

ORDINANCE NO. _____

AN ORDINANCE AMENDING AND RE-ENACTING SECTIONS 2-202, 2-204, 2-205, 2-272, 2-274, 2-275, 2-336 AND 2-337 OF CHAPTER TWO OF THE MUNICIPAL CODE OF THE CITY OF DICKINSON, NORTH DAKOTA, RELATING TO PENSION PLANS

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF DICKINSON, NORTH DAKOTA, AS FOLLOWS:

Section 1: Sec. 2-202 of the City Code of Dickinson is hereby amended and re-enacted as follows:

Sec. 2-202. Form of benefit.

(a) The normal form of benefit under this plan for a participant who is not married at the time of commencement of benefits is a single life annuity for the life of the participant. Notwithstanding the foregoing, the normal form of benefit under this plan for a participant who is married at the time of commencement of benefits is an annuity payable monthly to and for the lifetime of the participant with a survivor annuity payable monthly after the death of the participant to and for the lifetime of the spouse of the participant in an amount equal to shall be two-thirds of the amount payable to the participant during the joint lives of the participant and the participant's spouse (*i.e.*, joint and two-thirds survivor annuity). The identity of the spouse to whom payments may be made in the form of a joint and two-thirds survivor annuity shall become fixed as of the participant's benefit commencement date. The value of amounts payable to the participant and the spouse in the joint and two-thirds survivor annuity form shall be the actuarial equivalent of the amount payable to the participant in the single life annuity form.

(b) Effective for all participants who commence benefits prior to August 1, 2010, the optional forms of benefit under this plan are:

- (1) A single sum cash payment that is the actuarial equivalent of the normal form of benefit (*i.e.*, single life annuity);
- (2) The actuarial equivalent 100 percent benefit for both the participant and surviving spouse; and
- (3) A single life annuity for the life of the participant with 120 payments guaranteed (*i.e.*, ten-year certain form).

(c) Effective for all participants who commence benefits on or after August 1, 2010, the optional forms of benefit under this plan are:

- (1) The actuarial equivalent of the normal form of benefit (*i.e.*, single life annuity), paid in nine equal annual installments;
- (2) The actuarial equivalent 100 percent benefit for both the participant and surviving spouse; and

(3) A single life annuity for the life of the participant with 120 payments guaranteed (*i.e.*, ten-year certain form).

(d) The value of the amounts payable to the participant and all beneficiaries in the ten-year certain form shall be the actuarial equivalent of the amounts payable to the participant in the normal form (*i.e.*, single life annuity). A participant's allocated earnings account balance shall be distributed as of the valuation date next following termination of employment in a single sum cash payment.

(Code 1993, § 32.08.630; Ord. No. 1265, § 1; Ord. No. 1279, § 1; Ord. No. 1384, § 5)

Section 2: Sec. 2-204 of the City Code of Dickinson is hereby amended and re-enacted as follows:

Sec. 2-204. Termination of employment.

(a) A participant with no vested interest in accrued benefits attributable to City contributions who terminates employment for any reason other than death or total disability before qualifying for immediate early or normal retirement benefits will receive a refund of employee contributions made and not previously distributed, plus earnings. Payment shall be made in a single sum within 90 days after the date the participant terminates employment.

(b) A participant with a vested interest in accrued benefits attributable to City contributions who terminates employment for any reason other than death or total disability before qualifying for immediate early or normal retirement benefits will receive payment of benefits as follows:

- (1) If the present value of the participant's vested accrued benefits attributable to employee contributions and City contributions is \$1,000.00 or less, the present value of the vested accrued benefits will be paid in a single sum cash payment as soon as administratively feasible after the participant's termination of employment.
- (2) If the present value of the participant's vested accrued benefits attributable to employee contributions and City contributions is greater than \$1,000.00 but is not more than \$10,000.00, the present value of the vested accrued benefits will be paid in a single sum cash payment as soon as administratively feasible after the participant requests payment following the participant's termination of employment.
- (3) If the present value of the participant's vested accrued benefits attributable to employee contributions and City contributions is greater than \$10,000.00 and the participant terminates employment prior to August 1, 2010, the accrued benefit will be paid under Section 2-201, commencing as of the last day of the month in which the participant attains the age of 62 years or, if the participant so elects in writing within 30 days after the participant's termination of employment, the present value of the participant's vested accrued benefits will be paid in a single sum cash payment as soon as administratively feasible after the participant's termination of employment.

(4) If the present value of the participant's vested accrued benefits attributable to employee contributions and City contributions is greater than \$10,000.00 and the participant terminates employment on or after August 1, 2010, the accrued benefit will be paid under Section 2-201, commencing as of the last day of the month in which the participant attains the age of 62 years.

(c) The present value of the participant's vested accrued benefits payable under this paragraph shall not be less than the employee contributions made by the participant, plus earnings.

(d) The participant's non-vested accrued benefits will be forfeitable upon the distribution of the participant's vested accrued benefits or upon refund of the participant's employee contributions, plus interest if the participant has no vested accrued benefits attributable to City contributions or, if there is no distribution before early or normal retirement age, then upon the participant's termination of employment.

(Code 1993, § 32.08.650; Ord. No. 1265, § 1; Ord. No. 1309, § 1; Ord. No. 1384, § 6; Ord. No. 1663, § 1)

Section 3: Sec. 2-205 of the City Code of Dickinson is hereby amended and re-enacted as follows:

Sec. 2-205. Death benefits.

(a) *Surviving spouse and children.* Upon the death of an active employee or of a retired participant, benefits shall be paid to the surviving spouse or surviving children, if any, as follows:

- (1) If a retired participant who is married at the time of benefit commencement has elected to receive payment in the normal form of a joint and two-thirds survivor benefit upon retirement, a monthly benefit shall be paid to the retired participant's surviving spouse for life in an amount equal to two-thirds of the monthly benefit payable to the retired participant during the joint lives of the retired participant and the retired participant's spouse, but such benefit shall not be less than \$50.00 per month.
- (2) If a retired participant has elected the optional form of benefit of the actuarial equivalent of 100 percent for both participant and surviving spouse at retirement, a monthly benefit will be paid to the retired participant's surviving spouse for life in an amount equal to 100 percent of the monthly benefit payable to the retired participant during the joint lives of the retired participant and the retired participant's spouse.
- (3) A monthly benefit will be paid to the surviving spouse of an active employee for life in an amount equal to the monthly benefit that would have been paid to the surviving spouse if the active employee had retired the day before death with actuarially equivalent benefits payable in the form of an annuity for the joint life expectancy of the active employee and the active employee's spouse with 100 percent of the benefit payable during their joint lives continuing for the remaining life of the survivor. Alternatively, a surviving spouse of an active employee who dies prior to August 1,

2010, may elect in writing within 90 days after the active employee's death to have the benefit payable under this subsection (a)(3) payable in an actuarially equivalent single sum payment. Any benefit payable under this subsection (a)(3) shall be reduced by the actuarially equivalent value of any benefits paid to the active employee before death under Section 2-201, 2-202, or 2-204.

- (4) If the retired participant elected at retirement the normal form of benefit (*i.e.*, single life annuity), no benefit will be paid following the participant's death.
- (5) If the retired participant elected at retirement the single sum cash payment, no benefit will be due the surviving spouse.
- (6) A benefit of \$10.00 per month shall be paid on behalf of each surviving child until the child attains the age of 18 years to the parent of the surviving child or, if no parent is surviving, then to the guardian of the surviving child
- (7) If a retired participant has elected the optional form of benefit of the single life annuity with 120 payments guaranteed, the guaranteed monthly benefit will be paid to the participant's beneficiary for the remainder of the 120 month payment term.
- (8) If a retired participant has elected to receive nine equal annual installments, and such participant dies before receiving all nine payments, any remaining annual installment payments will be paid to the participant's beneficiary.

(b) *Minimum benefit.* The benefits paid under this section to a participant's surviving spouse and children will not be less than the total amount of the participant's employee contributions, plus earnings, reduced by any benefits paid to the participant under Section 2-201 or 2-204. Any remainder payable under this subsection will be paid to the estate of the participant.

(Code 1993, § 32.08.660; Ord. No. 1265, § 1; Ord. No. 1279; Ord. No. 1384, §§ 3, 7, 8)

Section 4: Sec. 2-272 of the City Code of Dickinson is hereby amended and re-enacted as follows:

Sec. 2-272. Form of benefit.

(a) The normal form of benefit under this plan for a participant who is not married at the time of commencement of benefits is a single life annuity for the life of the participant. Notwithstanding the foregoing, the normal form of benefit under this plan for a participant who is married at the time of commencement of benefits is an annuity payable monthly to and for the lifetime of the participant with a survivor annuity payable monthly after the death of the participant to and for the lifetime of the spouse of the participant in an amount equal to shall be two-thirds of the amount payable to the participant during the joint lives of the participant and the participant's spouse (*i.e.*, joint and two-thirds survivor annuity). The identity of the spouse to whom payments may be made in the form of a joint and two-thirds survivor annuity shall become fixed as of the participant's benefit commencement date. The value of amounts payable to the participant and the spouse in the joint and two-thirds survivor

annuity form shall be the actuarial equivalent of the amount payable to the participant in the single life annuity form.

(b) Effective for all participants who commence benefits prior to August 1, 2010, the optional forms of benefit under this plan are:

- (1) A single sum cash payment that is the actuarial equivalent of the normal form of benefit (*i.e.*, single life annuity);
- (2) The actuarial equivalent of 100 percent benefit for both the participant and surviving spouse; and
- (3) A single life annuity for the life of the participant with 120 payments guaranteed (*i.e.*, ten-year certain form).

(c) Effective for all participants who commence benefits on or after August 1, 2010, the optional forms of benefit under this plan are:

- (1) The actuarial equivalent of the normal form of benefit (*i.e.*, single life annuity), paid in nine equal annual installments;
- (2) The actuarial equivalent 100 percent benefit for both the participant and surviving spouse; and
- (3) A single life annuity for the life of the participant with 120 payments guaranteed (*i.e.*, ten-year certain form).

(d) The value of the amounts payable to the participant and all beneficiaries in the ten-year certain form shall be the actuarial equivalent of the amounts payable to the participants in the normal form. A participant's allocated earnings account balance shall be distributed as of the valuation date next following termination of employment in a single sum cash payment.

(Code 1993, § 32.12.630; Ord. No. 1266, § 1; Ord. No. 1280, § 1; Ord. No. 1384, § 5)

Section 5: Sec. 2-274 of the City Code of Dickinson is hereby amended and re-enacted as follows:

Sec. 2-274. Termination of employment.

(a) A participant with no vested interest in accrued benefits attributable to City contributions who terminates employment for any reason other than death or total disability before qualifying for immediate early or normal retirement benefits will receive a refund of employee contributions made and not previously distributed, plus earnings. Payment shall be made in a single sum within 90 days after the date the participant terminates employment.

(b) A participant with a vested interest in accrued benefits attributable to City contributions who terminates employment for any reason other than death or total disability before qualifying for immediate early or normal retirement benefits will receive payment of benefits as follows:

- (1) If the present value of the participant's vested accrued benefits attributable to employee contributions and City contributions is \$1,000.00 or less, the present value of the vested accrued benefits will be paid in a single sum cash payment as soon as administratively feasible after the participant's termination of employment.
- (2) If the present value of the participant's vested accrued benefits attributable to employee contributions and City contributions is greater than \$1,000.00 but is not more than \$10,000.00, the present value of the vested accrued benefits will be paid in a single sum cash payment as soon as administratively feasible after the participant requests payment following the participant's termination of employment.
- (3) If the present value of the participant's vested accrued benefits attributable to employee contributions and City contributions is greater than \$10,000.00 and the participant terminates employment prior to August 1, 2010, the accrued benefit will be paid under Section 2-271 commencing as of the last day of the month in which the participant attains the age of 55 years or, if the participant so elects in writing within 30 days after the participant's termination of employment, the present value of the participant's vested accrued benefits will be paid in a single sum cash payment as soon as administratively feasible after the participant's termination of employment.
- (4) If the present value of the participant's vested accrued benefits attributable to employee contributions and City contributions is greater than \$10,000.00 and the participant terminates employment on or after August 1, 2010, the accrued benefit will be paid under Section 2271, commencing as of the last day of the month in which the participant attains the age of 55 years.

(c) The present value of the participant's vested accrued benefits payable under this paragraph shall not be less than the employee contributions made by the participant, plus earnings.

(d) The participant's non-vested accrued benefits will be forfeitable upon the distribution of the participant's vested accrued benefits or upon refund of the participant's employee contributions, plus interest, if the participant has no vested accrued benefits attributable to City contributions or, if there is no distribution before early or normal retirement age, then upon the participant's termination of employment.

(Code 1993, § 32.08.650; Ord. No. 1266, § 1; Ord. No. 1309, § 2; Ord. No. 1384, § 6; Ord. No. 1663, § 2)

Section 6: Sec. 2-275 of the City Code of Dickinson is hereby amended and re-enacted as follows:

Sec. 2-275. Death benefits.

(a) *Surviving spouse and children.* Upon the death of an active employee or of a retired participant, benefits shall be paid to the surviving spouse or surviving children, if any, as follows:

- (1) If a retired participant has elected the normal form of benefit upon retirement, a monthly benefit shall be paid to the surviving spouse for life in an amount equal to two-thirds of the participant's accrued benefit as of the date of death, but such benefit shall not be less than \$50.00 per month.
- (2) If a retired participant has elected the optional form of benefit of the actuarial equivalent 100 percent for both participant and surviving spouse at retirement, a monthly benefit will be paid to the retired participant's surviving spouse for life in an amount equal to 100 percent of the monthly benefit payable to the retired participant during the joint lives of the retired participant and the retired participant's spouse.
- (3) A monthly benefit will be paid to the surviving spouse of an active employee for life in an amount equal to the monthly benefit that would have been paid to the surviving spouse if the active employee had retired the day before death with actuarially equivalent benefits payable in the form of an annuity for the joint life expectancy of the active employee and the active employee's spouse with 100 percent of the benefit payable during their joint lives continuing for the remaining life of the surviving spouse. Alternatively, a surviving spouse of an active employee who dies prior to August 1, 2010, may elect in writing within 90 days after the active employee's death to have the benefit payable under this subsection payable in an actuarially equivalent single sum payment. Any benefit payable under this subsection shall be reduced by the actuarially equivalent value of any benefits paid to the active employee before death under Section 2-271, 2-273, or 2-274.
- (4) If the retired participant elected at retirement the normal form of benefit (*i.e.*, single life annuity), no benefit will be paid following the participant's death.
- (5) If the retired participant elected at retirement the single sum cash payment, no benefit will be due the surviving spouse.
- (6) A benefit of \$10.00 per month shall be paid on behalf of each surviving child until the child attains the age of 18 years to the parent of the surviving child or, if no parent is surviving, then to the guardian of the surviving child
- (7) If a retired participant has elected the optional form of benefit of the single life annuity with 120 payments guaranteed, the guaranteed monthly benefit will be paid to the participant's beneficiary for the remainder of the 120 month payment term.
- (8) If a retired participant has elected to receive nine equal annual installments, and such participant dies before receiving all nine payments, any remaining annual installment payments will be paid to the participant's beneficiary.

(b) *Minimum benefit.* The benefits paid under this section to a participant's surviving spouse and children will not be less than the total amount of the participant's employee contributions, plus earnings, reduced by any benefits paid to the participant under Section 2-272 or 2-274. Any remainder payable under this subsection will be paid to the estate of the participant.

(Code 1993, § 32.12.660; Ord. No. 1266, § 1; Ord. No. 1280, § 2; Ord. No. 1384, § 7)

Section 7: Sec. 2-336 of the City Code of Dickinson is hereby amended and re-enacted as follows:

Sec. 2-336. Regular benefit payments under plan and vesting.

- (a) *Hired or re-hired on or after January 1, 2010.*
- (1) A member who is hired or re-hired on or after January 1, 2010, and who is entitled to benefit under this plan will be eligible to receive a monthly pension for life commencing at normal retirement, or upon termination of the employment, if later, in an amount equal to such member's vested benefit determined as follows:

<i>Completed Years of Employment</i>	<i>Vesting percent Factor to be Multiplied by the Accrued Benefit to Determine the Vested Benefit</i>
Less than 5	0 percent
5	50 percent
6	60 percent
7	70 percent
8	80 percent
9	90 percent
10 or more	100 percent

If a member is employed until the age of 60 years, such member will be 100 percent vested in the accrued benefit regardless of the years of employment. It is the responsibility of a member or authorized representative to make application to the Board of Trustees in order to initiate the payment of any benefit under this plan.

- (2) Notwithstanding anything to the contrary, upon the termination or partial termination of this plan, the rights of all affected members to the benefits accrued as of the date the termination or partial termination (to the extent funded as of such date) will be fully (100 percent) vested.
- (3) The normal form of benefit under this plan for a member who is not married at the time of commencement of benefits at normal retirement, or upon termination of employment, if later, is a single life annuity for the life of the member. Notwithstanding the foregoing, the normal form of benefit under this plan for a member who is married at the time of commencement of benefits at normal retirement, or upon termination of employment, if later, is an annuity payable monthly to and for the lifetime of the member with a survivor annuity payable monthly after the death of the member to and for the lifetime of the spouse of the member in an amount equal to 100 percent of the amount payable to the member during the joint lives of the member and the member's spouse (*i.e.*, joint and 100 percent survivor annuity). The identity of the spouse to whom payments may be made in the form of a joint and 100 percent survivor annuity shall become fixed as of the member's benefit commencement date. The value of amounts payable to the member and the spouse in

the joint and 100 percent survivor annuity form shall be the actuarial equivalent of the amount payable to the member in the single life annuity form.

(b) *Hired or re-hired prior to January 1, 2010.*

- (1) A member who is hired or re-hired prior to January 1, 2010, and who is entitled to benefit under this plan will be eligible to receive a monthly pension for life commencing at normal retirement, or upon termination of the employment, if later, in an amount equal to such member's vested benefit determined as follows:

<i>Completed Years of Employment</i>	<i>Vesting percent Factor to be Multiplied by the Accrued Benefit to Determine the Vested Benefit</i>
Less than 1	0 percent
1	10 percent
2	20 percent
3	30 percent
4	40 percent
5	50 percent
6	60 percent
7	70 percent
8	80 percent
9	90 percent
10 or more	100 percent

If a member is employed until the age of 60 years, such member will be 100 percent vested in the accrued benefit regardless of the years of employment. It is the responsibility of a member or authorized representative to make application to the Board of Trustees in order to initiate the payment of any benefit under this plan.

- (2) Notwithstanding anything to the contrary, upon the termination or partial termination of this plan, the rights of all affected members to the benefits accrued as of the date the termination or partial termination (to the extent funded as of such date) will be fully (100 percent) vested.
- (3) The normal form of benefit under this plan for a member who is not married at the time of commencement of benefits at normal retirement, or upon termination of employment, if later, is a single life annuity for the life of the member. Notwithstanding the foregoing, the normal form of benefit under this plan for a member who is married at the time of commencement of benefits at normal retirement, or upon termination of employment, if later, is an annuity payable monthly to and for the lifetime of the member with a survivor annuity payable monthly after the death of the member to and for the lifetime of the spouse of the member in an amount equal to 100 percent of the amount payable to the member during the joint lives of the member and the member's spouse (*i.e.*, joint and 100 percent survivor annuity). The identity of the spouse to whom payments may be made in the form of a joint and 100 percent survivor annuity shall become fixed as of the member's benefit

commencement date. The value of amounts payable to the member and the spouse in the joint and 100 percent survivor annuity form shall be the actuarial equivalent of the amount payable to the member in the single life annuity form.

(Code 1993, § 32.16.140; Ord. No. 783, § 1; Ord. No. 1119, § 4; Ord. No. 1377, § 1)

Section 8: Sec. 2-337 of the City Code of Dickinson is hereby amended and re-enacted as follows:

Sec. 2-337. Optional benefit payment under plan.

(a) A member who terminates employment as a member of the City Fire Department will be entitled to a benefit determined in accordance with Section 2-336. With the approval of the Board of Trustees, a member may waive rights to the regular benefit payments and elect instead an optional benefit which will be of actuarial equivalent value and may be of the following forms:

- (1) A single sum cash settlement payment; or
- (2) A monthly pension for life, commencing at an earlier age than normal retirement age.

Notwithstanding the foregoing, if a member has ten certified years of service or less, the member shall receive a single sum cash settlement, as soon as administratively feasible after the member's termination of employment.

(b) Upon the death of an active member or of a retired member, benefits shall be paid to the surviving spouse or surviving children, if any, as follows:

- (1) If a retired member was receiving payment in the normal form of a joint and 100% survivor benefit, a monthly benefit shall be paid to the retired member's surviving spouse for life in an amount equal to 100 percent of the monthly benefit payable to the retired member during the retired member's lifetime.
- (2) A monthly benefit will be paid to the surviving spouse of an active member for life in an amount equal to the monthly benefit that would have been paid to the surviving spouse if the active member had retired the day before death with actuarially equivalent benefits payable in the form of an annuity for the joint life expectancy of the active member and the active member's spouse with 100 percent of the benefit payable during their joint lives continuing for the remaining life of the surviving spouse.
- (3) A benefit of \$10.00 per month shall be paid on behalf of each surviving child until the child attains the age of 18 years to the parent of the surviving child or, if no parent is surviving, then to the guardian of the surviving child.

(Code 1993, § 32.16.150; Ord. No. 783, § 1; Ord. No. 1119, § 5; Ord. No. 1209, § 2; Ord. No. 1732, § 6)

Section 9: Repeal of Ordinances in Conflict. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 10: Severability. In the event any section of this Ordinance is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

Section 11: Effective Date: This Ordinance shall be in full force and effect from and after final passage.

Scott Decker, President
Board of City Commissioners

ATTEST

Dustin Dassinger, City Administrator

First Reading: _____, 2026
Second Reading: _____, 2026
Final Passage: _____, 2026