

**CITY OF DEARBORN HEIGHTS
ORDINANCE NO. H-16-06**

AN ORDINANCE OF THE CITY OF DEARBORN HEIGHTS, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF DEARBORN HEIGHTS, BE AMENDED BY ADDING SECTION 2-239 CONCERNING RETIREMENT BENEFITS.

THE CITY OF DEARBORN HEIGHTS ORDAINS THAT THE CODE OF ORDINANCES OF THE CITY OF DEARBORN HEIGHTS, MICHIGAN, IS HEREBY AMENDED BY ADDING A SECTION, TO BE NUMBERED 2-239, WHICH SHALL READ AS FOLLOWS:

Sec. 2-239. Program for select employees providing for in-service distribution of normal retirement benefit.

(a) *Purpose.* Pursuant to Code Section 2-222, an employee has been required to terminate his or her employment with the City to be eligible for distribution of his or her normal retirement benefit. This Section 2-239 is meant to provide select employees an opportunity to receive the distribution of their normal retirement benefit without first having to terminate their employment. More specifically, this Section 2-239 is meant to provide such select employees an opportunity to receive in-service distribution of their normal retirement benefit without first having to terminate their employment given some atypical circumstances affecting their normal retirement benefit.

(b) *Eligibility for in-service distribution of normal retirement benefit.* Provided an employee is otherwise eligible to participate in this program pursuant to subsection (c) below, any general government employee of the city, including elected officials, shall be eligible to receive his or her normal retirement benefit as an in-service distribution without first terminating his or her employment provided he or she meets the following requirements:

- (1) The employee has attained the age of sixty-five (65);
- (2) The employee has thirty (30) or more years of credited service;
- (3) On or before November 30, 2016, the employee has notified the city's human resources department in writing of his or her election to participate in the in-service distribution program provided for in this Section 2-239, has provided any other documents or information required by this Section 2-239, and has provided any other documents or information as may be requested by the human resources department to put the election into effect;
- (4) On or before November 30, 2016, the employee has notified the Retirement System in writing of his or her election to participate in the in-service distribution program provided for in this Section 2-239, has provided any other documents or information required by this Section 2-239, and has provided any other documents or

information as may be requested by the Retirement System to put the election into effect; and

(5) The employee has elected to receive in-service distribution of his or her normal retirement benefit such that the distribution will start on or before December 31, 2016.

(c) *Restrictions on eligibility based on city department or office.* An employee shall only be eligible to participate in the in-service distribution program established pursuant to this Section 2-239 if he or she is an "Employee" as defined by Section 2-182 of this Code at the time he or she chooses to participate in this program. Elected officials are eligible to participate in this program.

(d) *Effect of participation in program.* Provided an employee is eligible to participate in the in-service distribution program established by this Section 2-239 and has met the requirements to put his or her election to participate in this program into effect, then the following shall occur subject to any other applicable requirements of this Code, any applicable collective bargaining agreement, and any other applicable federal or Michigan laws or regulations:

(1) The employee shall receive his or her normal retirement benefit as an in-service distribution without first having to terminate his or her employment.

(2) The employee shall not accrue additional credited service towards an adjusted pension.

(3) The employee shall be treated in all other respects as an active employee of the city until his or her employment ends with the city. Without limiting the scope of the preceding sentence, and for purposes of illustration only, any health insurance the employee may receive will be the health insurance he or she should receive as an active employee (if any) and not as a retiree.

(4) Upon separation from employment with the city, the employee's (now retiree's) annual pension benefit shall not be adjusted in accordance with the provisions of the Retirement System and any other possibly applicable collective bargaining agreement that may be in effect at the time of the separation from employment. The employee (now retiree) shall continue to receive his or her normal retirement benefit without any adjustment related the termination of his or her employment.

(5) Further, upon separation from employment with the city, the employee (now retiree) shall be treated in all respects as a retiree. Without limiting the scope of the preceding sentence and for purposes of illustration only, any health insurance the employee may receive will be the health insurance he or she should receive as a retiree, if any.

(e) *Waiver form signed by employee participating in in-service distribution program.* Subject to any possibly applicable collective bargaining agreement to the contrary, an employee participating in this program shall sign and submit to the city and the Retirement System a waiver form in a form acceptable to the Retirement System that conforms to the requirement of this Section 2-239(e). The waiver form will contain the employee's acknowledgement of the effects of his or her participation in the program as stated in Section 2-239(d) and the limitations on the program as stated in Section 2-239(f) below. Further, the waiver form will contain the employee's acknowledgement of any other information deemed appropriate by the Retirement System.

(f) *Limitations.* Notwithstanding the foregoing provisions of this Section 2-239, no employee shall have any interest in, or right to participate in, the program established by this section unless his or her receipt of benefits pursuant to the program will commence or has commenced on or before December 31, 2016. Further, notwithstanding the foregoing provisions of this section, no person shall be eligible to participate in the program established by this section if (1) the person was already a retiree of the city prior to the effective date of the ordinance enacting this Section 2-239 or (2) the person was an active employee who was receiving a normal retirement benefit in the case of re-employment or otherwise prior to the effective date of the ordinance enacting this Section 2-239. Moreover, notwithstanding the foregoing provisions of this section, participation in the program established by this section is not intended to alter and shall not alter the recoupment requirements of the Eligible Domestic Relations Order Act (MCL 38.1701 *et seq.*).

SECTION II.

REPEAL

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

SECTION III.

SEVERABILITY

Should any section, subsection, clause, or phrase of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION IV.

EFFECTIVE DATE

This ordinance shall become effective upon publication as provided by law.

SECTION V.

AUTHENTICATION

This is to certify that the undersigned do hereby authenticate the foregoing record of the ordinance herein set forth.

DANIEL S. PALETKO, Mayor

WALTER J. PRUSIEWICZ, Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and correct copy of this ordinance adopted by the Council for the City of Dearborn Heights at a regular meeting of the Council held on the 25th day of October, 2016, and became effective by publication in the official newspaper of the City of Dearborn Heights and/or by publication as otherwise permitted by the City Charter on the 27th day of October, 2016.

WALTER J. PRUSIEWICZ, Clerk

Publication Date: October 27, 2016.