

CHAPTER 2 ADMINISTRATION

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ARTICLE I IN GENERAL

Secs. 2-001--2-025. Reserved.

ARTICLE II OFFICERS AND EMPLOYEES

Division 1 Generally

Sec. 2-026. Compensation of civil service commission.

- (a) *Title.* This section shall be known and cited as the "Civil Service Compensation Ordinance."
- (b) *Purpose.* The purpose of this section is to establish legislative authority for the Township to provide compensation to police and fire civil service commissioners for services rendered under Act 78 of 1935 (MCL 38.501 et seq.), as amended.
- (c) *Amount.* The members of the Township civil service commission shall be entitled to payment from the general fund of the Charter Township for each regular meeting of the commission in which the members attend in such amount as established by resolution of the Township Board from time to time. Such members shall also be entitled to compensation for each special meeting in which they are in attendance, if prior approval is obtained by the Township Supervisor for such special meeting, in such amount as established by the Township Board from time to time. The Township Board reserves the right to investigate questions of members attendance before payment is authorized.
- (d) *Right to repeal.* The members of the commission acquire no vested rights to compensation other than granted herein. The Township Board reserves the right to amend or repeal this section.

(Comp. Ords. 1986, §§ 12.001--12.004)

Sec. 2-027. Employee coverage under state employment security law.

- (a) *Election.* The Township hereby elects, in accordance with the provisions of Section 25(1) (MCL 421.25) of the Michigan Employment Security Act, that all services performed by individuals in its various departments with the exception of elected and appointed officials, shall constitute employment within the meaning of such act.

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(CHAPTER 2, ARTICLE II, DIVISION 1, SECTION 2-207cont.)

- (b) *Period of coverage and termination.* This election shall be effective for at least two (2) calendar years and may be terminated thereafter as of the end of the calendar quarter in which written notice is received by the state employment security commission.
- (c) *Effective date of liability.* This election shall become effective as of the first day of the calendar quarter in which the state employment security commission receives the application for election.
- (d) *Reports and notices.* The Township, through its various departments and establishments, shall furnish to its employees and to the state employment security commission all reports, information and notices required of employers by the Michigan Employment Security Act and Commission rules and regulations.
- (e) *Payments to state employment security commission.* As required by the act, the Township shall pay to the state employment security commission an amount equivalent to the amount of benefits paid and charged to its rating account, and the treasurer of the Township is hereby required and authorized to make such payments at such times and in such manner as the state employment security commission may prescribe.

(Comp. Ords. 1986, §§ 22.051--22.055)

Secs. 2-028--2-040. Reserved.

Division 2 Administrative Merit Employment Service

Sec. 2-041. Title.

This division shall be known and cited as the "Waterford Charter Township Administrative Merit Employment Service Ordinance."

(Comp. Ords. 1986, § 22.021)

Sec. 2-042. Purpose.

The purpose of this division shall be to guarantee to all employees in administrative and managerial capacities fair conditions of employment, which will attract employees of ability and character, and thus increase the efficiency of Township government through improved principles of public personnel administration.

(Comp. Ords. 1986, § 22.022)

Sec. 2-043. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002, the following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Appointing authority means the Township Board, to which Board shall be referred for approval all nominations for appointment of managerial and/or administrative employees.

Managerial employee and administrative employee mean all persons employed in a managerial or an administrative position except those specifically excluded in Section 2-044.

(Comp. Ords. 1986, §§ 22.023--22.025)

Sec. 2-044. Employees excluded.

The following employees are specifically excluded from the provisions of this division:

- (a) The Township Supervisor, the Township Clerk and the Township Treasurer.
- (b) The Deputy Clerk and the Deputy Treasurer.
- (c) All managerial and administrative employees who are members of any organization which has been certified as a collective bargaining agent for any association of employees or any group of employees which negotiates wages, hours and conditions of employment with the Township.
- (d) Any employee covered by the civil service system presently in effect or hereafter established in the Township.

(Comp. Ords. 1986, §§ 22.026--22.030)

(CHAPTER 2, ARTICLE II, DIVISION 2, cont.)

Sec. 2-045. Probationary employees.

All managerial and administrative employees, employed by the Township on May 6, 1974, shall be covered by and subject to the provisions of the administrative merit employment service system set forth in this division. All managerial and administrative employees employed by the Township subsequent to such date shall be excluded from the coverage and provisions of this division for a period of six (6) months from the date of their employment, and shall become eligible and subject to the provisions hereof only upon a determination by the appointing authority that such managerial or administrative employee has satisfactorily performed the duties of his employment during the six-month probationary period.

(Comp. Ords. 1986, § 22.031)

Sec. 2-046. Personnel board.

The personnel board shall consist of three (3) members who shall be sitting members of the Township Board of Trustees, and appointed by the Township Board. Should a duly appointed member of the personnel board no longer sit on the Township Board, the current Board shall appoint a replacement to serve the balance of the term. The appointment of the members shall be for a four-year term to coincide with the term of office as a trustee or officer of the Township.

In the event a managerial or administrative employee governed by the provisions of this division invokes the appeal process as set forth in Section 2-047, and the appellant is under the direct supervision of an appointed member of the personnel board (Township officer), the appellant may request of the Supervisor that the said Township officer be disqualified on this appeal only and the Supervisor shall, at a meeting of the Township Board, appoint an alternate to sit on the personnel board for the limited and sole purpose of hearing the appeal of the aggrieved applicant.

(Comp. Ords. 1986, § 22.032; Ord. of 1-23-2006)

Sec. 2-047. Dismissal, suspension or demotion, hearing.

A managerial or administrative employee covered by the provisions of this division may be dismissed, suspended or demoted by the appointing authority for good and sufficient cause, by an order in writing, stating specifically the reasons therefor. A copy of such order shall be filed with the personnel board. Such employee may within ten (10) days after presentation of such an order to him, appeal from such order to the personnel board. The board shall within two (2) weeks from the date of filing such appeal commence hearings thereon and shall thereupon hear and determine the matter and either affirm, modify or revoke such order. The employee shall be entitled to appeal personally, produce evidence, have counsel and have a hearing open to the public, if he so desires. The findings and decisions of the personnel board shall be promptly delivered to such employee, and shall be certified to the appointing authority from whose order the appeal is taken and shall forthwith be enforced and followed by the appointing authority.

(Comp. Ords. 1986, § 22.033)

Sec. 2-048. Nondiscrimination.

A person entitled to the benefit of a hearing by the personnel board shall not be removed, promoted, demoted, nor in any way favored or discriminated against because of race, color, religion, national origin, age, sex, height, weight, sexual orientation, or marital status, or because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

(Comp. Ords. 1986, § 22.034)

Sec. 2-049. Temporary suspensions.

When, in the judgment of the appointing authority, a managerial or administrative employee's work performance or conduct justifies disciplinary action short of dismissal, the employee may be suspended without pay by the appointing authority. A suspended employee may not request a hearing before the personnel board unless the suspension is for more than ten (10) working days, or

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unless the employee had received a previous suspension within the six (6) months immediately prior thereto.

(Comp. Ords. 1986, § 22.035)

Sec. 2-050. Right to amend.

The Township specifically reserves the right to amend this division in whole or in part, or to repeal the same; provided, however, that, the rights which shall have been vested to any employee under this division shall not be abrogated by such amendment or repeal.

(Comp. Ords. 1986, § 22.037)

Secs. 2-051--2-070. Reserved.

ARTICLE III RETIREMENT SYSTEM*

**Editor's note: Ord. No. 124, §§ 1.00--11.06, adopted December 14, 1992, has been treated as superseding the provisions of former Art. III, §§ 2-71--2-79, 2-91--2-97, 2-111--2-114, 2-126--2-128, 2-141--2-143, 2-156--2-160, 2-171, 2-172, 2-181--2-185, and 2-196--2-201; and adding a new Art. III, as set out herein. Former Art. III pertained to similar subject matter, and derived from the Compiled Ordinance Code of 1986, §§ 22.160, 22.165, 22.170, 22.188, 22.270, 22.280, 22.290, 22.300, 22.320, 22.181--22.187, 22.191--22.194, 22.201--22.203, 22.211--22.213, 22.221--22.225, 22.231, 22.232, 22.241--22.247, 22.251--22.257, and 22.261--22.266.*

Division 1 Generally

Sec. 2-071. Short title.

This article shall be known and cited as the Waterford Township Employees Retirement System Ordinance; and it shall be deemed sufficient in any action for enforcement of the provisions hereof; to define the same by such title and reference to the number hereof.

(Ord. No. 124, § 1.00, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-072. Purpose.

The purpose of this article is:

- (a) To establish a retirement system for the elected officials and designated employees of the Township under the authority of Act 77 of 1989 (MCL 41.110b).
- (b) To authorize certain deductions of contributions from elected official's and designated employee's compensation and from the Township general fund.
- (c) To authorize contracts of insurance, annuities and pension agreements for the financing, funding and payment of benefits.
- (d) To preserve and continue all rights, privileges, duties and obligations of the Township employees retirement system of September 1, 1966 created and subsequently amended by resolutions of the Township Board of the Charter Township.

(Ord. No. 124, § 1.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-073. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following words and phrases, as used in this article, unless a different meaning is clearly indicated by the context, shall have the following meanings:

Accumulated contributions means the sum of all amounts deducted from the compensations of a member, plus all single sum contributions made by the member, and credited to his individual account in the member's deposit fund, together with regular interest thereon.

Beneficiary means any person, except a retirant, who is in receipt of, or who has entitlement to, a pension or other benefit, payable from funds of the retirement system.

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(CHAPTER 2, ARTICLE III, DIVISION 1, SECTION 2-073cont.)

Compensation means the salary or base hourly rate, whether payment thereof is deferred to a later date or not, longevity pay, worker's compensation supplement and shift premium. This definition shall be exclusive of any remuneration for payments in consideration for unused sick leave accumulations, for overtime services, basic worker's compensation benefits and for allowances or reimbursement for clothing, equipment, travel expenses, or other similar expenses. The annual compensation of each employee taken into account in determining benefit accruals in any retirement system year beginning after December 31, 2001, shall not exceed two hundred thousand (\$200,000.00). Annual compensation means compensation during the calendar year or such other consecutive twelve-month period over which compensation is otherwise determined under this article (the determination period). In determining benefit accruals in years beginning after December 31, 2001, the annual compensation limit for determination periods beginning before January 1, 2002 shall be one hundred fifty thousand dollars (\$150,000.00) for any determination period beginning in 1996 or earlier; one hundred sixty thousand dollars (\$160,000.00) for any determination period beginning in 1997, 1998, or 1999; and one hundred seventy thousand dollars (\$170,000.00) for any determination period beginning in 2000 or 2001. The two hundred thousand dollars (\$200,000.00) limit on annual compensation 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 compensation for the determination period that begins with or within such calendar year.

Contract shall mean a written bargain or agreement made between a group (meaning a number of persons classified together) of employees and the Township Board.

Credited service means service credited to a member's service account to the extent provided in this article.

Defined contribution plan means the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust (ICMA plan and trust) as adopted by the Township on January 1, 2005. Members must refer to the ICMA plan and trust for a description of the eligibility requirements and benefits thereunder.

Elected official means any person who gains a seat by election of the voters or is duly appointed to serve on the Township Board of Trustees and is properly installed by the Township Clerk.

Employee means any person in the employ of the Township.

Final average compensation means the monthly average of the compensation paid a member during the period of the highest three (3) consecutive years contained within his or her five (5) years of credited service immediately preceding termination of his or her last employment with the Township.

Member means any employee who is included in the membership of the retirement system.

Part-time employee means any person hired as less than a full time or permanent employee and is designated to work a limited number of hours. Such an employee shall work approximately twenty (20) hours per week during a normal work week.

Pension means a monthly amount payable by the retirement system throughout the future life of a person or for a temporary period as provided in this article.

Pension committee or **committee** means the pension committee provided for in this article.

Pension reserve means the present value of all future payments to be made on account of any pension. Such pension reserve shall be computed on the basis of such mortality and other tables of experience, and regular interest, as the pension committee shall from time to time adopt.

Regular interest means such rate or rates of interest per annum, compounded annually, as the pension committee shall from time to time adopt.

Retirant means any member who retires with a pension payable from funds of the retirement system.

Retirement means a member's withdrawal from the employ of the Township with a pension payable by the retirement system.

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Retirement system or **system** means the Waterford Township Employees Retirement System created and established by this article.

Service means personal service rendered to the Township by an employee of the Township.

Spouse; Surviving Spouse means effective June 26, 2013, the member's legal spouse who has met all requirements of a valid marriage contract in the state of marriage of such parties.

Temporary employee means any person hired as less than a permanent employee designated to work a limited number of days, not to exceed ninety (90) days in any calendar year.

Township means the Charter Township of Waterford, Oakland County, Michigan, and shall include its several departments, commissions, boards and agencies.

Township Board or **Board** means the Board of Trustees of the Charter Township of Waterford.

Worker's compensation period means the time period a member or retirant is in receipt of worker's compensation arising out of Township employment. If the claim is redeemed by payment of a single sum "worker's compensation period" shall be the time period, if any, the member was in receipt of weekly worker's compensation benefits plus the period arrived at by dividing the said single sum by the weekly worker's compensation benefit paid prior to redemption.

(Ord. No. 124, § 2.01, 12-14-1992; Ord. of 2-19-2002; Ord. of 3-28-2005; Ord. of 4-10-2006)

Sec. 2-074. Correction of errors.

Should any change or error in the records of the Township 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 pension committee 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.

(Ord. No. 124, § 12.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-075. 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 Township shall be subrogated to the rights of the said person against such third party to the extent of the benefits to which the Township pays or becomes liable to pay.

(Ord. No. 124, § 13.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-076. Rights unassignable; Township set-off rights.

The right of a person to a pension, to the return of accumulated contributions, the pension itself, any pension option, and any other right accrued or accruing to any member, retirant or beneficiary, under the provisions of this article, and all 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 whatsoever and shall be unassignable, except as is specifically provided in this article: Provided, that if a member is covered by a group insurance or prepayment plan participated in by the Township, and should he or she be permitted to, and elect to, continue such coverage as a retirant, he or she may authorize the pension committee to have deducted from his pension the payments required of him or her to continue coverage under such group insurance or prepayment plan; provided further, that the Township shall have the right of set-off for any claim arising from embezzlement by or fraud of a member, retirant, or beneficiary.

(Ord. No. 124, § 13.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-077. Division of benefits as marital property.

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 1846, being Section 552.18 of the Michigan Compiled Laws, and to any other order of a court of

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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. These limitations shall not apply to accumulated member contributions of an individual who is neither a member nor a vested former member.

(Ord. No. 124, § 13.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-078. Qualified plan.

- (a) The Township intends the retirement system to be a qualified pension plan under Section 401 of the Internal Revenue Code, as amended, and that the trust be an exempt organization under Section 501 of the Internal Revenue Code. The pension committee shall administer the retirement system so as to fulfill this intent.
- (b) Upon termination of the retirement system or upon complete discontinuance of Township contributions under this article, the rights of all employees to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be nonforfeitable.
- (c) The provisions of this Retirement System Ordinance notwithstanding, the accrued benefit for plan participants shall be non-forfeitable upon the attainment of normal retirement age.

(Ord. No. 124, § 14.01, 12-14-1992; Ord. of 2-19-2002; Ord. of 1-24-2011)

Sec. 2-079. Compliance with Section 415 Internal Revenue Code.

The requirements of Section 415 of the Internal Revenue Code are incorporated herein by reference and such requirements override any other plan provision to the contrary.

For purposes of Section 415, compensation shall mean compensation actually paid during the limitation year and the limitation year shall be the calendar year.

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.

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 Code.

For the purpose of adjusting any benefit or limitation under Section 415 of the Internal Revenue Code, 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.

(Ord. No. 124, § 14.02, 12-14-1992; Ord. of 2-19-2002; Ord. of 12-9-2002)

Secs. 2-080--2-090. Reserved.

Division 2 Pension Committee

Sec. 2-091. Committee over retirement system and defined contribution plan.

There is hereby created a pension committee which is vested with the power and authority to administer, manage and operate the retirement system, and to interpret and implement the

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(CHAPTER 2, ARTICLE III, DIVISION 2, SECTION 2-091 cont.)

provisions of this article and the ICMA plan and trust. The committee shall consist of five (5) committeepersons as follows:

- (a) The Township Treasurer.
- (b) Two (2) citizens who are electors of the Township and who are neither a member, retirant, nor beneficiary of the retirement system, to be appointed by the Township Board.
- (c) Two (2) members of the retirement system (or one (1) member of the retirement system and one (1) member of the defined contribution plan) to be elected by the members of the system in accordance with such rules and regulations as the committee shall from time to time adopt to govern such elections. No more than one (1) such member committeeperson shall be from the same Township department. Members of the police and fire pension system who are participants in the defined contribution plan are not eligible to serve on the pension committee.

(Ord. No. 124, § 3.01, 12-14-1992; Ord. of 2-19-2002; Ord. of 4-10-2006)

Sec. 2-092. Committeepersons' term of office.

The regular term of office for the two (2) appointed citizen committeepersons and the two (2) member committeepersons shall be three (3) years. Each committeeperson shall continue to serve as committeeperson until his successor has qualified for the office of committeeperson. For the first pension committee, the term of office shall be three (3) years for the one (1) appointed citizen committeeperson, two (2) years for the other appointed citizen committeeperson and for one (1) appointed member committeeperson, and one (1) year for the other appointed member committeeperson, as designated by the Township Board.

(Ord. No. 124, § 3.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-093. Committeeperson's oath of office.

Each committeeperson shall, within ten (10) days from and after their appointment or election as trustee, take an oath of office before the Township Clerk.

(Ord. No. 124, § 3.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-094. Vacancy on committee; how filled.

In the event a member committeeperson leaves the employ of the Township, he or she shall be considered to have resigned from the committee and the committee shall, by resolution, declare his or her office of committeeperson vacated as of the date of such resolution. If a vacancy occurs in the office of committeeperson, the vacancy shall be filled for the unexpired portion of the term in the same manner as the office was previously filled.

(Ord. No. 124, § 3.04, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-095. Committee quorum; vote; meetings; proceedings.

The pension committee shall hold at least four (4) regular meetings each calendar year, one (1) in each calendar quarter, and shall designate in advance the time and place of the meetings. Special meetings and emergency meetings of the pension committee may be held upon call of the chairperson or any three (3) members of the pension committee. Written or oral notice of special meetings shall be sent to each member of the pension committee approximately seventy-two (72) hours in advance of the special meeting. Oral notice of emergency meetings shall be given to as many members as is feasible at least eighteen (18) hours before the emergency meeting, and the meeting shall commence with a statement of the nature of the emergency. The pension committee shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the pension committee shall be public. The committee shall have the right to close portions of the meeting from the public for permissible purposes in accordance with the terms of the Open Meetings Act. A majority of pension committee members shall constitute a quorum. Each attending member of the pension committee is entitled to one (1) vote on each question before the pension committee, and at least three (3) concurring votes shall be necessary for a decision by the pension committee.

(Ord. No. 124, § 3.05, 12-14-1992; Ord. of 2-19-2002)

(CHAPTER 2, ARTICLE III, DIVISION 2, cont.)

Sec. 2-096. Committee chairperson; retirement system officers; employees.

- (a) The pension committee shall elect from its own number a chairperson and vice-chairperson.
- (b) The Township Treasurer shall serve as secretary to the pension committee and shall be the administrative officer of the retirement system.
- (c) The Township Treasurer shall be the treasurer of the retirement system and the custodian of its assets, except as to the assets the pension committee may from time to time place in the custody of a nationally chartered bank or trust company. The general bond and/or liability insurance policies of the Township shall cover all liability for acts as treasurer of the retirement system. The treasurer shall credit all receipts of money and assets of the retirement system to the retirement system. The treasurer shall make disbursements from the retirement system assets according to provisions of this article.
- (d) The Township attorney shall be the legal advisor to the pension committee.
- (e) The pension committee shall designate and fund the cost of an actuary who shall be the technical advisor to the committee, and who shall perform such other duties as are required of him or her under this article.
- (f) The pension committee shall employ and fund any professional, technical, clerical and other services as required for the operation of the retirement system. The compensation for employed services shall be fixed by the pension committee.

(Ord. No. 124, § 3.06, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-097. Records; annual reports.

The secretary shall keep, or cause to be kept, such data as shall be necessary for an annual actuarial valuation of the assets and liabilities of the retirement system. The committee shall annually render a report to the Township Board showing the fiscal transactions of the system for the preceding fiscal year, and shall furnish the Board such additional information regarding the operation of the system as the Board shall from time to time request.

(Ord. No. 124, § 3.07, 12-14-1992; Ord. of 2-19-2002)

Secs. 2-098--2-110. Reserved.

Division 3 Membership

Sec. 2-111. Membership in retirement system; defined contribution plan membership after January 1, 2005.

- (a) The membership of the retirement system shall include designated employees and elected officials of the Township and the 51st District Court, on the day preceding the effective date of the retirement system and/or hired/elected prior to January 1, 2005, who continue in the employ of the Township.
- (b) The membership of the retirement system shall not include:
 - (1) Any employee who is employed by the Township on a part-time or temporary basis;
 - (2) Any person whose services are compensated on a contractual or fee basis;
 - (3) Uniformed members of the police and fire departments;
 - (4) Any person who is included by law in the police and fire pension system or any other pension or retirement system of the Township, including the Township's defined contribution plan.
- (c) The following persons shall be deemed members of the defined contribution plan:
 - (1) All management and administrative group employees, as defined in the Waterford Township Management and Administrative Group Policy, hired after January 1, 2005;
 - (2) All full-time employees of the 51st District Court hired after January 1, 2005;
 - (3) All full-time elected officials elected to their first term after January 1, 2005;

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- (4) All management and administrative group employees, full-time employees of the Township or the 51st District Court and full-time elected officials hired prior to January 1, 2005 who elect to convert their existing pension account to the defined contribution plan, as set forth in the management and administrative group personnel policy, as may be amended hereafter by action of the Township Board.
- (d) Notwithstanding paragraphs (a), (b) or (c) above, members who have accrued the maximum allowable benefit under the retirement system may participate in both the retirement system and the defined contribution plan.
- (e) In any case of doubt as to the membership status of any employee or person, the pension committee shall decide the question.
(Ord. No. 124, § 4.01, 12-14-1992; Ord. of 5-12-1997, §§ 1, 2; Ord. of 2-19-2002; Ord. of 3-28-2005; Ord. of 4-10-2006)

Sec. 2-112. Termination of membership.

Should any member cease to be employed in a position covered by the retirement system for any reason, excepting retirement or death, said person shall thereupon cease to be a member, and the credited service at that time shall be forfeited to the fund, unless otherwise provided in this article. In the event said person is reemployed by the Township in a position covered by the system, their membership shall recommence. Should said reemployment occur within a period of five (5) years from and after the date of termination of membership, the credited service previously forfeited shall be restored to the reinstated member's credit, provided there is returned to the members deposit fund the amount, if any, withdrawn there from together with regular interest thereon from the date of withdrawal to the date of repayment. Upon a members' retirement or death, said person shall thereupon cease to be a member of the system.

(Ord. No. 124, § 4.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-113. Service credit.

The pension committee shall fix and determine by appropriate rules and regulations the amount of service to be credited any member. Based upon such rules and regulations, and the provisions of this article, the committee shall credit each member with the years and months of service to which they may be entitled. Rules and regulations adopted by the committee shall not abrogate nor conflict with any collective bargaining agreement in effect.

(Ord. No. 124, § 4.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-114. Military service credit.

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

- (a) Prior to entering military service, a member is required to provide advance written or verbal notice to the Township unless giving such notice is precluded by military necessity or is otherwise impossible or unreasonable.
- (b) A member who enters the armed forces of the United States and thereafter returns to employment with the Township within ninety (90) days of his or her discharge or within one (1) year from hospitalization continuing after such discharge, shall be credited with service for a period not to exceed five (5) years unless such service is extended by the government for military necessity.
- (c) A member shall be required to provide documentation to establish the timeliness of his or her application for reemployment. A copy of the member's discharge papers shall be sufficient.
- (d) Effective January 1, 2007, the beneficiary of a Member on a leave of absence to perform military service with reemployment rights described in Code Section 414(u) where the Member cannot return to employment on account of his or her death, shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under the Plan had the Member died as an active employee, in accordance with Code Section 401(a) 37.

(Ord. No. 124, § 4.04, 12-14-1992; Ord. of 2-19-2002; Ord. of 1-24-2011)

(CHAPTER 2, ARTICLE III, DIVISION 3 cont.)

Sec. 2-115. Purchase of additional credited services.

If a member, pursuant to the terms of their collective bargaining agreement or the Management & Administrative Group Personnel Policy, is permitted to purchase additional credited service for prior active service in the armed forces of the United States or for full-time employment by another state, local, or federal governmental agency, said purchase may be effectuated by a direct trustee-to-trustee transfer of assets from a qualified plan described in Internal Revenue Code sections 401(a), 403(b) or 457(b). This section shall be subject to Section 415 of the Internal Revenue Code and purchased credited service shall not exceed 5 years.

(Ord. of 8-23-2010)

Secs. 2-116--2-125. Reserved.

Division 4 Retirement

Sec. 2-126. Voluntary/normal retirement.

Any member who has attained sixty (60) years of age and has eight (8) or more years of credited service in force, or any member who has attained fifty-five (55) years of age and has twenty-five (25) or more years of credited service in force, including members who have terminated their service prior to attaining age fifty-five (55), may retire upon written application filed with the pension committee establishing the date of retirement. The date shall be not less than sixty (60) days nor more than one hundred twenty (120) days subsequent to the filing of the application with the committee. Upon retirement as determined by the committee, said member shall receive a pension as provided for in Section 2-141 of this article.

In addition, non-union members who are laid off by the Township during the month of May 2005, who have eight (8) or more years of credited service in force and who would have been eligible for a voluntary/normal retirement with [within] twenty-four (24) months from the date of layoff, may retire upon written application filed with the pension committee. The members' retirement date shall be established as the date of the members' lay-off. Members must apply for this benefit within thirty (30) days of the later of their date of layoff or the date this subsection is adopted (July 11, 2005). Upon retirement as determined by the committee, said member shall receive a pension as provided for in Section 2-141 of this article.

(Ord. No. 124, § 5.01, 12-14-1992; Ord. of 2-19-2002; Ord. of 7-11-2005)

Sec. 2-127 Deferred retirement.

Should any member who has eight (8) or more years of credited service cease to be employed in a position covered by the retirement system, for any reason except death or retirement and not withdraw his or her accumulated contributions from the member's deposit fund, said member shall be entitled to a pension computed according to the provisions of division 5 of this article as the section was in force at the time of said member's separation from covered employment. Said pension shall be effective the first day of the calendar month following the month in which he or she files an application for same with the pension committee, on or after the attainment of age sixty (60) years. Notwithstanding the effective date of the member's pension, said benefit shall commence as soon as administratively feasible after receipt of the member's application.

(Ord. No. 124, § 5.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-128 Required minimum distributions.

- (a) For those who turn 70 ½ on or before December 31, 2019 (i.e. whose birthdate is on or before June 30, 1949): 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 pension 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

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- (2) The calendar year in which the member retires.
- (b) With respect to distributions under this article 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. (*Ord. of 2-27-2023*)

Sec. 2-129 Required minimum distribution effective January 1, 2003.

- (a) 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.
- (b) Precedence. The requirements of this section will take precedence over any inconsistent provisions of the retirement system ordinance.
- (c) Requirements of treasury regulations incorporated. All distributions required under this section will be determined and made in accordance with the final treasury regulations under Section 401(a)(9) of the Internal Revenue Code.
- (d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this section, other than paragraph (c), 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.
- (e) 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.
- (f) 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:
- (1) If the member's surviving spouse is the member's sole designated beneficiary, 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:
- (i) For members who turn (or would have turned) 70 ½ on or before December 31, 2019 (i.e. whose birthday is on or before June 30, 1949), the member would have attained age seventy and one-half (70 1/2), if later, or
- (ii) For members who turn 70 ½ after December 31, 2019 (i.e. whose birthdate is on or after July 1, 1949): the member would have attained age 72.
- (2) If the member's surviving spouse is not the member's sole designated beneficiary, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.
- (3) 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.
- (4) 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 (f), other than paragraph (f)(1), will apply as if the surviving spouse were the member.

For purposes of this paragraph (f) and paragraphs (m), (n), and (o), distributions are considered to begin on the member's required beginning date (or, if paragraph (f)(4) applies, the date distributions are required to begin to the surviving spouse under paragraph (f)(1)). 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

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- to begin to the surviving spouse under paragraph (f)(1)), the date distributions are considered to begin is the date distributions actually commence.
- (g) 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 (h) through (m) 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.
- (h) 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:
- (1) The annuity distributions will be paid in periodic payments made at intervals not longer than one (1) year;
 - (2) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in paragraphs (m) through (o);
 - (3) 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;
- (i) 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 (f)(i) or (ii)) is the payment that is required for one (1) 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., bimonthly, monthly, semiannually, 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.
- (j) 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.
- (k) 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 non-spouse 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)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the member and a non-spouse 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.
- (l) 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

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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 (l), 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.

- (m) 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 (f)(1) or (2), over the life of the designated beneficiary or over a period certain not exceeding:
 - (1) 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
 - (2) 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.
- (n) 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.
- (o) 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 (f)(1).
- (p) 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.
- (q) Designated beneficiary. The individual who is designated as the beneficiary under Section 2-073 of the 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.
- (r) 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 (f).
- (s) Life expectancy. Life expectancy as computed by use of the single life table in Section 1.401(a)(9)-9 of the treasury regulations.
- (t) Required beginning date. The date specified in Section 2-128 of the retirement system ordinance.

(CHAPTER 2, ARTICLE III, DIVISION 4, SECTION 2-129 cont.)

- (u) 2009 Waiver of Required Minimum Distribution Rules. Notwithstanding the above, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are: (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least ten years, will receive those distributions for 2009 unless a participant or beneficiary chooses not to receive such distributions. Such distributions may be treated as an Eligible Rollover Distribution if it otherwise satisfies the requirements of Section 2-188.

(Ord. of 3-8-2004; Ord. of 1-24-2011; Ord. of 02-27-2023)

Secs. 2-130--2-140. Reserved.

Division 5 Pensions

Sec. 2-141. Straight life pension.

Upon a member's retirement, as provided in this article, the member shall receive a straight life monthly pension equal to the sum of the applicable percent, as provided in the contracts or policy manual currently in effect, of his or her final average compensation, multiplied by his credited service. A Straight life pension benefit may also be referred to as a Regular benefit.

(Ord. No. 124, § 6.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-142. Terminal payments.

If a retirant dies before having received, in straight life pension payments, an aggregate amount equal to the accumulated contributions standing to his or her credit in the members deposit fund at the time of retirement, the difference between the retirant's accumulated contributions and the aggregate amount of straight life pension payments received by the retirant shall be paid to such person or persons as shall have been nominated by written designation duly executed and filed with the pension committee. If there be no such designated person or persons surviving the said retirant, such difference, if any, shall be paid to his or her estate. In no case shall any benefits be paid under this section on account of the death of a retirant if the retirant has elected either Option A or Option B in Section 2-143 of this article.

(Ord. No. 124, § 14.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-143. Pension options.

The amount of pension under forms of payment Option Straight Life, Option A, Option A with Pop-up, Option B, and Option B with Pop-up, shall have the same actuarial present value, computed as of the effective date of the pension, as the amount of pension under form of payment Straight Life calculated in accordance with the 1971 Group Annuity Mortality Table using seven (7) percent interest.

Prior to the effective date of his or her retirement, but not thereafter, a member may elect to receive their pension as a straight life pension payable throughout his or her life; or, a member may elect to receive the actuarial equivalent computed as of the effective date of his or her retirement, of the straight life pension in a reduced pension payable throughout his or her life, and nominate a beneficiary, in accordance with the provisions of Option A or B set forth below:

Option A. 100 percent contingent survivor pension: Upon the death of a retirant who elected Option A, his or her reduced pension shall be continued throughout the life of and paid to the person or persons having an insurable interest in their life on the effective date of their retirement, as

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(CHAPTER 2, ARTICLE III, DIVISION 5, SECTION 2-143cont.)

he or she shall have nominated by written designation duly executed and filed with the pension committee prior to the effective date of his or her retirement; or

Option A with Pop-Up. A retiree shall have the option of electing to have his or her retirement benefit provide that in the event the retiree's beneficiary shall predecease the retiree, the retiree's pension benefit would increase ("pop-up") to the Straight Life pension amount. Said election is conditioned upon the cost of the pop-up option being borne by the retiree in the form of a reduced pension benefit.

Option B. 50 percent contingent survivor pension: Upon the death of a retirant, who elected Option B, fifty (50) percent of his or her reduced pension shall be continued throughout the life of and paid to the person or persons having an insurable interest in his or her life on the effective date of his or her retirement as they shall have nominated by written designation duly executed and filed with the pension committee prior to the effective date of his or her retirement.

Option B with Pop-Up. A retiree shall have the option of electing to have his or her retirement benefit provide that in the event the retiree's beneficiary shall predecease the retiree, the retiree's pension benefit would increase ("pop-up") to the Straight Life pension amount. Said election is conditioned upon the cost of the pop-up option being borne by the retiree in the form of a reduced pension benefit.

Option A may be referred to as Option I and Option B may be referred to as Option II in other administrative materials.

(Ord. No. 124, § 6.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-144. Post-retirement adjustments.

The Township, by resolution, may adopt from time to time benefit programs providing for post-retirement adjustments increasing retirement benefits. Such benefit programs may provide for one-time post-retirement percentage increases in retirement benefits; annual or other periodic post-retirement percentage increases in retirement benefits; lump sum post-retirement distributions; or any other method considered appropriate by the Township. The retirement benefit payable after making an adjustment pursuant to the benefit program adopted shall be the new retirement benefit payable until the next adjustment, if any, is made.

(Ord. of 5-12-1997, § 3; Ord. of 2-19-2002)

Sec. 2-145. Benefits for management group and 51st District Court employees.

- (a) Retirement benefits for Township employees employed in positions covered by the "Waterford Township Management and Administrative Employees Personnel Policy Manual" shall be as set forth in Township employees retirement system ordinance (Sections 2-071 through 2-216, formerly Ordinance No. 124), as amended, except as, and to the extent, otherwise provided in the "Waterford Township Management and Administrative Employees Personnel Policy Manual" as established and amended from time to time, by resolution of the Township Board.
- (b) Retirement benefits for employees employed in the 51st District Court shall be as set forth in the Waterford Employees Retirement System Ordinance, (Sec. 2-071 through Sec. 2-216, formerly Ordinance No. 124) as amended, except as, and to the extent, otherwise provided in the 51st District Court Personnel Policy Manual as established, and amended from time to time, by resolution of the Township Board.

(Ord. of 4-10-2006)

Secs. 2-146--2-155. Reserved.

Division 6 Disability Retirement

Sec. 2-156. Eligibility.

(Chapter 2, Article III, Division 6, Section 2-158 cont.)

- (a) Non-duty disability. Upon the application of a member, or his or her department head, a member who (1) is in the employ of the Township in a position covered by the retirement system, (2) has not attained the age of sixty (60) years, (3) has ten (10) or more years of credited service, and (4) becomes totally and permanently incapacitated for duty in the employ of the Township, by reason of a personal injury or disease, may be retired by the pension committee; provided, that after a medical, physical and/or psychological examination of the said member made by or under the direction of a physician or physicians designated by the pension committee the said physician or physicians certifies to the committee, in writing, (1) that the said member is mentally or physically totally incapacitated for duty in the employ of the Township, (2) that his or her incapacity will probably be permanent, and (3) that the said member should be retired.
- (b) Duty disability. If all requirements of subsection (a) hereinabove have been met, then the ten-year credited service requirement contained in this section shall be waived in the case of a member whom the committee finds (1) to be totally and permanently incapacitated for duty as a direct and proximate result of events occurring out of and in the course of the performance of the member's duties while in the employ of the Township, and (2) to be in receipt of worker's compensation on account of his disability arising out of and in the course of his or her Township employment.

(Ord. No. 124, § 7.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-157. Disability pension.

Upon the retirement of a member on account of disability, as provided in Section 2-156 of this article, he or she shall receive a straight life disability pension computed in accordance with Section 2-141 until the member has the right to elect an option as provided in Section 2-143. In no case shall the straight life disability pension be less than ten (10) percent of the member's final average compensation. The said disability shall be subject to Sections 2-158, 2-159, and 2-160.

(Ord. No. 124, § 7.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-158. Reexamination of disability retirement.

At least once each year during the first five (5) years following a member's retirement on account of disability, and at least once in every three-year period thereafter, the pension committee may, and upon the retirant's application shall, require any disability retirant who has not attained age sixty (60) years to undergo a medical, physical and/or psychological examination to be made by or under the direction of a physician or physicians designated by the committee. Should any such disability retirant refuse to submit to such medical examination during any such period of his or her disability, the pension may be suspended by the committee until the withdrawal of such refusal. Should such refusal continue for one (1) year, all retirant's rights in and to a disability pension may be revoked by the committee. If, upon such medical examination of a disability retirant, the reports and/or opinions of said physician or physicians to the committee state that the said retirant is physically able and capable of resuming employment with the Township he or she shall be returned to Township employment and the disability pension shall terminate; provided that the report and/or opinions of the said physician or physicians is adopted by the committee. In returning the retirant to Township employment, reasonable latitude shall be allowed the Township in placing said employee in a position commensurate with the type of work performed, and compensation received, at the time of the employee's retirement.

(Ord. No. 124, § 7.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-159. Disability retirant; restored credit.

A disability retirant who is returned to Township employment, as provided in Section 2-158 of this article, shall again become a member of the retirement system. The credited service at the time of his or her retirement shall be restored to full force and effect and the employee shall be given service

(Chapter 2, Article III, Division 6, Section 2-159 cont.)

credit for the period he or she was in receipt of a disability pension, if within said period the retirant was paid worker's compensation for a loss or injury which was the direct and proximate result of events occurring solely and exclusively out of and within the course of the performance of his or her duties while in the employ of the Township. Otherwise the retirant shall not be given service credit for the period he was in receipt of a disability pension.

(Ord. No. 124, § 7.04, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-160. Retiree employed; reduced pension.

In the event a disability retirant who has not attained age sixty (60) years becomes engaged in gainful occupation, business, or employment, paying the retirant more than the difference between the annual rate of compensation at the time of retirement and disability pension, the said pension shall be reduced to an amount which, together with the amount so earned by the retirant, shall equal but not exceed the annual rate of compensation. Should the retirant's earnings change, the reduction of the said pension shall be adjusted accordingly.

(Ord. No. 124, § 7.05, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-161. 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 Township Clerk 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 pension committee 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 pension committee. The decision shall include a summary of the findings of facts and an application of the ordinance provisions or other applicable law.
- (b) Appeals from a final decision of the pension committee shall be to the circuit court and initiated by filing a notice of appeal with the circuit court within thirty (30) days after the pension committee has issued its final decision. The review of the court shall be restricted to the record made before the pension committee, and the court shall not permit the introduction of new evidence on any of the issues presented before the pension committee. The decision of the pension committee shall be upheld by the court unless the court finds the decision of the pension committee to be unlawful, arbitrary or capricious, or not supported by substantial evidence on the entire record as submitted by the pension committee.

(Ord. No. 124, § 7.06, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-162. Reemployment; pension suspended.

Except as otherwise provided in this article, in the event any retirant is employed or reemployed by the Township in a full-time position, payment of their pension shall be suspended during the period of their employment or reemployment. Upon termination of such employment or reemployment, payment of their pension shall be resumed. During the period of their reemployment by the Township, the retirant shall not again become a member of the retirement system.

(Ord. No. 124, § 7.07, 12-14-1992; Ord. of 5-12-1997, § 4; Ord. of 2-19-2002)

Secs. 2-163--2-170. Reserved.

Division 7 Death Benefits

Sec. 2-171. Duty death benefits.

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(Chapter 2, Article III, Division 7, Sec. 2-171 cont.)

In the event (1) any member dies as the proximate result of a personal injury or disease arising solely and exclusively out of and in the course of his or her employment with the Township, or (2) a disability retiree, while in receipt of worker's compensation arising out of their Township employment, dies prior to age sixty (60) years as the proximate result of the same injury or disease for which they were retired, and in either case such death, injury or disease resulting in death, be found by the committee to have been the result of his or her actual performance of duty in the service of the Township, the applicable benefit provided in paragraphs (1), (2) and (3) of this section shall be paid subject to paragraph (4) of this section and subject to the condition that the decedent's beneficiaries apply for and receive worker's compensation on account of the death of said member or retiree.

- (a) The accumulated contributions standing to the member's credit in the members deposit fund at the time of the decedent's death shall be paid in accordance with Section 2-187.
- (b) The decedent's spouse shall receive a pension equal to the spouse's weekly worker's compensation converted to a monthly basis. Said pension shall begin upon termination of the spouse's worker's compensation period and shall continue until the sooner of the event of remarriage or death.
- (c) The decedent's unmarried child or children under eighteen (18) years shall each receive a pension equal to such child's weekly worker's compensation converted to a monthly basis. Said pension shall begin upon termination of the child's worker's compensation period and shall continue until the sooner of, marriage, death, and attainment of age eighteen (18) years.
- (d) As used in this section the term widow, widower or spouse means the person to whom the said member or retiree was married at the time his or her employment with the Township was terminated.

(Ord. No. 124, § 8.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-172. Non-duty death benefits.

- (a) Any member who continues in the employ of the Township on or after the date of acquiring ten (10) years of credited service may, at any time prior to the effective date of retirement, but not thereafter, elect Option A provided in Section 2-143 in the same manner as if the member were retiring from the employ of the Township, and nominate a beneficiary whom the committee finds to be dependent upon the said member for at least fifty (50) percent of his financial support. Prior to the effective date of their retirement, but not thereafter, a member may revoke the said election of Option A and nomination of beneficiary and the member may again elect 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 decedent's beneficiary, if living, shall immediately receive a pension computed in the same manner in all respects as if the said member had retired the day preceding the date of death, notwithstanding the fact the decedent may not have attained the age sixty (60) years. The pension shall terminate upon the death of the said beneficiary. No benefits shall be paid under this subsection on account of the death of a member if any benefits are paid under Section 2-171 on account of the member's death.

A member who continues in the employ of the Township on or after the date of acquiring ten (10) years of credited service 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 Township, and (2) leaves

- (b) a widow, a widower, the widow or widower shall immediately receive a pension computed in the same manner in all respects as if the member had (1) retired the day preceding the date of death, notwithstanding that the decedent may not have attained age sixty (60) years, (2) elected Option A provided in Section 2-143, and (3) nominated the said widow or widower as beneficiary. The pension shall terminate upon the death of said widow or widower. No benefits shall be paid under this subsection on account of death of a member if any benefits are paid under Section 2-171 on account of the member's death. The ten (10) year credited service requirement shall be reduced to eight (8) years upon a member's attainment of age sixty (60) years.

(Ord. No. 124, § 8.02, 12-14-1992; Ord. of 2-19-2002)

(CHAPTER 2, ARTICLE III, DIVISION 7 cont.)

Secs. 2-173--2-180. Reserved.

Division 8 Members Deposit Fund

Sec. 2-181. Fund created.

The members deposit fund is hereby created. It shall be the fund in which shall be accumulated, at regular interest, the contributions deducted from the compensations of members, and from which shall be paid refunds, and made transfers, or accumulated contributions, as provided in this article.

(Ord. No. 124, § 9.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-182. Contributions.

Unless otherwise provided by a collective bargaining or other employment agreement, a member's current contributions to the retirement system shall be fully funded by the Township.

All member contributions made prior to 1985 shall remain within the fund credited to the individual members account with interest compounded annually.

(Ord. No. 124, § 9.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-183. Deductions; consent.

The officers responsible for making up the payroll shall cause certain contributions provided for in Section 2-182 of this article to be deducted from the compensation of the member. When deducted, each of the said contributions shall be paid to the retirement system and shall be credited to the member's individual account in the members deposit fund from which said deduction was made.

(Ord. No. 124, § 9.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-184. Withdrawal of contributions; repayment.

In addition to the contributions deducted from the compensations of a member, as hereinbefore provided, a member shall deposit in the members deposit fund, by a single contribution or by an increased rate of contribution as approved by the committee, all amounts the member may have withdrawn there from and not repaid thereto, together with regular interest thereon from the date of withdrawal to the date of repayment, if the reemployed member meets the requirement of Section 2-112. In no case shall a member be given credit for service rendered prior to the date of withdrawal of accumulated contributions until repayment to the members deposit fund the amounts due said fund by the member.

(Ord. No. 124, § 9.04, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-185. Accumulated contributions; transfer.

Upon any member's retirement, or the death of a member on whose behalf a pension becomes payable, their accumulated contributions standing to their credit in the members deposit fund shall be transferred to the retirement reserve fund. Except as otherwise provided in this article, at the expiration of a period of five (5) years from and after the date an employee ceases to be a member any balance standing of his or her credit in the members deposit fund, unclaimed by the said member or his or her legal representative, shall be transferred to the income fund.

(Ord. No. 124, § 9.05, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-186. Refund of contribution.

Should any employee cease to be a member before they have satisfied the age and service requirements for retirement provided in Section 2-126 and is not otherwise entitled to a pension, they shall be paid their accumulated contributions standing to their credit in the members deposit fund, minus taxes, upon demand in writing on forms furnished by the pension committee.

(Ord. No. 124, § 9.06, 12-14-1992; Ord. of 2-19-2002)

(CHAPTER 2, ARTICLE III, DIVISION 8 cont.)

Sec. 2-187. Refund of contribution; designated beneficiary; installment payments.

Should any member die before their retirement becomes effective, and no pension is or becomes payable on account of his or her death, their accumulated contributions standing to their credit in the members deposit fund at the time of their death shall be paid to such person or persons as shall have been nominated by written designation duly executed and filed with the committee. If there should be no such designated person or persons surviving the said member, his or her said accumulated contributions shall be paid to his or her legal representative. Payments of accumulated contributions, as provided in this section, maybe made in equal installments according to such rules and regulations as the pension committee shall from time to time adopt.

(Ord. No. 124, § 9.07, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-188. Eligible rollover distributions.

- (a) This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any provision of this article 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 pension committee, 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. A distributee also includes an eligible designated non-spouse beneficiary.
 - 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:
- a. The pension committee 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
 - b. The member, after receiving the notice, affirmatively elects a distribution.

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(CHAPTER 2, ARTICLE III, DIVISION 8, SECTION 2-188 cont.)

- (b) 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.

(Ord. of 2-19-2002)

Secs. 2-189--2-195. Reserved.

Division 9 Funds

Sec. 2-196. Pension reserve fund created.

The pension reserve fund is hereby created. It shall be the fund in which shall be accumulated the contributions made by the Township to the retirement system and from which shall be made transfers of pension reserves, as provided in this section.

(Ord. No. 124, § 10.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-197. Pension reserve fund; computation of appropriations.

Upon the basis of such mortality and other tables of experience, and regular interest, as the pension committee shall from time to time adopt, the actuary shall annually compute the pension reserves for service rendered and to be rendered by members, and the pension reserves for pensions being paid retirants and beneficiaries. The pension reserve liabilities so determined shall be financed by annual Township contributions appropriated by the Township Board; said contributions to be determined in accordance with the provisions of subparagraphs (1), (2) and (3) set forth below:

- (a) The appropriations for members' current service shall be a percent of their annual compensations which will produce an amount which if paid annually by the Township during their future service will be sufficient, at the time of their retirements, to provide the pension reserves, not financed by members' future contributions, for the portions of the pensions to be paid them based upon their future service; and
- (b) The appropriation for members' accrued service shall be a percent of their annual compensations which will produce an amount which if paid annually by the Township over a period of years, to be determined by the Township Board, will amortize, at regular interest, the unfunded pension reserves for the accrued service portions of the pensions to which they may be entitled upon retirement; and
- (c) The appropriation for pensions being paid retirants and beneficiaries shall be a percent of the annual compensations of members which will produce an amount which if paid annually by the Township over a period of years, to be determined by the Township Board, will amortize, at regular interest, the unfunded pension reserves for pensions being paid retirants and beneficiaries.

(Ord. No. 124, § 10.02, 12-14-1992; Ord. of 2-19-2002)

(CHAPTER 2, ARTICLE III, DIVISION 9 cont.)

Sec. 2-198. Pension reserve fund; insufficiencies covered by Township.

In the event the amount appropriated in the budget in any fiscal year is insufficient to pay, in full, the amounts due in said year to all retirants and beneficiaries of the retirement system, the amount of such deficiency shall thereupon be funded by the Township.

(Ord. No. 124, § 10.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-199. Retirement fund.

Upon the retirement of any member, the difference between the pension reserve for the pension payable on their account and his or her accumulated contributions shall be transferred from the pension reserve fund to the retirement reserve fund.

(Ord. No. 124, § 10. 04, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-200. Retirement reserve fund created.

The retirement reserve fund is hereby created. It shall be the fund from which shall be paid all pensions as provided in this article. In the event a disability retirant returns to Township employment his or her pension reserve at that time shall be transferred from the retirement reserve fund to the members deposit fund and the pension reserve fund in the same proportion as the pension reserve was originally transferred.

(Ord. No. 124, § 10. 05, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-201. Income fund created.

The income fund is hereby created. It shall be the fund to which shall be credited all interest, dividends, and other income from investments of the retirement system; all transfers from the members deposit fund by reason of lack of claimant; and all other moneys received by the retirement system, the disposition of which is not specifically otherwise provided for in this article. The pension committee may accept gifts and bequests and the same shall be credited to the income fund. There shall be transferred from the income fund all amounts required to credit regular interest to the members deposit fund, retirement reserve fund, and pension reserve fund, as provided in this article. Whenever the committee determines that the balance in the income fund is more than sufficient to cover the current charges to the fund, the committee may, by resolution, provide for contingency reserves, or for the transfer of such excess or portion thereof to cover the needs of the other funds of the retirement system.

(Ord. No. 124, § 10.06, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-202. Other funds.

The pension committee may create such other funds as it deems necessary for proper operation of the retirement system.

(Ord. No. 124, § 10.07, 12-14-1992; Ord. of 2-19-2002)

Secs. 2-203--2-210. Reserved.

Division 10 Use of Funds; Interest; Payments; Conflict of Interest

Sec. 2-211. Investment of funds.

Subject to the provisions of Act. No. 135, Public Acts of 1945, as amended, and subject to state law pertaining to the investment of public employee retirement system funds, the committee shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments of the system, as well as the proceeds of said investments and any moneys belonging to the system.

(Ord. No. 124, § 11.02, 12-14-1992; Ord. of 2-19-2002)

(CHAPTER 2, ARTICLE III, DIVISION 10 cont.)

Sec. 2-212. Restricted use of funds.

All moneys and investments of the retirement system shall be held for the exclusive purpose of meeting the disbursements for pensions and other payments authorized by this article and shall be used for no other purpose whatsoever. Available cash in a noninterest earning form shall not exceed five (5) percent of the total assets of the retirement system.

(Ord. No. 124, § 11.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-213. Assets not segregated.

The members deposit fund, pension reserve fund, retirement reserve fund, income fund, and any other funds created by the pension committee shall be interpreted to refer to the accounting records of the retirement system and not to the actual segregation of the assets of the system in the said fund.

(Ord. No. 124, § 11.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-214. Allowance of regular interest.

The pension committee shall, at the end of each fiscal year, allow and credit four (4) percent regular interest to the members' individual accounts in the members deposit fund computed upon their individual balances at the beginning of such fiscal year; and to the mean balances for the year in the pension reserve fund and the retirement reserve fund. The amounts of interest so credited shall be charged to the income fund. In the event the balance in the income fund is not sufficient to cover the amounts of interest charged to it, the amount of such insufficiency shall be transferred from the pension reserve fund to the income fund.

(Ord. No. 124, § 11.04, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-215. Prohibition against conflict of interest.

Except as otherwise provided in this article, no member of the pension committee and no employee of the Township shall have any interest direct or indirect in the gains or profit arising from any investments made by the pension committee. No person directly or indirectly, for himself or herself or as an agent or partner of others, shall borrow any moneys or investments of the retirement system, or in any manner use the same except to make current and necessary payments as are authorized by the committee. No such person shall become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the committee. Nothing contained herein shall be construed to impair the rights of any member, retirant, or beneficiary of the retirement system to benefits provided by the system.

(Ord. No. 124, § 11.05, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-216. Methods of making payments.

All payments from moneys of the retirement system shall be made by the Township Treasurer; provided that such payments shall be made only upon the written authority signed by two (2) persons designated by the pension committee. A duly attested copy of a resolution designating such persons and bearing upon its face specimen signatures of such persons shall be filed with the Township Treasurer. No such written authority to make payments from the moneys of the system shall be executed unless the payment or payments shall have been previously authorized by a specific or continuing resolution adopted by the committee.

(Ord. No. 124, § 11.06, 12-14-1992; Ord. of 2-19-2002)

Secs. 2-217--2-220. Reserved.

Division 11 Amendments to Police and Fire Retirement System

Sec. 2-221. Post retirement pension improvements to members retiring from the position of Police Chief, Deputy Police Chief, Fire Chief, and Deputy Fire Chief.

Pursuant to Section 6(d) of the Public Act 345 of 1937, as amended, the retirement system is hereby amended to provide increased retirement benefits to a member who has retired from the position of

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(CHAPTER 2, ARTICLE III, DIVISION 11, SECTION 2-221 cont.)

Police Chief, Deputy Police Chief, Fire Chief, or Deputy Fire Chief, as of the day following their effective retirement date in accordance with the following:

- (a) *Final average compensation and multiplier.*
 - (1) Effective June 1, 1991, the retiree shall have his or her retirement benefits re-computed to reflect a final average compensation computed using the best three (3) of the last five (5) years of service and a multiplier of two and one-quarter (2.25) percent.
 - (2) Effective November 1, 1995 the retiree shall have his or her retirement benefits re-computed to reflect a final average compensation computed using the best three (3) of the last five (5) years of service and a multiplier of two and one-half (2.5) percent.
 - (3) Effective January 1, 1996 for a retiree who retired between January 1, 1996 and December 31, 1996 shall have his or her retirement benefits re-computed to reflect inclusion in final average compensation of accumulated vacation time (up to a maximum of four hundred (400) hours).
 - (4) Effective January 1, 2007, a retiree shall have his or her retirement benefits re-computed to reflect a final average compensation computed using the best three (3) of the last ten (10) years of service and a multiplier of two and one-half (2.5) percent.
- (b) *Pension escalator.*
 - (1) Effective August 14, 1995, a retiree will receive credit for two (2) years of credit for every one (1) full year of service beyond his or her date of eligibility for retirement up to a maximum of ten (10) years of escalation. An eligible retiree shall have his or her retirement benefit re-computed to reflect an annual increase of two (2) percent of the original benefit per year for each year of earned escalation credit up to a maximum of ten (10) years.
 - (2) Effective January 1, 2007, service rendered after an employee has requested to participate in the DROP will continue to qualify for escalation calculation purposes.
- (c) *Pop-up option.* Effective November 1, 1995, a retiree shall have the option of electing to have his or her retirement benefits re-computed to provide that in the event the retiree's spouse shall predecease the retiree, the retiree's pension benefit would increase ("pop-up") to the regular pension amount. Said election is conditioned upon the cost of the pop-up option being borne by the retiree in the form of a reduced pension benefit. Said election must be made at the time of the retiree's termination of employment.
- (d) *Purchase of other governmental service.* Effective June 1, 1996, a retiree shall have the option of having his or her retirement benefits re-computed to reflect other full-time federal, state, or local governmental service. Said election is conditioned upon the retiree making payments to the retirement system of fifty (50) percent of the actuarially determined Township contribution rate for said period as of the retiree's effective retirement date. Said payments shall not be subject to annuity withdrawal. The retiree shall not be eligible to purchase more than five (5) years of combined other governmental service and military service. A retiree electing this option shall be required to exercise the option at the time of retirement and make payment in full within sixty (60) days of their retirement date.
- (e) *Deferred retirement option plan.*
 - (1) *Overview.* Effective January 1, 2007, the police and fire management employees (i.e. Police chief, deputy police chief, fire chief and deputy fire chief), who are members of the Township's police and fire retirement system may voluntarily elect to participate in the Township's police and fire retirement system management employee deferred retirement option plan (hereinafter "DROP") after attaining the minimum requirements for a normal service retirement/pension. DROP participation will be granted by the Township as a retroactive post-retirement adjustment as of the day following the member's effective retirement date in accordance with Section 6(d) of Public Act 345 of 1937, as amended, and the terms herein. The participant's DROP benefit shall be the dollar amount of the employee's monthly pension benefit computed by using the contractual guidelines and formula(s) that are in effect on the DROP date. After filing an election to participate in the DROP, the employee continues with full employment status, receives all future promotions and benefit/wage increases, and is considered an employee of the Township, not a retiree. Subject to compliance with the DROP provisions provided herein, upon termination of employment, the retiree shall be granted DROP participation and shall be eligible for distribution(s) from his or her individual DROP account as described herein. The participant's DROP benefit shall be credited monthly to the participant's DROP account which shall be

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(CHAPTER 2, ARTICLE III, DIVISION 11, SECTION 2-221 cont.)

established within the Township police and fire retirement system (the "police and fire retirement system"). The participant's DROP account shall be maintained and managed by the board of trustees of the police and fire retirement system (the "retirement board"). The participant is solely responsible for analyzing the tax consequences of DROP participation.

- (2) *Eligibility.* Effective January 1, 2007 the following members of the management employee and administrative group unit may voluntarily elect to participate in the DROP at any time after attaining the minimum requirements for a normal service retirement/pension: the fire chief, the deputy fire chief(s), the police chief, and the deputy police chief(s).
- (3) *Election to participate.* Once selected, participation in the DROP program is irrevocable (except as specifically provided in subsection l. herein). An eligible employee who wishes to participate in the DROP shall complete and sign such application form or forms as shall be required by the retirement board. The retirement board shall review the application within a reasonable time period and make a determination as to the employee's eligibility for participation in the DROP. An employee electing to participate in the DROP must file said election prior to their DROP date. Notwithstanding the foregoing, an employee eligible to participate in the DROP prior to the adoption of this section establishing this DROP shall have sixty (60) days after its adoption to file a retroactive DROP election to any date after January 1, 2007. A member electing DROP participation shall be granted DROP participation commensurate with their retirement and shall have his or her retirement benefits adjusted, as of the date following his or her effective retirement date, to reflect his or her retroactive DROP election as of his or her DROP date.

As of the retiree's effective DROP date, he or she shall cease to accrue additional retirement benefits otherwise credited to active members of the police and fire retirement system. The amount of credited service, multiplier and average final compensation shall be fixed as of the retiree's DROP date. Increases in compensation and accrual of additional service after a retiree's effective DROP date will not be factored into the pension benefits of active or former DROP participants (except as specifically provided in subsection l.). Except with regard to the retirement benefits expressly provided herein, employees electing DROP participation will continue with full employment status with all rights and privileges afforded to respective employees of the police department or fire department and the management and administrative employee group, including, but not limited to, future promotions, benefit and wage increases, as well as, retirement system membership and board representation.

The Township may extend participation in an alternative retirement plan (e.g. defined contribution plan) to those applicable management employees who continue in their employment after expiration of their DROP participation period.

- (4) *Participation period.* The maximum period for participation in the DROP is five (5) years (the "participation period"). There is no minimum time period for participation. A retiree's DROP participation shall cease within five (5) years from their DROP date.

The Township may extend participation in an alternative retirement plan (e.g. defined contribution plan) to those employees who continue in their employment after expiration of their DROP participation period.

The retiree's monthly pension benefit otherwise credited to their DROP account shall cease as of the earlier of the retiree's termination of employment or expiration of the DROP participation period. Interest on the DROP account will continue to be credited until distributed in accordance with subsection i. herein. Upon retirement, the retiree's monthly retirement benefit shall be the monthly amount credited to their DROP account and the retiree shall be eligible for distribution of their DROP account balance in accordance with section i. herein.

- (5) *DROP benefit.* The retiree's DROP benefit shall be the regular monthly retirement benefit to which the retiree would have been entitled if the retiree had actually terminated employment and retired on their DROP date (less the annuity withdrawal reduction as set forth in subsection f. and the actuarial reductions as a result of the retiree electing an optional form of benefit under the plan, if applicable). The retiree's DROP benefit shall be credited monthly to an individual DROP account. A management employee may at the time of DROP election elect to receive his or her benefit in the form of the plan's option I or option II benefit and nominate a named beneficiary in accordance with the police and fire retirement system provisions.

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(CHAPTER 2, ARTICLE III, DIVISION 11, SECTION 2-221 cont.)

The term "spouse" for purposes of benefit qualification of management DROP participants, shall mean:

- i. The person to whom the employee was legally married to on the employee's date of death if such death occurs after the employee's DROP date, but prior to termination of employment; or
- ii. The person to whom the retiree was legally married on both the effective date of termination of employment and the retiree's date of death provided such death occurs after termination of employment.

The definition of "spouse" herein may be amended pursuant to an eligible domestic relations order entered pursuant to Michigan Public Act 46 of 1991, as amended (MCL § 38.1701 et seq.).

- (6) *Annuity withdrawal.* An employee electing DROP participation (who no longer accrues additional retirement benefits otherwise credited to active members of the police and fire retirement system) may elect the annuity withdrawal option provided by the police and fire retirement system at the time of electing DROP participation. The annuity withdrawal option and all other retirement options under the police and fire retirement system which are available to retirement system members shall only be available to the employee at such time as he or she elects DROP participation.

The annuity withdrawal option election shall be made commensurate with the participant's DROP election, and not thereafter, and the annuity withdrawal amount at the time of DROP election will be utilized to compute the actuarial reduction of the retiree's DROP benefit, as well as the retiree's monthly retirement benefit from the police and fire retirement system after termination of employment. The annuity withdrawal amount (accumulated contributions) shall be withdrawn from the police and fire retirement system at the time of termination of employment and shall not be subject to withdrawal by an employee at the time of DROP election.

Retirees who do not elect the annuity withdrawal option at the time of DROP election shall have their full unreduced benefit credited to their DROP account.

At the time of the annuity withdrawal option election, if an employee is electing a straight life form of benefit with no qualifying spouse, the reduction computation is based in-part upon the actuarial life expectancy of the employee (rather than the life expectancies of both the employee and qualified spouse). There shall be no adjustment to the benefits payable to the DROP participant upon the subsequent marriage of a qualifying spouse. In the event such spouse (i.e. qualified after calculation of the annuity withdrawal election) subsequently qualifies for benefits payable by the police and fire retirement system, said benefits shall not be adjusted based upon the employee's annuity withdrawal option election.

- (7) *DROP accounts.* An individual DROP account shall be created for each retiree who previously elected DROP participation during employment. The retiree's DROP benefits shall be retroactively accumulated at DROP interest in the DROP account. All individual DROP accounts shall be maintained for the benefit of each employee and will be managed by the retirement board in the same manner as the primary pension fund. DROP interest for each retiree's DROP account on an annual basis shall be based upon the corresponding prior calendar year's market rate of investment return on the total assets in the police and fire retirement system portfolio but in no event shall DROP interest be greater than four (4) percent or less than zero (0) percent per annum compounded monthly. If the retirement system earns between zero (0) percent and four (4) percent, then the DROP interest will be the actual market rate of investment return. If the retirement system earns more than four (4) percent then DROP interest will be four

(4) percent and if the retirement system earns less zero (0) percent then DROP interest will be zero (0) percent. DROP interest will be credited to each individual DROP account on the first day of each month on the prior month's principal and interest balance. [By way of example, the following illustration is provided: The retirement system's market rate of investment return for calendar year 2006 is eight and one-half (8.5) percent. The DROP interest rate for calendar year 2007 will be four (4) percent per annum compounded monthly (e.g. 0.3333 percent monthly). A retiree's DROP account balance on February 1, 2007 is twelve thousand five hundred dollars (\$12,500.00) (including principal and interest). On March 1, 2007, the retiree's DROP account will be credited with forty-one dollars and sixty-six cents (\$41.66) in interest.

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CHAPTER 2 ADMINISTRATION

(CHAPTER 2, ARTICLE III, DIVISION 11, SECTION 2-221 cont.)

The retirement board shall provide each retiree with a statement of their DROP account. The reference to individual DROP accounts shall be interpreted to refer to the accounting records of the police and fire retirement system and not to the actual segregation of moneys in the funds of the police and fire retirement system.

- (8) *Contributions.* The payroll of those employees electing DROP participation shall be included in the covered compensation upon which regular Township employer contributions to the police and fire retirement system are based. Employer contributions shall be credited to the retirement system and not to any individual DROP account.
- (9) *Distribution of DROP funds.* Upon termination of employment, the retiree must choose one (1), or a consistent combination of, the following distribution methods to receive payment(s) from his or her individual DROP account:
- i. A total lump sum distribution to the retiree.
 - ii. A partial lump sum distribution to the retiree.
 - iii. A lump sum direct rollover to another qualified plan to the extent allowed by federal law and in accordance with the retirement board's rollover procedures.
 - iv. An annuity payable for the life of the retiree.
 - v. An optional form of annuity as established by Public Act 345 of 1937, as amended.
 - vi. No distribution, in which case the accumulated balance shall remain in the retirement system to the extent allowed by federal law.

A retiree may change his or her distribution method as may be applicable no more than once per annum prior to June 30 of each year in accordance with such procedures and time guidelines as adopted by the retirement board. A retiree may elect a total lump sum distribution of any remaining balance in his or her DROP account at any time after termination of employment which will be paid within ninety (90) days after receiving the request. All benefit payments under the retirement system shall be made (or commence in the case of an annuity) as soon as practical after entitlement thereto, but in no event later than the April 1 following the later of:

- a. The calendar year in which the participant attains age seventy and one-half (70 ½); or
- b. The calendar year in which the participant's employment terminated.

If the accumulated balance in any retiree's DROP account becomes less than five thousand dollars (\$5,000.00) (or such other amount as provided in Internal Revenue Code Section 411(a)(11)(A)), then the retirement board, in its sole discretion, may distribute the retiree's entire DROP account, in the form of a lump sum, to the retiree.

Any and all distributions from a retiree's DROP account shall not be subject to offset by any workers' compensation wage loss payments received by the participant, including any redemption amounts.

- (10) *Death during DROP participation.* Except as otherwise provided in subsection 1., if an employee who has made a DROP election dies either:
- i. Before termination of service; or
 - ii. After retirement but before his or her DROP account balance has been fully paid out, the designated beneficiary or beneficiaries shall receive the participant's DROP account balance in the manner in which they elect from the previously mentioned distribution methods (subsection i.). In the event the employee or retiree has failed to name a beneficiary, the DROP account balance shall be payable to the employee's or retiree's beneficiary of benefits from the police and fire retirement system. If there is no such beneficiary, the account balance shall be paid in a lump sum to the employee's or retiree's estate. In the event such death occurs prior to termination of service, benefits payable from the police and fire retirement system shall be determined as if the employee had terminated service on the day prior to the employee's date of death.
- (11) *Disability during DROP participation.* Except as otherwise provided in subsection 1., in the event an employee who has elected DROP participation becomes totally and permanently disabled from further performance of duty as a fire fighter or police officer, the employee shall not be eligible for disability benefits from the police and fire retirement system, except as specifically provided

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in subsection 1. The employee shall terminate employment and be eligible for those benefits provided to a retiree in accordance with the DROP provisions.

- (12). *Special provision for duty disability and duty death.* An employee who has elected DROP participation who the retirement board, in accordance with retirement system provisions, finds to be totally and permanently incapacitated for duty by reason of a personal injury or disease occurring as the natural and proximate result of causes arising out of and in the course of the employee's employment with the Township, may retroactively revoke his or her DROP election. If an employee who has elected DROP participation dies in the line of duty while in the employ of the Township, the employee's eligible survivors (i.e., survivors qualified under Section 6(2) of Public Act 345 of 1937, as amended) and the employee's eligible DROP beneficiary or beneficiaries may, by unanimous agreement, retroactively revoke the employee's DROP election if the revocation occurs before payment of a distribution from the employee's DROP account or payment of benefits from the police and fire retirement system. If a DROP election revocation is made as prescribed by this subsection, the employee's DROP account is not distributed, and the beneficiary or beneficiaries, as applicable, are entitled to all benefits provided by the police and fire retirement system as if a DROP election had not been made.
- (13). *Promotion.* In the event an employee who has previously elected to participate in a DROP pursuant to an applicable collective bargaining agreement is promoted to a police or fire management position in the management and administrative group, said employee's DROP participation period, DROP benefit and DROP account shall be governed by the provisions of the DROP plan in effect at the time of the DROP election. The thirty-three-year service limitation on DROP participation periods as provided in applicable collective bargaining agreements shall not apply to employees promoted to a management position. The Township may extend participation in an alternative retirement plan (e.g. defined contribution plan) in the event an employee's participation period expires prior to termination of employment. The DROP account shall be distributed as a post-retirement adjustment upon termination of employment in accordance with the provisions herein.
- (14). *Pension escalator.* The pension escalator as provided to police and fire management employees shall not be applied to a retiree's DROP benefit or DROP account. Management employees electing DROP participation shall continue to earn two (2) years of escalation for every one (1) full year of service as a management employee which is beyond their date of eligibility for retirement and during their DROP participation period.
- (15). *Re-employment.* In the event a retiree is re-employed by the Township in the capacity of a sworn police officer or firefighter, they shall not be eligible for membership in the police and fire retirement system or DROP participation. Retirement benefits payable from the police and fire retirement system shall continue during such period of re-employment. The Township may extend participation in an alternative retirement plan (e.g., defined contribution plan) during such period of re-employment.
- (16). *DROP cost.* The Township and the police and fire members of the management and administrative group intend for the DROP to be essentially cost neutral (i.e., $\pm 0.2\%$ of covered payroll). The parties recognize the complexity in estimating the actuarial cost impact of this DROP on the police and fire retirement system. Accordingly, ten (10) years after this DROP is established, the retirement board will direct that the retirement system's actuary conduct an evaluation as to the cost impact of this DROP on the retirement system. In the event that the actuary determines that this DROP has had a positive cost to the retirement system (i.e., $< .2\%$ of covered payroll), the DROP shall be amended in such manner, as recommended by the actuary and approved by the parties, to result in an essentially cost neutral program.
- (17). *I.R.C. compliance.* The DROP is intended to operate in accordance with Section 415 and other applicable laws and regulations contained within the Internal Revenue Code of the United States. Any provision of the DROP, or portion thereof, that is found by the retirement board to be in conflict with an applicable provision of the Internal Revenue Code of the United States is hereby declared null and void.

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(CHAPTER 2, ARTICLE III, DIVISION 11 cont.)

The Township police and fire retirement system consists of a defined benefit plan. The DROP account shall be established as part of the defined benefit plan of such retirement system or such other plan as the retirement board and the management and administrative employees group shall agree upon (i.e., I.R.C. Section 415(m) benefit plan) after consultation with appropriate legal counsel.

(Ord. of 4-28-1997, § 1; Ord. of 2-12-2007)

Sec. 2-222. Pension improvements to members employed in the position of police chief, deputy police chief, fire chief, and deputy fire chief.

- (a) *Retirement eligibility.* A police or fire management employee shall have the option of having his or her retirement benefits commence to reflect full normal retirement benefits on or after the date the employee has accumulated twenty-five (25) years of service credit regardless of the employee's age.
- (b) *Purchase of military service.* In accordance with Public Act 345 of 1937, as amended, an employee shall have the option of having his or her retirement benefits computed to reflect prior active service in the armed forces of the United States. Said election is conditioned upon the employee making payments to the retirement system of fifty (50) percent of the actuarially determined Township contribution rate for said period as of the employee's date of application of purchase. Said payments shall not be subject to annuity withdrawal. The employee shall not be eligible to purchase more than five (5) years of combined other governmental service and military service. An employee electing this option shall be required to make payment in accordance with such rules as established by the board of trustees of the police and fire retirement system.

(Ord. of 2-12-2007)

Sec. 2-223. Purchase of additional credited services.

If a member, pursuant to the terms of their collective bargaining agreement or the Management & Administrative Group Personnel Policy, is permitted to purchase additional credited service for prior active service in the armed forces of the United States or for full-time employment by another state, local, or federal governmental agency, said purchase may be effectuated by a direct trustee-to-trustee transfer of assets from a qualified plan described in Internal Revenue Code sections 401(a), 403(b) or 457(b). This section shall be subject to Section 415 of the Internal Revenue Code and purchased credited service shall not exceed 5 years.

(Ord. of 8-23-2010)