

## NO. 3172

<p><b>AN ORDINANCE ADDING CHAPTER 98 (THE CITY OF LIVONIA POLICE AND FIRE REVISED RETIREMENT PLAN) OF TITLE 2 OF THE LIVONIA CODE OF ORDINANCES, AS AMENDED.</b></p>
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THE CITY OF LIVONIA ORDAINS:

Section 1. Chapter 98 is hereby added to Title 2 of the Livonia Code of Ordinances, as amended, which Chapter shall read as follows:

### CHAPTER 2.98

#### THE CITY OF LIVONIA POLICE AND FIRE REVISED RETIREMENT PLAN

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**2.98.010** **Title for citation.** The ordinance codified in this chapter shall be known and cited to as the "Police and Fire Revised Retirement Plan Ordinance."

**2.98.020** **Purpose of provisions.** The purpose of this chapter is to provide for the retirement of particular police and fire employees of the City, on account of age and service, or total and permanent disability; to provide for contributions to the Police and Fire Revised Retirement Plan by the members thereof and the City; to provide for the administration of the Police and Fire Revised Retirement Plan; and to promote the

welfare, well-being and security of employees and other persons subject to this defined benefit retirement plan, in order to increase and maintain a high standard of efficiency and public service. Newly employed and otherwise eligible individuals are permitted to participate in the Police and Fire Revised Retirement Plan as of the following dates:

<u>Employee group</u>	<u>Effective date</u>	<u>Applicable to</u>
Non-Union Police Command	7/12/2021	Police Chief and Deputy Police Chief
Non-Union Fire Command	1/25/2021	Fire Chief and Deputy Fire Chief
Police officers	2/27/2021	Members of Livonia Police Officers Association
Police Lieutenants, Sergeants and Command	4/10/2021	Members of Livonia Command Officers Association
Fire	1/30/2021	Firefighters and Fire Command

**2.98.025 Creation of Police and Fire Revised Retirement Plan.** The City of Livonia hereby establishes the Police and Fire Revised Retirement Plan. The Police and Fire Revised Retirement Plan is an additional defined benefit retirement plan in the Retirement System. The Retirement System was previously established in Chapter 96 of the Code of Ordinances. Membership in the Police and Fire Revised Retirement Plan is determined by the applicable eligibility requirements in Chapter 98 of the Code of Ordinances. All rights and benefits accrued any eligible employee under a previous applicable retirement plan shall remain in full force and effect.

**2.98.030 Construction of chapter provisions.** This chapter shall be liberally construed in such a manner as to best effectuate its purpose.

**2.98.040 Enabling authority.** The ordinance codified in this chapter is adopted pursuant to the provisions of Act 279, Public Acts of Michigan, 1909, as amended, and Section 16, Chapter V, of the City Charter. This chapter and any amendments thereto shall be subject to the joint approval of the Civil Service Commission and City Council.

**2.98.050 Definitions.** As used in this chapter, the following terms shall have the following meaning unless the context clearly indicates a different meaning or requires otherwise.

1. "Accumulated contributions" means the sum of all amounts deducted from the compensations of a member and credited to the member's individual account in the pension savings fund, together with regular interest thereon.

2. "Age" means for the purpose of determining voluntary retirement age, the chronological age of a person. Otherwise, age means age at nearest birthday.

3. "Average final compensation" means the average of the annual compensation received by the member during the best compensated three years of service contained within the member's ten years of service immediately preceding the member's retirement.

In the event the member has less than three (3) years of total service, the member's average final compensation shall be the average of the annual compensation for the member's total years of service. Retirement benefits of members shall be based upon and computed according to the definition contained in this subsection and based upon the definition of "compensation" as defined in subsection 11 of this section.

In those cases where an employee has worked less than one (1) year, and average final compensation must be computed for purposes of determining retirement benefits, it shall be computed by projecting earnings for the balance of the first year of employment at the same rate as earned from the date of initial employment to the date of the employee's last day actually worked.

Members shall be limited to the number of average final compensation calculation requests per calendar year as provided in the Member's applicable collective bargaining agreement.

4. "Anniversary Date" for the Police and Fire Revised Retirement Plan means November 30.

5. "Beneficiary" means any individual who has an insurable interest in the life of a member and who is being paid or is entitled to the future payment of benefits for reason other than the individual's membership in the retirement plan.

6. "Board" means the Board of Trustees provided for in this chapter.

7. "City" or "Employer" means City of Livonia, State of Michigan, and its various offices, boards and departments, including the Livonia City Council.

8. "Civil Service Commission" means the Civil Service Commission of the City.

9. "Civil service position" means any position in City employment or classified service that comes under the jurisdiction of the Civil Service Commission.

10. "Code" or "IRC" means the Internal Revenue Code of 1986, as now or hereafter amended, or as superseded by laws of similar effect.

11. "Compensation" means the compensation received from the City by a person for service rendered to the City. For the purpose of computing average final compensation, compensation shall be defined as including base salary or wages, Worker's Compensation wage loss benefits with supplemental pay not to exceed regular base wages, and any other financial compensation from which pension contributions are withheld. Compensation shall not be defined to include cash payout of accrued sick leave, or overtime paid to a member. In case a member's compensation is not all paid in money, the Board shall fix the value of that part of compensation not paid in money.

12. "Fire Employee" means a classified employee who is a sworn officer in the fire division who performs fire suppression, EMS/paramedic, fire prevention and administration.

13. "Employees Legacy Retirement Plan" means the Defined Benefit Plan of Chapter 96 of the City of Livonia Code of Ordinances, as amended, and referred to as the Employees Legacy Retirement Plan.

14. "General Employee" means an employee represented by AFSCME Union Local 192, AFSCME Union Local 1917, police dispatchers, appointees, elected officials, exempt, confidential, administrative and professional employees.

15. "Member" means any person included in the membership of the Police and Fire Revised Retirement Plan.

16. "Part-time employee" means an employee who is regularly scheduled to work less than an eight (8) hour day or less than a forty (40) hour work week.

17. "Pension" means an annual amount payable from funds of the Police and Fire Revised Retirement Plan, in equal monthly installments, for life.

18. "Pension reserve" means the present value of all payments to be made on account of any defined benefit pension, or benefit in lieu of any defined benefit pension, computed upon the basis of such mortality tables and other tables of experience, as the Board may from time to time adopt, and regular interest.

19. "Police employee" means an employee who is a sworn officer in the police division who has the power to arrest or is a police cadet who performs various assigned duties in order to receive training and orientation benefits before becoming eligible for promotion to police officer.

20. "Police and Fire Revised Retirement Plan" means the retirement plan created and established in Title 2, Chapter 98 of the City of Livonia Code of Ordinances.

21. "Prior service" means service earned from an applicable retirement plan of the Retirement System prior to the membership in the Police and Fire Revised Retirement Plan.

22. "Regular interest" means such rate or rates of interest per year, compounded annually, as the Board may from time to time determine; provided, that regular interest shall not be less than 3 percent per year, nor more than 6 percent per year, compounded annually; provided, however, that for police and fire members regular interest shall not be less than 2 percent per year, nor more than 4 percent per year, compounded annually.

23. "Retiree" means a member who has retired with a pension payable from funds of the Police and Fire Revised Retirement Plan.

24. "Retirement system" means the system for administration and operation of the various retirement plans established by the provisions of Chapters 2.96, 2.97, and 2.98 of the Livonia Code of Ordinances, and applicable collective bargaining agreements.

25. "Service" means the sum of a member's service earned in the Police and Fire Revised Retirement Plan.

26. "Social security benefits" means the benefits provided under the old age and survivors' insurance program of the Federal Social Security Act as now enacted and as it may be amended from time to time.

27. "Total service" means the sum of a member's service earned in the Police and Fire Revised Retirement Plan and applicable prior service.

28. "Voluntary retirement age" shall be as follows:

	<u>REQUIRED TOTAL SERVICE</u>	<u>APPLICABLE TO</u>
Police employees: (except lieutenants, sergeants and police command)	25 years of total service regardless of age or age 52 with 15 years of service.	Police officers
Police lieutenants, sergeants and police command	25 years of total service regardless of age or age 52 with 15 years of service.	Police lieutenants, sergeants and police command

Fire employees	25 years of total service regardless of age or age 52 with 15 years of service.	Firefighters and fire command
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Vesting for members will include the member's service and prior service. For benefit calculation purposes, only the member's service in the Police and Fire Revised Retirement System will be used (i.e., no prior service).

In all cases, however, during time of war engaged in by the United States, or other national emergency recognized by the City Council the Council may extend the age at which any class of members may voluntarily retire.

**2.98.060 Retirement system -- Established -- Purpose.** A retirement system is established, pursuant to the provisions of Chapter V, Section 16 of the City Charter, for the purpose of carrying out and regulating the provisions of this chapter, including the provisions of this chapter.

**2.98.070 Retirement system -- Rules and regulations.** The Civil Service Commission is authorized to make rules and regulations for the administration of and performance of the provisions of this chapter; provided, however, that such rules and regulations shall not be inconsistent with or contrary to the provisions of this chapter.

**2.98.080 Retirement System -- Board of Trustees -- Created -- Organization and authority.** A Board of Trustees is created in whom is vested the power to administer, manage and operate the Police and Fire Revised Retirement Plan and to make effective the provisions of this chapter, Chapter 2.96, and Chapter 2.97. The Board of Trustees shall be organized immediately after the trustees provided for in this chapter have qualified.

**2.98.090 Board of Trustees – Composition and Election.**

A. The Board of Trustees shall consist of five trustees, as follows:

1. The Mayor or the Mayor's designated administrative representative;
2. A member of the City Council to be selected by the Council;
3. A member of the Civil Service Commission to be selected by the Civil Service Commission;
4. A police or fire member of any retirement plan established by the City ordinance to be elected by the police and fire members;

5. A general member of any retirement plan established by City ordinance to be elected by the general members of any retirement plan established by City ordinance.

B. Elections shall be held under such rules and regulations as the Board of Trustees shall from time to time adopt.

**2.98.100 Board of Trustees -- Term of office.** The regular term of office for the member trustees, provided for in subsections (A)(4) and (A)5 of Section 2.98.090, shall be four (4) years. The Council trustee shall serve at the pleasure of the City Council. The Civil Service Commission trustee shall serve at the pleasure of the Civil Service Commission. The Mayor's designated administrative representative shall serve at the pleasure of the Mayor.

**2.98.110 Board of Trustees -- Filling vacancies in office.** In the event an elected member trustee is no longer employed by the City, said elected member trustee shall vacate the office of trustee. If a vacancy occurs in the office of any trustee, the vacancy shall be filled, within ninety (90) days after the date the vacancy occurred, for the unexpired term, in the same manner as the office was previously filled.

**2.98.120 Board of Trustees -- Meetings and rules of procedure.** The Board shall hold meetings regularly, at least one in each quarter year, and shall designate the time and place thereof. Three (3) trustees shall constitute a quorum at any meeting of the Board, and at least three (3) concurring votes shall be necessary for a decision by the trustees at any meeting of 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 held in compliance with the Open Meetings Act.

**2.98.130 Board of Trustees -- Officers, advisors and employees.** The Board shall elect from its members a chairperson and a chairperson pro-tem. The secretary of the Civil Service Commission shall be secretary of the Retirement System. The Board shall designate a treasurer and/or custodian of its funds. The Board shall appoint an actuary who shall be technical advisor to the Board of matters regarding the operation of the Retirement System on an actuarial basis and who shall perform such other duties as are required in connection therewith. The Board shall employ such professional services as are required in the proper operation of the Retirement System.

**2.98.140 Board of Trustees -- Recordkeeping and annual report.** The Board shall cause to be kept such data as shall be necessary for an actuarial valuation of the assets and liabilities of the Retirement System. The Board shall render a report to the Mayor and the City Council, on or before the first day of May of each year, showing the fiscal transactions of the Retirement System for the year ending the preceding 30th day of November; and the last balance sheet showing the financial conditions of the Retirement System by means of an actuarial valuation of its assets and liabilities as of

the preceding 30th day of November; and such other reports as the Mayor, City Council or Civil Service Commission may from time to time require.

**2.98.150 Board of Trustees -- Adoption of mortality and other experience tables.** The Board shall from time to time adopt mortality and other tables of experience as are necessary for the operation of the retirement system on an actuarial basis.

**2.98.160 Retirement system -- Qualifications for membership.**

A. The Retirement System shall include all eligible employees in the classified and unclassified service of the Civil Service who perform services on a permanent part-time or full-time basis. Temporary persons in either the classified or unclassified service are specifically excluded from membership. In case of doubt as to the employment status of any person, the Civil Service Commission shall decide the issue. Newly employed and otherwise eligible individuals are permitted to participate in the Police and Fire Revised Retirement Plan as of the following dates:

<u>Employee group</u>	<u>Effective date</u>	<u>Applicable to</u>
Non-Union Police Command	7/12/2021	Police Chief & Deputy Police Chief
Non-Union Fire Command	1/25/2021	Fire Chief & Deputy Fire Chief
Police officers	2/27/2021	Members of Livonia Police Officers Association
Police Lieutenants, Sergeants and Command	4/10/2021	Members of Livonia Command Officers Association
Fire	1/30/2021	Firefighters and Fire Command

In case of doubt as to the membership status of any employee, the Board of Trustees shall decide the issue.

**2.98.165 Irrevocable Option Election for Membership.**

A. The provisions of the Police and Fire Revised Retirement Plan shall apply to all Police Officer employees hired on or after February 27, 2021, Police Lieutenant, Sergeant, and Command employees hired on or after April 10, 2021; Fire employees hired on or after January 30, 2021; Non-Union Police Command hired on or after July 12, 2021; and Non-Union Fire Command hired on or after January 25, 2021; and all Police Officer employees hired prior to February 27,

- 2021, Police Lieutenant, Sergeant, and Command employees hired on or after April 10, 2021; Fire employees hired on or after January 30, 2021; Non-Union Police Command hired on or after July 12, 2021; and Non-Union Fire Command hired on or after January 25, 2021 who elected to convert to the Police and Fire Revised Retirement Plan. The provisions of the Police and Fire Revised Retirement Plan will not apply to employees who are members of the bargaining units on February 26, 2021 (Police Officers); April 9, 2021 (Police Lieutenants, Sergeants, and Command); and January 29, 2021 (Fire), who elect to continue to participate in the Defined Contribution Plan.
- B. Bargaining members of the Police and Fire Revised Retirement Plan who were hired on or after July 1, 1998 and prior to the February 27, 2021 (Police Officers); April 10, 2021 (Police Lieutenants, Sergeants, and Command); and January 30, 2021 (Fire), shall have a one-time irrevocable option during a 60-day window to be announced by the City to elect to participate in the Police and Fire Revised Retirement Plan.
- C. If a bargaining member hired prior to February 27, 2021 (Police Officers); April 10, 2021 (Police Lieutenants, Sergeants, and Command); and January 30, 2021 (Fire), or prior, who does not elect to participate in the Police and Fire Revised Retirement Plan then that bargaining member will continue to participate in the Defined Contribution Plan under the terms and conditions applicable collective bargaining agreement and Retirement Ordinance.
- D. Bargaining unit members hired prior to February 27, 2021 (Police Officers); April 10, 2021 (Police Lieutenants, Sergeants, and Command); and January 30, 2021 (Fire) who elect to convert to the Police and Fire Revised Retirement Plan, will no longer participate in the Defined Contribution Plan and there shall be no further employee or City contributions into the Defined Contribution Plan.

Bargaining unit members so converting to the Police and Fire Revised Retirement Plan shall have a one-time irrevocable option to purchase between 1 and 3 years of service credit in the Police and Fire Revised Retirement Plan at the full actuarial cost as determined by the Board in consultation with its actuary payable at the time of purchase. Vested funds from the employee's Defined Contribution Plan account may be used to purchase the years of service credit. Service credit purchase does not count toward retirement eligibility.

#### **2.98.170 Termination of membership -- Conditions.**

A. Except as otherwise provided in this chapter, should any member no longer be employed by the City, for any reason other than the member's death or becoming a retiree, that person shall thereupon cease to be a member, and the total service credited at the date of last separation from City service shall be forfeited. In the event

the person is re-employed by the City in a civil service position, the person shall again become a member of the Retirement System, and should re-employment occur within a period of five (5) years from and after the date last separated from City service, the member's total service, if any, forfeited at the date last separated from City service shall be restored subject to subsection (C) of Section 2.98.340, of the Livonia Code of Ordinances. For members of the Police and Fire Revised Retirement System, in event the person is:

1. Re-employed by the City in a civil service position after having been separated from City service for a period greater than five (5) years; and
2. Thereafter remains in the employment of the City for a period of at least five (5) years, the member's total service, if any, forfeited at the date last separated from City service shall be restored subject to subsection (C) of Section 2.98.340. In the event a member becomes a retiree or dies, he shall thereupon cease to be a member.

B. For all fire employees and police employees hired on or before January 30, 2021, for LFFU; February 27, 2021, for LPOA, and April 10, 2021, for LCOA, including those employees that are terminated and re-employed by the City in a position eligible for a pension benefit, the employee shall become eligible to be a member of the Police and Fire Revised Retirement Plan with no opportunity to become a member of the Defined Contribution Plan.

C. In the event a member with ten (10) or more years of service, or a retiree, becomes engaged in a temporary position (either part-time or full-time) in either the classified or unclassified service of the civil service of the City, the member shall not accrue service credit for such temporary employment.

D. In the event a member with less than ten (10) years of service becomes engaged in a temporary position (either part-time or full-time) in either the classified or unclassified service of the civil service of the City, the member shall:

1. Cease to be a member; and
2. Forfeit the service credited to said member's service account.

If the person subsequently becomes engaged in a position entitling the person to membership in the Retirement System, the person shall again become a member and the service credit forfeited at the time the membership last terminated shall be restored to the person's credit subject to subsection (C) of Section 2.98.340, of the Livonia Code of Ordinances.

**2.98.175 Re-employment by City after retirement.**

A. In the event a member has become a retiree and has begun receiving pension benefits under this chapter, the member shall be entitled to continue to receive such pension benefits upon re-employment by the City provided that one of the following conditions is met:

1. The retiree is re-employed by the City in a different classification or position than that previously held by the retiree when he or she previously worked for the City; or
2. The retiree is re-employed by the City in a temporary or seasonal capacity; or
3. The retiree is elected to a City office.

B. Any retiree so re-employed as a police employee or fire employee shall be considered a new hire and shall, if otherwise eligible, only be entitled to participate in the Police and Fire Revised Retirement Plan.

**2.98.180 Service credits -- Computation.** The Board shall fix and determine by appropriate rules and regulations how much service in a calendar year shall be credited any member as a year of service, but in no case shall less than ten (10) days of service rendered in any calendar month be credited as a month of service, or less than nine (9) months of service rendered in any calendar year be credited as a year of service, or shall more than one (1) year of service be credited for all service rendered by any person in any calendar year. In cases of vesting in the Police and Fire Revised Retirement Plan, no less than ten (10) days, nine (9) months and fourteen (14) years of completed service shall qualify.

**2.98.190 Service credits -- For war service.** In the event a member who, while employed by the City, is called to or enters any armed service of the United States, and who shall be on active duty during time of war or other national emergency, and who is subsequently re-employed by the City, in a civil service position, within one (1) year from the date of termination of required service, then such armed service shall be credited the member as City service in the same manner as if the member had served the City uninterrupted. In case of doubt as to the period so to be credited to any member, the Board shall have final power to determine such period. During the period of such armed service rendered to the federal government and until re-employment by the City, the member's contributions to the pension savings fund may be suspended, and any balance standing to the member's credit in the pension savings fund shall be accumulated at regular interest.

The member on paid military leave of absence may elect to continue to make biweekly employee pension contributions based on regular earnings entitled to if not on

leave pursuant to Michigan Public Act 1951 No. 263 or issue lump sum payment upon reinstatement pursuant to the federal Uniformed Services Employment and Employee Rights Act of 1994 (38 USC Sec. 4318).

**2.98.200 Members service accounts.** The Board shall credit each member’s service account with the number of years and months of service and prior service to which the member may be entitled.

**2.98.210 Voluntary retirement.** Any member who has attained or attains voluntary retirement age, as defined by this ordinance or subsequently amended by collective bargaining agreement and has fifteen (15) or more years of total service credited to the member’s service account; or has twenty-five (25) years of total service credited to the member’s service account at any age, may retire upon the member’s written application filed with the Board setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, the member desires to be retired. Upon retirement the member shall receive a pension provided for in Section 2.98.230.

**2.98.230 Age and service pension.**

A. Upon retirement, as provided in Section 2.98.210 and Section 2.98.220, a member shall receive a straight life pension provided for in this section, and shall have the right to elect an option provided for in Section 2.98.260.

1. On retirement, a member shall receive a pension as follows:

	<u>VOLUNTARY RETIREMENT AGE</u>	<u>MULTIPLYING FACTOR</u>	<u>MAXIMUM YEARS CREDITED</u>	<u>MAXIMUM AFC BENEFIT</u>
Police officers	52	2.5%	30	75%
LCOA/Command	52	2.5%	30	75%
Fire/Command	52	2.5%	30	75%

Straight Life Benefit Formula: (Final Average Compensation) x (Years of Service up to 30 years) x (Multiplying Factor) = Monthly Straight Life Benefit. For benefit calculation purposes, only the member’s service in the Police and Fire Revised Retirement Plan will be used (i.e., no prior service).

B. In the event a retiree dies before the retiree has received in straight life pension payments an aggregate amount equal to the accumulated contributions standing to the retiree’s credit in the pension savings fund at the time of retirement, the difference

between said accumulated contributions and the aggregate amount of straight life pensions received shall be paid from the pension reserve fund to such person or persons as shall have been nominated by written designation, duly executed and filed with the Board. If there is no such designated person or persons surviving the said retiree, such difference, if any, shall be paid to the retiree's legal representative. No benefits shall be paid under this subsection (B) on account of the death of a retiree if the retiree was receiving a pension under Option (A) or (B) provided for in subsection (A) of Section 2.98.260.

**2.98.240 Deferred pension.** In the event a member who has 15 (fifteen) or more years of total service credited to the member's service account separates from City employment prior to the attainment of voluntary retirement age, for any reason except retirement or death, the member shall have the option to elect a voluntary age retirement benefit upon the attainment of the applicable voluntary age, which will be computed according to Section 2.98.230.

**2.98.260 Pension options.**

A. Prior to the effective date of retirement, but not thereafter, a member may elect to receive a straight life pension computed according to Section 2.98.230, payable for life, or may elect to receive the actuarial equivalent of said straight life pension as of the effective date of retirement, in a reduced pension payable for life, and nominate a beneficiary in accordance with the provisions of Option (A) or (B) set forth below:

1. Option (A) -- Joint and Survivor Pension. Upon the death of a retiree who elected Option (A), the reduced pension payable to the retiree shall be continued throughout the life of and paid to such person having an insurable interest in the retiree's life, as the retiree shall have nominated by written designation, duly executed and filed with the Board prior to the effective date of retirement.
2. Option (B) -- Modified Joint and Survivor Pension. Upon the death of a retiree who elected Option (B), one-half of the reduced pension payable to the retiree shall be continued throughout the life of and paid to such person having an insurable interest in the retiree's life, as the retiree shall have nominated by written designation, duly executed and filed with the Board prior to the effective date of retirement.

B. Pop-up provision. Any member who has selected either Option (A) -- Joint and Survivor Pension, or Option (B) -- Modified Joint and Survivor Pension pursuant to the provisions of this Section 2.98.260, and who shall survive his or her named beneficiary, shall be entitled upon the death of said beneficiary to a pension the amount of which shall be increased by one-half of the difference between a straight life pension and the pension which the member was receiving under the option selected prior to the effective date of retirement.

**2.98.270 Non-duty death benefits.**

A. Any member who continues in the employ of the City on or after the date the member acquires ten (10) years of total service credit may, at any time prior to the effective date of retirement, elect Option (A) provided for in Section 2.98.260 and nominate a beneficiary whom the Board of Trustees finds to be dependent upon the member for at least 50 percent of support due to lack of financial means. Prior to the effective date of retirement, but not thereafter, the said member may revoke said election of Option (A) and nomination of beneficiary and may again elect the said Option (A) and nominate a beneficiary as provided in this subsection. Upon the death of a member who has an Option (A) election in force, the beneficiary, if living, shall be entitled to the same pension to which the beneficiary would have been entitled had the member retired the day preceding the date of the member's death, notwithstanding that voluntary retirement age may not have been attained. Payment of the pension shall begin immediately upon the death of the member, if the member had attained voluntary retirement age on the date of death; otherwise, payment shall begin the first day of the calendar month next following the date the member would have attained voluntary retirement age. If a member has an Option (A) election in force at the time of retirement, said election of Option (A) and nomination of beneficiary shall thereafter continue in force unless, prior to the effective date of retirement, the member elects to receive a pension as a straight life pension or according to Option (B) provided for in Section 2.98.260.

B. Any member who continues in the employ of the City on or after the date ten (10) years of total service credit is acquired and does not have an Option (A) election in force, as provided in subsection (A) of this section, and (1) dies while in the employ of the City, and (2) leaves a widow, or in the case of a female member leaves a widower, the said widow or widower, as the case may be, shall be entitled to the same pension to which the said widow or widower would have been entitled if the said member had (1) retired the day preceding the date of the member's death, notwithstanding that voluntary retirement age might not have been attained, (2) elected Option (A) provided for in Section 2.98.260, and (3) nominated said widow or widower, as the case may be, as beneficiary. Payment of the pension shall begin immediately upon the death of the member if the member has attained voluntary retirement age on the date of death; otherwise, payment shall begin the first day of the calendar month next following the date the member would have attained voluntary retirement age.

**2.98.280 Duty death benefits.**

A. In the event a member dies as the result of a personal injury or disease arising solely and exclusively out of and in the course of employment with the City, and such death, injury or disease resulting in death is found by the Board to have been the result of actual performance of duty in the employ of the City, the applicable benefits provided for in subdivisions 1-3 of this subsection (A) shall be paid, subject to subsections (B)

and (C) of this section; provided, that no pensions become payable under Section 2.98.270 on account of the member's death.

1. The widow or widower shall receive, for life, a pension equal to the pension for which the widow or widower would have been eligible under Sections 2.98.290, 2.98.300 and 2.98.310, as if:
  - a. The deceased member had become, on the day before the member's death, totally and permanently mentally or physically incapacitated for duty in the employ of the City; and
  - b. Such incapacity had been found by the Board to be the natural and proximate result of causes arising out of and in the course of actual performance of duty in the employ of the City; and
  - c. The member had been retired by the Board; and
  - d. The member had elected Option (A) as provided in Section 2.98.260 and nominated said widow or widower as beneficiary; and
  - e. The member had subsequently died.
2. If the deceased member leaves no widow or widower, or if the widow's or widower's pension provided for in subdivision 1 of this subsection is terminated, the deceased member's unmarried child or children under age 18 shall share equally in a pension equal to the pension computed in subdivision 1 of this section. For purposes of this subsection, the Option (A) pension shall be equal to 80 percent of the straight life pension. The child's or children's pension shall continue until the last child is adopted, married, attains age 18 years or dies, whichever occurs first. If a child's pension is terminated, said pension shall be redistributed equally among the remaining eligible children, if any.
3. If the deceased member leaves no widow or widower or eligible children, or if the widow's or widower's pension and children's pension provided for in subdivisions 1 and 2 of this subsection are terminated, the deceased member's parents, who are at least 50 percent dependent upon the deceased member for support, shall share equally in a pension equal to the pension computed in subdivision 1 of this subsection. For purposes of this subsection, the Option (A) pension shall be equal to 80 percent of the straight life pension. The parent's pension shall continue until death. If a parent's pension is terminated, said pension shall be redistributed equally among the remaining eligible parents, if any.

B. As used in this section, the term "widow" or "widower" means the person to whom the said member was married at the time employment with the City terminated.

C. Any Worker's Compensation benefits payable as a result of the deceased member's death on account of City employment shall be deducted from the benefits payable under this section.

**2.98.290 Disability retirements.**

A. Upon the application of a member, or the member's department head, a member who has ten (10) or more years of total service credited to the member's service account, and becomes totally and permanently incapacitated for duty in the employ of the City by reason of personal injury or disease may be retired by the Board; provided, that after a medical examination of the said member made by or under the direction of a medical committee, consisting of three (3) physicians, one of whom shall be appointed by the Board, one by the said member, and the third by the first two physicians so named, the medical committee certifies to the Board by a majority opinion in writing:

1. That the member is mentally or physically totally incapacitated for duty in the employ of the City;
2. That such incapacity will probably be permanent; and
3. That such member should be retired.

B. The ten (10) or more years of total service requirement contained in subsection (A) above will be waived in the event that the Board finds:

1. The member's total and permanent mental or physical incapacity is the natural and proximate result of causes arising out of and in the course of actual performance of duty in the employ of the City; and in the case of a police or fire member, duty in the employ of the City as used in subsection (A) above shall mean duty in the employ of the police division or fire division of the City, as appropriate; and
2. The member is in receipt of Worker's Compensation on account of such incapacity.

C. Subsections (A) and (B) of this section also apply to any member who retires, begins receiving pension benefits and is subsequently re-employed in a permanent classification by the City. Such re-employed individual is treated as a new hire and is not eligible for a non-duty disability retirement until the member has ten (10) or more years of total service after being re-employed credited to the member's service account. Any such re-employed individual may continue to receive a regular pension or may receive a disability pension but shall not receive both.

**2.98.300 Pension -- Disability incurred after age fifty-five.** A member who retires at or after attainment of age fifty-five (55) years on account of disability, as provided in Section 2.98.290, shall receive a disability pension computed in accordance with the provisions of Section 2.98.230, notwithstanding that voluntary retirement age might not have been attained. Said disability pension shall be subject to Section 2.98.320. Any Worker’s Compensation received on account of the member’s City employment shall be deducted from said disability pension. Upon retirement, the member shall have the right to elect an option provided for in Section 2.98.260.

**2.98.310 Pension -- Disability incurred before age fifty-five.**

A. A member who retires prior to attainment of age fifty-five (55) years on account of disability, as provided in Section 2.98.290, shall receive a disability pension computed according to Section 2.98.230, provided that for the sole purpose only of computing said disability pension, total service credit shall be increased by the number of years, and fraction of a year, contained in the period from the date of retirement to the date the member would attain age fifty-five (55) years; provided, however, that the maximum total service credit used shall not exceed the following limits:

<u>TOTAL SERVICE CREDIT BEFORE ADDITIONAL CREDIT TO AGE 55</u>	<u>MAXIMUM TOTAL USABLE SERVICE CREDIT</u>	<u>MAXIMUM PENSION PAY OUT RATE ALLOWED</u>
10 TO 15	20	50%
16 TO 20	25	62.5%
OVER 20	30 YEARS OR ACTUAL SERVICE, IF GREATER	75%

The member’s disability pension shall be subject to Section 2.98.320. For members of the Police and Fire Revised Retirement Plan hired on or after February 27, 2021 (Police Officers); April 10, 2021 (Police Lieutenants, Sergeants, and Command); and January 30, 2021 (Fire) benefits under this Section will be calculated utilizing a 2.5% multiplier. Any Worker’s Compensation received on account of the member’s City employment shall be deducted from said disability pension. Upon retirement, the member shall have the right to elect an option provided for in Section 2.98.260.

B. In the event the Board finds the member’s total and permanent mental or physical incapacity is the natural and proximate result of causes arising out of and in the course of actual performance of duty in the employ of the City, the member’s disability pension provided for in subsection (A) of this section, payable to attainment of age fifty-five (55) years, shall not be less than three-quarters or 75 percent of the member’s average final compensation. Said disability pension shall be subject to Section

2.98.320. Any Worker's Compensation received on account of the member's City employment shall be deducted from said disability pension.

**2.98.320 Disability retirees -- Reexamination -- Return to service.**

A. At least once each year during the first five (5) years following the retirement of a member with a disability pension, and at least once in every three-year period thereafter, the Board may, and upon the retiree's application shall, require any disability retiree who has not attained voluntary retirement age to undergo a medical examination to be made by or under the direction of a physician designated by the Board. Should the retiree who has not attained voluntary retirement age refuse to submit to such medical examination in any such period, said disability pension may be discontinued by the Board, and should such refusal continue for one (1) year all rights in and to said pension may be revoked by the Board. If upon such medical examination of a retiree, the physician reports to the Board that the retiree is physically or mentally able and capable of resuming employment with the City, the disability retiree shall be restored to active service with the City and said disability pension shall be discontinued.

B. A disability retiree who has been or shall be returned to active service in the employ of the City shall again become a member of the Police and Fire Revised Retirement Plan. The total service credited at the time of retirement shall be restored. Service shall be credited for the period the member was in receipt of Worker's Compensation benefits on account of the member's disability arising out of and in the course of employment with the City.

**2.98.340 Pension savings fund.**

A. The pension savings fund is established. It shall be the fund in which shall be accumulated contributions of members to the Police and Fire Revised Retirement Plan, and from which shall be paid refunds of accumulated contributions as provided in this chapter. The accumulated contributions in the pension savings fund of the Employees Legacy Retirement Plan shall be segregated and accounted for separately from the accumulated contributions in the pension savings fund of the Police and Fire Revised Retirement Plan.

1. Members participating in the Police and Fire Revised Retirement Plan and the City will be obligated to contribute 4% of base wages every year to the Police and Fire Revised Retirement Plan. In addition, should the actuarially determined contribution ("ADC") exceed 8% in any year, the City will contribute the next 10% of base wages toward the ADC (between 8% and 18%), and employees will contribute the next 4% of base wages toward the ADC (between 18% and 22%). The City will contribute the required ADC above 22% of base wages.

B. The officer or officers responsible for making up the payroll shall cause the contributions provided for in subsection (A)(1-2) of this section to be deducted from the compensation of each member on each and every payroll, for each and every payroll period, beginning with the effective date of the Retirement System and continuing so long as a member remains in the employ of the City. When deducted, the contributions provided for herein shall be paid into the pension savings fund and credited to the individual account of the member from whose compensations the contributions were made. Every member shall be deemed to consent and agree to the deductions made and provided for herein, and payment of compensations less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the member during the period covered by such payment, except as to benefits provided by the Retirement System. The members' contributions provided for herein shall be made notwithstanding that the minimum compensation provided by law shall be changed thereby.

C. In addition to the contributions deducted from the compensations of a member, as hereinbefore provided, the member shall repay to the pension savings fund, in a manner approved by the Board, all amounts the member may have withdrawn from the fund, together with regular interest thereon computed from the date of withdrawal to the date or dates of repayment. No member shall be given credit for service rendered prior to the date said member withdraws any part of said accumulated contributions from the pension savings fund until the member has paid in full all amounts due the fund.

D. Upon the retirement of a member, the accumulated contributions standing to the member's credit in the pension savings fund shall be transferred from the fund to the pension reserve fund. Except as otherwise provided in this chapter, at the expiration of a period of three (3) years from the date an individual's membership is terminated, any balance of accumulated contributions standing to the member's credit in the pension savings fund, unclaimed by the individual or the individual's legal representative, shall be transferred to the pension accumulation fund.

E. Retirees shall receive their first pension check within forty-five (45) days of the effective date of their retirement.

#### **2.98.350 Pension accumulation fund -- Established -- Contributions.**

A. The pension accumulation fund is established. It shall be the fund in which shall be accumulated contributions made by the City to the Police and Fire Revised Retirement Plan. The accumulated contributions of the City in the pension accumulation fund of the Employees Legacy Retirement Plan shall be segregated and accounted for separately from the accumulated contributions of the City in the pension accumulation fund of the Police and Fire Revised Retirement Plan.

B. Upon the basis of such mortality tables and other assumptions and tables of experience as the Board shall adopt, the actuary shall annually compute the City's contributions to the Retirement System in the manner set forth in subdivisions 1, 2 and 3 of this subsection (B).

1. An amount which, if paid annually by the City during the prospective service of members, will be sufficient, together with the expected net future contributions of members, to cover the actuarial present value of pensions allocated to service rendered after the beginning of the fiscal year; and
2. An amount which, if paid annually by the City over a period selected by the Board but not more than thirty (30) years, will be sufficient, together with present fund balances, to cover the actuarial present value of pensions allocated to service rendered before the beginning of the fiscal year; and
3. The City's contributions to the Pension accumulation fund of the Police and Fire Revised Retirement Plan shall be determined separately for police members and fire members by the Actuary in accordance with the following:
  - i. Members participating in the Police and Fire Revised Retirement Plan and the City will be obligated to contribute 4% of base wages every year. In addition, should the actuarially determined contribution ("ADC") exceed 8% in any year, the City will contribute the next 10% of base wages toward the ADC (between 8% and 18%), and employees will contribute the next 4% (between 18% and 22%). The City will contribute the required ADC above 22% of base wages.

C. The City Council shall appropriate each year such amounts of contributions as determined in subdivisions (1), (2), and (3) of subsection (B) of this section, and the City shall pay such amounts into the pension accumulation fund during the ensuing fiscal year, which payments shall be made quarterly during said fiscal year.

D. At the end of each City fiscal year there shall be a transfer between the pension accumulation fund and the pension reserve fund in order that the pension reserve fund be 100 percent funded at the end of the fiscal year.

E. The Board may adopt different mortality tables and other assumptions and tables of experience for the Employees Legacy Retirement Plan and/or the Police and Fire Revised Retirement Plan.

**2.98.360 Pension reserve fund -- Established -- Expenditures.** The pension reserve fund is established. It shall be the fund from which shall be paid all pensions, and benefits in lieu of pensions, payable as provided in this chapter. Should a disability retiree be returned to service, the pension reserve for said disability retiree, computed

as of the date of said return to service, shall be transferred from the pension reserve fund to the pension savings fund and the pension accumulation fund in the same proportion as the original transfers were made. The assets of the Pension reserve fund of the Employees Legacy Retirement Plan shall be segregated and accounted for separately from assets of the Police and Fire Revised Retirement Plan.

**2.98.370 Fund management -- Board powers and duties.**

A. The Board shall be the trustees of the fund of the Police and Fire Revised Retirement Plan and shall have full power to invest and reinvest such funds, subject to all terms, conditions, limitations and restrictions imposed by the State upon life insurance companies in the making and disposing of their investments, except that notes, bonds or obligations of the City shall not be subject to such conditions, limitations and restrictions, and except as otherwise provided to the extent and in the manner prescribed by State law. The Board shall have full power to purchase notes, bonds or other obligations of the City at any legally conducted public or private sale. The Board shall have full power to hold, purchase, sell, assign, transfer and dispose of any securities and investments in which any of the funds of the Retirement System have been invested, as well as the proceeds of the investments and any moneys belonging to the Retirement System. The Board may, however, authorize an investment fiduciary to invest such funds in accordance with the guidelines and policies which have been determined by the Board to appropriately further the purposes of the Retirement System. The investment fiduciary shall report all investment transactions to the Board each month or as required by the Board. The Board reserves the exclusive rights to revoke this grant of authority at its discretion at any time.

B. There shall be kept on deposit available cash not exceeding 10 percent of the total assets of the Retirement System. All funds of the Retirement System shall be held for the sole purpose of meeting disbursements for pensions, and other payments authorized by the provisions of this chapter, and shall be used for no other purpose. The description of the various funds of the Retirement System shall be interpreted to refer to the accounting records of the Retirement System and not to the segregation of moneys in the various funds of the Retirement System.

C. The Board shall have the power to authorize disbursements to be made from the funds of the Retirement System for the payment of professional services utilized by the Board and for other expenses necessary in the administration of the Retirement System.

D. The Board may not comingle funds from the Police and Fire Revised Retirement and the Plan Employees Legacy Retirement Plan.

**2.98.380 Payments from funds -- Method.** No payments from the funds of the Retirement System shall be made unless previously authorized by at least three (3) members of the Board of Trustees, subject however, to the following exceptions:

In the case of retirees, such authorization by three (3) members of the Board of Trustees shall be required only at the time of retirement. The retiree will then be placed on a regular monthly retiree payroll, and check authorization thereafter shall require only the signature of the chairperson or the chairperson pro-tem. Each monthly retiree payroll shall be confirmed at regular meetings of the Board of Trustees. Any changes in the retiree's pension [except for the change occurring at age sixty-five (65)] resulting from amendments to the Retirement System or for any other reason shall necessitate an additional authorization by three (3) members of the Board of Trustees in the first instance only, and thereafter said authorization may be made upon the signature of the chairperson or the chairperson pro-tem.

**2.98.390 Interest credits.** All interest and other earnings on moneys and investments of the Retirement System shall be credited to the pension accumulation fund. The Board shall, at the end of each fiscal year, allow regular interest computed on members' individual balances in the pension savings fund at the beginning of the fiscal year, and on the mean balance in the pension reserve fund. The amounts of interest so allowed and credited to the pension savings fund and pension reserve fund shall be charged to the pension accumulation fund.

**2.98.400 Refund of accumulated contributions -- Conditions.**

A. Should any member cease to be an employee of the City for any reason except the member's death or retirement, or after attaining voluntary retirement age and not be entitled to a pension, the person shall be paid the accumulated contributions standing to the person's credit in the pension savings fund upon said person's demand in writing on forms furnished by the Board.

B. Should any member die and no pension become payable, except as provided in Section 2.98.280, the accumulated contributions standing to said member's credit in the pension savings fund, at the time of death, shall be paid to such person or persons as shall have been nominated by written designation, duly executed and filed with the Board. In the event there be no such designated person or persons surviving the said member, the said accumulated contributions shall be paid to the member's legal representative.

C. If any member dies without heirs and without having nominated a beneficiary, as provided in this section, the accumulated contributions standing to said member's credit in the pension savings fund at the time of death may be used by the Board to pay the member's reasonable burial expenses, provided that no other estate was left sufficient for such purpose.

D. Refunds of accumulated contributions provided for herein may be made according to such rules and regulations as the Board shall from time to time adopt; provided, however, that in any case refunds of accumulated contributions shall be made in full within forty-five (45) calendar days of the date of termination of the employee.

**2.98.403 Internal Revenue Code qualification.** The Retirement System, consisting of the Employees Legacy Plan and the Police and Fire Revised Retirement Plan is intended and has been administered to be a qualified pension plan under Section 401 of the Internal Revenue Code, as amended (“IRC” or “Code”), or successor provisions of law, including the Tax Reform Act of 1986 (TRA ’86); the Technical and Miscellaneous Revenue Act of 1988 (TAMRA); the Unemployment Compensation Amendments of 1992 (UCA); the Omnibus Budget Reconciliation Acts (OBRA); the Uniformed Service Employment and Re-employment Rights Act of 1994 (USERRA); the Uruguay Round Agreements Act of 1994 (GATT); the Small Business Job Protection Act of 1996 (SBJPA ’96); the Taxpayer Relief Act of 1997 (TRA ’97); the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA ’98); the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), and other applicable laws, regulations and administrative authority. The Retirement System is a governmental plan under IRC Section 414(d) and is administered for the exclusive benefit of the plan’s participants and their beneficiaries. The Retirement System’s trust is an exempt organization under IRC Section 501.

**2.98.404 Reversion of funds to City prohibited -- Exceptions.** No part of the corpus or income held in trust under the provisions of this chapter shall be used for, or diverted to, purposes other than for the exclusive benefit of the members, retirees and beneficiaries of the Retirement System, except that:

A. If the Board determines that any contribution was made by a good-faith mistake of fact, then such contribution may be returned to the City within six (6) months after such determination; however, any earnings attributable to the amounts mistakenly contributed shall not be returned to the City, while losses attributable to such amounts shall reduce the amount returned; and

B. If, after termination or partial termination of the Retirement System, by formal action of the City or for any other reason, the accrued benefits of all members, retirees and other Retirement System beneficiaries and all other Retirement System liabilities have been paid, then any residual assets of the Retirement System shall revert to the City.

**2.99.405 Termination of retirement system -- Accrued benefit -- Nonforfeitable.** In the event of the termination or partial termination of the Retirement System, the rights of all members to benefits accrued to the date of such termination or partial termination, to the extent funded as of such date, or any amounts credited to members’ accounts shall be nonforfeitable.

**2.98.406 Termination of participation -- Forfeitures.** Any forfeiture resulting from a termination of participation in the Retirement System by a member shall not be applied to increase the benefits any member, retiree or beneficiary would otherwise receive under the Retirement System prior to its termination. Amounts forfeited shall reduce the next contribution of the City following determination of the amount of any such forfeitures.

**2.98.407 Benefits -- Actuarial equivalence.** The present value of any benefit under the terms of this Police and Fire Revised Retirement Plan would be the actuarial equivalent of the normal form of benefit. Actuarial equivalence shall be determined by the Board in consultation with its Actuary.

**2.98.408 Required distribution.**

A. Distributions shall be made in the manner set forth in Sections 2.98.210 through 2.98.310 of this chapter. Under no circumstances shall any distributions, not made in a lump sum, be made over a period of time different from one of the following periods (or a combination thereof):

1. The life of the member or retiree;
2. The life of the member or retiree and a designated beneficiary;
3. A period certain not extending beyond the life expectancy of the member or retiree; or
4. A period certain not extending beyond the joint and last survivor expectancy of the member or retiree and a designated beneficiary.

B. Minimum amounts to be distributed.

1. If the member or retiree's entire interest is to be distributed in other than a lump sum, then the amount to be distributed each year must be at least an amount equal to the quotient obtained by dividing the member or retiree's entire interest by the life expectancy of the member or retiree or joint and last survivor expectancy of the member or retiree and the designated beneficiary. Life expectancy and joint and last survivor expectancy are computed by the use of the return multiples contained in Section 1.72-9 of the Income Tax Regulations. For purposes of this computation, a member or retiree's life expectancy may be recalculated no more frequently than annually; however, the life expectancy of a non-spouse beneficiary may not be recalculated. If the member or retiree's spouse is not the designated beneficiary, the method of distribution selected must assume that at least 50 percent of the present value of the amount

available for distribution is paid within the life expectancy of the member or retiree.

Distributions to all members or retirees must commence no later than the first day of April following the calendar year in which the later of termination of employment or age 70 ½ occurs.

C. Death distribution provisions. Upon the death of the member or retiree, the following distribution provision shall take effect:

1. If the member or retiree dies after distribution of his or her interest has commenced, the remaining portion of such interest will continue to be distributed at least as rapidly as under the method of distribution being used prior to the member or retiree's death.
2. If the member or retiree dies before distribution of his or her interest commences, the member or retiree's entire interest will be distributed no later than five (5) years after the member or retiree's death, except as follows:
  - a. If any portion of the member or retiree's interest is payable to a designated beneficiary, distribution may be made in substantially equal installments over the life or the life expectancy of the designated beneficiary, or over a shorter period of time as provided in this chapter, commencing no later than one (1) year after the member or retiree's death;
  - b. If the designated beneficiary is the member or retiree's surviving spouse, the date distributions are required to begin in accordance with (2)(a) above shall not be earlier than the day on which the member or retiree would have attained age 70 ½, and if the spouse dies before payments begin, subsequent distribution shall be made as if the spouse had been the member or retiree.
3. For purposes of subsection (C)(2) above, payments will be calculated by the use of return multiples specified in Section 1.72-9 of the Income Tax Regulations. Life expectancy of a surviving spouse may be recalculated annually; however, in the case of any other designated beneficiary, such life expectancy will be calculated at the time payment first commences without further recalculation.

D. With respect to distributions under the plan made for calendar years beginning on or after January 1, 2001, the plan will apply the minimum distribution requirements of IRC Section 401(a)(9) in accordance with the regulations under IRC Section 401(a)(9) that were proposed in January 2001, notwithstanding any provision in the plan to the contrary. This amendment shall continue in effect until the end of the last calendar year

beginning before the effective date of final regulations under Section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

**2.98.409 Benefit limits.** Anything to the contrary notwithstanding, any benefit payable under the Police and Fire Revised Retirement System shall not exceed the limits set forth in Internal Revenue Code Section 415 and Regulations thereunder, the terms of which are specifically incorporated herein by reference.

**2.98.410 Errors and adjustments.** Should any change in the records result in any member, beneficiary or retiree receiving from the retirement system more or less than ordinarily would have been received had the records been correct, the Board shall correct such error, and as far as practicable, shall adjust the payment in such manner that the actuarial equivalent of the benefit to which the member, beneficiary or retiree was correctly entitled shall be paid.

**2.98.411 Eligible rollover distributions.** Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee as a direct rollover. The following definitions shall apply with regard to this section:

A. Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more, and any distribution to the extent such distribution is required under IRC Section 401(a)(9). For purposes of the direct rollover provision, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in IRC Section 408(a) or (b), or to a qualified plan described in IRC Section 401(a) or 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

B. Eligible retirement plan. An eligible retirement plan is an individual retirement account described in IRC Section 408(a), an individual retirement annuity described in IRC Section 408(a), annuity plan described in IRC Section 403(a), an annuity contract described in IRC Section 403(b), an eligible plan under IRC Section 457 which is maintained by a state, political subdivision of a state and which agrees to separately account for amounts transferred into such plan, or a qualified trust described in IRC

Section 401(a), that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a domestic relations order.

C. Distributee. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the surviving spouse.

D. Direct rollover. A direct rollover is a payment by the Retirement System to the eligible retirement plan specified by the distributee.

**2.98.412 Maximum annual earnings.** The annual compensation of each participant taken into account for determining all benefits provided under the plan for any determination period shall not include any amounts in excess of the annual compensation limit (originally \$200,000.00) provided for in IRC Section 401(a)(17) prior to the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93") and adjusted for inflation in the manner provided by IRC Section 401(a)(17). The annual compensation of each employee taken into account shall not exceed the annual compensation limit provided for in IRC Section 401(a)(17), as amended by the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93") (\$200,000.00 in 2002). This limit may be adjusted as required by federal law for qualified government plans and shall be further adjusted for inflation in the manner provided by IRC Section 401(a)(17). Annual compensation means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

**2.98.413 Military service.** Notwithstanding any provision of the plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with IRC Section 414(u) and regulations.

**2.98.414 Vesting.** Notwithstanding any provision of the plan to the contrary, a member shall be 100 percent vested in his/her accrued benefit when he or she attains normal retirement age.

**2.98.420 Assignment of pension or other benefits prohibited.** The right of a person to a pension, to the return of accumulated contributions, the pension itself, any optional benefit, any other right accrued or accruing to any member, retiree or beneficiary under the provisions of this chapter, and the moneys 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, and shall be unassignable, except as is specifically provided in this chapter or pursuant to a support order in accordance with Act No. 295 of the Public Acts of 1982 (MCLA 552.601, et

seq.); provided, that the City shall have the right to set off for any claim arising from embezzlement by or fraud of a member.

**2.98.430 Amendment of chapter provisions -- Retroactivity limitation.** No amendments to this chapter unless otherwise provided, shall serve to increase any pensions which are being paid as of the date of any such amendment to any retiree or beneficiary.

**2.98.600 Effect of Collective Bargaining Agreements.** Pursuant to Michigan law, when an applicable Collective Bargaining Agreement is properly executed, it immediately amends the applicable provisions of the Police and Fire Revised Retirement System.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 3. Should any portion of this ordinance be held invalid for any reason, such holding shall not be construed as affecting the validity of any of the remaining portions of this ordinance.

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The above ordinance was passed at the regular meeting of the Council of the City of Livonia held Monday, May 16, 2022, at 7:00 p.m.

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Susan M. Nash, City Clerk

The foregoing ordinance was authenticated by me on this 18<sup>th</sup> day of May, 2022.

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Maureen Miller Brosnan, Mayor

Approved as to form:

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Paul A. Bernier, City Attorney  
Dated: May 18, 2022