

CITY OF DOVER ORDINANCE #2010-13

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Chapter 2 – Administration, Article IV – Officers and Employees, Division 7 – General Employee Pension Plan, Subdivision I - In General, Section 2-321 - Definitions, be amended to read as follows:

Sec. 2-321. Definitions.

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:

Accumulated contributions means the aggregate contributions made by a member under the plan, with interest thereon at the rate of five percent per annum, compounded annually from the last day of the plan year in which such contribution was made to the earlier of the date of commencement of retirement income or the date on which contributions are payable pursuant to the provisions of the plan.

Continuous service means regularly employed without interruption, except for allowable interruptions aggregating not over five years. Allowable interruptions shall include:

- (1) Leaves of absence granted to employees for illness, research, travel, training or study;
- (2) Employment in an office to which the employee had been elected by popular vote at a regular city election;
- (3) Involuntary severance which shall include a required leave of absence on account of maternity, and the employee returns to active employment at the end of that leave of absence.

To the extent required by federal law, if an employee leaves the employ of the city to enter the military service of the United States and, upon his discharge from service, is reemployed by the city at a time when his reemployment rights are protected by federal law, the employee shall be considered to have been employed by the city during his period of military service and shall be credited with continuous service which he would have been credited with as an employee of the city but for his military service. The period for which disability pension benefits shall have been paid shall be considered as an allowable interruption which is permitted in addition to the allowable interruptions aggregating not over five years in determining subsequent eligibility for retirement benefits under the terms of this division.

Defined Benefit Pension plan and plan mean the city's general employee pension plan.

Eligible employee means any person regularly employed in rendering service to the city on a full-time, permanent basis, who is not participating in any other retirement plan to which the city contributes for them, and whose compensation is paid directly by the city. An employee will be considered a full-time employee if he regularly works 40 hours each week.

Group annuity contract means the group annuity contract entered into between an insurance company and the pension board of trustees.

Participant means any eligible employee of the city who has met all of the requirements for participation in the pension plan as defined in this section and who has satisfied all of the conditions and requirements set forth in this division.

Pension board means the pension board of trustees.

Plan year means the period of one year, commencing on any July 1 and ending immediately prior to the following July 1.

Retired participant means a participant of the plan who has terminated service and is eligible to receive retirement income under this division.

BE IT FURTHER ORDAINED THAT Chapter 2 – Administration, Article IV – Officers and Employees, Division 7 – General Employee Pension Plan, Subdivision I - In General, Section 2-323 - Eligibility of participant, be amended to read as follows:

Sec. 2-323. Eligibility of participant.

Each eligible employee not drawing any retirement benefits from the mayor and city council as of January 1, 1967, shall, upon compliance with the provisions of this division, become a pension plan participant under this division, commencing on July 1, 1967, or at any subsequent time immediately upon his employment. Effective September 28, 2009 the defined benefit plan is closed to new participants.

BE IT FURTHER ORDAINED THAT Chapter 2 – Administration, Article IV – Officers and Employees, Division 7 – General Employee Pension Plan, Subdivision I - In General, Section 2-324 - Participation mandatory; exceptions, be amended by inserting the text indicated in bold, blue, italics and deleting the text indicated in bold, red strikeout as follows:

Sec. 2-324. Participation mandatory; exceptions.

The pension plan shall not be construed to give any employee the right to be retained in the employ of the city. All new employees hired after July 1, 1991, shall be required, as a condition of employment, to join the defined benefit plan or the defined contribution plan. All new employees hired after September 29, 2009 are required to join the defined contribution pension plan. All participants of the defined benefit pension plan as of September 28, 2009 will remain members of either plan thereafter unless they shall leave the employment of the city, retire, pass away, or elect to terminate their participation in the defined benefit plan and become a member of the defined contribution pension plan as defined in Section 2-341(f).

BE IT FURTHER ORDAINED THAT Chapter 2 – Administration, Article IV – Officers and Employees, Division 7 – General Employee Pension Plan, Subdivision I - In General, Section 2-328 - Later retirement, be amended to read as follows:

Sec. 2-328. Later retirement.

If a participant works beyond his normal retirement date, the payment of the participant's retirement benefits shall be deferred until his actual retirement.

BE IT FURTHER ORDAINED THAT Chapter 2 – Administration, Article IV – Officers and Employees, Division 7 – General Employee Pension Plan, Subdivision I - In General, Section 2-330 - Amount of retirement benefits, be amended to read as follows:

Sec. 2-330. Amount of retirement benefits.

Retirement January 1, 1995, or later. The amount of retirement benefits payable to a participant who retires on or after January 1, 1995, shall be computed on the basis of one-fiftieth of his average actual monthly earnings multiplied by the total number of years of continuous service. Average actual monthly earnings shall be a participant's base pay plus scheduled overtime, payment for being on-call, except those hours reported for being called out, and any retroactive pay corrections which involve any one of the mentioned payments during any period of 36 consecutive months in his final ten years of continuous service, which results in the highest average monthly earnings.

If an employee's approved absence is the result of a workers compensation injury, the base wages that the employee would have earned had he not been on workers compensation leave will be included when determining the highest 36 consecutive months within his final ten years of continuous service.

The value of lost base salary as a result of mandatory furlough shall be added to an employee's final average compensation and considered in the calculation of the amount of retirement benefits, if the time period in which the mandatory furlough was required is within the highest 36 consecutive months or earnings within the final ten years of continuous service.

BE IT FURTHER ORDAINED THAT Chapter 2 – Administration, Article IV – Officers and Employees, Division 7 – General Employee Pension Plan, Subdivision I - In General, Section 2-331 - Form of benefits, be amended to read as follows:

Sec. 2-331. Form of benefits.

(a) *Normal form.* A monthly benefit shall be payable on the first day of the second month preceding the date on which application for such benefit is filed. Payment will be retroactive to the retirement date. Payments of benefits shall be payable monthly thereafter during his lifetime, and terminating with the last payment on the first day of the month of the death of the participant.

(b) *Death of participant, etc.* Upon the death of a participant who has retired, or who is eligible to be retired under any of the provisions of this division, payment shall be made to his eligible survivors in the amount of 50 percent of the monthly payments to which the participant was or would have been entitled. Upon the death of a participant who has completed a minimum of 20 years of service but is not yet eligible to retire because of age,

payment shall be made to his eligible survivors in the amount of 50 percent of the monthly payment that would have resulted by using his service time; however, the benefit is to be computed at a reduced rate of one-half percent for each month the participant was under the correct age for normal retirement. In no instance shall actual monthly payments be less than \$200.00, to be effective July 1, 2000. Upon the death of both the participant and eligible survivor, if the benefit payments received in aggregate are less than the member's contributions, the balance of the member's contributions, plus 5% interest, will be paid to the surviving beneficiary designated or his estate if no designation has been made and submitted to the pension board. The amount of benefit payments received and the amount of the member's contributions shall be determined from the record of the pension board of trustees.

(c) *Eligible survivor.* An eligible survivor shall be one of the following in the order of preference listed:

(1) *Spouse.* The participant's spouse who was married to the participant for at least one year. Surviving spouse shall be required to provide supporting documents of marriage.

(2) *Children.* Unmarried

(a) The surviving children, biological or legally adopted, of the participant, who have not attained their 18th birthday.

(b) If said child is attending school on a full-time basis and provides proof of attendance each year of eligibility, with the payment due for the month in which he ceases to attend school on a full-time basis or with the payment due for the month in which his 22nd birthday shall occur, whichever shall occur first.

(d) *Commencement of payment.* Benefits payable to eligible survivors shall commence on the first day of the month following the date of the participant's death.

(e) *Benefits payable.* Benefits payable to eligible survivors shall cease:

(1) *Spouse.* With respect to an eligible survivor who is a spouse, with the payment due for the month in which their remarriage or death shall occur, whichever occurs first.

(2) *Children.* With respect to an eligible survivor who is a child(ren), with the payment due for the month in which his 18th birthday or death shall occur, whichever shall occur first. Payments shall be made in accordance with Section 2-331, 2(a)(b).

(f) *Eligibility for benefits.* The eligibility of any person or persons to receive payment of benefits as an eligible survivor shall be determined conclusively by the pension board based on application of such person or persons and any other information which the pension board deems to be appropriate.

BE IT FURTHER ORDAINED THAT Chapter 2 – Administration, Article IV – Officers and Employees, Division 7 – General Employee Pension Plan, Subdivision I - In General, Section 2-332 - Early retirement due to permanent disability, be amended to read as follows:

Sec. 2-332. Early retirement due to permanent disability.

Any employee who, after completing at least ten years of continuous service, shall be injured or whose health shall become permanently impaired to such an extent as to render him totally and permanently disabled, shall be retired upon application and approval of the pension board of trustees. The pension amount will be based upon Section 2-330. There shall be no reduction in benefit.

BE IT FURTHER ORDAINED THAT Chapter 2 – Administration, Article IV – Officers and Employees, Division 7 – General Employee Pension Plan, Subdivision I - In General, Section 2-334 - Commencement of disability benefits, be amended to read as follows:

Sec. 2-334. Commencement of disability benefits.

- (a) *Removed from payroll.* A participant who files for a disability pension shall not work and be kept on the active payroll and receive credited service from the inception of the disability to the end of the first full calendar month following the date of application.
- (b) *Change in compensation; leave.* During the application period above, the participant's compensation shall not be increased.
- (c) *Commencement of benefits.* The eligibility for payment of disability benefits under this division shall commence, if approved, on the first day of the month following the application period set forth in subsection (a) of this section.

BE IT FURTHER ORDAINED THAT Chapter 2 – Administration, Article IV – Officers and Employees, Division 7 – General Employee Pension Plan, Subdivision I - In General, Section 2-335 - Termination of employment, be amended to read as follows:

Sec. 2-335. Termination of employment.

- (a) *Forfeiture of participation.* Any participant whose employment is terminated prior to the date he becomes eligible for retirement benefits shall forfeit his status as a participant in the pension plan and all accumulated credit for continuous service.
- (b) *Ten years' service.* Any participant with a minimum of ten years of continuous service and whose employment is terminated prior to the date he becomes eligible for retirement benefits under section 2-326, 2-327, 2-328 or 2-332, upon attaining the age of 65 years, shall be eligible for retirement benefits under the provisions of section 2-330, upon application to the pension board of trustees. The form of the benefit will be based on the formula which was in effect at the time of termination.
- (c) *Lay-offs.* Upon recall, any participant whose employment is terminated due to a lay-off and is re-called within five years of lay-off, may apply to the Pension Board to have their previous service credits restored immediately. If they have withdrawn their contributions, they must repay them as calculated by the City's actuary. A returning employee must make

an election to return previously refunded amounts, plus calculated interest, within 30 days of approval of the Pension Board. Contributions will be reimbursed based on the gross amount received. Participants who are laid-off and not recalled within five (5) years shall forfeit his status as a participant in the pension plan and all accumulated credit for continuous service.

(d) *Request for refund.* When an employee leaves the employment of the city and is entitled to withdraw his contributions, then he shall submit a written notarized request for a refund of these contributions before payment shall be made. Refunds will be issued 90 days from the date when the notarized request is received. Contributions will automatically be refunded five years from date of separation.

BE IT FURTHER ORDAINED THAT Chapter 2 – Administration, Article IV – Officers and Employees, Division 7 – General Employee Pension Plan, Subdivision I - In General, Section 2-338 - Benefits to cease upon reemployment; exceptions, be amended to read as follows:

Sec. 2-338. Benefits to cease upon reemployment; exceptions.

Any employee of the city who is receiving, or who shall receive, benefits under this division, and who is thereafter reemployed by the city or appointed to any position by the mayor or council bearing remuneration, shall cease to draw benefits during the period of reemployment. Upon termination of the reemployment, the benefits shall be restored. The provisions of this section shall not apply to any employee who receives remuneration as a result of being elected or appointed to an elective or appointed office in the city, nor to any employee reemployed by the city in a temporary capacity, not to exceed 180 calendar days. Employees would be eligible to return to temporary status immediately following retirement.

BE IT FURTHER ORDAINED THAT Chapter 2 – Administration, Article IV – Officers and Employees, Division 7 – General Employee Pension Plan, Subdivision I - In General, Section 2-341 - Contributions, be amended to read as follows:

Sec. 2-341. Contributions.

(a) *Payroll deductions*

(1) *Amount.* For each year, while a participant of the plan, a participant shall contribute, by payroll deductions, an amount equal to 3 1/2 percent of his average actual monthly earnings as described in section 2-330 (effective May 1, 1994).

(2) *Employer contributions.* The city, pursuant to the provisions of section 414(h)(2) of the United States Internal Revenue Code (26 USC 414(h)(2)), shall pick up and pay the contributions which would otherwise be payable by the employee under this section. The contributions so picked up shall be treated as employer contributions for purposes of determining the amounts of federal income taxes to be withheld from the employee's compensation.

(3) *Employee contributions picked up by city.* Employee contributions picked up by the city shall be paid from the same source of funds used for the payment of compensation to an employee. A deduction shall be made from each employee's compensation equal to the amount of the employee's compensation picked up by the

employer. This deduction, however, shall not reduce the employee's compensation for purposes of computing benefits under the retirement system pursuant to this division.

(4) *Employee contributions credited.*

a. Employee contributions shall be credited to a separate account within the employee's individual account so that the amount contributed prior to the effective date for the pickup of employee's contributions may be distinguished from the amounts contributed on or after the effective date.

b. The contributions, although designated as employee contributions, are being paid by the employer in lieu of the contributions by the employee. The employee will not be given the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system.

(b) *City contributions.* The city shall make such contributions as necessary to meet the requirements of the plan. Effective May 1, 1994, the city shall pick up the employee contributions by a reduction in current earnings. Such picked up contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code; however, the contributions so picked up shall be included in earnings for purposes of the plan. Participant contributions which are picked up shall be treated, for all purposes of this plan, in the same manner as participant contributions made prior to May 1, 1994.

(c) *Other contributions.* The pension board of trustees shall receive all appropriations, contributions and interest allowances as may be received from time to time by the city from the state or any other source, and designated specifically for employee pensions.

(d) *Withdrawal from plan.* A member who withdraws from the pension plan for any reason, other than retirement, death or disability, may request his accumulated contributions, plus 5% interest, be paid to him after such date of withdrawal; provided, however, his contributions shall not be refunded to him earlier than 90 days after receipt of his notarized application for the same.

(e) *Death of ineligible member.* Upon the death of a member not eligible to retire under any provision of this division, his employee contributions shall be payable in a single sum to his designated beneficiary or his estate if no designation has been made.

(f) *Defined Contribution.* Each eligible employee not drawing any retirement benefits from the city as of February 1 of each year, who makes an irrevocable decision to join the defined contribution plan, shall become a defined contribution plan participant on February 1 of that same year and shall forfeit participation in the city employee's pension plan. A member who withdraws from the pension plan in this manner shall have his accumulated contributions paid to him after such date of withdrawal and he shall forfeit any other payments from the pension plan.

BE IT FURTHER ORDAINED THAT Chapter 2 – Administration, Article IV – Officers and Employees, Division 7 – General Employee Pension Plan, Subdivision II - Board of Trustees, Section 2-368 - Powers, Paragraph 7 - Rules and Regulations, be amended to read as follows:

(7) *Rules and regulations.* To make rules and regulations as may be necessary to effectuate this subdivision.

ADOPTED: JUNE 28, 2010

ACTIONS HISTORY:

June 28, 2010 - Final Reading/Adoption

June 14, 2010 - First Reading at Council

May 24, 2010 - Revisions Considered at Legislative, Finance, and Administration Committee

April 12, 2010 - Considered at Legislative, Finance, and Administration Committee