

ORDINANCE NO. 1060

AN ORDINANCE AMENDING CHAPTER 1, ARTICLE XI AND ARTICLE XII, and adding ARTICLE XIII to the Lexington Municipal Code and providing pensions for policemen and re-assigning code numbers to the existing ARTICLE XI AND ARTICLE XII, of CHAPTER 1, of the Lexington Municipal Code, and repealing all Ordinances and Sections of said code in conflict with this Ordinance.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEXINGTON,
NEBRASKA:

Section 1. ARTICLE XI of CHAPTER 1, be and it hereby is amended to read as follows:

"ARTICLE XI Policemen Pensions

1-1101 ELIGIBILITY -- Method of payment. The City of Lexington shall pension all policemen whenever such policemen shall (1) have first served in the paid police department for a period of twenty-one years, (2) have attained the age of sixty years, and (3) elect to retire from active service and to go upon the retired list; provided, no person entering the employment of the city as a member of its paid police department after November 18, 1965, shall be entitled to retire, elect to retire, or to go upon the retired list until, after the completion of twenty-five years of service, he shall be sixty years of age, unless he shall elect to retire upon having attained fifty-five years of age as provided in this section. Such pension shall be a straight life pension of fifty per cent of the regular pay of such policeman as hereinafter defined paid monthly; provided, that a policeman who elects to retire, having completed twenty-five years of service and attained the age of fifty-five shall be paid a pension of forty per cent of his regular pay as defined in this section; and provided further, that for each additional year of service after such policeman shall have become eligible to retire, such pension shall be increased one dollar and fifty cents per month, but not to exceed a total increase of seven dollars and fifty cents per month. Regular pay shall be defined as the average pay of such policeman for the five years preceding the date such policeman becomes eligible to retire or his death, which ever is earlier. Such pension may be paid in the same manner as policemen on the active list are paid or any

recognized method of funding a pension plan may be employed. The pension plan is to be funded by a group annuity or insurance contract and the mayor and council shall expend funds of the city in such amounts as are necessary for the payment of premiums for the group insurance contract.

1-1102 RECEIVING BENEFITS -- Options. OPTIONAL PENSION PAYMENT.

On or prior to the effect date of such retirement, but not thereafter, any such policeman may elect, by written notice filed with the city, to receive his pension as set forth in Section 1-1102 hereof, or he may elect to receive the actuarial equivalent of his straight life pension in a reduced pension payable throughout his life, and nominated a survivor beneficiary, having an insurable interest, in accordance with the provisions of Option A or B, as hereinafter set forth in this section.

OPTION A. Under Option A, a retired policeman shall receive a reduced pension payable throughout this life and upon his death his said reduced pension shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly executed and filed with the city on or prior to the effective date of his retirement.

OPTION B. Under Option B, a retired policeman shall receive a reduced pension payable throughout his life and upon his death one half of his said reduced pension shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly executed and filed with the city on or prior to the effective date of his retirement.

B. DEATH BENEFIT. In the event a retired policeman and his survivor beneficiary, if any, die before the aggregate amount of pension payments received by the said retired policeman and his survivor beneficiary, if any, equals the total amount of contributions made to the retirement plan by the said retired policeman, without interest, the difference between the total amount of his contributions and the aggregate amount of pension payments received by the retired policeman and his survivor beneficiary, if any, shall be paid, in a single sum, to such person or persons as the retired policeman shall have nominated by his written designation duly executed and filed with the city. If there be no such designated person or persons surviving the retired policeman and his survivor beneficiary, if any, such difference, if any, shall be paid to

his duly qualified personal representative; provided, that if the difference is less than three hundred dollars, the city may pay same to such claimant or claimants as the city, in its discretion shall determine to be entitled to same.

C. ELECTION TO RETIRE. Any election or designation, permitted under the provisions of Section 1-1101 or 1-1102 hereof, may be made by a policeman after he is eligible to retire, or within one year prior thereto, or after he has served for at least twenty-four years and is at least forty-nine years of age.

D. REVOKING ELECTION. Any election or designation permitted under the provisions of Sections 1-1101 or 1-1102 hereof, by a policeman, prior to retirement, may be revoked or changed by him without the consent of any other person, or a new election or designation be substituted by him, as often as such policeman may desire, not later than the applicable final date on which he may make election.

E. MENTAL INCAPACITY. In event of mental incapacity of a policeman, the right of election and designation, permitted under the provisions of Section 1-1101 or 1-1102 hereof, may be exercised by his guardian.

1-1103 NON-RETIRED EMPLOYEE -- Death benefit. When any such policeman shall be eligible to retire, regardless of whether he may actually elect to do so, the pension provided in Sections 1-1101 hereof shall in any event be payable upon his death from any cause to his widow or upon her remarriage or death to his minor child or children during said child or children's minority, or to him.

1-1104 DEATH OTHER THAN IN LINE OF DUTY. If any policeman entering the employment of the City of Lexington as a member of its paid police department except those who shall have been formerly employed in such department who are now in military service, shall die other than in line of duty after becoming fifty-five years of age and before age sixty, and after serving in the paid police department of such city for at least twenty-one years, then a pension of at least twenty-five per cent of his regular pay as defined in Section 1-1101 shall be paid to the widow or minor children of such deceased policeman as provided in Section 1-1103.

1-1105 DEATH DUE TO ON THE JOB INJURY -- Benefits. In case of the death of any such policeman while in the line of duty or in case death is caused by or the result of injuries received while in line of duty then the pension provided for in Section 1-1101 shall be paid to the widow or minor children of such deceased policeman as provided in Section 1-1103 subject to deduction of any amounts paid under the Nebraska Workmen's Compensation Act on account of such death as hereinafter provided in Section 1-1108.

1-1106 DISABILITY -- Benefits. In case any such policeman shall become permanently and totally disabled from accident or other cause while in the line of his duty and said policeman because of such disability is unable to resume the duties he was performing at the time of his injury, such policeman shall forthwith be placed upon the roll of pensioned policemen, at the rate provided for in Section 1-1106, paid monthly.

In case of the temporary total disability of a policeman received while in the line of duty, he shall receive his salary during the continuance of such disability for a period not to exceed twelve months; provided, if it shall be ascertained by the city council or other proper municipal authorities within twelve months that such disability has become permanent, then his salary shall cease and he shall be entitled to the benefits of the preceding sentence with reference to pensions in case of total and permanent disability. All payments of pension or salary shall be subject to deduction of amounts paid under the Nebraska Workmen's Compensation Act, as hereinafter provided in Section 1-1108.

1-1107 CONTRIBUTIONS BY POLICEMAN. From and after November 18, 1965, every such policeman shall contribute to the city an amount equal to six per cent of his salary, until such policeman reaches the age of sixty or retires, which amount shall be deducted from the salary of every such policeman. Any policeman whose employment shall terminate, whether by discharge or otherwise, prior to the time he shall be entitled to a pension, and who shall have made contributions from his salary, as hereinbefore provided in this section, for a period of at least three years shall, upon demand, be reimbursed by the city for the amount of such contributions without interest.

1-1108 WORKMAN'S COMPENSATION -- Effect on pension benefits. Notwithstanding any prior provisions of this ordinance, no policeman shall be

entitled during any period of disability to receive in full both his pension or salary, as herein provided, and in addition benefits under the Nebraska Workmen's Compensation Act. All Nebraska Workmen's Compensation Act benefits shall be payable in full to such policeman or his dependents as provided in said act, but all amounts paid by the city or its insurer under said act to any disabled policeman entitled to receive a salary or pension during such disability, or to the widow or children of any deceased policeman, shall be considered as payments on account of such salary or pension and shall be credited thereon. The remaining balance of such pension or salary, if any, shall be payable as otherwise provided by Section 1-1101 through 1-1108 of this ordinance.

1-1109 OFFICERS APPLICABLE TO. This ordinance shall apply to officers of the paid police department as well as to regularly employed policeman.

1-1110 RULES, DEFINITIONS, AND EXPLANATION OF RIGHTS.

1. In the event a policeman eligible to receive benefits, has less than 5 years of service, his average pay shall be the average annual pay received by him during his total years of service.

2. Whenever used herein, the masculine gender shall include the feminine gender.

3. Retirement pay shall commence the month following retirement and shall be paid on or before the end of the month in which the pay becomes due.

4. Should an employee leave the service of the city and later be re-employed, the basis for computing time for retirement pay purposes shall be from the time of re-employment.

5. Twelve months of continuous service interrupted only by absences of less than a total of 30 days shall be construed as a full year of service. Any additional absence shall be construed as interrupted service except as provided following:

a. Additional absences may be excused by the City Council and when so excused shall not be counted as an absence from employment.

b. Employment interrupted by service, other than voluntary, in the Armed forces of the United States, shall not be considered as interrupted service with the city if the employee is not dishonorably discharged from such service, and returns to employment with the City within 90 days of such discharge.

c. Voluntary service in the Armed forces of the United States may be considered as involuntary service upon approval by the City Council.

d. In the event employee is discharged from such service as provided by "b" and "c" in a disabled condition which prevents him from returning to his appointment, such absence shall be excused until such disability is reduced to the extent that the employee is employable.

e. Excused absences provided by this section, shall not be construed as employment for purposes of determining length of service, unless otherwise required by law.

1-1111 SUBROGATION RIGHTS OF CITY. In the event any employee of the City becomes entitled to pension benefits as the result of accident or injury caused by the act of a third person, the City shall be subrogated to the rights of the said employee against such third person to the extent of benefits which the City pays or becomes liable to pay under the provisions of this Article.

1-1112 MEDICAL EXAMINATIONS REQUIRED. Not less than once each year during the first five years following the retirement of a employee on a disability retirement allowance and at least once in each three-year period thereafter, the Council may require any such beneficiary prior to his normal retirement date to undergo a medical examination by a physician designated by employer. Should the beneficiary refuse to submit to a medical examination, his retirement allowance shall be discontinued until withdrawal of his refusal, and should such refusal continue for one year, all rights to any further disability allowance shall cease.

1-1113 PROVISIONS FOR CHILDREN BECOMING BENEFICIARIES. Upon the marriage, death, or attainment of age 18 years of any child, his pension shall terminate and there shall be a redistribution to the remaining eligible children under age 18 years.

1-1114 FUND TO PAY BENEFITS. The City shall set aside each month from the general funds of the City, a sum equal to 14% of the total salaries paid to all policemen for that month and this amount, together with the amount withheld from the policemen's salaries, as herein provided, shall be deposited in savings accounts in Savings Associations or time deposits in Banks, to the extent that such funds are insured by an agency of the Federal Government, or

used to purchase government bonds. Any interest received from such investments, together with the principal, shall be used to pay benefits as herein provided. Section 1-1114 shall become ineffective and void upon funding as provided in 1-1101."

Section 2. That ARTICLE XII of CHAPTER 1 be amended as follows:

"ARTICLE XII VIOLATIONS

1-1201 VIOLATIONS -- Penalty. Penalties for the violation of any of the provisions of this chapter for which a penalty is not otherwise provided shall be as provided in the general penalty section in CHAPTER 7."


Section 3. That ARTICLE XIII of CHAPTER 1 be added as follows:

"ARTICLE XIII CROSS REFERENCES

1-1301 For Sections regulating additions and subdivisions see CHAPTER 11, Zoning and Planning."


Section 4. That any existing Code or Ordinance in conflict hereto be and it is hereby repealed.

Passed and approved this 9th day of November, 1965.



President of the Council

ATTEST:



City Clerk

(SEAL)