

**CITY OF PONTIAC**  
**POLICE AND FIRE RETIREMENT SYSTEM**

**CHAPTER XIX**

With Amendments through October 4, 2007

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## SECTION 1

### NAME AND EFFECTIVE DATE

The City of Pontiac Police and Fire Retirement System, hereinafter referred to as the "System", is hereby established for the purpose of providing retirement annuities, survivors annuities, death benefits and other benefits for Policemen and Firemen of the City of Pontiac and their dependents, pursuant to the provisions of this amendment to the Charter of the City of Pontiac, Michigan. The effective date of the System shall be July 1, 1962.

Unless otherwise provided herein, all provisions relating to the Tax Reform Act of 1986 shall be effective January 1, 1989 and all provisions related to the Uruguay Round Agreements Act; the Uniform Services Employment and Reemployment Rights Act of 1994; the Small Business Job Protection Act of 1996; the Taxpayer Relief Act of 1997; the Internal Revenue Service Restructuring and Reform Act of 1998; and the Community Renewal Tax Relief Act of 2000 (collectively referred to as GUST) shall be effective January 1, 1997.

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## SECTION 2

### DEFINITIONS

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

- 2.1 "CITY" means the municipal government of the City of Pontiac, Michigan.
- 2.2 "COMMISSION" means the City Commission of the City of Pontiac, Michigan.
- 2.3 "BOARD" means the Board of Trustees of the Police and Fire Retirement System.
- 2.4 "POLICEMEN or FIREMEN" means, in the case of a Policeman, any employee of the Police Department of the City holding the rank of Patrolman, including probationary Patrolman, or any higher rank; and in the case of a Fireman, any employee of the Fire Department of the City holding the rank of Fireman, including probationary Fireman, or any higher rank. The terms "Policeman" or "Fireman" shall not include (1) any person privately employed as a Policeman or Fireman, (2) any person temporarily employed as a Policeman or Fireman for an emergency, (3) any civilian employee in the Police or Fire Department.
- 2.5 "MEMBER" means any Policeman or Fireman included in the membership of the System.
- 2.6 "SERVICE" means service rendered to the City as a Policeman or Fireman.
- 2.7 "PRIOR SERVICE" means service rendered by a Member prior to the effective date.

2.8 "MEMBERSHIP SERVICE" means service rendered by a Member on or after the effective date.

2.9 "CREDITED SERVICE" means the sum of prior service and membership service for which a Member has received credit under the provisions of this chapter.

2.10 "SERVICE-CONNECTED DISABILITY" means any physical hurt resulting from external force or violence occasioned by an act of duty as a Policeman or Fireman imposed by the Ordinances or Rules and Regulations of the City, or any other disability which may be directly attributable to an act of duty.

2.11 "ACT OF DUTY" means an act performed by a Member within the scope of occupational duties or inherently involving special risks not generally assumed by a citizen in the ordinary walks of life, for the purpose of protecting life or property regardless of time or place, including an act of heroism as a Member.

2.12 "WITHDRAWAL FROM SERVICE" means complete severance of employment of any Member as an employee of the City by resignation, discharge or dismissal.

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2.13 "FINAL AVERAGE SALARY" means the average annual salary for the 3 highest consecutive years of credited service within the last 10 years of credited service as a Member. The annual salary of each Member taken into account in determining benefit accruals in any retirement system year beginning after December 31, 2001, shall not exceed \$200,000. "ANNUAL SALARY" means salary during the calendar year or such other consecutive 12-month period over which salary is otherwise determined under this Chapter (the determination period). In determining benefit accruals in years beginning after December 31, 2001, the annual salary limit for determination periods beginning before January 1, 2002 shall be \$150,000 for any determination period beginning in 1996 or earlier; \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001. The \$200,000 limit on annual salary shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to annual salary for the determination period that begins with or within such calendar year.

2.14 "ACTUARIAL TABLES" means such table of mortality and rates of interest as may be adopted by the Board upon recommendation of the actuary employed by the Board provided that for the first 5 years of operation, the actuarial table to be used shall be that known as the combined annuity mortality table and 3 1/2% interest. For purposes of adjusting any benefit or limitation under Internal Revenue Code Section 415, the mortality table used shall be the table prescribed by the United States Secretary of the Treasury in accordance with Section 415(b)(2)(E)(v) of the Internal Revenue Code.

2.15 "REGULAR INTEREST" means interest at 3 1/2% per annum compounded annually, for the first 5 years of operation, and, thereafter, such rate as may be prescribed by the Board based upon the experience of the System.

2.16 "MINOR CHILD" or "MINOR CHILDREN" eligible for consideration under provisions of this Chapter means children of the blood and adopted children, under the age 18, provided the proceedings for adoption shall have been initiated at least one year prior to the date of death or disability of the Member.

2.17 THE MASCULINE PRONOUN, wherever used, shall include the feminine pronoun.

## SECTION 3

### MEMBERSHIP

3.1 Except as provided herein, membership of the System shall include:

- (a) Any person becoming a Policeman or Fireman after the effective date.
- (b) Any person who is a Policeman or Fireman on the effective date.

Any Policeman or Fireman who is temporarily absent on the effective date due to sickness or disability, and any such person on an approved leave of absence on said date for any cause, provided such leave shall not have extended for more than one (1) year continuously, except for military service, shall be considered as a Policeman or Fireman on the effective date.

3.2 A Policeman or Fireman who is not in a bargaining unit within the meaning of Act No. 336 of the Public Acts of 1947, as amended, being Sections 423.201 to 423.217 of the Michigan Compiled Laws, shall within sixty (60) days irrevocably elect either:

- (a) to have his or her membership governed by the terms of this Retirement System Ordinance, as it may from time to time be amended;
- (b) to have his or her membership governed by the terms of a collective bargaining agreement covering some or all of the other Policemen or Firemen in the department to which he or she is assigned, as it may from time to time be amended;  
or
- (c) not to be a Member of the Retirement System.

3.3 A Policeman or Fireman who fails to make the election provided for in Section 3.2 shall be deemed to have elected to have his or her membership governed by the terms of this Retirement System Ordinance, as it may from time to time be amended.

## **SECTION 4**

### **CREDITABLE SERVICE**

(a) Any person becoming a Member on the effective date shall be entitled to credit as prior service for the same periods of time prior to the effective date, for which pension credit was granted under the City of Pontiac Employees' Retirement System maintained by the City in which the Member was a participant, and for membership service after the effective date for which he made contributions.

Any person becoming a Member of the System after the effective date shall be entitled to credit for the purposes hereof as membership service for service rendered thereafter.

(b) Any Member entering the service of the Army, Navy, Marines, or Coast Guard of the United States by enlistment or induction, who reenters the employ of the City within 90 days from the date of termination of his armed service after an unconditional honorable discharge, shall receive credit for such military service in the same manner as if he had served the City uninterruptedly.

If such Member received a refund of contributions at the time of entry into military service, or during such military service, he may repay to the System the amount of such refund, including regular interest from the date of refund to the date of repayment. Upon repayment of such refund, credit for the period of service previously forfeited by the acceptance of the refund shall be reinstated to the account of the Member.

Notwithstanding any provision of this Chapter to the contrary, contributions, benefits and Credited Service with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

(c) In the computation of prior service or membership service, 15 days of service or more during any month shall constitute a month of service and 12 months of service shall constitute a year of service. In no case, except as to military service, shall credit be allowed for any period of absence without salary, nor shall less than 15 days of service during any month be considered for the computation of service, nor shall more than one year of service be credited for service rendered in any one calendar year.

## **SECTION 5**

### **CONDITIONS FOR SERVICE RETIREMENT**

(a) Any Member having at least 20 years of credited service may retire on a service retirement annuity, at his option, upon or after attainment of age 55.

(b) A Member withdrawing from service prior to age 55, having at least 20 years of credited service, shall be entitled to a deferred service retirement annuity beginning upon his attainment of age 55.

(c) In accordance with Section 401(a)(9) of the Internal Revenue Code and the regulations thereunder, which are incorporated herein by reference, a Member's retirement annuity shall be distributed to him or her not later than April 1 of the calendar year following the later of:

(1) The calendar year in which the member attains age seventy and one-half (70 1/2) years, or

(2) The calendar year in which the member retires.

(d) With respect to distributions under this Chapter made for calendar years beginning on or after January 1, 2001, the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code will be applied in accordance with the regulations under Section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of this article 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.

## SECTION 6

### SERVICE RETIREMENT ANNUITY

(a) Upon retirement from service, a Member shall receive an annuity equal to 2.4% of final average salary for each complete year of service, subject to a maximum of 75% of final average salary. A fractional period of service of less than a full year shall be considered in the calculation of the annuity.

(b) Notwithstanding any provision of this Chapter to the contrary, benefits and contributions shall be limited in accordance with Section 415 of the Internal Revenue Code, which is hereby incorporated by reference. For purposes of Section 415, compensation shall mean salary actually paid during the limitation year and the limitation year shall be the calendar year.

(1) For limitation years beginning on and after January 1, 2001, for purposes of applying the limitations described herein, compensation paid or made available during such limitation years shall include elective amounts that are not includable in the gross income of the employee by reason of Section 132(f)(4) of the Internal Revenue Code.

(2) For limitation years beginning after December 31, 1997, for purposes of applying the limitations of Section 415 of the Internal Revenue Code, compensation paid or made available during such limitation years shall include any elective deferral (as defined in Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the employee and which is not includable in

the gross income of the employee by reason of Sections 125 or 457 of the Internal Revenue Code.

(c) **Minimum Distribution Requirements – Pension**

- (1) Effective Date. The provisions of this section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (2) Precedence. The requirements of this section will take precedence over any inconsistent provisions of the Retirement System Ordinance.
- (3) Requirements of Treasury Regulations Incorporated. All distributions required under this section will be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Internal Revenue Code.
- (4) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this section, other than paragraph (3), distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that relate to section 242(b)(2) of TEFRA.
- (5) Required Beginning Date. The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date.
- (6) Death of Member Before Distributions Begin. If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed, no later than as follows:
  - (i) If the member's surviving spouse is the member's sole designated beneficiary, then, except as provided in the adoption agreement, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained age 70 1/2, if later.
  - (ii) If the member's surviving spouse is not the member's sole designated beneficiary, then, except as provided in the adoption agreement, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.
  - (iii) If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest will be distributed by December 31 of the calendar year containing the fifth

anniversary of the member's death.

- (iv) If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this paragraph (6), other than paragraph (6)(i), will apply as if the surviving spouse were the member.

For purposes of this paragraph (6) and paragraphs (13) through (15), distributions are considered to begin on the member's required beginning date (or, if paragraph (6)(iv) applies, the date distributions are required to begin to the surviving spouse under paragraph (6)(i)). If annuity payments irrevocably commence to the member before the member's required beginning date (or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse under paragraph (6)(i)), the date distributions are considered to begin is the date distributions actually commence.

- (7) Form of Distribution. Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with paragraphs (8) through (15) of this section. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations. Any part of the member's interest which is in the form of an individual account described in section 414(k) of the Code will be distributed in a manner satisfying the requirements of section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

- (8) General Annuity Requirements. If the member's interest is paid in the form of annuity distributions under the retirement system, payments under the annuity will satisfy the following requirements:

- (i) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
- (ii) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in paragraphs (11) and (12) or paragraphs (13) through (15);
- (iii) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (iv) payments will either be non-increasing or increase only as follows:
  - (A) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices

of all items and issued by the Bureau of Labor Statistics;

- (B) By the increase in compensation for a position held by the employee at the time of retirement;
  - (C) By the amount of a variable or fixed rate paid directly from the trust. A fixed rate increase may be provided if the rate of increase is less than 5%. A variable rate increase, based solely on better than assumed investment performance, is permitted but only if the assumed interest rate for calculating the initial level of payments is at least 3%;
  - (D) to the extent of the reduction in the amount of the member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in paragraphs (11) or (12) dies or is no longer the member's beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(p);
  - (E) to provide cash refunds of employee contributions upon the member's death; or
  - (F) to pay increased benefits that result from a plan amendment.
- (9) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the member's required beginning date (or, if the member dies before distributions begin, the date distributions are required to begin under paragraph (6)(i) or (ii)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.
- (10) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (11) Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse. If the member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary, annuity payments to be made on or after the member's required beginning date to the designated

beneficiary after the member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the member using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

- (12) Period Certain Annuities. Unless the member's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the member's lifetime may not exceed the applicable distribution period for the member under the Uniform Lifetime Table set forth in section 1.401 (a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the member reaches age 70, the applicable distribution period for the member is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the member as of the member's birthday in the year that contains the annuity starting date. If the member's spouse is the member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the member's applicable distribution period, as determined under this paragraph (12), or the joint life and last survivor expectancy of the member and the member's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the member's and spouse's attained ages as of the member's and spouse's birthdays in the calendar year that contains the annuity starting date.
- (13) Member Survived by Designated Beneficiary. If the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest will be distributed, beginning no later than the time described in paragraph (6)(i) or (ii), over the life of the designated beneficiary or over a period certain not exceeding:
- (i) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or
  - (ii) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.
- (14) No Designated Beneficiary. If the member dies before the date distributions begin

and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.

- (15) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this section will apply as if the surviving spouse were the member, except that the time by which distributions must begin will be determined without regard to paragraph (6)(i).
- (16) Payments to Children. Payments made to a member's child are treated as payments to the surviving spouse if they cease after the child reached the age of majority (or upon the death of the child) and are payable to the surviving spouse thereafter.
- (17) Designated Beneficiary. The individual who is designated as the beneficiary under this Retirement System Ordinance and is the designated beneficiary under section 401(a)(9) of the Internal Revenue Code and section 1.401(a)(9)- 1, Q&A-4, of the Treasury regulations.
- (18) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to paragraph (6).
- (19) Life Expectancy. Life expectancy as computed by use of the Single Life Table in section 1.401 (a)(9)-9 of the Treasury regulations.
- (20) Required Beginning Date. The date specified in section 5(c) of the Retirement System Ordinance.

## SECTION 7

### OPTIONAL ANNUITY

A Member may elect to receive upon retirement his service retirement annuity in full, payable throughout his life; or, at his option, he may elect to receive the actuarial equivalent of his regular retirement annuity in a reduced retirement annuity payable throughout his life and

nominate a beneficiary in accordance with the provisions of Option 1 or 2, as hereinafter set forth.

**Option 1. Joint and Survivor Annuity.** Upon the death of a retired Member, his reduced service retirement annuity shall be continued throughout the life of and paid to such person having an insurable interest in his life, as he shall have nominated by written designation, duly executed and filed with the Board; or

**Option 2. Modified Joint and Survivor Annuity.** Upon the death of the retired Member, one-half of his reduced service retirement annuity shall be continued throughout the life of and paid to such person having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Board.

A Member, by filing a written notice with the Board, may revoke the election of an optional annuity, but such revocation must be made prior to his retirement. The death of the beneficiary nominated by the Member prior to retirement of the Member shall constitute a revocation of the election.

## SECTION 8

### SERVICE-CONNECTED DISABILITY

A Member incurring disability resulting from an act of duty occurring prior to his attainment of the age of 55 years, of a character compensable under the Workman's Compensation laws, shall be entitled to a serviced-connected annuity equal to  $66 \frac{2}{3}\%$  of the rate of salary in effect at date of disability.

Such annuity shall be increased 10% of such salary on account of each minor child (as defined herein) of the Member who is under the age 18, payable until attainment of age 18, subject to a maximum payment for the combined annuities to a Member and minor children equal to 80% of salary.

A service-connected disability annuity shall be payable until the Member attains age 55 at which time the Member shall be entitled to the service retirement annuity for the total amount of credited service. Any such annuity shall begin to accrue from the date of disability of the Member, provided that any salary or other form of compensation received by the Member during disability from public funds, or any payments under Workman's Compensation laws of the State of Michigan or ordinances of the City, shall be applied to reduce the amounts accruing on the annuity.

In the event a Member in receipt of such annuity shall recover from disability and reenter active service, such Member shall be entitled to credit as service for the purposes of the System for the time the Member was in receipt of a service-connected disability annuity as though he were in active service during such period and no contributions for such period shall be required from the Member.

## SECTION 9

### NON-SERVICE-CONNECTED DISABILITY

Any Member having at least 10 years of credited service who becomes totally and permanently disabled due to any cause other than service-connected disability, while an employee of the City, who is under the age of 55 years, shall be entitled to a non-service-connected disability annuity. This annuity shall be equal to 1 3/4% of final average salary subject to a minimum of 25% and a maximum of 50% of final average salary. The annuity shall be reduced by any amounts received by the Member from public funds as salary or other form of compensation during disability.

Non-service-connected disability shall be considered total and permanent if it results in some impairment of mind or body that substantially precludes a Member from performing with reasonable regularity the substantial and material parts of any gainful work or occupation that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely.

The annuity shall be payable during continuing disability of the Member but the Member shall be subject to periodic medical examinations as herein provided.

Should a Member recover from disability and reenter the service of the City as a Policeman or Fireman, and shall render at least 3 years of continuous service thereafter, he shall be credited for service retirement annuity purposes with the periods of time during which he shall have received a non-service-connected disability annuity. Otherwise, such Member reentering service shall not be entitled to credited service for the period of such disability.

Disability incurred while in military service shall not be considered under the provisions of this Chapter.

A non-service-connected disability shall begin to accrue upon the expiration of 90 days following commencement of disability, provided that if the Member is receiving salary for a period of more than 90 days, the annuity shall begin to accrue from the date salary has ceased. If written application for the annuity shall not have been filed with the Board prior to the expiration of 90 days from the date of disability, the annuity shall begin to accrue from the date application has been filed but in no event prior to the time when payments to the Member on account of salary have ceased.

## SECTION 10

### ADMINISTRATION OF DISABILITY ANNUITIES

(a) The determination of disability from any cause shall be made upon the basis of report of the Medical Director and reports of examinations made by any other physicians designated by the Board.

(b) A Member on disability shall be required to submit to an examination at least once each year by a physician or physicians designated by the Board to establish that the Member continues to be incapacitated for service as a Policeman or Fireman and is entitled to receive an annuity. The Board may cancel a disability annuity upon evidence that the Member is no longer disabled for such service. If such cancellation occurs and the Member does not reenter service, he shall be entitled to a refund of the excess, if any, of the contributions made by the Member, including interest, over the amounts received by the Member on the disability annuity.

If a medical examination or an investigation made by the Board discloses that the Member is engaged or is able to engage in any gainful occupation, payment of the disability annuity shall be discontinued or reduced to an amount which, when added to his income from such gainful occupation, shall not exceed the rate of his salary at date of retirement, or the rate of salary currently being paid for a position similar to that held by the Member at commencement of disability, whichever is higher. The discontinuance or reduction of the disability annuity hereunder may be limited or suspended if it would result in an extreme hardship to the Member, as determined by the Board in its sole discretion. The Board shall develop a policy that outlines the criteria that must be met in order for a retired member to qualify for an extreme hardship exception.

Should any Member receiving a disability annuity refuse to submit to a medical examination or supply the Board with required statements of income, as hereinafter provided, annuity payments by the System shall be discontinued until compliance with the provisions hereof. Should such refusal continue for one year, all rights of the Member to any disability annuity shall be revoked by the Board. Upon finding that a Member receiving a disability annuity has deliberately falsified information contained in his statement of income, all rights of the Member in any disability annuity shall be revoked by the Board.

(c) Each Member in receipt of a disability annuity shall be required to submit to the Board at least once each year a statement of income from a gainful occupation for the preceding 12 months on a form supplied by the Board. Any adjustment in annuity payments, as aforesaid, shall be based upon such statements of income.

## SECTION 11

### SERVICE-CONNECTED DEATH

Upon death of a Member resulting from an act of duty, which was of a character compensable under Workman's Compensation laws, regardless of the age or length of service of the Member, the surviving spouse of the Member shall be entitled to an annuity equal to 50% of the Member's rate of salary at the date of the Member's death.

If minor children (as defined herein) under age of 18 survive the Member, the spouse shall receive on account of such minor child an additional 10% of the Member's salary. The combined payment to a spouse and children shall in no event exceed 75% of such Member's salary.

If no spouse survives, or if the spouse remarries before all eligible children have attained age 18, each minor child under age 18 shall be entitled to 15% of such Member's salary subject to a limitation for the combined payments to children equal to 60% of such salary.

In the event the foregoing limitations are exceeded, payment to the spouse and children shall be pro-rated to conform to the applicable limitations.

The annuity to a spouse shall be payable for the lifetime of the spouse. Minor children shall be eligible for annuity until their attainment of age 18, death, or marriage, whichever occurs first.

The determination of whether death is duty-connected or not shall be made in the manner provided for in the administration of disability annuities.

Any annuity to a beneficiary hereunder shall be reduced by Workman's Compensation payable under the laws of the State of Michigan or other payments made pursuant to any Ordinance of the City.

In addition to the aforesaid annuities, if a Member's death occurred while the Member was engaged in active service with the City of Pontiac at the time of death, the spouse of the Member or his or her minor children if a spouse does not survive the Member, shall be entitled to receive at the time of the death of the Member, a payment equal to the Member's annual salary as the same shall be in effect at the date of death. Each such child shall be entitled to an equal part of this benefit, and the payment thereof on account of such minor children shall be made to their legally appointed guardian.

## SECTION 12

### NON-SERVICE-CONNECTED DEATH

Provided a Member has acquired three (3) years of credited service, upon the death of a Member resulting from any cause other than an act of duty, (a) while a Member is in service, (b) on sick leave with salary, (c) on an approved leave of absence extending not more than 6 months continuously, (d) while in receipt of a service or non-service-connected disability annuity, or (e) receiving a retirement benefit, the Member's surviving spouse shall be entitled to an annuity. The annuity shall be equal to 30% of final average salary, increased one percentage point for each year of credited service above 3 years, up to a maximum amount equal to 50% of final average salary. Eligibility for such annuity shall be subject to the following conditions:

1. The spouse shall have been married to the Member at least one year prior to the date of death of the Member, or prior to the date of retirement annuity or non-service-connected disability annuity, whichever occurs first, and in any event while the Member was in service;
2. The spouse shall be at least 55 years of age; otherwise, commencement of payments on the annuity shall be deferred until he or she attains such age;
3. The minimum payment to a spouse in any case, shall be 30% of final average salary, and the maximum 50% of such final average salary.

If a spouse has in his or her care an unmarried minor child or children under age 18, payment of the spouse's annuity shall begin immediately regardless of whether the spouse shall have attained age 55. In such a case, the annuity for the spouse shall be increased by 10% of final average salary on account of each such minor child, provided that the maximum payment on account of spouse and children shall not exceed 60% of final average salary. In the event such limitation is exceeded, all annuities shall be pro-rated to conform therewith.

Payments on account of minor children shall terminate upon their attainment of age 18, death, or marriage, whichever first occurs. In the event a spouse remarried and his/her benefit terminated, the annuity on account of each minor child shall be increased to 15% of the final average salary, subject to a limitation of 50% of the final average salary to all minor children.

Should payments on account of minor children terminate before the spouse attains age 55, the annuity to the spouse shall be suspended until he or she attains age 55.

In addition to the aforesaid annuities, if a Member's death occurred while the Member was engaged in active service with the City of Pontiac at the time of death, the spouse of the Member or his or her minor children if a spouse does not survive the Member, shall be entitled to receive a payment equal to the Member's annual salary as the same shall be in effect at the date of death. Each such child shall be entitled to an equal part of this benefit, and the payment thereof on

account of such minor children shall be made to their legally appointed guardian.

## SECTION 13

### REFUND OF CONTRIBUTIONS

(a) Any Member withdrawing from service prior to retirement shall be entitled to a refund, in a single sum, of the accumulated credits in the Member's contribution reserve.

The receipt of a refund on the part of any Member shall automatically effect a waiver and forfeiture of all accrued rights and benefits in the System. The Board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed one year after the filing of an application therefor.

(b) Any Member who has received a refund shall be considered a new Member upon subsequent reemployment, provided that such Member shall render at least 3 years of service following his latest reentry into service. He shall be entitled to regain his previously forfeited credited service upon repayment of all amount received as refunds, including regular interest from dates of refunds to date of repayment. The time and manner of making such repayments shall be fixed by the Board.

(c) Upon death of a Member leaving no survivors eligible for annuity from the System, his accumulated contribution credits in the Member's contribution reserve shall be paid in a single sum to such person or persons as he shall have nominated by written designation duly executed and filed with the Board. If no such designation shall have been made, payment shall be made to the legal representative.

(d) After termination of all annuity payments to the Member, his or her spouse and minor children, arising out of the service of the Member, a refund shall be payable to the designated beneficiary of the Member or his legal representative consisting of the excess, if any, of his or her accumulated contribution credits in the Member's contribution reserve over all such annuity payments made by the System.

(e) Annuity withdrawal.

(1) With respect to the Pontiac Police Supervisors Association, effective January 1, 1985, its members may exercise an option at the time of retirement (when monthly pension commences) to withdraw their contributions which will reduce the monthly pension based on the actuarial schedule.

(2) With respect to members of the Pontiac Firefighters Union, effective January 1, 1985, Members' contributions to the Members' contribution reserve will be refunded at the time of retirement.

(3) With respect to the police officers of the City of Pontiac, members of the Pontiac

Police Officers Association, effective October 1, 1984, may opt, at the time of retirement (when monthly pension commences) to withdraw their contributions which will reduce the monthly pension based on the actuarial schedule.

(f) This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any provision of this Chapter 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 in a direct rollover.

(1) Definitions.

(i) **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 years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

(ii) **Eligible Retirement Plan:** An eligible retirement plan is an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, an annuity plan described in section 403(a) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(iii) **Distributee:** A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code, or an eligible domestic relations order under the eligible domestic relations order act, are distributees with regard to the interest of the spouse or former spouse.

(iv) **Direct rollover:** A direct rollover is a payment by the retirement system to the eligible retirement plan specified by the distributee.

(2) If a distribution is one to which sections 401(a)(11) and 417 of the Internal Revenue Code do not apply, such distribution may commence less than 30 days after the

notice required under section 1.411(a)-11(c) of the Income Tax Regulations is given, provided that:

- (i) The Board clearly informs the member that the member has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and
  - (ii) The member, after receiving the notice, affirmatively elects a distribution.
- (g) This subsection shall apply to distributions made after December 31, 2001.

(1) For purposes of the direct rollover provisions in this section, an eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Internal Revenue Code and an eligible plan under section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to account separately for amounts transferred into such plan from this retirement system. 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 qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code, or an eligible domestic relations order under the eligible domestic relations order act.

(2) For purposes of the direct rollover provisions in this section, 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 section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Internal Revenue Code that agrees to account separately 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.

## **SECTION 14**

### **DENIAL OF BENEFIT CLAIM; APPEALS**

(a) A benefit claimant shall be notified in writing, within thirty (30) days, of denial, in whole or part of a claim for benefits. The notification shall give the reason for the denial. A claimant may request a formal rehearing on the denial. The rehearing shall be requested in writing, filed with the plan administrator no later than ninety (90) days after the denial. The request shall contain a statement of the claimant's reason for claiming the denial to be improper. The Board of Trustees shall rehear the matter within sixty (60) days of receipt of the request. A final written decision on the matter being appealed shall be issued by the Board of Trustees. The decision

shall include a summary of the findings of facts and an application of the ordinance provisions or other applicable law.

(b) With respect to disability benefits, if the Board of Trustees, the City, Member, beneficiary or any other person claiming benefits hereunder shall disagree with any medical finding, the Board of Trustees on its own motion may or on petition of the City, Member, beneficiary or other person claiming benefits hereunder, shall refer the matter in dispute to a medical board of review consisting of three physicians or surgeons, of whom one shall be named by the Board of Trustees, one by the claimant and the third by the two physicians so named. The Medical Director shall in no case be a member of the Board of Review. Such board of review shall be named within 30 days after the filing of such petition. The board of review shall promptly examine the medical findings in dispute and shall within 60 days from its appointment file with the Board of Trustees a written report of its findings, which shall be final and binding as to the medical findings.

(c) Appeals from a final decision of the Board of Trustees shall be to the circuit court and initiated by filing for review in the circuit court as required by law within thirty (30) days after the Board of Trustees has issued its final decision. The review of the court shall be restricted to the record made before the Board of Trustees, and the court shall not permit the introduction of new evidence on any of the issues presented before the Board of Trustees.

The decision of the Board of Trustees shall be upheld by the court unless the court finds the decision of the Board of Trustees to be unlawful, arbitrary or capricious, or not supported by substantial evidence on the entire record as submitted by the Board of Trustees.

## **SECTION 15**

### **FINANCING**

The System shall be financed in accordance with the following method of funding:

An annual determination shall be made of the actuarial reserve requirements for the several annuities and benefits prescribed herein for the Members and their beneficiaries for services rendered and to be rendered. In addition to interest income and other income accruing to the System, these requirements shall be financed by contributions by the Members and contributions by the City, as follows:

(a) Beginning as of the effective date, each Member shall contribute, as his share of the cost of the several annuities and benefits prescribed herein, 8% of salary earned and accruing after such date.

These contributions shall be made in the form of a deduction from salary notwithstanding that the salary paid in cash to such Member shall be reduced thereby below the minimum prescribed by law. Each Member shall be deemed to consent to such deductions, and payment to a Member of salary less deductions shall constitute a full and complete discharge of all claims and demands

whatsoever for the services rendered by such Member during the period covered by the payments, except as to the benefits herein provided.

(b) For service rendered after the effective date, the City shall make contributions concurrently with the contributions by the Members in an amount which, if paid during the total period of such service and added to the Member's contributions for such service, will be sufficient to provide the actuarial reserves for the annuities and benefits earned during such service. The rate of contribution by the City shall be 14% of Members' current salaries as such salaries are payable, which shall be in effect for a period of five (5) fiscal years. At the end of such period, an actuarial survey shall be made and a new rate determined for future years in accordance with the prescribed method of funding.

(c) To provide for the accrued liability for that part of the annuities and benefits arising from service of Members rendered prior to the effective date, after giving effect to the transfer of funds from the City of Pontiac Employees' Retirement System, as herein provided, the City shall contribute a sum sufficient to amortize the liability over a period of 40 years from the effective date, assuming an interest rate of 3 1/2 % per annum or Regular Interest as defined herein under Section 2.15. Effective July 1, 2006, the liability shall not be amortized over a period exceeding 30 years. For each of the first five (5) fiscal years of operation of the System, the City shall contribute a sum equal to 5% of Members' salaries payable for each such year. At the end of such period, an actuarial survey shall be made and a new rate determined for future years to meet the requirements of the System in accordance with the prescribed method of funding.

(d) The amount of each City contribution provided in this Section shall be determined by applying the percentage rates stated to the salaries being paid to the Members during each payroll period, and the resulting amounts shall be remitted by the City to the System concurrently with the payment of salaries to the Members.

(e) A fiscal year shall be the calendar year, namely, January 1 to December 31.

## **SECTION 16**

### **TRANSFER OF ASSETS**

To provide in part for the accrued liability for annuities and benefits arising from service of Members rendered prior to the effective date, the Board is authorized to receive from the City of Pontiac Employees' Retirement System, herein referred to as the "Employees' Retirement System", within 30 days after the effective date, a sum determined as representing the proportion of the assets of such System applicable to Policemen and Firemen for service prior to the effective date. The amount of such transfer shall be that proportion of the total assets on the day prior to the effective date as the actuarial value of all accrued liabilities applicable to Policemen and Firemen in the Employees' Retirement System bears to the total accrued liabilities for all Members of the Employees' Retirement System as the same shall be on the day prior to the effective date.

The accrued liabilities to be included in the aforesaid calculations shall consist of:

- (1) The actuarial value of annuities, pensions, and other benefits chargeable to the "Retirement Reserve Fund" of the Employees' Retirement System;
- (2) The amounts accumulated in the "Annuity Savings Fund" of such System representing the accumulated contributions by the Members including interest; and
- (3) The amount of reserves accumulated in the "Pension Reserve Fund" for the payment of pensions payable from funds provided by the City.

The actuarial tables to be applied in the determination of the accrued liabilities described above shall be those in effect for the Employees' Retirement System.

The assets to be transferred to this System may consist of cash, securities and such receivable as may be applicable to Policemen and Firemen. Such securities as are transferred shall be valued at market prices prevailing on the day prior to the effective date.

## SECTION 17

### ACCOUNTING

The assets of the System shall be held for the express purposes set forth in the provisions of this Chapter subject to the conditions prescribed herein. This System and trust has been created for the exclusive benefit of the members and the beneficiaries as set forth herein. The funds thereof have been established for the benefit of the members and for the operation of the System. No part of the principal and income of any of the funds of this System and trust shall revert to or be returned to the City prior to satisfaction of all liabilities hereunder to all members, beneficiaries and anyone claiming by or through them. Upon termination of the System or upon complete discontinuance of City contributions under this Chapter, the rights of all members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be nonforfeitable. An adequate system of accounts and records shall be established and maintained that will give effect to the requirements hereof. All assets of the System shall be credited to designated reserve accounts according to the purposes for which they are held, as follows:

- (a) **Members' Contribution Reserve.** That portion of the amounts contributed by Members to this System on or after the effective date, and the amounts received from the Employees' Retirement System representing Members' accumulated contributions, shall be credited to this reserve. An individual account shall be maintained for each Member to which shall be credited the amounts of such contributions.
- (b) No accrual of interest shall occur on the contribution credits of the individual Members in the Members' contribution reserve after the effective date.

Upon retirement for service or disability, the accumulated contribution credits of the Member

shall be transferred from this reserve to the Retirement Reserve. Refunds of Member contributions payable upon separation from service or death occurring while in service shall be charged to this reserve.

(c) **City Contribution Reserve.** All amounts contributed by the City in accordance with the provisions hereof, except contributions for administrative expense, and amounts received from the Employees' Retirement System representing City contributions on account of Members in service, shall be credited to this reserve.

All income from investments and gains from investment transactions shall be credited to this reserve. Losses on investments shall be charged hereto.

Upon granting of any annuity for service, disability, or death, an amount representing the excess of the actuarial value of the annuity over the total accumulated contributions of the Member, shall be transferred from this reserve to the Retirement Reserve.

If at the close of any year it is determined by actuarial valuation that the balance in the Retirement Reserve is insufficient to meet the liability for the annuities chargeable thereto, an amount equal to such deficiency shall be transferred from this reserve to the Retirement Reserve.

(d) **Retirement Reserve.** Upon the granting of any annuity for service, disability, or death, the total contributions of the Member in his individual account and an amount representing the actuarial value of the annuity over such total contributions, shall be transferred to this reserve from the Members' Contribution Reserve and City Contribution Reserve, respectively. Thereafter, all payments by the System on account of any annuity or death benefit shall be chargeable to this reserve.

There shall also be credited to this reserve an amount representing the actuarial value of that part of the assets received from the Employees' Retirement System representing the annuities, pensions, and benefits payable to retired Policemen and Firemen, and their beneficiaries.

(e) **Expense Reserve.** Amounts contributed by the System for administrative expense shall be credited to this reserve. All expenses of administration of the System shall be charged to this reserve. The Board shall certify to the City annually the amount of its requirements for administrative expenses. To provide for the initial expenses incident to the organization and establishment of the System, the City shall contribute, upon the adoption of this Chapter, a sum estimated by the Board as being necessary for this purpose.

(f) **Actuarial Studies.** An actuarial survey of the System shall be made at least once every five (5) years by an Actuary engaged by the Board to check the mortality, turnover, disability, interest, and other actuarial factors assumed in calculations of liabilities and costs.

Any excess balance in the Retirement Reserve as determined by such actuarial survey and forfeitures shall be applied to reduce the City's rates of contribution in succeeding years. Such adjustments, as may be required in this or any other reserve, shall be made upon recommendation of the Actuary.

An annual actuarial valuation also shall be made as of the close of each fiscal year for the purpose of establishing the financial condition of the System and as a check on its current operating experience.

## SECTION 18

### MANAGEMENT - POLICY DIRECTION

The System created by this Chapter shall be construed to be a trust, separate and distinct from all other entities. The System is intended to qualify as a pension plan and trust meeting the requirements of Sections 401 and 501 of the Internal Revenue Code, as now in effect or hereafter amended, and shall be administered so as to fulfill this intent. The responsibility for the direction and operation of the System, and for making effective the provisions hereof, are hereby vested in a Board of Trustees. The Board shall consist of five (5) members, as follows:

(a) Two (2) Members representing the City, who shall be the Mayor and Director of Finance of the City.

(b) One (1) Policeman and one (1) Fireman, each having at least five (5) years of credited service, who shall be Members of the System from the respective occupational groups according to rules of election to be adopted by the Board.

Until elections for Trustee are held, the City Council shall appoint two (2) temporary Trustees meeting the foregoing qualifications from among the Policemen and Firemen who shall hold office until permanent Trustees are elected but the terms of such temporary Trustees shall not extend for more than six (6) months.

The original elected Trustees shall serve for the following terms:

One representing Policemen for a term of two (2) years and one representing Firemen for a term of three (3) years.

The Trustees so elected shall take office upon their election and shall succeed the temporary Trustees appointed by the City Council. Their terms of office shall terminate on June 30th of the second and third year following the election as the case may be. The Trustees elected to succeed the original elected Trustees shall serve for terms of three (3) years.

(c) One (1) Member who shall be selected by the remaining four (4) Members of the Board. The initial Member so selected shall serve until June 30, 1963. The successors in such office shall serve for terms of three (3) years.

(d) A Trustee shall continue in office until his successor is elected or appointed, and has qualified. Any Trustee who is a Policeman or Fireman shall be disqualified to serve in that capacity upon termination of service with the City. If a vacancy occurs in the office of elective

Trustee, a successor shall be elected for the unexpired term of office at the next regular annual election under the rules of the Board. If a vacancy occurs in the office of an appointive Trustee, such vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(e) Each Trustee shall take an oath that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the Board, and that he will not knowingly or willfully permit to be violated any of the provisions of the Chapter applicable to the System. Such oath shall have been filed.

(f) Subject to the limitations prescribed herein, the Board shall, from time to time establish rules and regulations for the administration of the System and to implement the provisions of this Chapter as may be required. The Board shall be a quasi-judicial body, and its actions shall be reviewable as set forth in Section 14 herein. It shall hold regular meetings at least quarterly in each year and such special meetings as may be deemed necessary. All meetings shall be open to the public. A record of proceedings of all meetings shall be kept by the Board.

(g) Each Trustee shall be entitled to one (1) vote on the Board, and the concurrence of three (3) Trustees shall be necessary for a decision at any regular or special meeting.

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## SECTION 19.

### OFFICERS AND THEIR DUTIES

The Board shall have the following officers whose duties shall be prescribed by by-laws to be adopted by the Board:

(a) A Chairman and a Vice-Chairman shall be elected from among its Members.

(b) The Director of Finance of the City, ex officio, shall be the Secretary of the Board and the administrative head of the System.

(c) A custodian shall be appointed by the Board and shall have custody of the System's moneys and securities. All disbursements by the System shall be made by the Custodian upon authorization of the Board.

(d) An attorney shall be appointed by the Board and shall represent the Board in all litigation affecting the System.

(e) An Actuary shall be appointed to serve as technical advisor in the administration of the System on matters pertaining to the technical and actuarial aspects thereof.

(f) A Medical Director shall be appointed to pass upon claims for service-connected and non-service-connected disability annuities and service-connected death annuities, on medical questions pertaining to such claims and on any other matters requiring medical advice that may

arise in administration.

## **SECTION 20**

### **ADMINISTRATION**

Subject to the orders and resolutions of the Board, the Secretary, as the administrative head of the System shall:

- (a) employ such clerical and professional services as may be required for the proper operation of the System whose compensation shall be fixed by the City Council;
- (b) establish and maintain records, files, and accounts in such form and scope as will give full force and effect to the requirements of the System in accordance with the provisions hereof;
- (c) accumulate actuarial data concerning the operating experience of the System in such form as is necessary for the annual actuarial valuations and periodic actuarial studies in accordance with recommendations of the Actuary;
- (d) prepare periodic reports as may be required for the efficient administration of the System.

The Secretary also shall prepare each year the annual report of the Board to be submitted to the City Council showing among other things, a statement of assets, liabilities, and reserves certified by the Actuary, an accountant's balance sheet supported by a statement of income and expenditures, a listing of investments owned by the System, a detailed statement of investments acquired and disposed of during the year covered by the report, and such other financial and statistical data as may be deemed necessary for a proper interpretation of the condition of the System and the results of its operations. The Board shall cause to be distributed among the Members of the System a synopsis of such annual report.

## **SECTION 21**

### **INVESTMENTS**

- (a) The Board may keep as an available fund for current disbursements by the System an amount not to exceed the requirements for such purposes for a period of 90 days.
- (b) Any amounts in excess of the aforesaid current cash balance shall be invested in securities or investments authorized by the laws of the State of Michigan, subject, however, to all terms, conditions, limitations, and restrictions imposed by such laws in the making and disposing of such investments, except that notes, bonds, or obligations of any County, Village, or other political subdivision of the State of Michigan shall not be subject to such restrictions or limitations.

(c) The Board may purchase bonds, notes, or other obligations of the City before or after the same are offered to the public whether or not bids have been solicited by the City for such securities.

(d) The Board shall have power to hold, purchase, sell, assign, transfer, and dispose of any of the securities in which the moneys of the System have been invested, as well as the proceeds from such investments, and any other property belonging to the System.

(e) All investments shall be clearly marked to indicate ownership by the System, and to the extent possible, shall be registered in its name. No securities shall be purchased or sold, or in any manner hypothecated, except by action of the Board duly entered in the record of its proceedings.

(f) Any limitations affecting the purchase of securities shall be applicable only at the time of purchase and shall not require the liquidation of an investment at any time.

(g) All investments shall be carried at book value providing a yield which when computed at a uniform rate compounded annually or semi-annually, as the case may be, will remain the same to maturity. No adjustments shall be made in investment valuation for ordinary market fluctuations but reserves may be provided for anticipated losses upon redemption or maturity as may be determined by the Board.

(h) No Member or employee of the Board shall have any direct interest in the income or gains from any investment made by the Board, nor shall any such person receive any pay or emolument for services in connection with any investment. No Member or employee of the Board shall become an endorser or surety, or in any manner, an obligor for money loaned or borrowed from the System.

Proof that any such person has violated any of these restrictions shall make him guilty of a misdemeanor or larceny, as the case may be, and such person shall be punishable therefor as provided by law.

## SECTION 22

### EXEMPTIONS

The right to a service retirement annuity, disability annuity, death annuity, or any annuity or benefit under the provisions of this Chapter, by whatever name called, or a refund, is personal with the recipient thereof and the assignment or transfer of any such annuity or benefit or any part thereof shall be void, except as may be provided herein. Any such annuity or benefit shall not answer the debts contracted by the person receiving the same, and it is the intention of this Chapter that they shall not be subject to execution, attachment, garnishment, or affected by any judicial proceedings.

The right of an individual to a pension, to the return of member contributions, the pension itself, or any other benefit under the provisions of the retirement ordinance shall be subject to award by a court of competent jurisdiction pursuant to section 18 of Chapter 84, Revised Statutes of 1946, being section 552.18 of the Michigan Compiled Laws, and to any other order of a court of competent jurisdiction pertaining to child support. If an award or order requires the retirement system to withhold payment of a pension, accumulated member's contributions or other benefit from the individual to whom it is due, or requires the retirement system to make payment to a spouse, former spouse or child, the withholding or payment provisions of the award shall be effective only against the amounts as they become payable to the individual being paid the pension or other benefit unless otherwise provided in an eligible domestic relations order under the Eligible Domestic Relations Order Act or other domestic relations order under the Public Employee Retirement Benefit Protection Act of 2002.

## **SECTION 23**

### **MONTHLY PAYMENTS**

Any-service retirement annuity, disability annuity, death annuity, or any other annuity provided herein, shall be payable in equal monthly installments as a life annuity except as herein otherwise provided.

The first payment of any such annuity shall be made for the fraction of the month elapsing until the end of the first month; and the last payment shall be made as of the end of the month in which termination by death or other cause occurs.

## **SECTION 24**

### **SUPPLEMENTAL BENEFITS**

All Members retired under the provisions of the System whose retirement was effective prior to January 1, 1982, or beneficiaries receiving payments from the System based upon a Member who retired and whose payments began prior to January 1, 1982, including persons receiving any of the retirement allowances provided for under Section 7 of this Chapter, or disabled Members receiving disability benefits under Sections 8 or 9 of this Chapter, where disability occurred prior to January 1, 1982, or beneficiaries receiving monthly benefits under Section 11 and 12 of this Chapter whose benefit payments commenced prior to January 1, 1982, who are not receiving either a post-retirement or post-date-of-disability annuity increase provided by Ordinance, Resolution or by a collective bargaining agreement and paid from the "System" or City of Pontiac funds, shall be entitled to receive, with each monthly annuity payment paid after the effective date of this Ordinance, a supplementary payment which shall be equal to the product of the number of years such person, or the person upon whose service with the City of Pontiac the benefit is based, has been receiving retirement or disability benefits on the date of the adoption

of this Ordinance, times the number of full years of credited service the Member had when the Member first received retirement or disability benefits, times twenty-five cents (\$.25). The benefit hereunder shall be computed based on full years, without the consideration of additional fractions of years retired or disabled, and once determined for each retired or disabled Member or beneficiary, shall continue to be paid with each monthly benefit, but will not continue to increase as the number of years retired or disabled may increase.

## **SECTION 25**

### **CORRECTION OF ERRORS**

Should any change or error in the records of the City or the retirement system result in any person receiving from the system more or less than he would have been entitled to receive had the records been correct, the Board of Trustees shall correct such error and as far as is practical shall adjust the payment of the benefit in such manner that the actuarial equivalent of the benefit to which such person was correctly entitled shall be paid.

## **SECTION 26**

### **FRAUD**

Any person who knowingly makes any false statement, or falsifies or permits to be falsified, any record or records of this System, in any attempt to defraud the System, is guilty of misdemeanor and shall be punishable therefor under the Ordinances of the City or the laws of the State of Michigan. The System and the City shall have the right to recover by setoff or otherwise any payments made under false representation. If any such person be a Member of the System, or the beneficiary of a Member, he shall forfeit all rights to further participation in any of the benefits hereunder.

## **SECTION 27**

### **SUBROGATION**

In the event a person becomes entitled to a pension or other benefit payable by the retirement system as the result of an accident or injury caused by the act of a third party, the city shall be subrogated to the rights of the said person against such third party to the extent of the benefits to which the city pays or becomes liable to pay.

## **SECTION 28**

### **CONDITIONS**

The provisions of this Chapter XIX shall be operative only if amendments to Chapter XVIII providing for the exclusion of Policemen and Firemen from the provisions of Chapter XVIII and the terminations of coverage of these occupations thereunder, being presented concurrently with the enactment of Chapter XIX, are approved.

It is the intention of this Chapter that upon termination of coverage of Policemen and Firemen under Chapter XVIII, all annuities, pensions, and benefits granted pursuant thereto prior to the effective date of this Chapter, and accruing to their beneficiaries, shall be paid from the System created by this Chapter XIX from the effective date hereof, and that all liabilities on account of Policemen and Firemen accrued at the effective date for service rendered prior thereto shall be assumed by such new System.

## **SECTION 29**

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### **PLAN AMENDMENT FOR IRS QUALIFICATION REQUIREMENT**

Solely for purposes of IRS qualification requirements, the Board of Trustees for the Retirement System, may by unanimous vote, amend this plan for compliance with the Internal Revenue Code to maintain its status as a qualified plan. Notwithstanding this provision, the Board of Trustees may not make any substantive changes and must provide the bargaining parties with 30 days notice prior to implementing an amendment.

## **SECTION 30**

### **SEPARABILITY**

If any section, paragraph, sentence, or clause of this Chapter is held to be invalid or unconstitutional regardless of cause, the remaining sections, paragraphs, sentences, and clauses shall continue in full force and effect and shall thereafter be construed as being the entire provisions of this Chapter.

Notwithstanding any provision contained in this ordinance to the contrary, a Member's benefits may be affected by the collective bargaining process and/or state statutes that may supersede this ordinance.

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