

**CITY OF DEARBORN HEIGHTS
ORDINANCE NO. H-18-04**

AN ORDINANCE OF THE CITY OF DEARBORN HEIGHTS, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF DEARBORN HEIGHTS, BE AMENDED BY ADDING SECTION 2-210 CONCERNING RETIREMENT PLAN APPEALS.

THE CITY OF DEARBORN HEIGHTS ORDAINS THAT THE CODE OF ORDINANCES OF THE CITY OF DEARBORN HEIGHTS, MICHIGAN, IS HEREBY AMENDED BY ADDING A SECTION, TO BE NUMBERED 2-210, WHICH SHALL READ AS FOLLOWS:

SECTION I.

Sec. 2-210. Retirement Plan Appeals.

(a) Notice of denial of claim for benefits or of change in retirement benefit status stemming from an initial decision by administrative committee. A benefit claimant who has yet to appeal a denial of a claim for benefits or a change in retirement benefit status pursuant to subsection (b) of this Section 2-210 shall be notified in writing by the administrative committee that his or her claim for benefits has been denied or his or her retirement benefit status has been changed. The administrative committee shall send the notice of the denial of the claim for benefits or of the change in retirement benefit status within thirty (30) days of the administrative committee's initial decision denying the claim for benefits or changing the retirement benefit status. The notice shall state the basis for the denial of the claim for benefits or the change in retirement benefit status. The notice shall also state that the benefit claimant may appeal the decision denying the claim for benefits or changing the retirement benefit status by filing a written appeal (and request for hearing if desired) that conforms to the requirements of subsection (b) of this City Code Section 2-210 with the administrative committee within sixty (60) days of the date of the notice of the denial of the claim for benefits and/or the change in retirement benefit status. Unless the administrative committee has decided that a benefit claimant is entitled to all benefits and the retirement benefit status that he or she has claimed, then the decision of the administrative committee shall be deemed to be a decision denying the claim for benefits and/or changing the retirement benefit status for purposes of this section.

(b) Right of appeal to Administrative Committee.

(1) Any benefit claimant who believes he or she is aggrieved by any decision of the administrative committee constituting a denial of benefits or a change in his or her retirement benefit status shall have a right to appeal the decision to the administrative committee by filing a written appeal (and request for hearing if desired) with the administrative committee within sixty (60) days of the date of the notice of the denial of the claim for benefits. A claimant who files such an appeal (and request for hearing if included) is hereafter referred to as a "claimant/appellant".

(2) Such an appeal (and request for hearing if desired) shall attach a copy of the decision appealed from and shall include a statement of the claimant/appellant's reasons for asserting that the denial of the claim for benefits or the change in retirement status was or is improper.

(3) The filing of an appeal (and request for hearing if desired) shall not stay a decision by the administrative committee unless the administrative committee states in its written notice of the denial of the claim for benefits or the change in retirement benefit status that the filing of an appeal and request for hearing will effect such a stay of the decision.

(4) The administrative committee shall schedule a hearing with respect to the appeal within sixty (60) days of the receipt of the written appeal (and request for hearing, if included). The administrative committee shall notify the claimant/appellant and any other interested parties of the hearing at least fourteen (14) days prior to the date of the hearing.

(5) On appeal, the administrative committee shall consider its initial decision *de novo*.

(6) At the hearing, the claimant/appellant shall have an opportunity to be heard, to offer witnesses and/or evidence in support of his or her claim for benefits, to cross-examine adverse witnesses, and to examine all evidence that could be relied upon by the administrative committee in deciding the appeal. Similarly, the administrative committee shall review all evidence that could be relied upon by it in deciding the appeal. However, the appeal hearing shall be conducted as informally as possible. The rules of evidence shall not apply.

(7) If the claimant/appellant requests an appeal hearing and desires a transcript of the appeal hearing, then it will be prepared by a third-party and at the claimant/appellant's sole expense.

(8) After the appeal hearing, the administrative committee shall review the appeal and render its decision concerning its initial decision constituting a denial of the claimant/appellant's claim for benefits and/or a change in his or her retirement benefit status. The administrative committee shall render its written decision within ninety (90) days of the completion of the appeal hearing. In its sole discretion, as a quasi-judicial body, the administrative committee may affirm or reverse its decision, in whole or in part, or it may modify its decision as it sees fit. In all cases, the decision of the administrative committee shall be final and conclusive. The date that the decision becomes final shall be the date that the claimant/appellant has been sent notice pursuant to Section 2-210(c) below that his or her appeal has been denied.

(c) Notice of decision of administrative committee related to appeal of initial decision denying a claim for benefits or effecting a change in retirement benefit status. The administrative committee shall send a claimant/appellant who has pursued an appeal pursuant to subsection (b) of this Section 2-210 a copy of the written decision rendered by the administrative committee concerning his or her appeal within ninety (90) days of the completion of the appeal hearing. If not already included in the decision, a written notice shall accompany the decision explaining the basis for the decision and further alluding to the benefit claimant's right to have the decision reviewed by the circuit court as stated in subsection (d) of this Section 2-210.

(d) Judicial review.

Pursuant to Article 6, Section 28 of the Michigan Constitution, all final decisions of the administrative committee which affect a benefit claimant under this chapter are subject to appeal to the circuit court. Subject to the court rules of this State, parties aggrieved by any such final decision may file an appropriate appeal with the circuit court within the appropriate number of days of the date the decision becomes final. The filing of any appeal or other action shall not operate to stay the effect of the decision. Such a stay may only be effected by court order.

SECTION II.

REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION III.

SEVERABILITY

Should any section, subsection, clause, or phrase of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION IV.

EFFECTIVE DATE

This ordinance shall become effective upon publication as provided by law.

SECTION V.

AUTHENTICATION

This is to certify that the undersigned do hereby authenticate the foregoing record of the ordinance herein set forth.

DANIEL S. PALETKO, Mayor

WALTER J. PRUSIEWICZ, Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and correct copy of this ordinance adopted by the Council for the City of Dearborn Heights at a regular meeting of the Council held on the 12th day of June, 2018, and became effective by publication in the official newspaper of the City of Dearborn Heights and/or by publication as otherwise permitted by the City Charter on the 14th day of June, 2018.

WALTER J. PRUSIEWICZ, Clerk

Publication Date: June 14, 2018.