

ORDINANCE NO. 1426

An Ordinance to Amend and Re-enact
Chapter 20, Article 8 of the Mandan Code of Ordinances
Relating to Retirement Plan

Be it Ordained by the Board of City Commissioners as follows:

ARTICLE 8. RETIREMENT PLAN

Sec. 20-8-1. Participation and eligibility.

- (a) *Participation.* On October 9, 1977, by resolution of the board of city commissioners, the city established a retirement plan for the employees of the city. This plan was amended effective January 1, 1989 in order to comply with TRA-86 IRS requirements. All full-time employees with six months' service to the city, as of the date of the adoption of the city employee retirement plan, became participants in the plan. All employees who meet the plan's eligibility requirements may participate in the city employee retirement plan.
- (b) *Eligible employee.* All benefit-eligible employees of the City of Mandan, Morton Mandan Public Library, Mandan Park District and Mandan Airport Authority, who are nineteen years of age or older and who have completed one hour of service are eligible to participate in the plan at their discretion.
- (c) Employees participating in the city employee retirement plan shall follow the plan requirements and criteria as identified in the respective plan documents.
- (d) Sworn police officers hired after July 1, 2016 and career firefighters hired after July 1, 2018 are enrolled in the North Dakota Public Employee Retirement System (NDPERS) and follow the NDPERS Public Safety Plan requirements and criteria. These employees are not eligible to participate in the city employee retirement plan.

(1) Sworn police officers hired before July 1, 2016 and career firefighters hired before July 1, 2018 had a one-time election upon the initial offering of the NDPERS Public Safety Plan to either stay in the city employee retirement plan or participate in the NDPERS Public Safety Plan. Participation in both plans is not permitted. After the initial offering period, the employee's election may not be changed.

Sec. 20-8-2. Contribution and vesting.

- (a) *Employee contribution.* Each participating employee is responsible for setting up their contribution. The contribution may be adjusted at any time during the calendar year. Any increase or decrease in an employee's contribution must be increments of one percent. The contribution levels shall be as follows:

- (1) Eligible employees may receive an eight percent contribution to the plan when a participant's salary reduction contribution to the 457 Plan is two percent or greater.
- (2) Eligible employees may receive a zero percent contribution to the plan when a participant's salary reduction contribution to the 457 Plan is less than two percent.
- (3) Sworn police officers hired before July 1, 2016 and career firefighters hired before July 1, 2018 who elected not to participate in the NDPERS Public Safety Plan are eligible for the following contribution levels.
 - (a) Eligible sworn police officers and career firefighters may receive an eight percent contribution to the plan when a participant's salary reduction contribution to the 457 Plan is two percent or three percent.
 - (b) Eligible sworn police officers and career firefighters may receive a ten percent contribution to the plan when a participant's salary reduction contribution to the 457 Plan is four percent or greater.
 - (c) Eligible sworn police officers and career firefighters may receive a zero percent contribution to the plan when a participant's salary reduction contribution to the 457 Plan is less than two percent.

(b) *Vesting.* A participant shall be vested in and entitled to receive an amount equal to the percentage of the value of the participant's employer contribution account, if any. Year of service means the applicable computation period during which an employee has completed at least one hour of service. Such percentage is to be determined in accordance with the following schedule:

Years of Service	Vesting Percentage
0 to 1 year	25%
2 years	50%
3 years	75%
4 years	100%

Sec. 20-8-3. Retirement committee.

- (a) The city shall appoint a committee, which shall be designated as the retirement committee. At least three persons appointed by the board shall constitute the retirement committee. All committee members shall be participants in the city employee retirement plan. The city will file the designation of the committee with the trustee. The trustee is authorized to rely solely on the committee to determine matters concerning benefits and payments. The committee shall have the following duties:
 - (1) To construe and interpret the plan, decide all questions of eligibility and determine the amount, manner and time of payment of any benefits under this section.
 - (2) To prescribe procedures to be followed by participants or beneficiaries filing application for benefits.
 - (3) To prepare and distribute in such manner as the committee determines the appropriate information explaining the plan.

- (4) To receive from the employer and from participants such information as shall be necessary for the proper administration of the plan.
 - (5) To furnish the employer upon request such annual reports with respect to administration of the plan that is reasonable and appropriate. The committee may rely on the trustee to furnish the information for such reports, to receive, review and keep on file the reports of benefit payment by the trustee and reports of disbursements for expenses directed by the committee.
 - (6) To appoint or employ individuals to assist in the administration of the plan and other agents it deems advisable, including legal and accounting counsel.
 - (7) To consult with the trustee relating to an investment policy to be pursued by the trustee.
- (b) The committee shall have no power to add or subtract from or modify any of the terms of the plan or to change or to add to the benefits provided for the plan or to waive or to fail to apply any requirements of eligibility for benefit under the plan.
 - (c) The committee shall issue directions to the trustee concerning all benefits which are to be paid from the trust fund pursuant to the origins of the plan and shall warrant that all such directions are in accordance with this plan.
 - (d) The committee may require a participant to complete and file with the committee an application for a benefit on the forms approved by the committee and furnish all pertinent information requested by the committee. The committee may rely upon all such information so furnished it, including the participant's current mailing address.
 - (e) The committee and the individual members thereof shall be indemnified by the city and not from the trust fund against any and all liabilities arising by reason of any act or failure to act made in good faith pursuant to the provisions of this plan, including expenses recently incurred in defense of any claims relating thereto.

Sec. 20-8-4. Trust fund.

All contributions under the city employee retirement plan shall be paid to a trustee and deposited in the trust fund. Except as provided above, all assets of the trust fund, including investment income, shall be retained for the exclusive benefit of the participants, former participants and beneficiaries and shall be used to pay benefits to such persons or may be used to pay administrative expenses of the plan and trust fund to the extent not paid by the city.

Sec. 20-8-5. Fiscal year.

The city employee retirement plan will be kept on a 12-month period commencing on January 1 and ending on December 31.

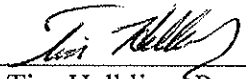
Sec. 20-8-6. Amendments.

The city reserves the right to make any amendments to this plan which do not cause any part of the trust fund to be used for or diverted to any purpose other than the exclusive benefit of the

participant, former participants or their beneficiaries; provided, however, that the employer may make any amendment it determines necessary and desirable with or without retroactive effect, to comply with ERISA XI. The city is authorized to execute a trust agreement with the trustee to establish the trust fund. The city may change trustees by amending the trust instrument at any time.

Sec. 20-8-7. Nonguarantee of employment.

Nothing contained in this article shall be construed as a contract of employment between the city and any employee or as a right of any employee to be continued in the employment of the city, or as a limitation of the right of the city to discharge its employees with or without cause. In the event of a permanent discontinuance of contributions to the plan by the city, the accounts of all participants shall be as of the date of discontinuance 100 percent vested and non-forfeitable.

By: 

Tim Helbling, President, Board of
City Commissioners

Attest:



James Neubauer, City Administrator

First Consideration: June 6, 2023

Second Consideration and Final Passage: June 20, 2023