

ORDINANCE NO. \_\_\_\_\_

And ordinance to amend the Code of the City of Flint by amending Chapter 35, Personnel; Article II, Retirement Center, by amending Section 35-34.1, Eligible Rollover Distributions.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF FLINT:

Sec. 1. That the Code of the City of Flint shall be amended by amending Chapter 35, Personnel; Article II, Retirement Center, by amending Section 35-34.1, Eligible Rollover Distributions, which shall read in its entirety as follows:

**§ 35-34.1 ELIGIBLE ROLLOVER DISTRIBUTIONS.**

(A) THIS SECTION APPLIES TO DISTRIBUTIONS MADE ON OR AFTER JANUARY 1, 1993. Notwithstanding any provision of the retirement ordinance to the contrary that would limit a distributee's election under this subsection, a distributee may elect, at the time and in the manner prescribed by the Board of Trustees, to have any portion of an eligible rollover distribution paid directly, as a direct rollover, to an eligible retirement plan specified by the distributee. The following definitions shall apply with regard to this subsection.

(1) **ELIGIBLE ROLLOVER DISTRIBUTION.** AN ELIGIBLE ROLLOVER DISTRIBUTION IS Any distribution of all or a portion of the balance to the credit of the distributee, except an eligible rollover distribution does not include: (i) any distribution that is one of a series of substantially equal periodic pay-ments 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; AND (ii) any distribution to the extent the distribution is required under Internal

Revenue Code Section 401(a)(9) and the portion of any distribution that is FOR PURPOSES OF THE DIRECT ROLLOVER PROVISION, 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 includable in gross income. HOWEVER, SUCH PORTION MAY BE PAID ONLY TO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN IRC § 408(a) OR (b), OR TO A QUALIFIED PLAN DESCRIBED IN §§ 401(a) OR 403(b) OF THE IRC, THAT AGREES TO SEPARATELY ACCOUNT 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.

(2) **ELIGIBLE RETIREMENT PLAN.** In the case of an eligible rollover distribution to a member, AN "ELIGIBLE RETIREMENT PLAN" MEANS AS FOLLOWS: (1) an individual retirement account described in section IRC § 408(A) of the Internal Revenue Code; (2) an individual retirement annuity described in section IRC § 408(B) of the Internal Revenue Code; (3) AN ANNUITY PLAN DESCRIBED IN IRC § 403(a) of the Internal Revenue Code; (4) EFFECTIVE JANUARY 1, 2002, an annuity plan CONTRACT described in section IRC § 403(B) of the Internal Revenue Code; (5) EFFECTIVE JANUARY 1, 2002, AN ELIGIBLE PLAN UNDER IRC § 457 WHICH IS MAINTAINED BY A STATE OR POLITICAL SUBDIVISION OF A STATE OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF A STATE AND WHICH AGREES TO SEPARATELY ACCOUNT FOR AMOUNTS TRANSFERRED INTO SUCH PLAN FROM

THIS RETIREMENT SYSTEM; (6) a qualified trust described in section ~~IRC~~ § 401(a) of the ~~Internal Revenue Code~~, that accepts distributee's eligible rollover distributions; ~~In the case of an eligible rollover distribution to a surviving spouse, an individual retirement account or individual retirement annuity.~~  
OR (7) EFFECTIVE JANUARY 1, 2008, A ROTH IRA, SUBJECT TO THE REQUIREMENTS OF IRC § 408A(c)(3).

(3) *DISTRIBUTE*. Includes a member or deferred member. ~~Distributee also includes the member's or deferred member's surviving spouse or the member's or deferred member's spouse or former spouse under an eligible domestic relations order, with regard to the interest of the spouse or former spouse. A~~ "DISTRIBUTE" INCLUDES AN EMPLOYEE OR FORMER EMPLOYEE. IN ADDITION, THE EMPLOYEE'S OR FORMER EMPLOYEE'S SURVIVING SPOUSE OR FORMER SPOUSE WHO IS AN ALTERNATE PAYEE UNDER A DOMESTIC RELATIONS ORDER IS A DISTRIBUTE WITH REGARD TO THE INTEREST OF THE SURVIVING SPOUSE. EFFECTIVE JULY 1, 2010, THE NON-SPOUSE BENEFICIARY OF A MEMBER OR FORMER MEMBER ALSO MAY BE A DISTRIBUTE WITH REGARD TO THE INTEREST OF THE NON-SPOUSE BENEFICIARY THAT IS DIRECTLY TRANSFERRED TO AN INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN IRC § 408(a) OR AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN IRC § 408(b).

(4) *DIRECT ROLLOVER*. A "DIRECT ROLLOVER" IS a payment by the retirement system to the eligible retirement plan specified by the distributee.

(B) THE RETIREMENT SYSTEM WILL ACCEPT AN ELIGIBLE ROLLOVER DISTRIBUTION FOR THE PURCHASE OF CREDITED SERVICE, AND FOR THE REPAYMENT OF

PREVIOUSLY WITHDRAWN ACCUMULATED CONTRIBUTIONS. UPON RECEIPT OF SUFFICIENT DOCUMENTATION THAT THE PLAN FROM WHICH A DISTRIBUTION IS TO OCCUR IS QUALIFIED IN ACCORDANCE WITH APPLICABLE IRC PROVISIONS, THE RETIREMENT SYSTEM WILL ACCEPT A ROLLOVER DISTRIBUTION FROM THE FOLLOWING:

(1) AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN IRC § 408(a) OR 408(b) THAT IS ELIGIBLE TO BE ROLLED OVER AND WOULD OTHERWISE BE INCLUDIBLE IN GROSS INCOME;

(2) A QUALIFIED PLAN DESCRIBED IN IRC §§ 401(a) OR 403(a), INCLUDING AFTER-TAX EMPLOYEE CONTRIBUTIONS;

(3) AN ANNUITY CONTRACT DESCRIBED IN IRC § 403(b), EXCLUDING AFTER-TAX EMPLOYEE CONTRIBUTIONS; AND

(4) AN ELIGIBLE PLAN UNDER IRC § 457(b) 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. THE RETIREMENT SYSTEM SHALL PROVIDE A SEPARATE ACCOUNTING FOR ANY AFTER-TAX CONTRIBUTIONS RECEIVED AND EARNINGS THEREON.

~~(5) *ELIGIBLE RETIREMENT PLAN*. Beginning January 1, 2002, except as otherwise provided in this subsection, "eligible retirement plan" means 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, an annuity contract described in Section 403(B) of the Internal Revenue Code, or an eligible plan under Section 457(B) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such eligible plan under Section 457(B) of the Internal Revenue Code from this retirement system, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.~~

~~(6) — ELIGIBLE — ROLLOVER DISTRIBUTION. Beginning January 1, 2002, "Eligible Rollover Distribution" means a distribution of all or any portion of the balance to the credit of the distributee.~~

~~Eligible rollover distribution does not include any of the following:~~

~~(A) A distribution 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.~~

~~(B) A distribution for a specified period of 10 years or more.~~

~~(C) A distribution to the extent that the distribution is required under Section 401(a)(9) of the Internal Revenue Code.~~


~~(D) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities, except to the extent that the portion of a distribution that is not includable in federal gross income is paid to either of the following:~~

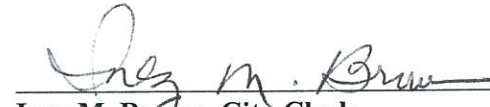
~~(i) An individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code.~~

~~(ii) A qualified defined contribution plan as described in Section 401(A) or 403(A) of the Internal Revenue Code that agrees to separately account for amounts transferred, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution which is not includable in gross income.~~

**Sec. 2. This ordinance shall become effective immediately upon publication.**


Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2012,  
A.D.

  
Dayne Walling, Mayor


  
Inez M. Brown, City Clerk

**DIRECTED TO:**

Enact  Refer \_\_\_\_\_ Fail \_\_\_\_\_

  
Michael K. Brown, Emergency Manager

**APPROVED AS TO FORM:**

  
Peter M. Bade, Chief Legal Officer

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EM SUBMISSION NO.: 2012 Em 117

PRESENTED: 1-19-12

ADOPTED: 2-16-12