pension to Surviving Spouse

13.3 The surviving spouse shall be paid a pension commencing the first day of the calendar month following the month in which occurs the participant's death. The monthly amount of pension shall be equal to one-third (1/3) of the deceased participant's final monthly rate of compensation. The pension shall terminate with the payment for the month in which the spouse (i) marries, or (ii) dies.

#### Pension to Surviving Children

13.4 Each surviving unmarried child under age eighteen (18) years shall be paid a pension commencing the first day of the calendar month following the month in which occurs the death of a participant. If a surviving spouse's pension is terminated the monthly amount of a child's pension is an equal share with each other eligible child of one-half (1/2) of the deceased participant's final monthly rate of compensation, subject to a maximum of one-quarter (1/4) of the deceased participant's final monthly rate of compensation to any one child. The pension of a child shall terminate with the payment

for the month in which the child (i) marries, or (ii) attains age eighteen (18) years, or (iii) is adopted, or (iv) dies, whichever occurs earliest.

#### Pension to Dependent Surviving Parents

13.5 Each dependent surviving parent shall be paid a pension if the deceased participant leaves neither a surviving spouse nor a surviving child and the board of trustees finds the parent to have been financially dependent upon the deceased participant due to absence of earning power arising from a mental or physical disability. Payment of the pension commences the first day of the calendar month following the month in which occurs the death of the participant. The monthly amount of pension is equal to the lesser or (i) one-sixth of the deceased participant's final monthly rate of compensation, and (ii) fifty dollars (\$50.00). A dependent parent's pension shall terminate with the payment for the month in which the parent (i) marries, or (ii) dies.

#### Definitions

13.6 As used in this section, "spouse" means the person to whom the participant or disability retired participant was married at the time participation terminated.

#### Worker's Compensation Offset

13.7 During the worker's compensation period of a surviving spouse, child or parent, any pension provided in this section shall be reduced by the individual's actual or imputed amount of weekly worker's compensation converted to a monthly basis, as determined by the board of trustees. As used in this section, "worker's compensation period" means the period for which an individual is paid weekly worker's compensation benefits plus the period obtained by dividing any lump sum payment in lieu of future worker's compensation by the amount of the weekly worker's compensation benefit which would have been paid in the absence of the lump sum payment.

#### Sec. 14. RESIDUAL BENEFITS.

##### Upon Termination of All Annuity and Pension Payments

14.1 If annuity and pension payments permanently terminate before the retirement system has paid an aggregate amount equal to the deceased retired participant's accumulated participant contributions, the difference between the amount of accumulated participant contributions and the aggregate amount of annuity and pension payments shall be paid to the legal representative or administrator of the estate of the deceased retired participant.

##### Refund Upon Termination of Participation

14.2 The accumulated participant contributions of a vested former participant, former participant or a participant on leave of absence from the city as a consequence of the entry into active duty with the Armed Forces of the United States, shall be paid to the individual upon written request to the retirement system administrator.

#### Refund Upon Death and No Pension Is Payable

14.3 If a participant, vested former participant or former participant dies prior to retirement and no annuity or pension is or will be paid except as provided in section 13, the unexpended accumulated participant contributions of the deceased shall be paid to the legal representative or administrator of the estate of the deceased.

### Sec. 15. PARTICIPANT CONTRIBUTIONS.

#### Deduction From Salary

15.1 The city shall cause the participant contributions specified by the coverage plan applicable to a participant to be deducted from the compensation of the participant. The city shall remit the deducted participant contributions to the retirement system within five (5) business days. By continuing employment with the city, each participant shall be deemed to consent and agree to the deductions made and provided for in this section.

#### Individual Accounts

15.2 Contributions of a participant shall be credited to the participant's individual account in the defined contribution plan.

#### Investment Earnings Credited

15.3 The board of trustees shall, not less often than once each plan year, credit investment earnings to each participant's account in the defined contribution plan. The rate of investment earnings credited shall be that determined by the board of trustees.

### Sec. 16. CITY CONTRIBUTIONS TO RETIREMENT SYSTEM; FUNDING OBJECTIVE.

#### Remittance of City Contributions

16.1 The city shall remit its contributions to the retirement system for a fiscal

year no later than the last day of the fiscal year. City contributions shall be credited to the defined benefit plan account.

Level	Cost	Funding
-------	------	---------

16.2 The funding objective for the retirement system is to establish and receive during each fiscal year city contributions which are sufficient to:

(1) cover the actuarial cost of benefits likely to be paid on account of service rendered by participants during the fiscal year (normal cost); and

(2) pay the unfunded actuarial cost of benefits likely to be paid on account of service rendered by participants prior to the current fiscal year (unfunded actuarial accrued liability) over periods not in excess of the lesser of (i) the maximum periods, if any, established by the Governmental Accounting Standards Board for the purpose of determining pension expense, and (ii) thirty (30) years.

#### Actuarial Valuations

16.3 City contributions shall be determined by annual actuarial valuation using an actuarial cost method adopted by the board of trustees.

#### Appropriation Required

16.4 The city shall appropriate and cause the contribution to be paid to the retirement system.

#### Sec. 17. ACCOUNTING FUNDS.

17.1 The mandatory accounting funds of the retirement system are the “defined benefit plan fund”, the “defined contribution plan fund” and the “health benefit fund”. The board of trustees may establish such additional funds and accounts as it deems appropriate or as are required for compliance with applicable laws and accounting standards. The maintenance of separate accounting funds and accounts shall not require the actual segregation of the assets of the retirement system among the accounting funds and accounts.

#### Defined Benefit Plan Fund

17.2 The “defined benefit plan fund” is the accounting fund which shall be credited with contributions by the city, transfers of accumulated participant contributions

from the defined contribution plan fund as provided in the Public Safety Officer Retirement Ordinance, and investment earnings of the retirement system not specifically allocated to the defined contribution plan fund, and which shall be charged with pension payments, annuity payments following transfers of accumulated participant contributions, residual refunds of accumulated participant contributions of deceased retired participants, expenses incurred in the operation of the retirement system, and investment earnings allocated to the defined contribution plan fund and not credited directly to the fund. If a disability pension is terminated for a reason other than the death of the retired participant before an amount equal to the retired participant's accumulated participant contributions has been paid, the unexpended balance of the accumulated participant contributions shall be transferred from the defined benefit plan fund to the former retired participant's individual account in the defined contribution plan fund.

#### Defined Contribution Plan Fund

17.3 The "defined contribution plan fund" is the accounting fund which shall be credited with participant contributions, repayments of participant contributions including any applicable interest charges, and investment earnings allocated to the defined contribution plan, and which shall be charged with refunds and transfers of accumulated participant contributions as provided in the Public Safety Officer Retirement Ordinance, including the single annuity payment under form of payment option LS.

A participant's or vested former participant's accumulated participant contributions shall be transferred to the defined contribution plan fund if a monthly annuity becomes payable upon the retirement or death of the participant or vested former participant.

#### Health Benefit Fund

17.4 The "health benefit fund" is the accounting fund which shall be credited with contributions by the city for the purpose of funding all or a portion of the cost of providing health insurance coverage to eligible retired participants and eligible survivor pension beneficiaries and investment earnings allocated to the health benefit fund, and which shall be charged with all, or a portion, of applicable premiums or contract charges for such coverage. Eligibility for coverage and the portion of the premium or contract charge to be paid from the health benefit fund shall be as determined by the city council. The balance of any premium or contract charge not paid from the health benefit fund shall be deducted from the retired member's or beneficiary's pension payments. Contributions to the health benefit fund by the city shall not exceed twenty-five percent (25%) of the city's normal cost contribution determined in accordance with section 16.

#### Sec. 18. BOARD OF TRUSTEES.

##### Powers

18.1 The board of trustees is a quasi-judicial body and shall be the trustees of the retirement system. The board of trustees shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Public Safety Officer Retirement Ordinance including, in addition to any specific powers provided for in the Public Safety Officer Retirement Ordinance, but without limiting the generality of the foregoing, the power:

- (1) to administer the Public Safety Officer Retirement Ordinance, including the management of the retirement system and making effective the provisions of the Public Safety Officer Retirement Ordinance;
- (2) to administer oaths;
- (3) to create and maintain records;
- (4) to issue subpoenas and compel the production of evidence and attendance of witnesses in connection with any hearings or proceedings of the board of trustees;
- (5) to make and adopt such reasonable rules and regulations as may be necessary or convenient to carry out the duties of the board of trustees and activities of the retirement system, including any rules and regulations necessary to preserve the status of the retirement system as a qualified pension plan under the provisions of the Internal Revenue Code of the United States, as amended, or under successor or related provisions of law;
- (6) to designate committees and to designate committee participants, including individuals who may not be participants in the retirement system;
- (7) to employ such personnel and other services as are necessary to comply with the provisions of the Public Safety Officer Retirement Ordinance;
- (8) to pay the expenses of operating the retirement system from the assets of the retirement system, to the extent such expenses are not paid directly by the city.
- (9) to determine who is a member within the meaning of the provisions of the retirement ordinance and the applicable coverage plan.
- (10) to adopt the actuarial assumption of the retirement system in consultation with its actuary.

## Composition

18.2 The board of trustees shall consist of the following five (5) individuals:

- (1) An elector and taxpayer of the city who is not an officer of the city and who is not a participant or beneficiary of a participant, to be appointed by and serve at the pleasure of the city council;
- (2) Two members of the city council to be appointed by and serve at the pleasure of the city council;
- (3) Two participants of the retirement system elected by the participants of the retirement system.

## Term of Office; Elections

18.3 (a) The regular term of office of a trustee shall be two (2) years. Trustees shall take office immediately following their qualification. Trustees holding office on the effective date of this restated Public Safety Officer Retirement Ordinance shall continue in office for the balance of their term or until replaced as provided in the Public Safety Officer Retirement Ordinance.

(b) Elections of participant elected trustees shall be held in the month of May. The board of trustees shall make provision for such elections.

- (c) A trustee shall qualify for office by taking an oath of office for faithful performance of the duties of trustee. The oath of office shall be administered by the \_\_\_\_\_ city \_\_\_\_\_ clerk.

## Vacancies

18.4 A vacancy in the office of trustee shall be filled within thirty (30) days of the date of the vacancy, for the unexpired term, either by appointment or by election (as applicable to the vacant position under subsection 18.2). If the vacancy is in the position of participant elected trustee and the term would expire in less than sixty (60) days after the vacancy, the position shall be left vacant until filled by regularly scheduled participant election.

## Meetings; Quorum; Removal from Office

18.5 (a) The board of trustees shall hold quarterly meetings and shall designate the time and place thereof by posted written notice. All meetings of the board of trustees shall be public. The board of trustees shall adopt

its own rules of procedure and shall keep a written record of its proceedings.

- (b) Three (3) trustees shall constitute a quorum. Three (3) concurring votes are required for a decision of the board of trustees.
- (c) A trustee may be removed from office in accordance with Public Act 314 of 1965, as amended.

#### Expenses of Office

18.6 Members of the board of trustees shall serve without additional compensation for their services as trustees. They shall be reimbursed for necessary and reasonable travel expenses and participant members shall suffer no loss of compensation in fulfilling their duties as a trustee.

#### Miscellaneous

18.7 (a) The board of trustees shall elect from its membership a chairperson and a vice-chairperson.

- (b) The city clerk shall be the secretary of the board of trustees.
- (c) The city treasurer shall be the treasurer of the retirement system.

#### Employment of Services

18.8 The board of trustees may employ such services as it requires for the proper performance of its duties.

18.9 The board shall be indemnified and held harmless by the city, to the extent authorized or permitted by law, against any and all liabilities, including legal fees and expenses, arising out of any act or omission made in good faith pursuant to the provisions of the plan, other than a willful failure to a discharge fiduciary obligation of which a board member is aware. There shall be no indemnification where a board member is judicially determined to have incurred liability due to fraud, gross negligence, or malfeasance in the exercise and performance of the board member's duties.

#### Sec. 19. INVESTMENT OF FUNDS.

#### Michigan Law Applies; Prudent Person Rule

19.1 (a) The board of trustees as trustees of the retirement system may invest and reinvest the assets of the retirement system subject to the

terms, conditions, limitations and restrictions imposed by the State of Michigan for the investment of public employee retirement plan assets.

(b) In exercising its discretionary authority with respect to the management of the money and other assets of the retirement system, the board of trustees 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 with like aims.

#### Employment of Outside Investment Counsel

19.2 The board of trustees may employ outside investment counsel to assist it in the making and disposition of investments or with the discretionary authority to make and dispose of investments within the investment guidelines established by the board of trustees.

#### Custodian of Assets

19.3 The city treasurer shall be the custodian of the assets of the retirement system unless the board of trustees designates a corporate custodian. To be eligible for designation, a corporate custodian shall be a federal or state chartered bank or trust company.

19.4 All payments by the retirement system shall be by check issued pursuant to a voucher signed by two persons designated by the board of trustees. An attested copy of the board of trustees resolution designating such persons and bearing their signatures shall be filed with the custodian. All payments shall be authorized by a specific or continuing resolution of the board of trustees. Checks shall be signed in accordance with city procedures for the signing of checks involving an expenditure from the city's general fund.

#### Sec. 20. QUALIFIED RETIREMENT SYSTEM.

20.1 (a) The retirement system is intended and has been administered to be a qualified pension plan under Section 401 of the Internal Revenue Code, as amended, and the trust is an exempt organization under Section 501 of the Internal Revenue Code, as amended. The retirement system is a governmental plan under IRC § 414(d) and is administered for the exclusive benefit of the plan's members and their beneficiaries. The board of trustees may adopt such additional provisions to the retirement system so as to fulfill this intent. The applicable sections of the Internal Revenue Code are contained in the plan as an exhibit which is incorporated by reference.

(b) The provisions of this Public Safety Officer Retirement Ordinance notwithstanding, the board of trustees shall at all times administer the retirement system in compliance with the provisions of the Internal Revenue Code which are applicable to public employee retirement plans and are hereby incorporated by reference.

#### Actuarial Equivalencies

20.2 (a) Except as provided in subparagraph (b), actuarial equivalencies shall be calculated using such rates of interest and mortality tables as the board of trustees shall from time to time adopt. In no case shall a rate of interest be less than five percent (5%) per annum, compounded annually. No change in interest rate or mortality table shall reduce the accrued benefit of any participant. In the event the makeup of the board of trustees is changed in a manner that brings the board under the direct control of an employer, actuarial equivalencies shall be calculated using the 1984 Group Annuity Mortality Table (Male) and an interest rate of five percent (5%) per annum, compounded annually.

(b) The amount of an annuity shall be calculated using the applicable monthly interest rate for an immediate annuity published by the Pension Benefit Guaranty Corporation established pursuant to the Employee Retirement Income Security Act of 1974.

#### Diversion of Assets Prohibited

20.3 All assets of the retirement system shall be held and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall be used for no other purpose. No part of the assets shall be used for or diverted to purposes other than for the exclusive benefit of participants and beneficiaries prior to satisfaction of all retirement system obligations.

#### Prohibited Actions

20.4 Members of the board of trustees and its employees are prohibited from:

- (1) having a beneficial interest, direct or indirect, in an investment of the retirement system; and
- (2) borrowing from the retirement system; and
- (3) receiving any pay or emolument from any individual or organization,

other than the city, providing services to the retirement system.

Sec. 21. AMENDMENT, TERMINATION AND  
DISCONTINUANCE OF THE RETIREMENT SYSTEM.

Right to Amend

21.1 It is the intent of the city that the retirement system be permanent and remain in effect for an indefinite period. The city, however, reserves the right to modify or amend the retirement system at any time. The city expressly reserves the right to amend the retirement system in order to take advantage of or comply with any statute, rule or regulation of the federal government or State of Michigan, or any duly constituted agency thereof.

Right to Discontinue

21.2 In the event the retirement system is discontinued or terminated, all participants shall immediately become fully vested in their benefits. The discontinuance or termination shall be carried out in all respect in conformance with applicable statute, rule or regulation of the federal government or State of Michigan, or any duly constituted agency thereof.

Sec. 22. MISCELLANEOUS.

Assignments Prohibited

22.1 Except as provided by judicial determination which does not increase the cost of the benefit which would otherwise be provided, none of the money, annuities, pensions or other benefits provided under the Public Safety Officer Retirement Ordinance shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment or other legal process.

Correction of Errors

22.2 The board of trustees shall correct errors in the records and actions of the retirement system. The board of trustees shall seek to recover overpayments and shall make up underpayments. Recovery of overpayments may be accomplished by reducing the amount of future payments so that the actuarial present value of the actual payments is equal to the actuarial present value of the correct payments.

Employment Rights

22.3 The retirement system shall not be construed as giving an employee any

right to be retained in the service of the city without its consent nor shall the retirement system interfere with the right of the city to discharge an employee, nor shall an employee be given any right, claim or interest in any benefits under the retirement system except upon fulfillment of the conditions and requirements of the retirement system.

## Applicable Laws

22.4 The retirement system shall be construed and enforced under the laws of the State of Michigan and any applicable federal law, rule or regulation, and all of the provisions hereof shall be administered in accordance therewith. The board of trustees shall have the fiduciary obligations, limitations, and authority as provided by the Public Employee Retirement System Investment Act, being Public Act 314 of 1965 (MCL § 38.1132 *et seq.*), as amended. The board of trustees shall administer the retirement system consistent with article 9, section 24 of the State of Michigan constitution. Any matter relating to the retirement system provisions applicable to current employees represented by a collective bargaining agent is a mandatory subject of bargaining under the Public Employment Relations Act (Public Act 336 of 1947), being sections 423.201 to 423.216 of the Michigan compiled laws, as amended. The provisions contained in the collective bargaining agreements shall supersede any conflicting provisions contained in this ordinance and the board of trustees shall administer this retirement system in accordance with applicable collective bargaining agreements.

## Severability

22.5 If any section or subsection of the Public Safety Officer Retirement Ordinance is for any reason held to be invalid or unconstitutional, such holding shall not be construed as affecting the validity of the remaining sections and subsections of the Public Safety Officer Retirement Ordinance or the Public Safety Officer Retirement Ordinance in its entirety.

## Reciprocal Retirement Act

22.6 The retirement system shall be a reciprocal retirement system under the provisions of Act No. 88 of the Public Acts of 1961, being Sections 38.1101 through 38.1106 of the Michigan Compiled Laws.

## Denial of Benefit Claim; Appeal

22.7 A benefit claimant shall be notified in writing, within thirty (30) days of the board's denial of a claim for benefits. The notification shall contain the basis for the denial. The benefit claimant may appeal the denial and request a hearing before the board. The appeal shall be in writing and filed with the retirement system within sixty (60) days of the date of the notification of denial. The request for appeal shall contain a statement of the claimant's reasons for believing the denial to be improper. The board shall schedule a

hearing of the appeal within sixty (60) days of receipt of the request to appeal.

#### Effective Provisions

22.8 A member shall be entitled to those benefits based upon the terms and conditions in effect at the time of separation from employment.

#### Fraud Penalty

22.9 Whoever with intent to deceive shall make any statement or report under this plan which is untrue, or shall falsify or permit to be falsified any record or records of the plan, or who shall otherwise violate the provisions of this plan as it may from time to time be amended, with intent to deceive, shall be guilty of a misdemeanor and upon conviction shall be fined plus costs of prosecution not to exceed \$500, or shall be imprisoned for not more than 90 days, or both, in the discretion of the court.

#### Subrogation Rights

22.10 In the event an individual becomes entitled to a pension 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 such individual against such third party to the extent of pensions which the city pays or becomes liable to pay on account of such accident or injury.

#### Effective Date

22.11 This ordinance shall take effect twenty (20) days after its enactment, or upon publication of this ordinance or a summary thereof, whichever is later.