

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 35-46.2, Benefit Limitations.

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 35-46.2, Benefit Limitations, which shall read in its entirety as follows:

§ 35-46.2 BENEFIT LIMITATIONS.

(a) ~~The city 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 Board of Trustees shall administer the retirement system so as to fulfill this intent.~~ **MAXIMUM ANNUAL EARNINGS.** FOR PLAN YEARS BEGINNING ON OR AFTER JANUARY 1, 1989 AND BEFORE JULY 1, 1996, THE ANNUAL COMPENSATION OF EACH PLAN PARTICIPANT TAKEN INTO ACCOUNT FOR DETERMINING ALL BENEFITS PROVIDED UNDER THE PLAN FOR ANY DETERMINATION PERIOD SHALL NOT INCLUDE ANY AMOUNTS IN EXCESS OF THE ANNUAL COMPENSATION LIMIT (ORIGINALLY \$200,000.00) PROVIDED FOR IN IRC § 401(A)(17) PRIOR TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993 AND ADJUSTED FOR INFLATION IN THE MANNER PROVIDED BY IRC § 401(A)(17). FOR PLAN YEARS BEGINNING ON OR AFTER JULY 1, 1996, THE ANNUAL COMPENSATION OF EACH EMPLOYEE TAKEN INTO ACCOUNT SHALL NOT EXCEED THE ANNUAL COMPENSATION LIMIT PROVIDED FOR IN IRC § 401(A)(17), AS

AMENDED BY OBRA '93. THIS LIMIT MAY BE ADJUSTED AS REQUIRED BY FEDERAL LAW FOR QUALIFIED GOVERNMENT PLANS AND SHALL BE FURTHER ADJUSTED FOR INFLATION IN THE MANNER PROVIDED BY IRC § 401(A)(17). ANNUAL COMPENSATION MEANS COMPENSATION DURING THE PLAN YEAR OR SUCH OTHER CONSECUTIVE 12 MONTH PERIOD OVER WHICH COMPENSATION IS OTHERWISE DETERMINED UNDER THE PLAN. 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.

(b) **DEFINED BENEFIT PLANS.** ~~The provisions of this retirement system chapter notwithstanding, the Board of Trustees shall at all times administer the retirement system in compliance with the provisions of Section 415 of the Internal Revenue Code which are applicable to public employee retirement plans and are hereby incorporated by reference. In determining the 415 limit, compensation shall include all remuneration from the city within the meaning I.R.C. Section 415(c)(3). In the event the limitation of I.R.C. Section 415(e) is exceeded, the employer-financed benefits will be reduced so that the sum of the defined contribution plan fraction and the employer-financed benefit fraction will not exceed 1.0. The foregoing sentence shall no longer apply after December 31, 1999.~~ **THE MAXIMUM PERMISSIBLE ANNUAL PENSION BENEFIT WITH RESPECT TO ANY MEMBER SHALL BE IN ACCORDANCE WITH IRC § 415(B) WHICH PROVIDES THAT SUCH ANNUAL PENSION BENEFITS SHALL NOT EXCEED \$90,000, AS ADJUSTED FOR INFLATION, PURSUANT TO IRC § 415(B) (THE "DOLLAR LIMIT").**

(1) SPECIAL DOLLAR LIMITATIONS. IF THE BENEFIT IS PAYABLE PRIOR TO AGE 62, THE DOLLAR LIMITATION SHALL BE REDUCED TO THE ACTUARIAL EQUIVALENT OF A BENEFIT COMMENCING AT AGE 62. IN THE CASE OF ANY FULL-TIME PUBLIC SAFETY EMPLOYEE, WHO IS A QUALIFIED PARTICIPANT AS DEFINED IN IRC § 415(B)(2)(G), THERE IS NO REDUCTION IN THE DOLLAR LIMITATION. IF THE BENEFIT IS NOT PAYABLE UNTIL AFTER AGE 65, THE DOLLAR LIMITATION SHALL BE INCREASED TO THE ACTUARIAL EQUIVALENT OF A BENEFIT COMMENCING AT AGE 65.

(2) IN THE CASE OF AN EMPLOYEE WHO HAS LESS THAN TEN (10) YEARS OF PARTICIPATION IN THE PLAN, THE DOLLAR LIMITATION SHALL BE REDUCED 1/10 FOR EACH YEAR OF PARTICIPATION IN ACCORDANCE WITH IRC § 415(B)(5).


(C) EXCESS BENEFIT PAYMENT. THE RETIREMENT SYSTEM SHALL NOT PAY ANY BENEFIT THAT WOULD EXCEED THE BENEFIT LIMITATIONS FOR GOVERNMENTAL PLANS AS SET FORTH IN IRC § 415 AND REGULATIONS, AS AMENDED.

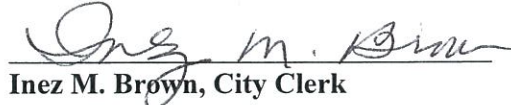
(D) COMPENSATION. AS DEFINED BY IRC § 415(C)(3)(D) AND TREAS. REG. § 1.415-2(D)(2)(I), COMPENSATION MEANS AMOUNTS ACTUALLY PAID TO THE EMPLOYEE DURING THE LIMITATION YEAR, INCLUDING: WAGES, SALARY, PROFESSIONAL FEES, PERCENTAGE OF PROFITS, COMMISSIONS, TIPS AND BONUSES PAID OR MADE AVAILABLE TO THE MEMBER DURING THE LIMITATION YEAR FOR PERSONAL SERVICES ACTUALLY RENDERED IN THE COURSE OF EMPLOYMENT, ANY ELECTIVE DEFERRAL, AND ANY

AMOUNT WHICH IS CONTRIBUTED OR DEFERRED BY THE EMPLOYER AT THE ELECTION OF THE EMPLOYEE AND WHICH IS NOT INCLUDIBLE IN THE GROSS INCOME OF THE EMPLOYEE BY REASON OF IRC §§ 125, 132(F) OR 457.

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

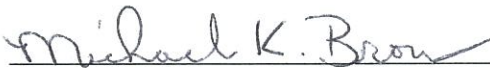
Adopted this _____ day of _____, 2012,
A.D.


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.: 2012EM118

PRESENTED: 1-19-12

ADOPTED: 2-16-12