

STATE OF MICHIGAN
COUNTY OF WAYNE
CITY OF ALLEN PARK

ORDINANCE #04-2011

**AN ORDINANCE OF THE CITY OF ALLEN PARK CODE OF ORDINANCES; TO AMEND
EMPLOYEE BENEFITS PROVISIONS FOUND IN CHAPTER TWO (2) ARTICLE IV OF THE CODE OF
ORDINANCES THE CITY OF ALLEN PARK ORDAINS:**

SECTION 1. AMENDMENT TO CODE.

Chapter II, Art. 4 of the Allen Park Code of Ordinances, is hereby amended to include the some of the following:

ARTICLE IV. EMPLOYEE BENEFITS

Sec. 2-177. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members savings fund, together with regular interest thereon.

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

Board means the board of trustees.

City means the City of Allen Park.

Compensation means a member's salary or wages paid by the city for services rendered by him to the city. In case a member's remuneration is not all paid in money, the board shall fix the value of that part of his remuneration not paid in money.

Credited service means service credited a member to the extent provided in this division.

Final average compensation means the average of the highest annual compensations received by a member during a period of thirty six (36) consecutive months of credited service contained within his ten (10) years of credited service immediately preceding his retirement. If he has less than thirty six (36) consecutive months of credited service, his final average compensation shall be the average of his annual compensations received during his total years of credited service.

Final average compensation shall include the following lump sum payments paid upon retirement, for the following benefit groups:

- (1) Appointed benefit group, those lump sum payments as determined by the Mayor and City Council as stated in the applicable Personal Services Contract;
- (2) Elected benefit group, shall not receive lump sum payments unless otherwise determined by the City's Compensation Board;
- (3) Fire benefit group, those lump sum payments as specified in the applicable collective bargaining agreement;
- (4) Fire Command benefit group, (1) up to 42 days of accumulated sick leave so long as the member has 170 days in his sick bank on a pro rata basis, (2) up to 10 days of accumulated vacation leave, (3) holiday pay and (4) longevity pay, unless otherwise provided in an applicable Personal Services Contract;
- (5) Foremen benefit group, up to 42 days of accumulated sick leave so long as the member has 170 days in his sick bank on a pro rata basis, unless otherwise provided in an applicable Personal Services Contract;
- (6) General Employee benefit group, those lump sum payments as specified in the applicable collective bargaining agreement;
- (7) Police benefit group, those lump sum payments as specified in the applicable collective bargaining agreement;
- (8) Police Lieutenants and Sergeants benefit group, those lump sum payments as specified in the applicable collective bargaining agreement; and
- (9) Police Command benefit group, (1) up to 42 days of accumulated sick leave so long as the member has 170 days in his sick bank on a pro rata basis, (2) up to 10 days of accumulated vacation leave, (3) holiday pay and (4) longevity pay, unless otherwise provided in an applicable Personal Services Contract.

A member's pension benefit shall be no more than 75% of his or her final average compensation, except for the police chief, deputy police chief, fire chief and deputy fire chief who retire on or after January 1, 2007 whose benefit shall not exceed 80% of his or her final average compensation.

Medical Director means that individual who has been designated by the Board.

Member means any person included in the membership of the retirement system.

- (1) *General member* means any member, except a police officer or firefighter member.

(2) *Police officer or firefighter member or police officer and firefighter* means, in the case of a police officer, any employee of the police department of the city holding the rank of patrolman, including probationary patrolman, or higher rank; and in the case of a firefighter, any employee of the fire department of the city holding the rank of firefighter, including probationary firefighter, or higher rank. The terms “police officer or firefighter member” and “police officer and firefighter” does not include:

- a. Any person privately employed as a police officer or firefighter;
- b. Any person temporarily employed as a police officer or firefighter for an emergency; or
- c. Any civilian employee in the police or fire department.

Normal Retirement Age shall be age fifty three (53) years for a general member and age fifty two (52) years for a policeman or fireman member. The council may in the national interest during time of war engaged in by the United States, or other national emergency, extend the age at which any class of members may voluntarily retire.

Pension means an annual amount payable from funds of the retirement system throughout the life of a person, or as otherwise provided in this division.

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

Personal Services Contract shall mean an employment agreement or other document as approved by City Council stating the terms of employment between the City and an employee who otherwise satisfies the Membership requirements of Section 2-178.

Regular interest means such rate of interest per annum, compounded annually, as the board shall from time to time determine.

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

Retirement means withdrawal from city employment with a pension payable from funds of the retirement system.

Service means service rendered to the city by an officer or employee of the city.

Trustee means a member of the board of trustees.

Village system means the former Village of Allen Park Employees Retirement System.

(Code 1957, § 2-202; Code 1978 § 2-173)

Sec. 2-178. Membership.

- (a) The membership of the retirement system shall include only officers and employees of the city who are employed in a position regularly requiring thirty-five (35) or more hours per workweek throughout the calendar year. Membership shall not include any individual whose services are compensated on a fee basis; or an individual who is employed on a basis that exempts the city from the withholding provisions of the Internal Revenue Code.
- (b) The following shall not be eligible for Membership in the Retirement System:
 - (1) those AFSCME employees first hired by the City on or after October 1, 2005;
 - (2) those City employees classified as Foremen first hired on or after January 1, 2008;
 - (3) those City officials first appointed on or after January 1, 2008;
 - (4) those City officials first elected on or after January 1, 2008; and
 - (5) those police and fire chief(s) and deputy chief(s) first hired on or after April 1, 2011, unless modified by an applicable Personal Services Contract.
- (c) Should a member be promoted or appointed into a position that is otherwise excluded from membership in the Retirement System, the member may elect to remain a member of the Retirement System so long as the member's City employment is continuous.
- (d) Should any doubt arise as to the membership status of any person, the board shall decide the issue.
- (e) Personal Services Contracts may provide for membership in this Plan and may grant retirement benefits which may differ from those provided herein. To the extent that the retirement benefits granted in a Personal Services Contract are in excess of those retirement benefits otherwise provided herein, such retirement benefits must have been granted to other members through collective bargaining consistent with provisions of the plan. Personal Services Contracts may also provide for participation in a Deferred Retirement Option Plan ("DROP"), so long as such a DROP is consistent with the benefit provisions herein.
- (f) The following benefit groups are designated for the purpose of determining benefit eligibility conditions, benefit amounts, and contribution amounts applicable to a Member.

- (1) Appointed benefit group shall consist of the following positions first appointed before December 31, 2007:
 - a. Building Inspector;
 - b. City Assessor;
 - c. Deputy City Clerk;
 - d. Director of the Department of Parks and Recreation;
 - e. Senior Citizen Specialist for the Department of Parks and Recreation; and
 - f. 24th District Court Administrator.
- (2) Elected benefit group shall consist of the City Clerk and City Treasurer first elected before December 31, 2007.
- (3) Fire benefit group shall consist of those Members of the Firefighters Association.
- (4) Fire Command benefit group shall consist of the Fire Chief and Deputy Fire Chief(s).
- (5) Foremen benefit group shall consist of those City employees who receive Foreman Benefits.
- (6) General Employee benefit group shall consist of those Members who are members of the AFSCME Local 1171.
- (7) Police benefit group shall consist of those Members of the Allen Park Police Officers Association.
- (8) Police Lieutenants and Sergeants benefit group shall consist of those members of the Lieutenants and Sergeants Association.
- (9) Police Command benefit group shall consist of the Police Chief and Deputy Police Chief(s).
- (g) In cases of doubt, the Board shall determine the Benefit Group or Benefit Groups that apply to a Member.

(Code 1957, § 2-211; Code 1978, § 2-175; Ord. No. 86-8, § 1, 7-6-1986)

Sec. 2-183. Voluntary retirement.

Any member who attains his normal retirement age and has ten (10) or more years of credited service may retire upon his written application filed with the board setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, he desires to be retired. For members of the Elected benefit group and Appointed benefit group employed on or after February 23, 1999, the foregoing ten (10) year credited service requirement shall be eight (8) or more years of credited service. Upon his retirement he shall receive a pension provided for in section 2-185.

(Code 1957, § 2-216; Code 1978 § 2-179)

Sec. 2-184. Mandatory retirement.

- (a) Any police officer or firefighter member who has attained or attains the age of sixty (60) years, shall be separated from city employment and retired on the first day of the calendar month next following the month in which he attains age sixty (60) years of age, except as provided in subsection (b) of this section.
- (b) Upon the written request of a police officer or firefighter member who has attained his mandatory retirement age as provided in subsection (a) of this section, and such request is approved by his department head, the board may continue the said member in service for periods not to extend beyond his attainment of age seventy (70) years.
- (c) If, at the time of his separation from service as provided in this section, a police officer or firefighter member, or has ten (10) or more years of credited service, he shall receive a pension provided in section 2-185.

(Code 1957, § 2-217; Code 1978, § 2-180)

Sec. 2-185. Service retirement pension.

Upon his retirement, a police officer or firefighter member or any general member, who has attained his voluntary or normal retirement age and who has ten (10) or more years of credited service shall receive a straight life pension hereinafter provided in this section, and he shall have the right to elect an option provided for in section 2-187.

Upon retirement, an elected or appointed City official who has attained normal retirement age and who has eight (8) or more years of credited service shall receive a straight life pension hereinafter provided in this section, and shall have the right to elect an option provided for in section 2-187.

- (1) A member's straight life pension shall be equal to two and nine tenths (2.9) percent of final average compensation multiplied by the number of years, and

fraction of a year, of credited service. A straight life pension for those police officer members hired after December 16, 2008 and firefighter members hired after July 1, 2008 shall be equal to two and five tenths (2.5) percent of final average compensation multiplied by the number of years, and fraction of a year, of credited service.

- (2) In the event a retirant dies before he has received in straight life pension payments an aggregate amount equal to his accumulated contributions standing to his credit in the members savings fund at the time of his retirement, the difference between his said accumulated contributions and the said aggregate amount of straight life pension payments received by him shall be paid to such person as he shall have nominated by written designation duly executed and filed with the board. If there be no such designated person surviving the said retirant, such difference, if any, shall be paid to his estate. No benefits shall be paid under this paragraph on account of the death of a retirant if he elected option "A" or "B" provided for in section 2-183.
- (3) The retirants who retired prior to February 13, 1968, and are currently receiving pensions according to the rates as established prior to February 13, 1968, shall receive a pension based upon the rates as currently established in paragraph (1) of this section, effective April 1, 1971.
- (4) The retirants who participated in a deferred retirement option program between January 1, 2003 and February 1, 2008, and are currently receiving pensions pursuant to such a deferred retirement option program shall continue to receive such pensions.
- (5) Those retirants from the Appointed benefit group who retired pursuant to an early retirement incentive program as approved by City Council between June 1, 2005 and July 1, 2006 and are currently receiving pensions pursuant to such early retirement incentive programs shall continue to receive such pensions.

(Code 1957, § 2-218; Code § 2-181; Ord. No. 67-20, § 1, 2-13-1968; Ord. No. 71-5, § 1, 6-8 1971)

Sec. 2-186. Deferred retirement.

Should any Fire benefit group member, Fire Command benefit group member, Foremen benefit group member, General Employee benefit group member, Police benefit group member, Police Lieutenants and Sergeants benefit group member, or Police Command benefit group member who has ten (10) or more years of credited service or any Elected benefit group member or Appointed benefit group member who has eight (8) or more years of credited service leave the employ of the city prior to his voluntary retirement age, for any reason except his retirement or his death, he shall be entitled to a pension provided for in section 2-185 and based on the benefit provisions in place at the time of his separation of employment to begin as of the first day of the

calendar month next following the date his application for same is filed with the board on or after the date the member would have been eligible to retire had the member continued in employment. If he withdraws all or part of his accumulated contributions from the members savings fund he shall thereupon cease to be a member and he shall forfeit all his rights in and to a deferred pension provided for in this section. In no case shall he be given service credit for the period of his absence from city employment, except as otherwise provided in this division.

(Code 1957, § 2-219; Code 1978 § 2-182)

Sec. 2-187. Pension options.

Prior to the effective date of his retirement, but, not thereafter, a member may elect to receive his pension as a straight life pension payable throughout his life; or, he may elect to receive the actuarial equivalent, at that time, of his straight life pension in a reduced pension payable throughout his life, and nominate a beneficiary, in accordance with the provisions of option "A" or "B", as set forth in this section. If a member does not have an option election in force at the effective date of his retirement, his pension shall be paid as a straight life pension.

- (1) *Option A, Joint and survivor pension.* Upon the death of a retirant his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the board prior to the effective date of his retirement; or
- (2) *Option B, Modified joint and survivor pension.* Upon the death of a retirant one-half of his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the board prior to the effective date of his retirement.

Upon the death of a Fire benefit group member, Fire Command benefit group member, Police benefit group member, Police Lieutenants and Sergeants benefit group member, or Police Command benefit group member who retires on or after January 1, 2007 seventy (70%) percent of the retirant's straight life pension shall be continued throughout the life of and paid to such person having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the board of trustees prior to the effective date of his retirement, unless the retirant under this subsection elected Option A above.

A retirant who elects to receive a reduced retirement income pursuant to Option A or Option B may, on a one-time basis, revert to 100% of the amount provided said retirant for a straight life pension should the designated beneficiary predecease the retirant. Any extra cost associated with the election of this provision shall be paid by the retirant who elects to use said provision.

As of January 1, 2011, those eligible Fire benefit group members, Fire Command benefit

group members, Police benefit group members, Police Lieutenants and Sergeants benefit group members, or Police Command benefit group members may elect to withdraw fifty (50%) percent of their accumulated contributions at the time of retirement. The member's monthly straight life benefit that would otherwise be payable pursuant to the plan shall be actuarially reduced to be an actuarially equivalent based upon the PBGC assumptions.

(Code 1957, § 2-220; Code 1978, § 2-183)

Sec. 2-184. Non-duty death benefits.

- (a) A member who continues in the employ of the city after the date he either (1) acquires ten (10) or more years of credited service and has attained his normal retirement age, or (2) acquires fifteen (15) years of credited service, may, at any time prior to the effective date of his retirement, elect option A provided for in section 2-187, in the same manner as if he were then retiring from service, and nominate a beneficiary who has an insurable interest in the member's life. Prior to the effective date of his retirement a member may revoke his said election of option A and nomination of beneficiary and he may again elect the said option A and nominate a beneficiary as provided in this subsection. Upon the death of a member who has an option A election in force, his beneficiary, if living, shall immediately receive the same pension to which the said beneficiary would have been entitled had the said member retired the day preceding the date of his death, notwithstanding that the retirant may not have attained his normal retirement age. If a member has an option A election in force at the time of his retirement, his said election of option A and nomination of beneficiary shall thereafter continue in force, unless prior to the effective date of his retirement he elects to receive his pension as a straight life pension according to an option provided for in section 2-187. No benefits shall be paid under this subsection on account of the death of a member if any benefits are paid or are to become payable under section 2-190 on account of his death.
- (b) A member who continues in the employ of the city after the date he either (1) acquires ten (10) or more years of credited service and has attained his normal retirement age, or (2) acquires fifteen (15) 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 city employment, and (2) leaves a spouse, the said spouse shall immediately receive the same pension to which the said beneficiary would have been entitled if the said member had (1) retired the day preceding the date of his death, notwithstanding that he may not have attained his normal retirement age, (2) elected option A provide for in section 2-187, and (3) nominated his said spouse as beneficiary. No benefits shall be paid under this subsection on account of the death of a member if any benefits are paid or are to become payable under section 2-192 on account of his death

(Code 1957, 2-221; Code 1978 § 2-184)

Sec. 2-189. Duty disability.

- (a) *Retirement.* If an employee shall become totally incapacitated for duty by reason of injury, illness or disease resulting from performance of duty, and if the board of trustees by or on behalf of such member or by the head of his department so certifies, such member shall be retired; provided, the medical director, after examination of such member, shall certify to the board of trustees his total incapacity.
- (b) *Benefits.* A member retired under subsection (a) of this section shall receive the following benefits:
- (1) If such member shall not at the time of his retirement have reached the age of fifty seven (57) for a police officer or firefighter member or fifty eight (58) for a general member, he shall receive a disability pension of sixty-six and two-thirds ($66\frac{2}{3}$) per cent of his final compensation at the time of his retirement.
 - (2) If such member, at the time of his retirement, shall have reached the age of fifty seven (57) for a police officer or firefighter member or fifty eight (58) for a general member, or on the expiration of the period when a member retired and receiving benefits under (1) above would have reached the age of fifty seven (57) for a police officer or firefighter member or fifty eight (58) for a general member, had he continued in active service, he shall receive his normal retirement benefit as provided under section 2-185 with optional benefits of section 2-187.

A member shall be given service credit for the period he receives benefits under paragraph (1) of this section. Final average compensation for purposes of a member receiving a disability pension shall be the average of the highest annual compensations paid during the thirty six (36) months preceding the normal retirement of such member receiving a disability pension for the rank, grade or position on which the disability pension is based and if such rank, grade or position most nearly approximating the rank, grade or position so abolished.

A member, while on duty disability pension, shall contribute to the pension fund the employee contribution that he otherwise would have made had he not been disabled, paid by the Retirement System to said member, and said contribution shall be deducted from said member on each and every payment made until the member reaches the age of fifty seven (57) for a police officer or firefighter member or fifty eight (58) for a general member.

- (3) If hereafter the rate of compensation of the rank, grade or position on

which the disability pension is based shall be changed, his disability pension shall be changed proportionately, and if such rank, grade or position shall have been abolished, his disability pension shall be changed in proportion to the change made in the compensation of the existing rank, grade or position most nearly approximating the rank, grade or position so abolished.

- (4) Payment of a duty disability pension is subject to the condition that a member applies for worker's compensation. Amounts recovered, if any, under a worker's compensation award for past-due benefits shall be refunded to the retirement system less cost of collection; future pension benefits shall be reduced by future amounts awarded, if any, under a worker's compensation claim is settled or redeemed, not pension benefits shall be paid until the amount of pension benefits withheld equals the amount of the settlement less the cost of collection. Duty disability pensions payable to normal retirement shall also be reduced by any social security benefits paid to said member to his normal retirement date.
- (5) In the event a disability retirant who has not attained his voluntary retirement age is or becomes engaged in a gainful occupation, business or employment paying him more than the difference between his annual rate of compensation at the time of his retirement and his pension, his said pension shall be reduced to an amount which, when added to the amount so earned by him, shall equal his said annual rate of compensation. Such a disability retirant shall, upon the request of the board of trustees, submit any and all requested documentation verifying income or earnings and sign any necessary authorization allowing the requested information to be released directly to the board of trustees. The request for documentation and authorization shall be served upon the retirant by certified mail at the retirant's last known address and shall indicate the time period for compliance. The failure of any such disability retirant to comply with the request of board of trustees shall result in a suspension of the disability retirant's monthly benefits until full compliance is made with the request.

(Code 1957, §2-222; Code 1978, § 2-185; Ord. No. 71-9, § 1, 9-28-1971; Ord. No. 89-4, § 1, 11-14-1989)

Sec. 2-191. Re-examination of disability retirants.

- (a) At least once each year during the first five (5) years following the retirement of a member with a disability pension, and at least once in each three (3) year period thereafter, the board may, and upon the retirant's application shall, require any disability retirant who has not attained the age of fifty seven (57) for a police officer or firefighter member or fifty eight (58) for a general member, to undergo a medical examination to be made by or under the direction of the medical

director. Should any disability retirant who has not attained the age of fifty seven (57) for a police officer or firefighter member or fifty eight (58) for a general member, refuse to submit to such medical examination in any such period, the board may suspend payment of his disability pension until his withdrawal of such refusal. If such refusal continues for one year, all his rights in and to a disability pension shall be forfeited by him. If upon such medical examination of the said retirant the medical director reports to the board that the said retirant is physically able and capable of resuming employment with the city, he shall be returned to active service in the employ of the city and his disability pension shall terminate; provided, the report of the medical director is concurred in by the board. In returning the said retirant to active service, as herein provided, reasonable latitude shall be allowed the city in placing him in a position commensurate to his type of work and rate of compensation at the time of his retirement.

- (b) A disability retirant who has been or shall be returned to city employment, as provided in this section, shall again become a member of the retirement system. His credited service at the time of his retirement shall be restored to full force and effect. He shall be given service credit for the period he was receiving a disability pension provided for in this division. He shall be given service credit for the period he was receiving a disability pension on account of a total and permanent disability arising out of and in the course of his city employment; otherwise, he shall not be given service credit for such period.

(Code 1957, § 2-224; Code 1978, § 2-187; Ord. No. 71-9, § 3, 9-28-1971)

Sec. 2-205. Re-employment of Retirant.

A Retirant or vested deferred former member who subsequently becomes re-employed by the city, is elected or is appointed to city employment shall be subject to the following limitations:

- (a) The individual shall continue to receive his pension benefit from the Retirement System;
- (b) The individual will not receive additional service credit due to his re-employment and will not again become a Member of the Retirement System.
- (c) The individual may become a member of the plan offered by the City that is consistent with applicable collective bargaining agreements, personal services contract, or City policy.
- (d) The individual may use accrued service credit to vest in any new benefits resulting from such re-employment.

SUBDIVISION II. BOARD OF TRUSTEES

Sec. 2-232. Established; composition; duties.

A board of trustees is hereby established whose duties shall be to administer, manage and operate the retirement system, and to construe and carry into effect the provisions of this division. The board shall be a quasi-judicial body and consist of five voting (5) trustees, as follows:

- (a) The city's Finance Director;
- (b) A retirant to be appointed by the remaining members of the Board of Trustees of the Retirement System; and
- (c) A citizen, who is an elector and taxpayer of the city to be appointed by the mayor and approved by City council and who shall be considered the council's designee; and
- (d) A police officer or firefighter member to be elected by the police officer and firefighter members; and a general member to be elected by the general members. The said elections shall be held under such rules and regulations as the board of trustees shall from time to time adopt.
- (e) If the elected police officer or firefighter member is not a firefighter member, then the firefighter members may elect a representative to be a member of the Board of Trustees; however, such a representative will not be a voting member of the Board of Trustees.
- (f) If the elected general member is not an employee of the 24th District Court, then those general members who are employees of the 24th District Court may elect a representative to be a member of the Board of Trustees; however, such a representative will not be a voting member of the Board of Trustees.

(Code 1957, § 2-203; Code 1978, § 2-211)

SECTION 2. SAVING CLAUSE

The adoption of this ordinance does not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this ordinance.

SECTION 3. IMMEDIATE EFFECT.

To preserve the public peace, health, welfare and safety, it is necessary that this Ordinance become immediately operative. It is, therefore, declared to be an emergency measure to take effect immediately.

SECTION 4. ADOPTION.

This Ordinance 2011-4 is hereby declared to have been adopted by the City Council of the City of Allen Park, County of Wayne, State of Michigan, at a regular meeting, called and held on the 27th day of September 2011 and ordered to be given publication in the manner prescribed by law.

FELICE "TONY" LALLI, Mayor
City of Allen Park

MICHAEL I. MIZZI, City Clerk
City of Allen Park