

**ORDINANCE NO. 18 -**

**AN ORDINANCE AMENDING TITLE 1, CHAPTER 6, ARTICLE A OF THE NAPERVILLE MUNICIPAL CODE AND ADDING CHAPTER 14 TO TITLE 1 OF THE CITY OF NAPERVILLE MUNICIPAL CODE TO ESTABLISH AN ADMINISTRATIVE PROCEDURE FOR ASSESSING AND DETERMINING CLAIMS MADE UNDER THE PUBLIC SAFETY EMPLOYEE BENEFITS ACT**

**WHEREAS**, the City of Naperville is a home rule unit of local government under the laws and Constitution of the State of Illinois; and

**WHEREAS**, the City employs firefighters and police officers who are covered under the Public Safety Employee Benefits Act (820 ILCS 320/1 *et seq.*); and

**WHEREAS**, the City has the authority, and as set forth herein, does hereby establish, an administrative procedure to provide a fair and efficient method for assessing and making determinations respecting claims brought pursuant to the Public Safety Employee Benefits Act; and

**WHEREAS**, the City Council has determined that establishment of an administrative process for claims brought pursuant to the Public Safety Employee Benefits Act is in the best interests of the City, its employees, and its citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS**, in exercise of its home rule authority, as follows:

**SECTION 1:** The Recitals above are incorporated herein and made part hereof as though fully set forth in this Section 1.

**SECTION 2:** Section 1-6A-5 of the Naperville Municipal Code, entitled "Powers and Duties" of the City Manager, is hereby amended to include the following underlined language:

17. The authority to evaluate and take action upon claims submitted pursuant to the Public Safety Employee Benefits Act as set forth in Chapter 14 of Title 1 of this Code.

**SECTION 3:** Title 1 of the Naperville Municipal Code is hereby amended to add Chapter 14, entitled "PSEBA BENEFIT ADMINISTRATION" to read in its entirety as follows:

## **CHAPTER 14 – PSEBA BENEFIT ADMINISTRATION**

### **1-14-1: PURPOSE**

The purpose of this Chapter is to provide a fair and efficient method of processing claims brought pursuant to the Public Safety Employee Benefits Act (“PSEBA” or “Act”).

### **1-14-2: APPLICATION/SCHEDULING OF PSEBA HEARINGS:**

- A. PSEBA Application. An individual who claims to qualify for, and who seeks benefits under, PSEBA (hereinafter “Applicant”) is required to complete a PSEBA benefit application form (hereinafter “Application”) provided by the City. The completed Application shall be signed by the Applicant, notarized, and delivered to the City Manager. A PSEBA claim will not be considered submitted to the City for consideration until the Application is completed in full, and all required information and documentation required by the Application has been submitted in full.
- B. Review of PSEBA Application. The City Manager shall have ten (10) business days after receipt of the a properly tendered Application to determine whether the Application is complete, or whether additional information and/or documentation is needed. If the Application is deemed incomplete, the City Manager shall inform the Applicant in writing as to what information and/or documentation remains to be provided or clarified. The Applicant shall provide said information and/or documentation within ten (10) business days.
- C. The completed Application shall constitute the preliminary record (“Preliminary Record”) in support of Applicant’s Application, and a copy of the same shall be date stamped and provided to the Applicant.
- D. City Manager Approval of PSEBA Application. If the City Manager determines that it is undisputed that the Applicant meets the requirements under the law to be entitled to PSEBA benefits, a notice of approval of the Application (hereinafter “Notice of PSEBA Benefit Approval”) shall be given to the Applicant within thirty (30) business days of the date stamp on the Application.

- E. Notice of PSEBA Hearing. If the City Manager does not approve a PSEBA Application as set forth above, within thirty (30) days of the date stamp on the Application he shall give the Applicant notice that an administrative hearing on the Application (hereinafter "Notice of PSEBA Hearing") will be held at an appointed date, time, and place before a Hearing Officer who shall be appointed by the City Manager as provided herein. An alternate hearing date may be scheduled if scheduling conflicts arise.
- F. The City Manager may delegate any of his/her authority, duties and obligations under this Chapter 14, in whole or part, to a designee, or designees.

**1-14-3: HEARING OFFICER:**

- A. The City Manager shall appoint a Hearing Officer to conduct a hearing on an Application for PSEBA benefits. The Hearing Officer shall be an attorney who has been licensed to practice law in the State of Illinois for a minimum of three (3) years, who is in good standing with Illinois Attorney Registration & Disciplinary Commission, and who has knowledge of and experience in general civil procedure, the rules of evidence and administrative practice. The Hearing Officer's background and service/performance data on file with or otherwise obtained by the City shall be made available to the Applicant.
- B. The Hearing Officer shall have the authority to:
  - 1. Preside over PSEBA hearings.
  - 2. Administer oaths.
  - 3. Issue subpoenas to secure attendance of witnesses and the production of relevant papers, documents, or other records in any form, upon the request of the Applicant, the City or as determined necessary by the Hearing Officer.
  - 4. Adopt, revise and enforce rules of procedure for PSEBA Hearings.
  - 5. Hear testimony and accept evidence that is relevant to the issue of eligibility under PSEBA as provided herein.
  - 6. Rule upon objections to the admissibility of evidence as provided herein.
  - 7. Preserve and authenticate the record of the PSEBA Hearing.

8. Take any other action as may be deemed necessary or appropriate in order to conduct a full and fair hearing.
9. Issue a final determination on Applications for PSEBA benefits. Said determination shall be in writing and shall include written findings of fact and a final determination.

#### **1-14-4: PSEBA HEARINGS:**

- A. PSEBA Hearings. PSEBA Hearings to determine an individual's eligibility for benefits under PSEBA shall be initiated as set forth in Section 1-14-2 above. For the purposes of the PSEBA Hearing, the Applicant and the City shall each be considered a party ("Party").
  1. Preliminary Record. The Preliminary Record shall be transmitted by the City to the Hearing Officer.
  2. Court Reporter. PSEBA Hearings shall be attended by a certified court reporter, and upon written request of the Applicant or the City, a transcript of the proceedings shall be made by said certified court reporter. Each Party shall bear their own cost to obtain a copy of the transcript.
  3. Procedures. The City and the Applicant may elect, at their own cost, to be represented by legal counsel at the PSEBA Hearing. Each Party may present witnesses, testimony and documents, may cross-examine opposing witnesses, and may request the issuance of subpoenas by the Hearing Officer to compel the appearance of relevant witnesses and/or the production of relevant documents. The Parties and their representatives shall comply with any rules governing the conduct of the PSEBA Hearing established by the Hearing Officer.
  4. Evidence. The Illinois Rules of Evidence shall apply at PSEBA Hearings to the extent practicable unless the Hearing Officer determines that application of the rule would be an injustice or preclude the introduction of evidence of the type commonly relied upon by a reasonably prudent person in the conduct of her/his affairs. Such determinations shall be at the sole discretion of the Hearing Officer.
  5. Burden of Proof/Standard of Proof. The Applicant shall have the obligation and burden of proof to establish that he or she is eligible and qualified to receive PSEBA benefits at the PSEBA Hearing. The standard of proof shall be by the preponderance of the evidence.

6. Motions to Reconsider. Motion to reconsider, set aside or challenge the final determination of the Hearing Officer are not permitted.
7. Final Determination. A written determination by the Hearing Officer finding that the Applicant is either eligible or ineligible for benefits under PSEBA shall constitute a final administrative determination for the purpose of judicial review under the common law writ of certiorari.

#### **1-24-4: PSEBA BENEFITS**

- A. Medical Benefits. If an Applicant is determined to be eligible for PSEBA benefits, such medical benefits will be provided in a manner that is consistent with PSEBA under a group health insurance plan offered by the City to its employees and retirees. The City shall have the right, at its sole discretion, to determine the plan to be offered. PSEBA benefits do not include dental insurance, life insurance, or any other benefit provided to City employees or retirees.
- B. Reduction or Elimination of PSEBA Benefits by Other Health Coverage. If a PSEBA recipient becomes eligible to receive health insurance benefits from any other source, public or private, the applicant's PSEBA coverage may be reduced or eliminated as determined by the City consistent with the provisions of PSEBA.
- C. Affidavit of Continued PSEBA Eligibility. All recipients of PSEBA benefits from the City shall complete and return to the City Manager on an annual basis an affidavit supplied by the City verifying the recipient's continued eligibility for PSEBA benefits. The affidavit must be completed and returned to the City Manager within sixty (60) calendar days of written notice from the City. If the recipient does not complete and return the affidavit within the time required, the City Manager shall give the recipient an additional written notice providing an additional thirty (30) calendar days for the recipient to complete and return the affidavit. Failure to return the affidavit within the time required shall result in the recipient incurring responsibility for reimbursing the City for premiums paid during the period the affidavit is due and not submitted.

**SECTION 4:** Any ordinances, or parts of ordinances, in conflict with this Ordinance, are hereby expressly repealed.

**SECTION 5:** If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this

Ordinance or any other City ordinance, resolution, or provision of the Naperville Municipal Code.

**SECTION 6:** If the conditions imposed by any provisions of this Ordinance are more restrictive than comparable provisions imposed elsewhere in any other State law or City ordinance, resolution, rule or regulation, the provisions of this Ordinance will govern.

**SECTION 7:** That this Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

By: \_\_\_\_\_  
Steve Chirico  
Mayor

**ATTEST**

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Pam Gallahue, Ph.D.  
City Clerk