

**ORDER OF THE EMERGENCY MANAGER
CITY OF LINCOLN PARK
COUNTY OF WAYNE, STATE OF MICHIGAN**

AMENDED AND RESTATED ORDER NO. 4

**PROPOSING AMENDMENT TO CHAPTER XVII OF THE CITY CHARTER
REGARDING THE CESSATION OF THE POLICEMEN’S AND FIREMEN’S RETIREMENT
SYSTEM AND TRANSFER OF ITS ASSETS TO A NEW ACT 345 PENSION SYSTEM**

WHEREAS, under the Local Financial Stability and Choice Act, Act 436, Public Acts of Michigan, 2012 (“Act 436”), Brad Coulter has been appointed as the Emergency Manager (the “EM”) of the City of Lincoln Park, County of Wayne, Michigan (the “City”); and

WHEREAS, pursuant to Section 9(2) of Act 436, the EM “shall act for and in the place and stead of” the Mayor, the City Manager, as the Chief Administrative Officer, and of the City Council, as the governing body of the City; and

WHEREAS, Section 9(2) of Act 436 also grants the EM “broad powers in receivership to rectify the financial emergency and to assure the fiscal accountability of the [City] and the [City’s] capacity to provide or cause to be provided necessary governmental services essential to the public health, safety and welfare;” and

WHEREAS, Section 9(2) of Act 436 prohibits, during the pendency of receivership, the Mayor and the Council from exercising “any powers of those offices except as may be specifically authorized in writing by the [EM] or as otherwise provided by [Act 436] and are subject to any conditions required by the [EM];” and

WHEREAS, Section 12(1)(dd) of Act 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[e]xercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and governing body concerning the adoption, amendment, and enforcement of ordinances or resolutions of the local government” as provided in the Michigan Home Rule City Act, Act 279, Public Acts of Michigan 1909 (the “Home Rule Act”); and

WHEREAS, Section 12(1)(ee) of Act 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[t]ake any other action or exercise any power or authority of any officer, employee, department, board, commission, or other similar entity of the local government, whether elected or appointed, relating to the operation of the local government. The power of the [EM] shall be superior to and supersede the power of any of the foregoing officers or entities;” and

WHEREAS, Section 12(1)(t) of Act 436 authorizes the EM to “Order, as necessary, 1 or more millage elections for the local government consistent with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, sections 6 and 25 through 34 of article IX of the state constitution of 1963, and any other applicable state law.” and

WHEREAS, the City Charter of the City, at Chapter XVII currently provides for the Policemen's and Firemen's Retirement System; and

WHEREAS, the Emergency Manager has determined that it is in the best interests of the City to establish a separate police officers and fire fighters retirement system pursuant to the provisions of Michigan Public Act 345 of 1937, as amended ("Act 345"), and create a pension board thereunder; and

WHEREAS, it is therefore necessary to amend Sec. 1 of Chapter XVII of the City Charter to provide for the cessation of the existing Policemen's and Firemen's Retirement System and the transfer of its assets to the new Act 345 pension system; and

WHEREAS, pursuant to Order No. 4, dated November 12, 2014, the EM proposed such amendment to the City Charter; and

WHEREAS, the EM has determined that it is necessary and appropriate to amend and restate Order No. 4 in its entirety to clarify that financial benefits heretofore accrued in the existing Policemen's and Firemen's Retirement System by policemen and firemen shall not be diminished or impaired by such transfer to the new Act 345 system.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Emergency Manager hereby proposes that Sec. 1 of Chapter XVII of the City Charter shall be amended to read as follows:

Sec. 1. System established; transfer of assets, cessation and dissolution of board.
The City of Lincoln Park Policemen's and Firemen's Retirement System, hereinafter called "the retirement system", is hereby established for the purpose of providing retirement allowances and death benefits for policemen and firemen of the City of Lincoln Park and their beneficiaries under the provisions of this amendment to the charter of the City of Lincoln Park, Michigan. Effective July 1, 2015 all assets of the retirement system shall be transferred to a new retirement system established pursuant to Michigan Public Act 345 of 1937, as amended, the existing retirement system shall cease, and the existing retirement board shall be dissolved. Financial benefits heretofore accrued in the retirement system by policemen and firemen shall not be diminished or impaired by such transfer to the new Act 345 system.

2. Provisions of the existing Chapter XVII of the City Charter to be altered or abrogated by the proposed amendment, if adopted, now read as set forth on Exhibit A attached hereto.

3. The proposed amendment of Sec. 1 of Chapter XVII of the City Charter shall be submitted to the electors in the following form:

PROPOSED AMENDMENT OF SECTION SEC. 1 OF CHAPTER XVII OF THE CHARTER OF THE CITY OF LINCOLN PARK

Shall Sec. 1 of Chapter XVII of the City Charter of the City of Lincoln Park be amended to provide for the transfer of all assets of the existing Policemen's and Firemen's Retirement System to a new retirement system established pursuant to Michigan Public Act 345 of 1937, as amended, the cessation of the existing retirement system, and dissolution of the existing retirement board? *This amendment shall not become effective unless the electors also approve of the establishment of a new Act 345 pension system.*

4. Copies of the proposed amendment shall be transmitted to the Governor of the State of Michigan for his approval, as required by law.

5. Copies of the foregoing statements of purpose of the proposed amendment shall be transmitted to the Attorney General of the State of Michigan for his approval, as required by law.

6. The proposed amendment shall be, and the same is hereby ordered to be, submitted to a vote of the qualified electors of the City at an election to be held in the City on Tuesday, February 24, 2015. The ballot wording of the proposed amendment is hereby certified to the City Clerk and to the Wayne County Clerk (the "County Clerk"). The City Clerk is hereby authorized and directed to file this order and/or complete any such forms, certificates or documents as may be required by the County Clerk to evidence the foregoing certification and/or submission by no later than Tuesday, December 2, 2014.

7. The City Clerk and the County Clerk are hereby authorized and directed to (a) post and publish notice of last day of registration and notice of election as required by Act 116, Public Acts of Michigan, 1954, as amended (the "Michigan Election Law"); and (b) have prepared and printed, as provided by the Michigan Election Law, ballots for submitting the proposal at the election, which ballots shall contain the proposal appearing herein, or the proposition shall be stated as a proposal on the voting machines, which ballots may include other matters presented to the electorate on the same date.

8. The proposed amendment shall be published in full together with the existing City Charter provisions which would be altered or abrogated thereby as part of the notice of election.

9. The canvass and determination of votes of the proposed amendment shall be made in accordance with the laws of the State of Michigan and the City Charter of the City of Lincoln Park.

10. The effectiveness of the proposed amendment shall be contingent on the approval by the electors of the establishment of a new Act 345 pension system.

11. This order shall have immediate effect.

12. This order may be amended, modified, repealed or terminated by any subsequent order issued by the Emergency Manager.

13. All orders and parts of orders, insofar as they conflict with the provisions of this order, are hereby repealed.

SO ORDERED this 24th day of November, 2014.

By:



BRAD COULTER
Emergency Manager
City of Lincoln Park

cc: State of Michigan, Department of Treasury
Mayor Thomas E. Karnes
Members of the Lincoln Park City Council

EXHIBIT A

PROVISIONS OF EXISTING CHAPTER XVII OF THE CITY CHARTER TO BE ALTERED OR ABROGATED BY PROPOSED CHARTER AMENDMENT

Section 1. Name and date of establishment.

The City of Lincoln Park Policemen's and Firemen's Retirement System, hereinafter called "the Retirement System," is hereby established for the purpose of providing retirement allowances and death benefits for policemen and firemen of the City of Lincoln Park and their beneficiaries under the provisions of this amendment to the Charter of the City of Lincoln Park, Michigan. The effective date of this amendment shall be July 1, 1943.

Section 2. Definitions.

The following words and phrases, as used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) "City" means the City of Lincoln Park and its predecessor, the Village of Lincoln Park.
- (2) "Member" means any person who is included in the membership of the Retirement System.
- (3) "New member" means any person who becomes a member after December 31, 1956.
- (4) "Original member" means any person who became a member prior to January 1, 1957.
- (5) "Retirant" means any member who retires with an annuity payable from funds of the Retirement System.
- (6) "Beneficiary" means any person, except a retirant, who is in receipt of an annuity, or other benefit, payable from funds of the Retirement System.
- (7) "Service" means service rendered by a policeman or fireman in the employ of the City and paid for by the City.
- (8) "Credited service" means the total service credited a member, to the extent provided in this chapter.
- (9) "Regular interest" means such rate or rates of interest per annum, compounded annually, as the Board shall from time to time determine.
- (10) "Compensation" means the remuneration paid a member by the City for services rendered by him to the City as a policeman or fireman.
- (11) "Average final compensation" means the average of the annual compensations for the rank or ranks held by a member during his five years of service immediately preceding the effective date of his retirement, or during his total years of service, if he has less than five years of credited service, said annual compensations for the said ranks to the annual rates as fixed in the City budget for the fiscal year in which the said member retired.
- (12) "Final compensation" means the annual rate of compensation for the rank of patrolman or fireman, whichever is the higher, as fixed in the City budget for the fiscal year in which a member last terminates his City employment.
- (13) "Annuity" means an annual amount payable throughout the life of a person. All annuities shall be paid in equal monthly installments.
- (14) "Annuity reserve" means the present value of all payments to be made on account of any annuity, or benefit in lieu of any annuity, computed upon the basis of such mortality and other tables of experience, and regular interest as the Board shall from time to time adopt.
- (15) "Retirement" means a member's withdrawal from service of the City with an annuity payable from funds of the Retirement System.
- (16) "Accumulated contributions" means the sum of all amounts deducted from the compensations of a member and credited to his individual account in the Annuity Savings Fund, together with regular interest thereon.
- (17) "Voluntary retirement age" for a new member shall be age fifty-five years. For an original member, voluntary retirement age shall be age fifty years or the age at which he acquires twenty-five years of credited service, whichever occurs later; provided that in no case shall voluntary retirement age be later than age sixty years, regardless of the number of years of credited service.
- (18) The masculine gender shall include the feminine, and words of the singular number with respect to persons shall include the plural number and vice-versa.

Section 3. Retirement Board established.

There is hereby created a Retirement Board, hereinafter referred to as "the Board," in whom is vested the general administration, management and responsibility for the proper operation of the Retirement System and for making effective the provisions of this amendment. The Board shall be organized immediately after four members of the Board, provided for in Section 4, have qualified and taken the oath of office.

Section 4. Membership of Board.

The Board shall consist of five Board members, as follows:

- (1) The Mayor of the City for and during his tenure in office.
- (2) The Councilman who is either chairman of the Finance Committee or in charge of the Finance Department of the City, for and during his tenure in office and chairmanship of the Finance Committee.
- (3) A citizen, who is an elector and taxpayer of the City, appointed by the Mayor and Council.
- (4) A policeman, who is a member of the Retirement System, elected by the membership of the Retirement System employed in the Police Department.
- (5) A fireman, who is a member of the Retirement System, elected by the membership of the Retirement System employed in the Fire Department.

Section 5. Term of office of Board members.

Until the first election is held, the Mayor shall appoint the policeman and fireman members of the Board, to serve as trustees until their successors shall be elected and have qualified. The Board as so constituted shall order and arrange for an election by the members, to be held within thirty days from the effective date of this amendment. The regular term of office for the appointive citizen member and the policeman and fireman members of the Board shall be three years. At the first election the citizen member of the Board shall serve one year from the effective date of this amendment; the policeman member of the Board shall serve two years from the effective date of this amendment; and the fireman member of the Board shall serve three years from the effective date of this amendment.

Section 6. Vacancy on Board.

If a vacancy occurs in the office of Board members through dismissal from service, death, inability to serve or for other reasons, the vacancy shall be filled within thirty days after the date of the vacancy, for the unexpired term, in the same manner as the office was previously filled.

Section 7. Powers and duties of the Board.

- (1) Each member of the Board shall qualify for office by taking the oath of office required of every officer under Section 10, Chapter IV, of the Charter of the City of Lincoln Park.
- (2) The Board shall elect from its membership a chairman and a vice-chairman. It shall adopt its own rules of procedure and shall keep a record of its proceedings. The Board shall hold regular meetings at least one in each month. All meetings of the Board shall be public.
- (3) Four members of the Board shall constitute a quorum, and at least three concurring votes shall be necessary for a decision by the members of the Board at any meeting of the Board.
- (4) The members of the Board shall serve without additional compensation for their services as such members. The Board may employ such legal, actuarial medical and other services as shall be required, and compensation for such services shall be fixed by the Board, subject to the approval of the Council.
- (5) The City Treasurer shall be treasurer of the Retirement System and custodian of the several funds created by this amendment.
- (6) The City Attorney shall be the legal advisor to the Board.
- (7) The Board shall appoint an actuary who shall be the technical advisor to the Board.
- (8) The Board shall adopt mortality, service experience, compensation experience and other tables as may be necessary for the proper operation of the Retirement System.
- (9) The Board shall keep, or cause to be kept, such data as shall be necessary for an actuarial valuation of the various funds of the Retirement System. The Board shall render a written report to the Council on or before May 15 showing the fiscal transactions of the Retirement System for the year ending the preceding December 31.

Section 8. Policeman and Fireman defined.

- (1) "Policeman" shall mean a police officer of the City; but it shall not mean any policeman who is appointed temporarily in cases of emergency; nor shall it mean any policeman appointed at the request and expense of private parties; nor shall it mean civilian employees of the Police Department.
- (2) "Fireman" shall mean a fireman in the employ of the Fire Department; but it shall not mean any fireman who is appointed temporarily in cases of emergency; nor shall it mean any fireman appointed at the request and expense of private parties; nor shall it mean civilian employees of the Fire Department.
- (3) In cases of doubt, the Board shall decide who is a policeman or fireman within the meaning of the amendment.

Section 9. Membership.

The membership of the Retirement System shall consist of the following:

- (1) All policemen and firemen who are on the payroll of the City on the day preceding the effective date of this amendment, and who continue in the employment of the City on and after the effective date of this amendment.
- (2) All persons who become policemen and firemen in the employ of the City on and after the effective date of

this amendment shall thereupon become members of the Retirement System.

Section 10. Membership termination.

Except as otherwise provided in this chapter, should any member separate from City service for any reason, except his retirement or death, he shall thereupon cease to be a member and his credited service shall be forfeited by him. If he is re-employed by the City, he shall again become a member; and if his said re-employment occurs within a period of four years from and after the date he last separated from City service, his credited service last forfeited by him shall be restored to his credit, provided he returns to the Annuity Savings Fund the amounts he may have previously withdrawn therefrom and not returned thereto, together with regular interest thereon from the date of withdrawal to the date of repayment. Upon the retirement or death of a member, his membership shall terminate.

Section 11. Creditable service.

Under such rules and regulations as the Board shall adopt, the Board shall determine the number of years and months of prior service and membership service to which a member is entitled, but in no case shall less than twelve months of service rendered in a calendar year be credited as a year of service, nor shall more than one year of service be credited for all service rendered in one calendar year.

Section 12. Credit for war service.

Should a member, who while employed by the City, be called or enlist in the military, naval, marine or other service of the United States government during time of war, or should he be drafted or retained, without action on his part into the service of the United States government during time of peace, and should such member be re-employed as a policeman or fireman in the service of the City within six months after his separation from such government service, or from the date peace was established by treaty, whichever date is earlier, then such service shall be credited to his City service in the same manner as if he had served the City uninterrupted. During the period of a member's service in the Federal government, his contributions to the Annuity Savings Fund shall be suspended and the balance in the Annuity Savings Fund credited to his account shall remain in the Annuity Savings Fund subject to the provisions of Section 24 of this amendment.

Section 13. Service retirement.

(1) Any member who has attained his voluntary retirement age may retire from City service upon his written application filed with the Board setting forth at what time, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, he desires to be retired.

(2) Any member who has attained or attains age sixty years shall be retired by the Board not later than the first day of the calendar month next following the month in which he attains age sixty years; provided that upon the written application of a member, approved by his department head, the Board may continue the said member in service for periods of time not to extend beyond his attainment of age sixty-five years.

(3) Upon his retirement, as provided in this section, a member shall receive an annuity provided for in Section 15 hereof.

Section 14. Deferred retirement.

If a member with twenty or more years of credited service ceases to be a policeman or fireman in the employ of the City before attaining his voluntary retirement age for any reason except his retirement or death, he shall become entitled to an annuity provided for in Section 15 hereof, said annuity to begin as of the first day of the calendar month next following the month in which his application for same is filed with the Board on or after the date he would have attained his voluntary retirement age had he remained in City service. In the event the said person withdraws all or part of his accumulated contributions from the Annuity Savings Fund, he shall thereupon forfeit all his rights in and to a deferred annuity provided for in this section.

Section 15. Service retirement annuity.

(1) Upon his retirement as provided in this chapter, a member shall receive a straight life annuity equal to two percent of his average final compensation multiplied by the first twenty-five years of his credited service plus one percent of his average final compensation multiplied by the number of years and fraction of a year of his credited service in excess of twenty-five years; provided that in no case shall a retirant's straight life annuity exceed seventy-five percent of final compensation.

(2) In the event a retirant dies before he has received in straight life annuity payments an aggregate amount equal to, but not exceeding, his accumulated contributions standing to his credit in the Annuity Savings Fund at the time of his retirement, the difference between his said accumulated contributions and the said aggregate amount of straight life annuity payments received by him shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person or persons surviving said retirant, such difference, if any, shall be paid to his estate.

Section 16. Duty disability retirement.

Upon the application of a member or his department head, a member who has become or becomes totally and

permanently incapacitated for duty in the service of the City, by reason of a personal injury or disease which the Board finds to have occurred solely and exclusively as the natural and proximate result of causes arising out of and in the course of his employment by the City, such member shall be retired by the Board; provided that after a medical examination of the said member made by or under the direction of a medical committee consisting of three physicians, one of whom shall be named by the Board, one by the said member, and the third by the first two physicians so named, the said medical committee, by majority opinion in writing, shall certify to the Board that the said member is mentally or physically totally incapacitated for the further performance of his duties in the service of the City, that his incapacity will probably be permanent and that he should be retired.

Section 17. Duty disability annuity.

(1) A member who retires on or after attainment of his voluntary retirement age, on account of disability as provided in Section 16 hereof, shall receive an annuity according to the provisions of Section 15 hereof.

(2) A member who retires before attainment of his voluntary retirement age, on account of disability as provided in Section 16 hereof, shall receive a disability annuity of one-half of his average final compensation, said disability annuity to begin as of the date of his disability, but in no case more than six months before the date his application for disability retirement is filed with the Board or before the date his name last appeared on a City payroll with pay, whichever is later, and to continue to his attainment of age fifty-five years or recovery prior thereto; provided that the said disability annuity shall be subject to Sections 22 and 23 hereof and shall not exceed sixty-five percent of final compensation.

(3) Upon attaining age fifty-five years, the said disability retiree shall receive annuity according to the provisions of Section 15 hereof. In computing his said annuity, to begin as of his attainment of age fifty-five years, he shall be given service credit for the time he received a disability annuity provided for in subsection (2) of this section.

(4) During the time a disability retiree is receiving a disability annuity, provided for in subsection (2) of this section, his contributions to the Annuity Savings Fund shall be suspended and his balance in the said Fund shall remain therein and shall be accumulated at regular interest until his attainment of age fifty-five years or prior death. Upon attaining age fifty-five years, his accumulated contributions shall be transferred to the Annuity Reserve Fund. Should the said disability retiree die before attaining age fifty-five years, his accumulated contributions standing to his credit in the Annuity Savings Fund, at the time of his death, shall be paid according to Section 24 hereof.

Section 18. Nonduty disability retirement.

Upon the application of a member or his department head, a member who has ten or more years of credited service and has become or becomes totally and permanently incapacitated for duty in the service of the City as the result of causes otherwise than in the course of his actual performance of duty in the service of the City may be retired by the Board; provided that after a medical examination of the said member made by or under the direction of a medical committee consisting of three physicians, one of whom shall be named by the Board, one by the said member and a third by the first two physicians so named, the said medical committee, by majority opinion in writing, shall certify to the Board that the said member is mentally or physically totally incapacitated for the further performance of his duty in the service of the City, that his incapacity will probably be permanent and that he should be retired.

Section 19. Nonduty disability annuity.

(1) A member who retires on or after attainment of his voluntary retirement age, on account of disability as provided in Section 18 hereof, shall receive an annuity according to the provisions of Section 15 hereof.

(2) A member who retires before attainment of his voluntary retirement age, on account of disability as provided in Section 18 hereof, shall receive a disability annuity according to the provisions of Section 15 hereof; provided that until the date he would have attained his voluntary retirement age had he continued in City service, his disability annuity shall be subject to Sections 22 and 23 hereof. The said member's disability annuity shall begin as of the date of his disability, but in no case more than six months before the date his application for disability retirement is filed with the Board or before the date his name last appeared on a City payroll with pay, whichever is later.

Section 20. Duty death.

In the event a member dies solely and exclusively as a result of a personal injury or disease arising out of and in the course of his employment by the City, or a disability retiree, who retired under Section 16 hereof, dies within a period of three years following effective date of disability retirement or prior to his attainment of age fifty-five years, whichever first occurs, as the result of the same injuries or disease for which he was retired, and in either case such death, injuries or disease resulting in death be found by the Board to have been the result of his actual performance of duty in the service of the City, the applicable benefits provided for in subsections (1), (2), (3) and (4) of this section shall be paid, subject to subsection (5) of this section and to Section 22 hereof.

(1) The accumulated contributions standing to the said deceased person's credit in the Annuity Savings Fund shall be paid in accordance with Section 24 hereof.

(2) The widow of the said deceased person shall receive an annuity of one-third of final compensation, to continue during her widowhood. If, in addition to a widow, the said deceased person leaves a child or children under age eighteen years, each such child shall receive an annuity of an equal share of one-fourth of final compensation. Upon a child's attainment of age eighteen years, adoption, marriage or death prior thereto, his annuity shall terminate and the Board shall redistribute the shares of one-fourth of final compensation among the said deceased person's remaining eligible children under age eighteen years.

(3) In the event there be no widow, or if the widow dies or remarries before the youngest surviving child of the said deceased person shall have attained age eighteen years, then his child or children under age eighteen years shall each receive an annuity of one-fourth of final compensation; provided that if there be more than two such surviving children under age eighteen years, each such child shall receive an annuity of an equal share of one-half of final compensation. Upon a child's attainment of age eighteen years, adoption, marriage or death prior thereto, his annuity shall terminate and the Board shall redistribute the shares of one-half of final compensation among the said deceased person's remaining eligible children under age eighteen years. In no case shall any child receive an annuity of more than one-fourth of final compensation.

(4) In the event there be neither a widow nor children eligible to receive annuities surviving the said deceased person, there shall be paid to each his dependent father and dependent mother, as the Board after investigation finds to have been actually dependent upon the said deceased person through absence of earning power due to mental or physical disability, an annuity of one-sixth of final compensation.

(5) As used in this section, the term "widow" means the person to whom the said deceased person was married at the time of his last employment with the City. In no case shall any benefits be paid under this section on account of the death of a member if any benefits are paid under Section 21 hereof on account of his death.

Section 21. Nonduty death.

(1) A member who continues in City service after the date he acquires twenty-five years of credited service may, at any time prior to the effective date of his retirement but not thereafter, elect Option A provided for in Section 25 hereof in the same manner as if he were then retiring from service, and nominate a beneficiary whom the Board finds to be dependent upon the said member for at least fifty percent of his support due to lack of financial means. 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 annuity to which the said beneficiary would have been entitled if the said member had retired the day preceding the date of his death, notwithstanding that he might not have attained his voluntary 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 annuity as a straight life annuity or according to an option provided for in Section 25 hereof.

(2) A member who continues in City service after the date he acquires twenty years of credited service and does not have an Option A election in force as provided in subsection (1) above and dies while in City service and leaves a widow, his said widow shall immediately receive the same annuity to which she would have been entitled if the said member had retired the day preceding the date of his death, notwithstanding that he might not have attained his voluntary retirement age, elected Option A provided for in Section 25 hereof and nominated his said widow as beneficiary.

Section 22. Pensions and annuities offset by worker's compensation benefits.

In case the present value of the total benefits which may be paid or payable under the provisions of any worker's compensation or pension, or similar law, to a member or other dependents of a member, on account of any disability or death, is less than the annuity reserve for benefits otherwise payable from the funds of the Retirement System, then the present value of the total benefits which may be paid or payable under any worker's compensation or pension, or similar law, shall be deducted from the annuity reserve for benefits otherwise payable from funds of the Retirement System, and such benefits as may be provided by the annuity reserve so reduced shall be payable under the provisions of this amendment.

Section 23. Conditions for disability retirants.

(1) At least once each year during the first five years following the retirement of a member with a disability annuity and at least once in every three-year period thereafter, the Board may, and upon the disability retirant's application shall, require any disability retirant, who has not attained his voluntary retirement age, to undergo a medical examination to be made by or under the direction of a physician designated by the Board. Should the said retirant refuse to submit to such medical examination in any such period, his disability annuity may be discontinued by the Board until his withdrawal of such refusal; and should such refusal continue for one year, all his rights in and to an annuity may be revoked by the Board. If it is found that the said retirant is physically able and capable of

resuming active duty as a policeman or fireman, he shall be restored to active duty in the employ of the City in the rank or grade held by him at the time of his disability retirement and his disability annuity shall terminate.

(2) If the said disability retirant, who has not attained his voluntary retirement age, is or becomes engaged in a gainful occupation, business or employment, and the sum of his pay or earnings from such occupation, business or employment and his disability annuity exceeds the annual rate of compensation of a patrolman or fireman, whichever is higher as fixed in the budget for the then current fiscal year, his disability annuity shall be reduced to an amount which, when added to the amount so earned by him, shall equal, but not exceed, the said annual rate of compensation of a patrolman or fireman, as the case may be.

(3) A disability retirant who has been or is returned to active service as a policeman or fireman in the employ of the City shall again become a member of the Retirement System and he shall contribute to the Retirement System thereafter in the same manner as prior to his disability retirement, and his credited service at the time of his disability retirement shall be restored to full force and effect. He shall be given service credit for the time he was receiving a duty disability annuity under Section 17(2) hereof; he shall not be given service credit for the time he was receiving a nonduty disability retirement annuity under Section 19(2) hereof.

Section 24. Refund of member's accumulated contributions.

(1) Should a member cease to be an employee of the City before becoming entitled to retire with an annuity, he shall be paid all or part of the accumulated contributions standing to his credit in the Annuity Savings Fund as he shall demand in writing on forms furnished by the Board.

(2) Should a member die before his retirement becomes effective, his accumulated contributions standing to his credit in the Annuity Savings Fund at the time of his death shall be paid, except as otherwise provided in this chapter, to such person or persons as he shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person or persons surviving the said member, his said accumulated contributions shall be paid to his estate.

(3) Payments of accumulated contributions, as provided in this section, may be made in equal installments according to such rules and regulations as the Board may from time to time adopt.

Section 25. Annuity options.

Prior to the effective date of his retirement, but not thereafter, a member may elect to receive his annuity as a straight life annuity, or he may elect to receive the actuarial equivalent, at that time, of his straight life annuity in a reduced annuity payable throughout his life and nominate a beneficiary in accordance with the provisions of Option A or B, as hereinafter set forth.

Option A. Joint and Survivor Annuity. Upon the death of a retirant his reduced annuity 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

Option B. Modified Joint and Survivor Annuity. Upon the death of a retirant one-half of his reduced annuity 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.

Section 26. Annuity Savings Fund.

(1) The Annuity Savings Fund is hereby created. It shall be the fund in which shall be accumulated, at regular interest, the contributions deducted from the compensations of members and from which shall be paid funds of accumulated contributions as provided in this chapter.

(2) To July 1, 1957, a member's contributions to the Retirement System shall be five percent of the prevailing wage of a patrolman, matron or fireman, respectively. From June 30, 1957, a member's contributions to the Retirement System shall be five percent of the compensations paid him by the City.

(3) The officer or officers responsible for making up the payroll shall cause the contributions provided for in this section to be deducted from the compensations of each member on each and every payroll, for each and every payroll period, from the date of his entrance in the Retirement System to the date of his retirement or prior separation from City service. The members' contributions provided for herein shall be made withstanding that the minimum compensation provided by law for any member shall be changed thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein, and payment of his compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by said person during the period covered by such payment, except as to benefits provided by this chapter. The officer or officers responsible for making up the payroll shall certify to the City Treasurer the amount of contributions to be deducted from the compensation of each member for each and every payroll and each of said amounts shall be deducted by the City Treasurer and when deducted, shall be paid to the Retirement System and shall be credited to the said member's individual account in the Annuity Savings Fund.

(4) In addition to the contributions deducted from the compensations of a member, as hereinbefore provided, a

member shall deposit in the Annuity Savings Fund, by a single contribution or by an increased rate of contribution as approved by the Board, all amounts he may have previously withdrawn from and not repaid to the Annuity Savings Fund, together with regular interest computed from the date of withdrawal to the date of repayment. In no case shall any member be given credit for service rendered prior to the date he withdrew his accumulated contributions until he repays to the Annuity Savings Fund all amounts due the said Fund by him.

(5) Upon retirement of a member, his accumulated contributions shall be transferred from the Annuity Savings Fund to the Annuity Reserve Fund. At the expiration of a period of three years from the date an employee ceases to be a member, any balance standing to his credit in the Annuity Savings Fund, unclaimed by the said member or his legal representative, shall be transferred to the Annuity Reserve Fund.

Section 27. Annuity Reserve Fund.

The Annuity Reserve Fund is hereby created. It shall be the fund in which shall be accumulated reserves for the payment of all annuities and other benefits payable from contributions provided by the City and from which shall be paid all annuities payable as provided in this chapter. Upon the basis of such mortality and other tables of experience, and regular interest as the Board shall from time to time adopt, the actuary shall annually compute the annuity reserves for annuities being paid retirants and beneficiaries, and covering service rendered and to be rendered by members. The said annuity reserves shall be financed by annual appropriations to be made by the Council, determined according to paragraphs (1), (2) and (3) of this section.

(1) The appropriation for members' current service shall be a percent of their annual compensations which will produce an amount which, if paid annually by the City during their future service, will be sufficient to provide the reserves at the time of their retirements for the portions of the annuities to be paid them based upon their future service.

(2) The appropriation for members' accrued service shall be a percent of their annual compensations which will produce an amount which, if paid annually by the City over a period of years, to be determined by the Board, will amortize, at regular interest, the unfunded annuity reserves for the accrued service portions of the annuities to which they may be entitled.

(3) The appropriation for annuities being paid retirants and beneficiaries shall be a percent of the annual compensations of members which will produce an amount which, if paid annually by the City over a period of years, to be determined by the Board, will amortize, at regular interest, the unfunded annuity reserves for annuities being paid retirants and beneficiaries.

Section 28. Expense Fund.

The Expense Fund shall be the fund to which shall be credited all money provided by the City to pay administration expenses of the Retirement System, and from it shall be paid all the expenses necessary in connection with the administration and operation of the Retirement System. The Board shall determine the administration expenses necessary, and the City shall pay into the Expense Fund the amount so determined.

Section 29. Appropriations.

All appropriations certified by the Board as necessary to be paid into the funds of the Retirement System, as enumerated in this chapter, shall be in accordance with legal budget procedure established by the City.

Section 30. Management of funds.

(1) The Board shall be the Trustees for the several funds provided for by this amendment, and shall have full power to invest and reinvest such funds, subject to all terms, conditions, limitations and restrictions imposed by the law of the State of Michigan upon life insurance companies in the making and disposing of their investments; provided, however, that the notes, bonds or other obligations of any county, city, village or district in the State of Michigan shall not be subject to such restrictions. The Board shall have the power to purchase notes, bonds or other obligations of the City of Lincoln Park before or after the same are offered to the public and with or without advertising for bids.

(2) The Board shall have full power to hold, purchase, sell, assign, transfer and dispose of any of the securities and investments in which any of the funds, created herein, shall have been invested, as well as the proceeds of said investments and any moneys belonging to said funds.

Section 31. Allowance of regular interest.

All interest and other earnings on moneys and investments of the Retirement System shall be credited to the Annuity Reserve Fund. The Board shall, at the end of each fiscal year after June 30, 1957, allow regular interest on the members' individual balances in the Annuity Savings Fund at the beginning of the fiscal year. The amounts of interest so credited to the Annuity Savings Fund shall be charged to the Annuity Reserve Fund.

Section 32. Payments from funds.

All payments from the funds of the Retirement System shall be made according to Charter provisions only, upon regular City vouchers signed by two persons designated by the Board. A duly attested copy of a resolution of the

Board designating such persons and bearing upon its face specimen signatures of such persons shall be filed with the City Treasurer as his authority for making payments upon such vouchers. No voucher shall be drawn unless it shall have been previously authorized at a regular meeting of the Board.

Section 33. Assignments prohibited.

The right of a person to an annuity, a pension, to the return of members' contribution or any other benefit, or to the annuity itself, or to the annuity pension return of member's contributions itself, or to any other benefit provided by this amendment, and optional benefit, any right accrued or accruing to any person under the provisions of this amendment, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or other process of law whatsoever, and shall be unassignable, except as is specifically provided for in this amendment.

Section 34. Protection against fraud.

Whoever, with intent to deceive, shall make any statement or report required under this amendment which is untrue, or shall falsify or permit to be falsified, any record or records of this Retirement System, or who shall otherwise violate, with intent to deceive, any of the terms or provisions of this amendment, upon conviction thereof, shall be fined not to exceed \$500.00, or 90 days imprisonment, or both in the discretion of the court, together with payment of the cost of prosecution.

Section 35. Errors.

Should any change or error in the records result in any member, retirant or beneficiary receiving from the Retirement System more or less than he would have been entitled to receive had the records been correct, the Board shall correct such error and as far as is practicable shall adjust the amount of the benefit in such manner that the actuarial equivalent of the benefit to which such member, retirant or beneficiary was correctly entitled shall be paid.

Section 36. Retirants recalled to service.

During an emergency declared by the Council, the department head may, with the consent of the retirant, recall to active duty a retirant who has not attained age sixty-five years for such period of service as the Council shall deem advisable; provided that any retirant so recalled may at any time separate from active duty on his own application or by order of his department head. A retirant so recalled shall serve in the rank he held at the time of his retirement or higher rank. No contributions to the Annuity Savings Fund shall be deducted from the compensation of such recalled retirant. Upon his subsequent separation from service, he shall resume the retirant status held by him prior to his recall to active service.

Section 37. Adjustment for Social Security or similar law.

Should the employees of the City be required by law now enacted, or any amendments or rulings in connection therewith having the force of law, to accept coverage under any Federal or State annuity pension retirement or old age security system, and should the City and/or the employees of the City be required to make contributions or be subject to payroll taxes in support of such Federal or State annuity pension retirement or old age system, then all benefits of whatever nature contained in this amendment accrued or according to members or beneficiaries of the Retirement System, including the right to the refund of a member contributions in the Annuity Savings Fund, shall be modified in such manner as is recommended by the Board to the Council and approved by the Council.

Section 38. Limitation of other statutes.

(1) All provisions of laws inconsistent with provisions of this amendment are hereby repealed to the extent of such inconsistency.

(2) If any part, section, subsection, paragraph, sentence, clause or phrase of this amendment is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining parts, sections, subsections, paragraphs, sentences, clauses and phrases of the amendment or the amendment as an entirety.