

**CITY OF NEW BALTIMORE
MACOMB COUNTY, MICHIGAN
NOTICE OF ADOPTION
ORDINANCE NO. 178**

AN ORDINANCE AMENDING AND REVISING THE CODE OF ORDINANCES OF THE CITY OF NEW BALTIMORE BY PROVIDING THAT ACCRUED BENEFITS FOR PLAN PARTICIPANTS SHALL BE NONFORFEITABLE UPON THE ATTAINMENT OF NORMAL RETIREMENT AGE, TO PROVIDE FOR COMPLIANCE WITH THE INTERNAL REVENUE CODE, SECTION 415, TO PROVIDE FOR REPEALER, SEVERABILITY AND EFFECTIVE DATE.

THE CITY OF NEW BALTIMORE ORDAINS:

Section 1. The City of New Baltimore Code of Ordinances, Chapter 2, Article III, Sec. 2-122, is hereby revised to add subparagraph (e) as follows:

Sec. 2-122 – Vested Termination of Participation (deferred retirement).

- (e) The provisions of this Retirement System Ordinance notwithstanding, the accrued benefit for plan participants shall be non-forfeitable upon the attainment of normal retirement age.

Section 2. The City of New Baltimore Code of Ordinances, Chapter 2, Article III, Sec. 2-124(j)(2)k, is hereby revised as follows:

Sec. 2-124 - Election of Form of Payment of Pension.

- k. *Joint life annuities where the beneficiary is not the member's spouse.* If the member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary, annuity payments to be made on or after the member's required beginning date to the designated beneficiary after the member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the member using the table set forth in Q&A-2 of section 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain. Joint Life Annuities Where

Section 3. The City of New Baltimore Code of Ordinances, Chapter 2, Article III, Sec. 2-117, is hereby amended by adding the following paragraphs to the definition of Compensation:

Sec. 2-117 – Definitions.

For limitation years beginning after December 31, 1997, for purposes of applying the limitations of Section 415 of the Internal Revenue Code, compensation paid or made available during such limitation years shall include any elective deferral (as defined in Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the employee and which is not includable in the gross income of the employee by reason of Sections 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for purposes of applying the limitations described herein, compensation paid or made available during such limitation years shall include elective amounts that are not includable in the gross income of the employee by reason of Section 132(f)(4) of the Code.

Compensation for purposes of IRC §415(c)(3) shall also include, (1) regular pay after severance from employment; (2) leave cashouts and deferred compensation including cash out of accrued sick, vacation or other leave time if the employee would have been able to use the leave if employment had continued or the payment of nonqualified deferred compensation that would have been paid to the employee at the same time if the employee had remained employed and only to the extent that the payment is includable in the employee's gross income. The compensation items listed in this paragraph must be paid by the later of two and one-half-months of severance from employment or the end of the limitation year that includes the date of severance with the City.

Section 4. Repealer. All ordinances or parts of ordinances in conflict herewith are repealed only to the extent necessary to give this ordinance full force and effect.

Section 5. Severability. Should any word, phrase, sentence, or clause of this Ordinance be declared by a court of competent jurisdiction, to be invalid, or unenforceable, the same shall not effect the validity or enforceability of any other provision, or part.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption and publication due to the emergency nature of same.

I, Marcella Shinska, City Clerk of the City of New Baltimore, Macomb County, Michigan, do hereby certify that Ordinance No. 178 was adopted by the City Council of New Baltimore, assembled in regular session on October 12, 2011. Said Ordinance was posted in the following places:

Notice of said posting was published in *The Voice Newspaper* on October 26, 2011.

Marcella Shinska, City Clerk