

**CHARTER TOWNSHIP OF WATERFORD  
ORDINANCE NO.2024-002**

**ADMINISTRATION ORDINANCE AMENDMENT - RETIREMENT**

An Ordinance to amend the Administration Ordinance codified in Division 4 Retirement in Chapter 2 of the Waterford Charter Township Code to comply with the Setting Every Community Up for Retirement Enhancement (SECURE) Act 2.0 of 2022 and to revise the Committee Member election process.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

**Section 1 of Ordinance**

Section 2-128 of the Waterford Charter Township Code is amended to comply with the Setting Every Community Up for Retirement Enhancement (SECURE) Act 2.0 of 2022 minimum distributions effective January 1, 2023, to read as follows:

**Sec. 2-128 Required minimum distributions.**

- (a) For those who turn 70 ½ on or before December 31, 2019 (i.e. whose birthdate is on or before June 30, 1949): In accordance with Section 401(a)(9) of the Internal Revenue Code and the regulations thereunder, which are incorporated herein by reference, a member's pension shall be distributed to him or her not later than April 1 of the calendar year following the later of:
- (1) The calendar year in which the member attains age seventy and one-half (70 1/2) years, or
  - (2) The calendar year in which the member retires.

For those who turn 70 ½ after December 31, 2019 (i.e. whose birthdate is on or after July 1, 1949): In accordance with Section 401(a)(9) of the Internal Revenue Code and the regulations thereunder, which are incorporated herein by reference, a member's pension shall be distributed to him or her not later than April 1 of the calendar year following the later of:

- (1) The calendar year in which the member attains age seventy-two (72) years, or
  - (2) The calendar year in which the member retires.
- (b) With respect to distributions under this article made for calendar years beginning on or after January 1, 2001, the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code will be applied in accordance with the regulations under Section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of this article to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under Section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

## **Section 2 of Ordinance**

Section 2-129 of the Waterford Charter Township Code is amended to comply with the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019. minimum distributions to read as follows:

### **Sec. 2-129 Required minimum distribution effective January 1, 2003.**

- (a) Effective date. The provisions of this section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (b) Precedence. The requirements of this section will take precedence over any inconsistent provisions of the retirement system ordinance.
- (c) Requirements of treasury regulations incorporated. All distributions required under this section will be determined and made in accordance with the final treasury regulations under Section 401(a)(9) of the Internal Revenue Code.
- (d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this section, other than paragraph (c), distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that relate to Section 242(b)(2) of TEFRA.
- (e) Required beginning date. The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date.
- (f) Death of member before distributions begin. If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed, no later than as follows:
  - (1) If the member's surviving spouse is the member's sole designated beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which:
    - (i) For members who turn (or would have turned) 70  $\frac{1}{2}$  on or before December 31, 2019 (i.e. whose birthday is on or before June 30, 1949), the member would have attained age seventy and one-half (70  $\frac{1}{2}$ ), if later, or
    - (ii) For members who turn 70  $\frac{1}{2}$  after December 31, 2019 (i.e. whose birthdate is on or after July 1, 1949): the member would have attained age 72.
    - (iii) For members who turn (or would have turned) 72 after December 31, 2022, and 73 before January 1, 2033 (i.e., whose birthday is on or after January 1, 1951 and on or before December 31, 1959): before the date the Participant would have reached 73 and must be paid over the Surviving Spouse's life expectancy.
    - (iv) For members who turn 74 after December 31, 2032, (i.e., whose birthday is on or after January 1, 1959): before the date the Participant would have reached 75 and must be paid over the Surviving Spouse's life expectancy.
  - (2) If the member's surviving spouse is not the member's sole designated beneficiary, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.
  - (3) If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

- (4) If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this paragraph (f), other than paragraph (f)(1), will apply as if the surviving spouse were the member.

For purposes of this paragraph (f) and paragraphs (m), (n), and (o), distributions are considered to begin on the member's required beginning date (or, if paragraph (f)(4) applies, the date distributions are required to begin to the surviving spouse under paragraph (f)(1)). If annuity payments irrevocably commence to the member before the member's required beginning date (or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse under paragraph (f)(1)), the date distributions are considered to begin is the date distributions actually commence.

- (g) Form of distribution. Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with paragraphs (h) through (m) of this section. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the treasury regulations. Any part of the member's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the treasury regulations that apply to individual accounts.
- (h) General annuity requirements. If the member's interest is paid in the form of annuity distributions under the retirement system, payments under the annuity will satisfy the following requirements:
  - (1) The annuity distributions will be paid in periodic payments made at intervals not longer than one (1) year;
  - (2) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in paragraphs (m) through (o);
  - (3) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted.
- (i) Amount required to be distributed by required beginning date. The amount that must be distributed on or before the member's required beginning date (or, if the member dies before distributions begin, the date distributions are required to begin under paragraph (f)(i) or (ii)) is the payment that is required for one (1) payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bimonthly, monthly, semiannually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.
- (j) Additional accruals after first distribution calendar year. Any additional benefits accruing to the member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (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 non-spouse 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 non-spouse 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.

- (l) Period Certain Annuities. Unless the member's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the member's lifetime may not exceed the applicable distribution period for the member under the Uniform Lifetime Table set forth in section 1.401 (a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the member reaches age 70, the applicable distribution period for the member is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the member as of the member's birthday in the year that contains the annuity starting date. If the member's spouse is the member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the member's applicable distribution period, as determined under this paragraph (12), or the joint life and last survivor expectancy of the member and the member's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the member's and spouse's attained ages as of the member's and spouse's birthdays in the calendar year that contains the annuity starting date.
- (m) Member survived by designated beneficiary. If the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest will be distributed, beginning no later than the time described in paragraph (f)(1) or (2), over the life of the designated beneficiary or over a period certain not exceeding:
  - (1) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or
  - (2) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.
- (n) No designated beneficiary. If the member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.
- (o) Death of surviving spouse before distributions to surviving spouse begin. If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this section will apply as if the surviving spouse were the member, except that the time by which distributions must begin will be determined without regard to paragraph (f)(1).
- (p) Payments to Children. Payments made to a member's child are treated as payments to the surviving spouse if they cease after the child reached the age of majority (or upon the death of the child) and are payable to the surviving spouse thereafter.

- (q) Designated beneficiary. The individual who is designated as the beneficiary under Section 2-073 of the retirement system ordinance and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A- 4, of the treasury regulations.
- (r) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to paragraph (f).
- (s) Life expectancy. Life expectancy as computed by use of the single life table in Section 1.401 (a)(9)-9 of the treasury regulations.
- (t) Required beginning date. The date specified in Section 2-128 of the retirement system ordinance.
- (u) 2009 Waiver of Required Minimum Distribution Rules. Notwithstanding the above, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are: (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least ten years, will receive those distributions for 2009 unless a participant or beneficiary chooses not to receive such distributions. Such distributions may be treated as an Eligible Rollover Distribution if it otherwise satisfies the requirements of Section 2-188.

### **Section 3 of Ordinance**

Section 2-091 of the Waterford Charter Township Code is amended as follows:

Section 2-091. Committee over pension plan.

There is hereby created a pension committee which is vested with the power and authority to administer, manage and operate and to interpret and implement the provision of this article pertaining to the pension plan. The pension committee shall consist of five (5) committee persons as follows:

- (a) The Township Treasurer
- (b) Two (2) citizens who are electors of the Township and who are neither a member, retirant, nor beneficiary of the retirement system, to be appointed by the Township Board.
- (c) Two (2) members of the retirement system (or one (1) member of the retirement system and one (1) member of the retirement system, who may be retired) to be elected by the members and retirants of the system in accordance with such rules and regulations as the committee shall from time to time adopt to govern such elections. No more than one (1) such committee person shall be from the same Township Department. Members of the police and fire pension system who are participants in the defined contribution plan are not eligible to serve on the pension committee.

**Section 4 of Ordinance**

Should any part of this ordinance be declared invalid by a Court, it shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

**Section 5 of Ordinance**

This Ordinance shall take effect immediately upon publication.

**CERTIFICATION**

I certify that this Ordinance was adopted by the Board of Trustees of the Charter Township of Waterford at a regular meeting held on April 8, 2024.

CHARTER TOWNSHIP OF WATERFORD

By: \_\_\_\_\_  
Kimberly F. Markee, Township Clerk